

**REGULAR MEETING of the Board of Directors of the  
Los Angeles Community Choice Energy Authority  
Thursday, November 2, 2017  
1:00 p.m.**

Los Angeles Cleantech Incubator  
Training Room 401  
525 S. Hewitt Street  
Los Angeles, CA 90013

*Meetings are accessible to people with disabilities. Individuals who need special assistance or a disability-related modification or accommodation to participate in this meeting, or who have a disability and wish to request an alternative format for the meeting materials, should contact Matt Skolnik, at least 2 working days before the meeting at [mskolnik@ceo.lacounty.gov](mailto:mskolnik@ceo.lacounty.gov) or (213) 893-0286. Notification in advance of the meeting will enable LACCE to make reasonable arrangements to ensure accessibility to this meeting and the materials related to it. Attendees to this meeting are reminded that other attendees may be sensitive to various chemical based products.*

*If you wish to speak to the Board, please fill out a speaker's slip located on the tables as you enter the Board Chambers. If you have anything that you wish to be distributed to the Board and included in the official record, please hand it to a member of LACCE staff who will distribute the information to the Board members and other staff.*

- I. WELCOME AND ROLL CALL**
- II. PUBLIC COMMENT**

This item is reserved for persons wishing to address the Board on any LACCE-related matters not on today's agenda. Public comments on matters on today's agenda shall be heard at the time the matter is called.

As with all public comment, members of the public who wish to address the Board are requested to complete a speaker's slip and provide it to LACCE staff. Speakers are customarily limited to two minutes, but an extension can be provided at the discretion of the Board Chair.

### **III. REGULAR AGENDA**

1. Appoint Acting Chair and Vice Chair
2. Approve the Minutes from the October 5, 2017 Board of Directors Meeting
3. Thirty Days Advance Notice of Proposed Amendment #1 to the Los Angeles Community Choice Energy Joint Powers Authority Agreement
4. Approve the assignment of the contract with Calpine Energy Solutions for data management services for Phase 1 accounts
5. Approve the assignment of the contract with EES Consulting for technical and regulatory services
6. Approve cost sharing agreements with the Western Riverside Council of Governments and the Coachella Valley Association of Governments for legal and technical services
7. Presentation: California Community Choice Association
8. Discussion Item: Logo designs for Los Angeles Community Choice Energy
9. Legislative and Regulatory Update

### **IV. STAFF AND BOARD ANNOUNCEMENTS**

### **V. CLOSED SESSION**

PUBLIC EMPLOYMENT  
(Government Code Section 54957)

Recruitment of Executive Director and General Counsel

**VI. ADJOURN – TO DECEMBER 7, 2017**

Public records that relate to any item on the open session agenda for a regular board meeting are available for public inspection. Those records that are distributed less than 72 hours prior to the meeting are available for public inspection at the same time they are distributed to all members, or a majority of the members of the Board. The Board has designated the County of Los Angeles, Chief Sustainability Office, Kenneth Hahn Hall of Administration, Room 493, 500 West Temple Street, Los Angeles, CA 90012, for the purpose of making those public records available for inspection. The documents are also available on LACCE's internet website. The website is located at: <http://www.lacounty.gov/sustainability>.

**Staff Report – Item 1**

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To: Los Angeles Community Choice Energy Board of Directors

From: LACCE Staff

Subject: **Appoint Acting Chair and Vice Chair**

Date: November 2, 2017

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**RECOMMENDATION:**

Staff recommends that the Board select a Director to serve as Acting Chair, and another Director to serve as Acting Vice Chair for the November Board meeting.

**BACKGROUND AND DISCUSSION:**

Section 5.1 of the LACCE JPA specifies that the Directors shall elect, from among the members, a Chair who shall be the presiding officer of Board meetings, and a Vice Chair who shall serve in absence of the Chair. The duties of the Chair include presiding over Board meetings, signing all contracts on behalf of the Authority, and such other duties that may be determined by the Board.

At its August 2017 Meeting, the Board decided to rotate the Chair and Vice Chair positions for the duration of 2017 to give each member an opportunity to serve in those capacities. As such, it is necessary to elect a Chair and Vice Chair to preside over the November Board meeting and to perform the other typical duties of a Board Chair.

**Minutes of the Meeting of the Board of Directors of the  
Los Angeles Community Choice Energy Authority (LACCE)**

Thursday, October 5, 2017, 2:00 p.m.  
City of Calabasas, Council Chambers  
100 Civic Center Way, Calabasas CA 91302

**I. WELCOME AND ROLL CALL**

Chair Zuckerman called the meeting to order at 2:03 p.m. Chair Zuckerman, Vice Chair Mahmud, and Directors Kuehl and Weintraub being present, a quorum was established. Director Horvath was not present at time of roll call.

**II. PUBLIC COMMENT**

No members of the public requested to speak on items not on the agenda.

**III. REGULAR AGENDA**

1. Appoint Acting Chair and Vice Chair

Chair Zuckerman nominated Vice Chair Mahmud as Acting Chair, and Director Weintraub as Acting Vice Chair, and Director Kuehl seconded the nomination. No public comment was received. The motion was approved unanimously.

2. Approval of minutes from the September 7, 2017 Board Meeting  
Vice Chair Weintraub moved to approve, and Director Kuehl seconded.

Chair Mahmud noted two corrections:

- i. Regarding Item 2, Director Mahmud abstained from approval of August 4 meeting minutes along with Director Weintraub
- ii. Regarding Item 4, Director Mahmud was misidentified as Chair; she was acting Vice Chair at the time of the meeting.

No request for public comment was received on this item.

The motion was approved unanimously with the noted corrections.

3. Approval of Delegated Authority to the Executive Director to executive agreements for goods and services for amounts not exceeding \$10,000

Executive Director Carnahan gave a brief presentation on the item, and clarified that it is intended to be short term until LACCE is up and running.

Director Zuckerman moved to approve the item, and Director Kuehl seconded.

No request for public comment was received on this item.

Motion was approved unanimously.

4. Approval of contract terms with The Energy Authority for scheduling coordination and energy-related services, and authorization to the Executive Director to execute the final contract

Mr. Carnahan noted that a detailed analysis of the proposal had been provided in the staff reports. He then turned the presentation over to Jeff Fuller of The Energy Authority, who gave an overview of the company and the services they would be providing for LACCE.

Mr. Carnahan noted that the intent of today's report was to request the Board to approve contract terms, and provide authority to the Executive Director to enter into final negotiations to complete the contract. Mr. Carnahan stated that he had asked Chair Mahmud to assist with the negotiations, and that staff would report on the final contract to the Board at its next meeting. It was also clarified that the final contract negotiations would include all contract provisions and would specifically address issues raised by the Board at this meeting.

Alternate Director Robyn Eason joined the meeting during discussion, as the Board Director representing West Hollywood.

Chair Mahmud recommended authorizing Mr. Carnahan to contract for technical assistance up to the \$50,000 in the contingency fund in the LACCE budget to help negotiate the contract if needed, and to utilize specialized legal assistance to review the final contract.

Chair Mahmud moved that the Board delegate authority to the Interim ED to negotiate a contract with TEA for Phase 1 scheduling coordination services, and for other services as described in staff report to be authorized on a time and materials basis, for a contract amount not to exceed \$175,000; to hire technical assistance for contract negotiations; and to utilize specialized legal counsel to review the final contract documents. Director Kuehl seconded.

No request for public comment was received on this item.

The motion was approved unanimously.

Director Zuckerman made request for copies of all slides to share with colleagues, and staff confirmed they would be provided.

Director Horvath arrived during the discussion of this item, replacing Alternate Director Eason. Chair Mahmud welcomed West Hollywood as newest member of LACCE.

5. Approval of contract terms with Constellation for power supply products for LACCE phase 1 accounts, and authorization to the Executive Director to execute the final contract

Mr. Carnahan again noted that a detailed analysis of the proposal had been provided in staff reports. Jim Verna, Managing Director of Origination for Constellation, gave a brief presentation, providing an overview of Constellation and the services they would provide for LACCE.

Director Kuehl moved to delegate conditional authority to the Interim ED to negotiate contract terms with Constellation for power supply for Phase 1 if it were determined, after requesting updated pricing that excluded coal, that they were still the lowest bidder and most qualified provider. Director Kuehl also requested the ED to report back to the Board if Constellation did not remain the lowest bidder.

Chair Mahmud introduced the friendly amendment that as with item 4, Mr. Carnahan be able to hire technical assistance as needed to negotiate the contract, up to the \$50,000 in the contingency fund in the LACCE budget, and to utilize specialized legal counsel to review the final contract documents.

No request for public comment was received on this item.

The motion was approved unanimously.

6. Presentation and best practices for marketing and outreach

Kit Cole Consulting was retained by Los Angeles County on behalf of LACCE to conduct a best practices assessment among existing CCAs with regard to marketing and outreach. Janine Hamner, Vice President of Kit Cole Consulting, made a presentation on the findings and provided recommendations based on those findings. She also noted that Kit Cole Consulting would be providing a final report in October to LACCE staff that would be shared with the Board.

Vice Chair Weintraub asked about average budget of outreach for other CCAs, which Ms. Hamner agreed to look into and incorporate into their report.

No request for public comment was received on this item and no action was taken.

Vice Chair Weintraub departed at this time and Calabasas Alternate Director John Bingham was seated on the Board in her absence.

#### **IV. STAFF AND BOARD ANNOUNCEMENTS**

Mr. Carnahan provided updates on city membership, regulatory items, and commented on the status of the LACCE Workplan.

In response to a question from Chair Mahmud regarding the status of LACCE's response to Southern California Edison's comment letter to the CPUC on the implementation plan, Mr. Carnahan confirmed it had already been transmitted and would be made available to the Board.

Mr. Carnahan invited the Board to two events in Sacramento on October 31<sup>st</sup> and November 1<sup>st</sup>. He confirmed staff would be attending but that he would also send the information to the Board.

Director Kuehl recommended that Directors make it a point to talk to other cities they may have relationships with about joining LACCE.

No public comment was received on this item.

#### **V. CLOSED SESSION**

The Board entered closed session. No action was taken.

#### **VI. ADJOURN**

The meeting was adjourned 5:16pm



**Staff Report – Item 3**

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To: Los Angeles Community Choice Energy Board of Directors

From: LACCE Staff

Subject: **Thirty Days Advance Notice of Intent to Request Approval of Amendment Number 1 to the Los Angeles Community Choice Energy (LACCE) Authority Joint Powers Agreement**

Date: November 2, 2017

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**RECOMMENDATION**

Direct Executive Director to bring before the Board Amendment Number 1 to the Joint Powers Agreement (JPA) on December 7, 2017, that would make explicit the LACCE's Authority's obligation to use its best efforts to sell a member's pro rata share of energy and the obligation of the departing member to pay any marginal difference between the purchase and sale price for such power, if any.

**BACKGROUND**

Pursuant to section 4.11.1, subdivision (d), of the JPA, the Board must be provided thirty days advance notice of the intent to amend the JPA. Section 8 of the LACCE Authority JPA agreement addresses the withdrawal of members from the LACCE Authority and includes a provision allowing members of the LACCE Authority to withdraw from the LACCE Authority with a minimum 180-day notice while also allowing the LACCE Authority to assess costs related to the departing member's participation in the program in order to, in effect, hold the remaining members harmless from any such liabilities.

It had been anticipated that during the 180-day notice period the LACCE Authority would seek to dispose of any power that it may have procured on behalf of the residents and businesses of the department member. In discussions with cities, the County of Los Angeles has clearly stated as much and has said that departing cities would only be held liable for the marginal difference between the purchase price and the sale price of such power, if any. However, no such obligation on the part of the LACCE Authority or the department member to do so exists within the JPA.

Therefore, in order to make clear the LACCE Authority's obligation to undertake its best efforts to sell the withdrawing member's pro rata share of any power purchased, an amendment to the JPA has been proposed. Similarly, this amendment also makes explicit the obligation of the withdrawing member to pay the difference in costs as described.

To effectuate this, the following language in **bold** is proposed to be added to Section 8.1.3 of the JPA agreement, which is attached hereto, and will be presented to your Board for approval on December 7, 2017:

8.1.3 Party that withdraws its membership in the Authority may be subject to certain continuing liabilities, as described in Section 8.4 (Continuing Liability; Refund) of this Agreement, including, but not limited to, Power Purchase Agreements. The withdrawing Party and the Authority shall execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, as determined by the Board, to effectuate the orderly withdrawal of such Party from membership in the Authority. The Operating Policies and Procedures shall prescribe the rights if any of a withdrawn Party to continue to participate in those Board discussions and decisions affecting customers of the CCA Program that reside or do business within the jurisdiction of the Party. **Notwithstanding the foregoing, the Authority shall use best efforts to sell the withdrawing party's pro rata share of the liability under the Power Purchase Agreement within the 180 days. In the event the Authority sells the withdrawing member's share or a portion thereof, the withdrawing party will pay the difference between the liability under the Power Purchase Agreement and the liability sold to the other party, if any.**

**AMENDMENT NUMBER ONE TO  
THE LOS ANGELES COMMUNITY CHOICE ENERGY AUTHORITY  
JOINT POWERS AGREEMENT**

This Amendment Number One to the Los Angeles Community Choice Energy Authority ("Authority") Joint Powers Agreement ("Agreement") is made and entered into this \_\_\_\_ day of December, 2017, by and between the County of Los Angeles, a body corporate and politic and political subdivision of the State of California (the "County"), the City of Rolling Hills Estates, a municipal corporation, the City of South Pasadena, a municipal corporation, the City of Calabasas, a municipal corporation, the City of West Hollywood, a municipal corporation, the City of Alhambra, a municipal corporation, and the City of Sierra Madre, a municipal corporation.

**RECITALS**

1. The Authority's Joint Powers Agreement was executed on June 27, 2017 between the County and the City of Rolling Hills Estates in order to collectively study, promote, develop, conduct, operate, and manage energy programs.
2. The cities of South Pasadena, Calabasas, West Hollywood, Alhambra and Sierra Madre have subsequently joined the Authority and are parties to this Agreement.
3. The parties wish to amend this Agreement for the purposes clarifying the obligations of the Authority and a withdrawing member under Section 8.1.3 of the Agreement.

NOW THEREFORE, it is mutually agreed by and between the parties hereto to amend the Joint Powers Agreement

1. Section 8.1.3 of the Agreement shall be deleted in its entirety and read as follows:

8.1.3 Party that withdraws its membership in the Authority may be subject to certain continuing liabilities, as described in Section 8.4 (Continuing Liability; Refund) of this Agreement, including, but not limited to, Power Purchase Agreements. The withdrawing Party and the Authority shall execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, as determined by the Board, to effectuate the orderly withdrawal of such Party from membership in the Authority. The Operating Policies and Procedures shall prescribe the rights if any of a withdrawn Party to continue to participate in those Board discussions and decisions affecting customers of the CCA Program that reside or do business within the jurisdiction of the Party. Notwithstanding the foregoing, the Authority shall use best efforts to sell the withdrawing party's pro rata share of the liability under the Power Purchase Agreement within the 180 days. In the event the Authority sells the withdrawing member's share or a portion thereof, the withdrawing party will pay the difference between the liability under the Power Purchase Agreement and the liability sold to the other party, if any.

## Los Angeles Community Choice Energy

2. All other terms and conditions of the Agreement shall remain in effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment One to be executed as of the date first above written.

**Staff Report – Item 4**

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To: Los Angeles Community Choice Energy Board of Directors

From: LACCE Staff

Subject: **Approve the assignment of the contract with Calpine Energy Solutions for data management and customer call center services for Phase 1 accounts**

Date: November 2, 2017

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**RECOMMENDATION**

1. Approve the assignment to the LACCE Authority of Los Angeles County's contract with Calpine Energy Solutions (Calpine) for data management services for Phase 1 accounts.
2. Delegate authority to the Executive Director, or designee, to take any necessary steps and execute agreements to effectuate assignment of the contract between the County of Los Angeles and Calpine to the LACCE Authority for an amount not to exceed \$10,000.
3. Delegate authority to the Executive Director, or designee, to negotiate and execute amendments provided that LACCE Authority counsel approval is obtained.
4. Delegate authority to the Executive Director, or designee, to terminate the contract as necessary provided that LACCE Authority counsel approval is obtained.

**BACKGROUND**

Close collaboration with the investor owned utility (IOU) is a prerequisite for the successful launch and operation of a Community Choice Aggregation (CCA) program. In particular, IOUs and CCAs must work closely to ensure that the appropriate customer electric usage data, banking remittance information, and other data, can be transferred from one entity to the other, efficiently and with minimal error. This promotes a smooth transition as customers depart the IOU and start CCA service. Furthermore, continual monitoring and maintenance of this data exchange is needed to ensure the smooth operation of the CCA program.

To date, nearly all operational CCAs have contracted for this “data management” service with the experienced energy service provider Calpine Energy Solutions (Calpine). Calpine

helped launch MCE in 2008 and continues to be their data manager. Since MCE, Calpine has helped launch nine other CCA programs in California, and is working with many other local governments who plan to launch a CCA program in the near future.

In addition to its data management services, Calpine also provides all its client CCAs with robust call center services for all customer inquiries. LACCE will require these services for the launch of Phases 2 and 3, and Calpine is ready to provide them if they remain the data manager for subsequent phases.

Calpine is currently providing services to the LACCE Authority through the Memorandum of Understanding between LACCE and the County executed on August 4, 2017.

### **Contracting Process**

In July 2016, the County of Los Angeles issued a Request for Qualifications (RFQ) to vendors interested in providing data management services to LACCE. On May 22, 2017, a Request for Proposals (RFP) for data management services for Phase 1 of the LACCE program was issued to the most qualified vendors identified from the previous RFQ.

An expert evaluation committee was established to review the proposals, and Calpine's was selected as the most responsive. County Counsel and the County's CEO office executed the final Delegated Authority Agreement for Data Management and Customer Call Center Services on October 11, 2017 (attached). This contract will now be assigned to LACCE for data management services.

### **Contract Terms and Fiscal Impact**

Under the terms of the contract, Calpine is to provide data management services to LACCE phase 1 accounts for one year, January 2018 – January 2019. The cost is \$0.25 per month per active account, of which there are approximately 1,700. The total cost for these services for the remainder of FY17-18 is estimated at \$2,550, which within the scope of the Board-adopted budget for the fiscal year.

### **Phases 2 and 3**

Staff intends to work with Calpine on the successful launch of Phase 1, and return to the Board in early 2018 with a recommendation for data management for Phases 2 and 3. Potential options would include issuing a new bid for these services for those two Phases, or extending the current contract.

#### **Attachments:**

1. County's Delegated Authority Agreement with Calpine Energy Solutions



DELEGATED AUTHORITY AGREEMENT FOR  
DATA MANAGEMENT  
AND  
CUSTOMER CALL CENTER SERVICES

BETWEEN

THE COUNTY OF LOS ANGELES  
AND  
CALPINE ENERGY SOLUTIONS, LLC

DELEGATED AUTHORITY AGREEMENT CONTRACT NUMBER: AO-18-022

**DELEGATED AUTHORITY AGREEMENT FOR  
DATA MANAGEMENT AND CUSTOMER CALL CENTER SERVICES**

**DELEGATED AUTHORITY AGREEMENT CONTRACT NUMBER: AO-18-022**

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**CONTRACT BETWEEN  
COUNTY OF LOS ANGELES  
AND  
CALPINE ENERGY SOLUTIONS, LLC  
FOR  
DATA MANAGEMENT AND CUSTOMER CALL CENTER SERVICES**

This CONTRACT is entered into this 6th day of October 2017, by and between the County of Los Angeles (hereafter "COUNTY") and Calpine Energy Solutions, LLC (hereafter referred to as "CONTRACTOR" or "CONSULTANT"), to provide COUNTY with consulting services.

**RECITALS**

WHEREAS, CONTRACTOR desires to provide, and COUNTY desires to acquire from CONTRACTOR, services as a consultant.

WHEREAS, CONTRACTOR is a firm of recognized professionals with extensive experience and training in their specialized field. In rendering these services CONTRACTOR shall at a minimum, exercise the ordinary care and skill expected from the average practitioner in CONTRACTOR's profession acting under similar circumstances.

WHEREAS, the Board of Supervisors has authorized the Chief Executive Officer, pursuant to Government Code Sections 23005 and 31000, to enter into contracts for such specialized consulting services.

NOW, THEREFORE, COUNTY and CONTRACTOR agree as follows:

**1.0 APPLICABLE DOCUMENTS**

Exhibits A, B, C, D, E, F, G and H are attached to and form a part of this Contract. 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, deliverable, goods, service, or other work, or otherwise between the base Contract and the Exhibits, or between Exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the Contract and then to the Exhibits according to the following priority.

**Standard Exhibits:**

- 1.1 EXHIBIT A - Statement of Work
- 1.2 EXHIBIT B - Pricing Schedule
- 1.3 EXHIBIT C - Contractor's EEO Certification
- 1.4 EXHIBIT D - Consultant Employee Acknowledgement and Confidentiality Agreement
- 1.5 EXHIBIT E - Invitation For Bid/Request For Proposals Grounds For Rejection
- 1.6 EXHIBIT F - Safely Surrendered Baby Law

- 1.7 EXHIBIT G - Consultant Non-Employee Acknowledgement and Confidentiality Agreement

**Unique Exhibits:**

- 1.8 EXHIBIT H - Business Associate under the Health Insurance Portability and Accountability Act of 1996 (HIPPA)

This Contract and the Exhibits hereto constitute the complete and exclusive statement of understanding between the parties, and supersedes all previous Contracts, written and oral, and all communications between the parties relating to the subject matter of this Contract. No change to this Contract shall be valid unless prepared pursuant to subparagraph 8.1 - Amendments and signed by both parties.

## **2.0 DEFINITIONS**

The headings herein contained are for convenience and reference only and are not intended to define the scope of any provision thereof. The following words as used herein shall be construed to have the following meaning, unless otherwise apparent from the context in which they are used.

- 2.1 **"Agreement or Contract"** shall mean a contract executed between COUNTY and CONTRACTOR. It sets forth the terms and conditions for the issuance and performance of the Exhibit A – Statement of Work.
- 2.2 **"CONTRACTOR" or "CONSULTANT"** shall mean the sole proprietor, partnership, or corporation that has entered into a contract with the COUNTY to perform or execute the work covered by the Exhibit A - Statement of Work.
- 2.3 **"Day(s)"** shall mean calendar day(s) unless otherwise specified.
- 2.4 **"Fiscal Year"** shall mean the twelve (12) month period beginning July 1st and ending the following June 30th.

## **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 in herein Exhibit A - Statement of 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 term of this Contract shall commence upon the date of execution by COUNTY and shall expire on July 30, 2018, subject to COUNTY's right to terminate earlier for convenience, non-appropriation of funds, default of

CONTRACTOR, substandard performance of CONTRACTOR, non-responsibility of CONTRACTOR, improper consideration given/offered to COUNTY with respect to the award of this Contract, and breach of warranty to maintain compliance with COUNTY's Child Support Compliance Program.

## **5.0 CONTRACT SUM**

5.1 The Maximum Amount of this Contract shall be \$10,000 for the term of this Contract as set forth Paragraph 4.0 - Term of Contract, above. Any costs incurred to complete this project in excess of the maximum not-to-exceed cost will be borne by the CONTRACTOR.

5.2 The 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. Assumption or takeover of any of the CONTRACTOR's duties, responsibilities, or obligations, or performance of same by any entity other than the CONTRACTOR, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever, shall occur only with the COUNTY's express prior written approval.

5.3 The CONTRACTOR shall maintain a system of record keeping that will allow the CONTRACTOR to determine when it has incurred seventy-five percent (75%) of the total contract authorization under this Contract. Upon occurrence of this event, the CONTRACTOR shall send written notification to the COUNTY Project Manager at the address herein provided in sub paragraph 8.34 – Notices.

5.4 No Payment for Services Provided Following Expiration/Termination of Contract

The CONTRACTOR shall have no claim against COUNTY for payment of any money or reimbursement, of any kind whatsoever, for any service provided by the CONTRACTOR after the expiration or other termination of this Contract. Should the 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 the CONTRACTOR. This provision shall survive the expiration or other termination of this Contract.

5.5 Invoices and Payments

5.5.1 The CONTRACTOR shall invoice the COUNTY only for providing the tasks, deliverables, goods, services, and other work specified in Exhibit A – Statement of Work and elsewhere hereunder. The CONTRACTOR shall prepare invoices, which shall include the charges owed to the CONTRACTOR. Payment

to CONTRACTOR shall be in arrears and based upon the approval and acceptance of services/deliverables as set forth in Exhibit A – Statement of Work, not to exceed the amounts reflected in Exhibit B – Pricing Schedule, provided that CONTRACTOR is not in default under any provision of this Contract and has submitted a complete and accurate statement of payment due. COUNTY acceptance of services/deliverables shall not be unreasonably withheld. CONTRACTOR'S fees shall include all applicable taxes, and any additional taxes that are not included remain the responsibility of the CONTRACTOR.

- 5.5.2 The CONTRACTOR's invoices shall be priced in accordance with Exhibit B – Pricing Schedule.
- 5.5.3 The CONTRACTOR's invoices shall contain the information set forth in Exhibit A - Statement of Work describing the tasks, deliverables, goods, services, work hours, and facility and/or other work for which payment is claimed.
- 5.5.4 The CONTRACTOR shall submit the monthly invoices to the COUNTY by the 15<sup>th</sup> calendar day of the month following the month of service.
- 5.5.5 All invoices under this Contract shall be submitted in two (2) copies to the COUNTY Project Manager.
- 5.5.6 All invoices submitted by the CONTRACTOR for payment must have the written approval of the COUNTY Project Manager prior to any payment thereof. In no event shall the COUNTY be liable or responsible for any payment prior to such written approval. Approval for payment will not be unreasonably withheld.
- 5.5.7 Local Small Business Enterprises (SBEs) – Prompt Payment Program (*if applicable*). Certified Local SBEs will receive prompt payment for services they provide to COUNTY departments. Prompt payment is defined as 15 calendar days after receipt of an undisputed invoice.

## **6.0 ADMINISTRATION OF CONTRACT – COUNTY**

**COUNTY Project Manager** – The COUNTY Project Manager shall be responsible for monitoring and evaluating CONTRACTOR's performance in the daily operation of the Contract and provide direction to CONTRACTOR in the areas relating to policy, procedures and other matters within the purview of this Contract. The COUNTY Project Manager for this Contract shall be Gary Gero, or his designee. All work performed under this Contract shall be subject to the approval of the COUNTY Project Manager or designee.

## **7.0 ADMINISTRATION OF CONTRACT - CONTRACTOR**

### **7.1 CONTRACTOR Project Manager**

- 7.1.1 The CONTRACTOR Project Manager shall be responsible for the CONTRACTOR's day-to-day activities as related to this Contract and shall coordinate with COUNTY Project Manager on a regular basis. The CONTRACTOR Project Manager for this Contract shall be Drake Welch.
- 7.1.2 The CONTRACTOR shall notify the COUNTY in writing of any change in the name or address of the CONTRACTOR Project Manager.

### **7.2 Approval of CONTRACTOR's Staff**

CONSULTANT shall provide qualified personnel to perform work and provide "work products" (deliverables) as indicated in the Agreement. COUNTY has the absolute right to approve or disapprove all of the CONTRACTOR's staff performing work hereunder and any proposed changes in the CONTRACTOR's staff, including, but not limited to, the CONTRACTOR Project Manager.

### **7.3 Background and Security Investigations**

- 7.3.1 At any time prior to or during term of this Contract, the COUNTY may require that all CONTRACTOR's staff 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 reasonable fees associated with obtaining the background information shall be at the expense of the CONTRACTOR, regardless if the CONTRACTOR's staff passes or fails the background clearance investigation.
- 7.3.2 COUNTY may request that the CONTRACTOR's staff be immediately removed from working on the County Contract at any time during the term of this Contract. COUNTY will not provide to the CONTRACTOR nor to the CONTRACTOR's staff any information obtained through the COUNTY conducted background clearance.
- 7.3.3 COUNTY may immediately, at the sole discretion of the COUNTY, deny or terminate facility access to the CONTRACTOR's staff that do not pass such investigation(s) to the satisfaction of the COUNTY whose background or conduct is incompatible with COUNTY facility access.

- 7.3.4 Disqualification, if any, of the CONTRACTOR's staff, pursuant to this sub-paragraph 7.3, shall not relieve the CONTRACTOR of its obligation to complete all work in accordance with the terms and conditions of this Contract.

## **8.0 STANDARD TERMS AND CONDITIONS**

### **8.1 AMENDMENTS**

- 8.1.1 Any amendment to this Contract, including as set forth in Paragraph 4.0 - Term of Contract, shall be at the mutual consent of the COUNTY and the CONTRACTOR and shall be executed by the Chief Executive Officer, Auditor-Controller, and Executive Officer of the Board of Supervisors, and approved as to form by County Counsel.
- 8.1.2 For any change which does not materially affect the scope of work or any other term or condition included under this Contract, a Change Notice shall be prepared and signed by the COUNTY Project Manager and CONTRACTOR Project Manager.
- 8.1.3 For any change affecting CONTRACTOR's project personnel, CONTRACTOR shall submit written notification and request to effect the change to the COUNTY Project Manager; the COUNTY Project Manager or designee may accept or reject CONTRACTOR's written notification and request. For purposes of this Agreement, "CONTRACTOR's project personnel" shall mean CONTRACTOR's Vice President of Customer Care.

### **8.2 ASSIGNMENTS AND DELEGATION**

- 8.2.1 The CONTRACTOR shall not assign its rights or delegate its duties under this Contract, or both, whether in whole or in part, without the prior written consent of COUNTY, which is in its sole discretion to grant or not; provided, however, that CONTRACTOR may assign or delegate to an Affiliate with prior written notice to COUNTY. "Affiliate" shall mean any entity that controls, is directly controlled by, or is under common control with, CONTRACTOR. Except as noted in the previous sentence, any attempted assignment or delegation without such written consent shall be null and void. For purposes of this sub-paragraph, COUNTY consent shall require a written amendment to the Contract, which is formally approved and executed by the parties. Any payments by the 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 the CONTRACTOR may have against the COUNTY.
- 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 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 execution of the Contract, such disposition is an assignment requiring an Amendment in accordance with all applicable provisions of this Contract, including the need for an Amendment.

8.2.3 Any assumption, assignment, delegation, or takeover of any of the CONTRACTOR's duties, responsibilities, obligations, or performance of same by any entity other than the CONTRACTOR, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without COUNTY's express prior written approval, shall be a material breach of the Contract which may result in the termination of 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.

8.2.4 The COUNTY shall have the authority to assign its rights or delegate its duties under this Contract, or both, whether in whole or in part, without the prior written consent of CONTRACTOR, to another public agency or joint powers agency.

### **8.3 AUTHORIZATION WARRANTY**

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

### **8.4 BUDGET REDUCTIONS**

COUNTY retains the right to renegotiate the terms, conditions and fees during the period of the Agreement if such renegotiation is necessitated by budget shortfalls and reductions.

### **8.5 COMPLIANCE WITH APPLICABLE LAW**

8.5.1 The CONTRACTOR shall comply with all applicable Federal, State, and local laws, rules, regulations, ordinances, and directives, and all provisions required thereby to be included in this Contract are hereby incorporated herein by reference.

8.5.2 The CONTRACTOR shall indemnify and hold harmless the 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 the CONTRACTOR or its employees, agents, or subcontractors of any such laws, rules, regulations, ordinances, or directives.

## **8.6 COMPLIANCE WITH CIVIL RIGHTS LAWS**

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

## **8.7 COMPLIANCE WITH THE COUNTY'S JURY SERVICE PROGRAM**

### **8.7.1 Jury Service Program:**

This Contract is subject to the provisions of the COUNTY'S ordinance entitled CONTRACTOR Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code.

### **8.7.2 Written Employee Jury Service Policy**

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

8.7.2.2 For purposes of this sub-paragraph, "CONTRACTOR" means a person, partnership, corporation or other entity which has a contract with the COUNTY or a subcontract with a COUNTY CONTRACTOR and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more COUNTY contracts or subcontracts. "Employee" means any California resident who is a full-time

employee of the CONTRACTOR. "Full-time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the COUNTY, or 2) CONTRACTOR has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If the CONTRACTOR uses any Subcontractor to perform services for the COUNTY under the Contract, the Subcontractor shall also be subject to the provisions of this sub-paragraph. The provisions of this sub-paragraph shall be inserted into any such subcontract Agreement and a copy of the Jury Service Program shall be attached to the Agreement.

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

8.7.2.4 CONTRACTOR's violation of this sub-paragraph of the Contract may constitute a material breach of the Contract. In the event of such material breach, COUNTY may, in its sole discretion, terminate the Contract and/or bar the CONTRACTOR from the award of future COUNTY contracts for a period of time consistent with the seriousness of the breach.

## **8.8 CONFLICT OF INTEREST**

8.8.1 No COUNTY employee whose position with the 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 the CONTRACTOR or have any other direct or indirect financial interest in this Contract. No officer or employee of the CONTRACTOR who may financially benefit from the performance of work hereunder shall in any way participate in the COUNTY's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence the COUNTY's approval or ongoing evaluation of such work.

- 8.8.2 The 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. The CONTRACTOR warrants that it is not now aware of any facts that create a conflict of interest. If the 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 the 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 subparagraph shall be a material breach of this Contract.

**8.9 CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF/OR RE-EMPLOYMENT LIST**

Should the CONTRACTOR require additional or replacement personnel after the effective date of this Contract to perform the services set forth herein, the CONTRACTOR shall give first 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. The provisions of this Section 8.9 shall apply to jobs located within the County of Los Angeles.

**8.10 CONSIDERATION OF HIRING GAIN/GROW PARTICIPANTS**

- 8.10.1 Should the CONTRACTOR require additional or replacement personnel after the effective date of this Contract, the CONTRACTOR shall give consideration for any such employment openings to participants in the COUNTY's Department of Public Social Services Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the CONTRACTOR's minimum qualifications for the open position. For this purpose, consideration shall mean that the CONTRACTOR will interview qualified candidates. The COUNTY will refer GAIN/GROW participants by job category to the CONTRACTOR. CONTRACTORS shall report all job openings with job requirements to: [GAINGROW@dpss.lacounty.gov](mailto:GAINGROW@dpss.lacounty.gov) to obtain a list of qualified GAIN/GROW job candidates.

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

8.10.3 The provisions of this Section 8.10 shall apply to jobs located within the County of Los Angeles.

## **8.11 CONTRACTOR RESPONSIBILITY AND DEBARMENT**

### **8.11.1 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 the COUNTY's policy to conduct business only with responsible CONTRACTORS.

### **8.11.2 Chapter 2.202 of the County Code**

The CONTRACTOR is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the COUNTY acquires information concerning the performance of the CONTRACTOR on this or other contracts which indicates that the CONTRACTOR is not responsible, the COUNTY may, in addition to other remedies provided in the Contract, debar the 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 years or be permanent if warranted by the circumstances, and terminate any or all existing Contracts the CONTRACTOR may have with the COUNTY.

### **8.11.3 Non-responsible CONTRACTOR**

The COUNTY may debar a CONTRACTOR if the Board of Supervisors finds, in its discretion, that the CONTRACTOR has done any of the following: (1) violated a term of a contract with the COUNTY or a nonprofit corporation created by the COUNTY, (2) committed an act or omission which negatively reflects on the CONTRACTOR's quality, fitness or capacity to perform a contract with the COUNTY, any other public entity, or a nonprofit corporation created by the 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 the COUNTY or any other public entity.

### **8.11.4 Contractor Hearing Board**

8.11.4.1 If there is evidence that the CONTRACTOR may be subject to debarment, the Department will notify the

CONTRACTOR in writing of the evidence which is the basis for the proposed debarment and will advise the CONTRACTOR of the scheduled date for a debarment hearing before the Contractor Hearing Board.

- 8.11.4.2 The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The CONTRACTOR and/or the 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 the CONTRACTOR should be debarred, and, if so, the appropriate length of time of the debarment. The CONTRACTOR and the Department shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.
- 8.11.4.3 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 of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.
- 8.11.4.4 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. The 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 the COUNTY.
- 8.11.4.5 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.

8.11.4.6 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 of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

8.11.4.7 Subcontractors of CONTRACTOR

These terms shall also apply to Subcontractors of COUNTY CONTRACTORS.

**8.12 CONTRACTOR'S ACKNOWLEDGEMENT OF COUNTY'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW**

The CONTRACTOR acknowledges that the COUNTY places a high priority on the implementation of the Safely Surrendered Baby Law. The CONTRACTOR understands that it is the 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. The CONTRACTOR will also encourage its Subcontractors, if any, to post this poster in a prominent position in the Subcontractor's place of business. The COUNTY's Department of Children and Family Services will supply the CONTRACTOR with the poster to be used. Information on how to receive the poster can be found on the Internet at [www.babysafela.org](http://www.babysafela.org).

**8.13 CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM**

8.13.1 The CONTRACTOR acknowledges that the COUNTY has established a goal of ensuring that all individuals who benefit financially from the 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 the COUNTY and its taxpayers.

8.13.2 As required by the COUNTY's Child Support Compliance Program (County Code Chapter 2.200) and without limiting the Contractor's duty under this Contract to comply with all applicable provisions of law, the 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).

**8.14 CONTRACTOR'S WARRANTY OF COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM**

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

Unless CONTRACTOR qualifies for an exemption or exclusion, CONTRACTOR warrants and certifies that to the best of its knowledge it is now in compliance, and during the term of this contract will maintain compliance, with Los Angeles County Code Chapter 2.206.

**8.15 COUNTY'S QUALITY ASSURANCE PLAN**

COUNTY or its agent will 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 performance standards. CONTRACTOR deficiencies which COUNTY determines are severe or continuing and that may place performance of the Contract in jeopardy if not corrected, will be reported to the Board of Supervisors. The report will include improvements/corrective action measures taken by COUNTY and CONTRACTOR. If improvement does not occur consistent with the corrective action measures, COUNTY may terminate this Contract or impose other penalties as specified in this Agreement.

**8.16 DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS**

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



- 8.16.2 If the CONTRACTOR fails to make timely repairs, COUNTY may make any necessary repairs. All costs incurred by COUNTY, as determined by COUNTY, for such repairs shall be repaid by the CONTRACTOR by cash payment upon demand.

#### **8.17 EMPLOYMENT ELIGIBILITY VERIFICATION**

- 8.17.1 The 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. The 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. The CONTRACTOR shall retain all such documentation for all covered employees for the period prescribed by law.
- 8.17.2 The CONTRACTOR shall indemnify, defend, and hold harmless, the COUNTY, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the CONTRACTOR or the 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.

#### **8.18 FACSIMILE REPRESENTATIONS**

The COUNTY and the CONTRACTOR hereby agree to regard facsimile representations of original signatures of authorized officers of each party, when appearing in appropriate places on the Amendments prepared pursuant to sub-paragraph 8.1, 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. For the avoidance of doubt, Imaged Documents shall be deemed to be acceptable facsimile representations for purposes of this Section 8.18. "Imaged Documents" means scanned documents that are stored in electronic form, including, by way of illustration and not limitation, portable document format (pdf) or similar type (e.g. jpg, tiff, gif).

#### **8.19 FAIR LABOR STANDARDS**

The CONTRACTOR shall comply with all applicable provisions of the Federal Fair Labor Standards Act and shall indemnify, defend, and hold

harmless the 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 the CONTRACTOR's employees for which the COUNTY may be found jointly or solely liable.

## **8.20 FORCE MAJEURE**

8.20.1 Neither party shall be liable for such party's failure to perform its obligations under and in accordance with this Contract, if such failure arises out of fires, floods, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by such party or any of such party's subcontractors), freight embargoes, or other similar events to those described above, but in every such case the failure to perform must be totally beyond the control and without any fault or negligence of such party (such events are referred to in this sub-paragraph as "force majeure events").

8.20.2 Notwithstanding the foregoing, a default by a subcontractor of CONTRACTOR shall not constitute a force majeure event, unless such default arises out of causes beyond the control of both CONTRACTOR and such subcontractor, and without any fault or negligence of either of them. In such case, CONTRACTOR shall not be liable 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 sub-paragraph, the term "subcontractor" and "subcontractors" mean subcontractors at any tier.

8.20.3 In the event CONTRACTOR's failure to perform arises out of a force majeure event, CONTRACTOR agrees to use commercially reasonable best efforts to obtain goods or services from other sources, if applicable, and to otherwise mitigate the damages and reduce the delay caused by such force majeure event.

## **8.21 GOVERNING LAW, JURISDICTION, AND VENUE**

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

## **8.22 INDEPENDENT CONTRACTOR STATUS**

8.22.1 This Contract is by and between the COUNTY and the 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 the COUNTY and the 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.

8.22.2 The 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. The 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 the CONTRACTOR.

8.22.3 The CONTRACTOR understands and agrees that all persons performing work pursuant to this Contract are, for purposes of Workers' Compensation liability, solely employees of the CONTRACTOR and not employees of the COUNTY. The 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 the CONTRACTOR pursuant to this Contract.

8.22.4 The CONTRACTOR shall adhere to the provisions stated in subparagraph 8.35 - Confidentiality.

## **8.23 INDEMNIFICATION**

The CONTRACTOR shall, to the extent permitted by law, indemnify, defend and hold harmless the COUNTY, its Special Districts, elected and appointed officers, employees, agents and volunteers ("County Indemnitees") from and against any and all liability, including but not limited to demands, claims, actions, fees, costs and expenses (including attorney and expert witness fees), (collectively "County Claims") arising from and/or relating to this Contract but only to the extent that such County Claims are attributable to the negligence and/or willful misconduct of the CONTRACTOR.

## **8.24 GENERAL INSURANCE REQUIREMENTS**

Without limiting CONTRACTOR's indemnification of COUNTY, and in the performance of this Contract and until all of its obligations pursuant to this Contract have been met, CONTRACTOR shall provide and maintain at its own expense insurance coverage satisfying the requirements specified in Sections 8.24 and 8.25 of this Contract. These minimum insurance coverage terms, types and limits (the "Required Insurance") also are in addition to and separate from any other contractual obligation imposed upon CONTRACTOR pursuant to this Contract. The COUNTY in no way

warrants that the Required Insurance is sufficient to protect the CONTRACTOR for liabilities which may arise from or relate to this Contract.

#### 8.24.1 Evidence of Coverage and Notice to COUNTY

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

Renewal Certificates shall be provided to COUNTY not less than 10 days after CONTRACTOR's policy renewal dates. The COUNTY reserves the right to obtain complete, certified copies of any required CONTRACTOR and/or Subcontractor insurance policies at any time.

Certificates shall identify all Required Insurance coverage types and limits specified herein, reference this Contract by name or number, and be signed by an authorized representative of the insurer(s). The Insured party named on the Certificate shall match the name of the CONTRACTOR identified as the contracting party in this Contract. Certificates shall provide the full name of each insurer providing coverage, its NAIC (National Association of Insurance Commissioners) identification number, its financial rating, the amounts of any policy deductibles or self-insured retentions exceeding fifty thousand (\$50,000.00) dollars, and list any COUNTY required endorsement forms.

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

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

Gary Gero  
Chief Executive Office  
500 West Temple Street, Room 713  
Los Angeles, CA 90012

CONTRACTOR also shall promptly report to COUNTY any injury or property damage accident or incident, including any injury to a CONTRACTOR employee occurring on COUNTY property, and any loss, disappearance, destruction, misuse, or

theft of COUNTY property, monies or securities entrusted to CONTRACTOR. CONTRACTOR also shall promptly notify COUNTY of any third party claim or suit filed against CONTRACTOR or any of its Subcontractors which arises from or relates to this Contract, and could result in the filing of a claim or lawsuit against CONTRACTOR and/or COUNTY.

#### 8.24.2 Additional Insured Status and Scope of Coverage

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

#### 8.24.3 Cancellation of or Changes in Insurance

Contractor shall provide COUNTY with, or CONTRACTOR'S insurance policies shall contain a provision that COUNTY shall receive, written notice of cancellation or any change in Required Insurance, including insurer, limits of coverage, term of coverage or policy period. The written notice shall be provided to COUNTY at least ten (10) days in advance of cancellation for non-payment of premium and thirty (30) days in advance for any other cancellation or policy change. Failure to provide written notice of cancellation or any change in Required Insurance may constitute a material breach of the Contract, in the sole discretion of the COUNTY, upon which the COUNTY may suspend or terminate this Contract.

#### 8.24.4 Failure to Maintain Insurance

CONTRACTOR'S failure to maintain or to provide acceptable evidence that it maintains the Required Insurance shall constitute a material breach of the Contract, upon which COUNTY immediately may withhold payments due to Contractor, and/or suspend or terminate this Contract. COUNTY, at its sole discretion, may obtain damages from CONTRACTOR resulting from said breach. Alternatively, the COUNTY may purchase the Required Insurance, and without

further notice to CONTRACTOR'S, deduct the premium cost from sums due to CONTRACTOR or pursue CONTRACTOR reimbursement.

8.24.5 Insurer Financial Ratings

Coverage shall be placed with insurers acceptable to the COUNTY with A.M. Best ratings of not less than A:VII unless otherwise approved by COUNTY.

8.24.6 Contractor's Insurance Shall Be Primary

CONTRACTOR's insurance policies, with respect to any claims related to this Contract, shall be primary with respect to all other sources of coverage available to CONTRACTOR. Any COUNTY maintained insurance or self-insurance coverage shall be in excess of and not contribute to any CONTRACTOR coverage.

8.24.7 Waivers of Subrogation

To the fullest extent permitted by law, the CONTRACTOR hereby waives its rights and its insurer(s)' rights of recovery against COUNTY under all the Required Insurance for any loss arising from or relating to this Contract. The CONTRACTOR shall require its insurers to execute any waiver of subrogation endorsements which may be necessary to effect such waiver.

8.24.8 Subcontractor Insurance Coverage Requirements

CONTRACTOR shall include all Subcontractors as insureds under CONTRACTOR's own policies, or shall provide COUNTY with each Subcontractor's separate evidence of insurance coverage. CONTRACTOR shall be responsible for verifying each Subcontractor complies with the Required Insurance provisions herein, and shall require that each Subcontractor name the COUNTY and CONTRACTOR as additional insureds on the Subcontractor's General Liability policy. CONTRACTOR shall obtain COUNTY's prior review and approval of any Subcontractor request for modification of the Required Insurance.

8.24.9 Deductibles and Self-Insured Retentions (SIRs)

CONTRACTOR's policies shall not obligate the COUNTY to pay any portion of any CONTRACTOR deductible or SIR. The COUNTY retains the right to require CONTRACTOR to reduce or eliminate policy deductibles and SIRs as respects the COUNTY, or to provide a bond guaranteeing CONTRACTOR's payment of all deductibles and SIRs, including all related claims investigation, administration and defense expenses. Such bond

shall be executed by a corporate surety licensed to transact business in the State of California.

#### 8.24.10 Claims Made Coverage

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

#### 8.24.11 Application of Excess Liability Coverage:

CONTRACTOR may use a combination of primary, and excess insurance policies which provide coverage as broad as ("follow form" over) the underlying primary policies, to satisfy the Required Insurance provisions.

#### 8.24.12 Separation of Insureds

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

#### 8.24.13 Alternative Risk Financing Programs

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

#### 8.24.14 COUNTY Review and Approval of Insurance Requirements

The COUNTY reserves the right to review and adjust the Required Insurance provisions, conditioned upon COUNTY's determination of changes in risk exposures.

### 8.25 INSURANCE COVERAGE REQUIREMENTS

8.25.1 Commercial General Liability insurance (providing scope of coverage equivalent to ISO policy form CG 00 01), naming COUNTY and its Agents as an additional insured, with limits of not less than:

General Aggregate:	\$2 million
Products/Completed Operations Aggregate:	\$1 million
Personal and Advertising Injury:	\$1 million

Each Occurrence: \$1 million

- 8.25.2 Automobile Liability insurance (providing scope of coverage equivalent to ISO policy form CA 00 01) with limits of not less than \$1 million for bodily injury and property damage, in combined or equivalent split limits, for each single accident. Insurance shall cover liability arising out of CONTRACTOR's use of autos pursuant to this Contract, including owned, leased, hired, and/or non-owned autos, as each may be applicable.
- 8.25.3 Workers Compensation and Employers' Liability insurance or qualified self-insurance satisfying statutory requirements, which includes Employers' Liability coverage with limits of not less than \$1 million per accident. If CONTRACTOR will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage also shall include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the COUNTY as the Alternate Employer, and the endorsement form shall be modified to provide that COUNTY will receive not less than thirty (30) days advance written notice of cancellation of this coverage provision. If applicable to CONTRACTOR's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.
- 8.25.4 Professional Liability/Errors and Omissions Insurance covering CONTRACTOR's liability arising from or related to this Contract, with limits of not less than \$1 million per claim and \$2 million aggregate. Further, CONTRACTOR understands and agrees it shall maintain such coverage for a period of not less than three (3) years following this Agreement's expiration, termination or cancellation.

## **8.26 LIQUIDATED DAMAGES**

- 8.26.1 If, in the reasonable judgment of the Department Head, or his/her designee, the CONTRACTOR is objectively deemed to be non-compliant with the terms and obligations assumed hereby, the Department Head, or his/her designee, at his/her option, in addition to, or in lieu of, other remedies provided herein, may withhold the entire monthly payment or deduct pro rata from the CONTRACTOR's invoice for work not performed. A description of the work not performed and the amount to be withheld or deducted from payments to the CONTRACTOR from the COUNTY, will be forwarded to the CONTRACTOR by the Department Head, or his/her designee, in a written notice describing the reasons for said action. For purposes of clarity, this section 8.26.1 shall apply to deliverables and reports to be made to COUNTY and not CONTRACTOR'S day to day operations.



- 8.26.2 If the Department Head, or his/her designee, reasonably determines that there are deficiencies in the performance of this Contract that the Department Head, or his/her designee, deems are correctable by the CONTRACTOR over a certain time span, the Department Head, or his/her designee, will provide a written notice to the CONTRACTOR to correct the deficiency within specified time frames. Should the CONTRACTOR fail to correct deficiencies within said time frame, the Department Head, or his/her designee, may: (a) Deduct from the CONTRACTOR'S payment, pro rata, those applicable portions of the Monthly Contract Sum; and/or (b) Deduct liquidated damages. The parties agree that it will be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of the CONTRACTOR to correct a deficiency within the specified time frame. The parties hereby agree that under the current circumstances a reasonable estimate of such damages is \$100 per day per infraction and that the CONTRACTOR shall be liable to the COUNTY for liquidated damages in said amount. Said amount shall be deducted from the COUNTY's payment to the CONTRACTOR; and/or (c) Upon giving five (5) days' notice to the CONTRACTOR for failure to correct the deficiencies, the COUNTY may correct any and all deficiencies and the total costs incurred by the COUNTY for completion of the work by an alternate source, whether it be COUNTY forces or separate private contractor, will be deducted and forfeited from the payment to the CONTRACTOR from the COUNTY, as determined by the COUNTY. For purposes of clarity, this section 8.26.2 shall apply to deliverables and reports to be made to COUNTY and not CONTRACTOR'S day to day operations.
- 8.26.3 The action noted in sub-paragraph 8.26.2 shall not be construed as a penalty, but as adjustment of payment to the CONTRACTOR to recover the COUNTY cost due to the failure of the CONTRACTOR to complete or comply with the provisions of this Contract.
- 8.26.4 This sub-paragraph shall not, in any manner, restrict or limit the COUNTY's right to damages for any breach of this Contract provided by law or as specified in the Performance Requirements Summary (PRS) or sub-paragraph 8.26.2, and shall not, in any manner, restrict or limit the COUNTY's right to terminate this Contract as agreed to herein.

## **8.27 APPROVAL OF WORK**

All tasks, "work products" (deliverables), services or other work performed by CONTRACTOR are subject to the written approval of the COUNTY Project Manager or designee. Approval or rejection of deliverable(s) will not be unreasonably withheld by COUNTY.

## **8.28 NONDISCRIMINATION AND AFFIRMATIVE ACTION**

- 8.28.1 The 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.
- 8.28.2 The CONTRACTOR shall certify to, and comply with, the provisions of Exhibit C- Contractor's EEO Certification.
- 8.28.3 The 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.
- 8.28.4 The 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, physical or mental disability, marital status, or political affiliation.
- 8.28.5 The 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.
- 8.28.6 The CONTRACTOR shall allow COUNTY representatives access to the CONTRACTOR's employment records during regular business hours to verify compliance with the provisions of this sub-paragraph 8.28 when so requested by the COUNTY.
- 8.28.7 If the COUNTY finds that any provisions of this sub-paragraph 8.28 have been violated, such violation shall constitute a material breach of this Contract upon which the COUNTY may terminate or suspend this Contract. While the 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 the CONTRACTOR has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by the COUNTY that the CONTRACTOR has violated the anti-discrimination provisions of this Contract.

8.28.8 The parties agree that in the event the CONTRACTOR violates any of the anti-discrimination provisions of this Contract, the COUNTY shall, at its sole 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 in lieu of terminating or suspending this Contract.

#### **8.29 NON EXCLUSIVITY**

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

#### **8.30 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.

#### **8.31 NOTICE OF DISPUTES**

The CONTRACTOR shall bring to the attention of the COUNTY Project Manager any dispute between the COUNTY and the CONTRACTOR regarding the performance of services as stated in this Contract. If the COUNTY Project Manager is not able to resolve the dispute, the Department Head, or designee shall resolve it.

#### **8.32 NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT**

The 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.

#### **8.33 NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW**

The 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 F of this Contract and is also available on the Internet at [www.babysafela.org](http://www.babysafela.org) for printing purposes.

### **8.34 NOTICES**

- 8.34.1 Notices required or permitted to be given under the terms of this Contract or by any law now or hereafter in effect may, at the option of the party giving notice, be given by personal delivery or by enclosing the same in a sealed envelope addressed to the party for whom intended and by depositing such envelope with postage prepaid in the United States Post Office or substation thereof, or any public mail box.

The notices and envelopes containing same to COUNTY shall be addressed to:

Gary Gero  
Chief Executive Office  
500 West Temple Street, Room 713  
Los Angeles, CA 90012

The notices and envelopes containing same to CONTRACTOR shall be addressed to:

Drake Welch  
Vice President – Customer Care  
401 West A Street, Suite 500  
San Diego, CA 92101  
619.694.8039 – Office  
619.261.2477 – Cell  
[Drake.Welch@CalpineSolutions.com](mailto:Drake.Welch@CalpineSolutions.com)

- 8.34.2 In the event of suspension or termination of this Agreement, notices may also be given upon personal delivery to any person whose actual knowledge of such suspension or termination would be sufficient notice to CONTRACTOR.

### **8.35 CONFIDENTIALITY AND SECURITY**

- 8.35.1 CONTRACTOR shall maintain the confidentiality of all its records, including but not limited to billing, COUNTY records, case records and patient records, materials, documents, data, and/or other information received, obtained, transmitted, and/or produced under the provisions of this Contract ("COUNTY's Confidential Information") in accordance with all applicable Federal, State and local laws, regulations, ordinances and directives relating to confidentiality, including without limitation, COUNTY policies concerning information technology security and the protection of confidential records and information.

CONTRACTOR shall not disclose to any person or entity any information identifying, characterizing, or relating to any trait, feature, function, risk, threat, vulnerability, weakness, or problem regarding any data or system security in COUNTY'S computer system(s) nor any safeguard, counter-measure, contingency plan, policy, or procedure for any data or system security contemplated or implemented by COUNTY, without COUNTY'S prior written approval. The CONTRACTOR shall comply with applicable security policies, procedures and requirements as set forth in this Contract. CONTRACTOR shall inform all of its officers, employees, and agents providing services hereunder of the confidentiality provisions of this Contract. As a condition of employment, all employees of CONTRACTOR must sign and adhere to the attached Consultant Employee Acknowledgment and Confidentiality Agreement (Exhibit D). Further, CONTRACTOR shall cause each non-employee performing services covered by this Contract to sign and adhere to the provisions of the Consultant Non-Employee Acknowledgment and Confidentiality Agreement (Exhibit G). These Confidentiality Agreements shall be filed in CONTRACTOR's personnel records for the employees and agents and CONTRACTOR shall provide a copy to COUNTY upon request.

#### 8.35.2 Information Security Requirements

- a) **Data Encryption.** CONTRACTOR and any approved Subcontractors that electronically transmit or store personal information ("PI"), protected health information ("PHI") and/or medical information ("MI") shall comply with the encryption standards set forth below. PI is defined in California Civil Code Section 1798.29(g). PHI is defined in Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and implementing regulations. MI is defined in California Civil Code Section 56.05(j).
  - (i) **Stored Data.** CONTRACTOR's and Subcontractors' workstations and portable devices (e.g., mobile, wearables, tablets, thumb drives, external hard drives) require encryption (i.e. software and/or hardware) in accordance with: (a) Federal Information Processing Standard Publication (FIPS) 140-2; (b) National Institute of Standards and Technology (NIST) Special Publication 800-57 Recommendation for Key Management – Part 1: General (Revision 3); (c) NIST Special Publication 800-57 Recommendation for Key Management – Part 2: Best Practices for Key Management Organization; and (d) NIST Special Publication 800-111 Guide to Storage Encryption Technologies for End User Devices. Advanced Encryption Standard (AES) with cipher strength of 256-bit is minimally required.
  - (ii) **Transmitted Data.** All transmitted (e.g. network) COUNTY PI, PHI and/or MI require encryption in accordance with: (a) NIST Special Publication 800-52 Guidelines for the Selection and Use of

Transport Layer Security Implementations; and (b) NIST Special Publication 800-57 Recommendation for Key Management – Part 3: Application-Specific Key Management Guidance. Secure Sockets Layer (SSL) is minimally required with minimum cipher strength of 128-bit.

- (iii) Certification. COUNTY must receive within ten (10) business days of its request, a certification from CONTRACTOR (for itself and any Subcontractors) that certifies and validates compliance with the encryption standards set forth above. In addition, CONTRACTOR shall maintain a copy of any validation/attestation reports that its data encryption product(s) generate and such reports shall be subject to audit in accordance with the Contract. Failure on the part of the CONTRACTOR to comply with any of the provisions of this Sub-paragraph 8.35.2 (Data Encryption) shall constitute a material breach of this Contract upon which the COUNTY may terminate or suspend this Contract.
- b. **Security Incident.** A "Security Incident" shall mean the attempted or successful unauthorized access, use, disclosure, modification or interference with system operations in an information system, as such term is defined in 45 C.F.R. § 164.304.
  - (i) CONTRACTOR will promptly notify (but in no event more than twenty-four (24) hours after the detection of a Security Incident) the designated COUNTY security contact by telephone and subsequently via written letter of any potential or actual security attacks or Security Incidents.
  - (ii) The notice shall include the approximate date and time of the occurrence and a summary of the relevant facts, including a description of measures being taken to address the occurrence. A Security Incident includes instances in which internal personnel access systems in excess of their user rights or use the systems inappropriately.
  - (iii) CONTRACTOR will provide a monthly report of all Security Incidents noting the actions taken. This will be provided via a written letter to the COUNTY security representative on or before the first (1st) week of each calendar month. COUNTY or its third-party designee may, but is not obligated, perform audits and security tests of CONTRACTOR's environment that may include, but are not limited to, interviews of relevant personnel, review of documentation, or technical inspection of systems, as they relate to the receipt, maintenance, use, retention, and authorized destruction of PI and County Confidential Information.
  - (iv) COUNTY reserves the right to view, upon request, summary results (i.e., the number of high, medium and low vulnerabilities) and related corrective action schedule for which CONTRACTOR has undertaken on its behalf to assess CONTRACTOR's own

network security. If requested, copies of these summary results and corrective action schedule will be sent to the COUNTY security contact.

### **8.35.3 Return of Confidential Information**

On COUNTY's written request or upon expiration or termination of this Contract for any reason, CONTRACTOR will promptly: (a) return or destroy, at COUNTY's option, all originals and copies of all documents and materials it has received containing COUNTY's Confidential Information; (b) if return or destruction is not permissible under applicable law, continue to protect such information in accordance with the terms of this Contract; and (c) deliver or destroy, at COUNTY's option, all originals and copies of all summaries, records, descriptions, modifications, negatives, drawings, adoptions and other documents or materials, whether in writing or in machine-readable form, prepared by CONTRACTOR or, prepared under its direction, or at its request, from the documents and materials referred to in Sub-paragraph 8.35.1, and provide a notarized written statement to COUNTY certifying that all documents and materials referred to in Subsection 8.35.1 have been delivered to COUNTY or destroyed, as requested by COUNTY.

## **8.36 PUBLIC RECORDS ACT**

- 8.36.1 Any documents submitted by the CONTRACTOR; all information obtained in connection with the COUNTY's right to audit and inspect the CONTRACTOR's documents, books, and accounting records pursuant to sub-paragraph 8.38 - Record Retention and Inspection/Audit Settlement of this Contract; as well as any documents which were required to be submitted in response to a Request for Proposals (RFP) if used in the solicitation process for this Contract, become the exclusive property of the COUNTY. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements that meet the exceptions set forth in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret", "confidential", or "proprietary". The 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.
- 8.36.2 In the event the COUNTY is required 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", the CONTRACTOR agrees to defend and indemnify the COUNTY from all costs and expenses, including reasonable

attorney's fees, in action or liability arising under the Public Records Act.

### **8.37 PUBLICITY**

8.37.1 The 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 the Contractor's need to identify its services and related clients to sustain itself, the COUNTY shall not inhibit the CONTRACTOR from publishing its role under this Contract within the following conditions:

- The CONTRACTOR shall develop all publicity material in a professional manner; and
- During the term of this Contract, the 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 the COUNTY without the prior written consent of the COUNTY's Project Manager. The COUNTY shall not unreasonably withhold written consent.

8.37.2 The 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 sub-paragraph 8.37 shall apply.

### **8.38 RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT**

The CONTRACTOR shall maintain accurate and complete financial records of its activities and operations relating to this Contract in accordance with generally accepted accounting principles. The CONTRACTOR shall also maintain accurate and complete employment and other records relating to its performance of this Contract. The CONTRACTOR agrees that the 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 relating to this Contract. All such material, including, but not limited to, all financial records, bank statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, and proprietary data and information, shall be kept and maintained by the CONTRACTOR and shall be made available to the COUNTY during the term of this Contract and for a period of five (5) years thereafter unless the COUNTY's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by the CONTRACTOR at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at the COUNTY's option, the CONTRACTOR shall pay the COUNTY for travel,



per diem, and other costs incurred by the COUNTY to examine, audit, excerpt, copy, or transcribe such material at such other location.

- 8.38.1 In the event that an audit of the CONTRACTOR is conducted specifically regarding this Contract by any Federal or State auditor, or by any auditor or accountant employed by the CONTRACTOR or otherwise, then the CONTRACTOR shall file a copy of such audit report with the COUNTY's Auditor-Controller within thirty (30) days of the CONTRACTOR's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Contract. Subject to applicable law, the COUNTY shall make a reasonable effort to maintain the confidentiality of such audit report(s).
- 8.38.2 Failure on the part of the CONTRACTOR to comply with any of the provisions of this sub-paragraph 8.38 shall constitute a material breach of this Contract upon which the COUNTY may terminate or suspend this Contract.
- 8.38.3 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 the COUNTY conduct an audit of the CONTRACTOR regarding the work performed under this Contract, and if such audit finds that the COUNTY's dollar liability for any such work is less than payments made by the COUNTY to the CONTRACTOR, then the difference shall be either: a) repaid by the CONTRACTOR to the COUNTY by cash payment upon demand or b) at the sole option of the COUNTY's Auditor-Controller, deducted from any amounts due to the CONTRACTOR from the COUNTY, whether under this Contract or otherwise. If such audit finds that the COUNTY's dollar liability for such work is more than the payments made by the COUNTY to the CONTRACTOR, then the difference shall be paid to the CONTRACTOR by the COUNTY by cash payment, provided that in no event shall the COUNTY's maximum obligation for this Contract exceed the funds appropriated by the COUNTY for the purpose of this Contract.

### **8.39 RECYCLED BOND PAPER**

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

### **8.40 SUBCONTRACTING**

- 8.40.1 The requirements of this Contract may not be subcontracted by the CONTRACTOR without the advance written approval of the COUNTY. Any attempt by the CONTRACTOR to subcontract

without first obtaining prior written approval and the prior consent of the COUNTY may be deemed a material breach of this Contract.

8.40.2 If the CONTRACTOR desires to subcontract, the CONTRACTOR shall provide the following information promptly to the COUNTY:

- 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 the COUNTY.

8.40.3 The CONTRACTOR shall indemnify and hold the 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 the CONTRACTOR employees.

8.40.4 The CONTRACTOR shall remain fully responsible for all performances required of it under this Contract, including those that the CONTRACTOR has determined to subcontract, notwithstanding the COUNTY's approval of the CONTRACTOR's proposed subcontract.

8.40.5 The COUNTY's consent to subcontract shall not waive the COUNTY's right to prior and continuing approval of any and all personnel, including Subcontractor employees, providing services under this Contract. The CONTRACTOR is responsible to notify its Subcontractors of this COUNTY right.

8.40.6 The 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 the COUNTY's consent to subcontract.

8.40.7 CONTRACTOR shall include all Subcontractors as insureds under Contractor's own policies, or shall provide COUNTY with each Subcontractor's separate evidence of insurance coverage. CONTRACTOR shall be responsible for verifying each Subcontractor complies with the required insurance provisions set forth in this Contract.

**8.41 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM**

Failure of the CONTRACTOR to maintain compliance with the requirements set forth in sub-paragraph 8.13 - 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 the COUNTY under any other provision of this Contract, failure of the CONTRACTOR to cure such default within ninety (90) calendar days of written notice shall be grounds upon which the COUNTY may terminate this Contract pursuant to sub-paragraph 8.44 - Termination for Default and pursue debarment of the CONTRACTOR, pursuant to County Code Chapter 2.202.

**8.42 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX PROGRAM**

Failure of CONTRACTOR to maintain compliance with the requirements set forth in sub-paragraph 8.14 Contractor's Warranty of Compliance with COUNTY's Defaulted Property Tax Reduction 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 10 days of notice shall be grounds upon which COUNTY may terminate this contract and/or pursue debarment of CONTRACTOR, pursuant to County Code Chapter 2.206.

**8.43 TERMINATION FOR CONVENIENCE**

- 8.43.1 This Contract may be terminated, in whole or in part, from time to time, when such action is deemed by the COUNTY, in its sole discretion, to be in its best interest. Termination of work hereunder shall be effected by notice of termination to the 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 ten (10) days after the notice is sent.
- 8.43.2 After receipt of a notice of termination and except as otherwise directed by the COUNTY, the 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.
- 8.43.3 After receipt of the Notice of Termination, CONTRACTOR shall submit to COUNTY, in the form and with the certifications as may be prescribed by COUNTY, its termination claim and invoice. Such claim and invoice shall be submitted promptly, but not later than three (3) months from the effective date of termination. Upon failure of CONTRACTOR to submit its termination claim and invoice within the time allowed, COUNTY may determine, on the basis of information available to COUNTY, the amount, if any, due to CONTRACTOR in respect to the termination and such determination shall be final. After

such determination is made, COUNTY shall pay CONTRACTOR the amount so determined.

8.43.4 Subject to the provisions of the subparagraphs 8.43.1 and 8.43.2, above, COUNTY and CONTRACTOR shall negotiate an equitable amount to be paid to CONTRACTOR by reason of the total or partial termination of work pursuant to this Paragraph. Said amount may include a reasonable allowance for profit on work done but shall not include an allowance on work terminated. COUNTY shall pay the agreed amount; subject to other limitations and provided that such amount shall not exceed the total funding obligated under this Agreement as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated.

8.43.5 All material including books, records, documents, or other evidence bearing on the costs and expenses of the CONTRACTOR under this Contract shall be maintained by the CONTRACTOR in accordance with sub-paragraph 8.38, Record Retention & Inspection/Audit Settlement.

#### **8.44 TERMINATION FOR DEFAULT**

8.44.1 The COUNTY may, by written notice to the Contractor, terminate the whole or any part of this Contract, if, in the judgment of COUNTY's Project Manager:

- CONTRACTOR has materially breached this Contract; or
- CONTRACTOR fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required either under this Contract; or
- CONTRACTOR fails to demonstrate a high probability of timely fulfillment of performance requirements under this Contract, or of any obligations of this Contract and in either case, fails to demonstrate convincing progress toward a cure within five (5) working days (or such longer period as the COUNTY may authorize in writing) after receipt of written notice from the COUNTY specifying such failure.
- Prior to issuance of a notice for Termination for Default, COUNTY's Project Manager shall confer via telephone with CONTRACTOR's Project Manager and discuss the nature and substance of the facts and circumstances giving rise to such Termination for Default, and any possible cure thereof.

8.44.2 In the event that the COUNTY terminates this Contract in whole or in part as provided in sub-paragraph 8.44.1, the COUNTY may procure, upon such terms and in such manner as the COUNTY may deem appropriate, goods and services similar to those so terminated. The CONTRACTOR shall be liable to the COUNTY for any and all reasonable excess costs incurred by

the COUNTY, as determined by the COUNTY, for such similar goods and services. The CONTRACTOR shall continue the performance of this Contract to the extent not terminated under the provisions of this sub-paragraph.

8.44.3 Except with respect to defaults of any Subcontractor, the CONTRACTOR shall not be liable for any such excess costs of the type identified in sub-paragraph 8.44.2 if its failure to perform this Contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not limited to: acts of God or of the public enemy, acts of the COUNTY in either its sovereign or contractual capacity, acts of Federal or State governments in their sovereign capacities, 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 the 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 the CONTRACTOR and Subcontractor, and without the fault or negligence of either of them, the 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 the CONTRACTOR to meet the required performance schedule. As used in this paragraph 8.44, the terms "Subcontractor" and "Subcontractors" mean Subcontractor(s) at any tier.

8.44.4 If, after the COUNTY has given notice of termination under the provisions of this paragraph 8.44, it is determined by the COUNTY that the CONTRACTOR was not in default under the provisions of this paragraph 8.44, or that the default was excusable under the provisions of sub-paragraph 8.44.3, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to paragraph 8.43 - Termination for Convenience. In the event that a court of law, an arbitration or a government agency, makes a final determination that CONTRACTOR either (a) was not in default and/or (b) was not guilty of or responsible for the events or violations that gave rise to the default, then the County will provide a written notice to the CONTRACTOR that the Contract is deemed to have been terminated for convenience.

8.44.5 The rights and remedies of the COUNTY provided in this paragraph 8.44 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

#### **8.45 TERMINATION FOR IMPROPER CONSIDERATION**

- 8.45.1 The COUNTY may, by written notice to the CONTRACTOR, immediately terminate the right of the CONTRACTOR to proceed under this Contract if it is found that consideration, in any form, was offered or given by the 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 the CONTRACTOR's performance pursuant to this Contract. In the event of such termination, the COUNTY shall be entitled to pursue the same remedies against the CONTRACTOR as it could pursue in the event of default by the Contractor.
- 8.45.2 The 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.
- 8.45.3 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

#### **8.46 TERMINATION FOR INSOLVENCY**

- 8.46.1 The COUNTY may terminate this Contract forthwith in the event of the occurrence of any of the following:
- Insolvency of the CONTRACTOR. The 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 the CONTRACTOR under the Federal Bankruptcy Code;
  - The appointment of a Receiver or Trustee for the CONTRACTOR; or
  - The execution by the CONTRACTOR of a general assignment for the benefit of creditors.
- 8.46.2 The rights and remedies of the COUNTY provided in this paragraph 8.46 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

**8.47 TERMINATION FOR NON-ADHERENCE OF COUNTY LOBBYIST ORDINANCE**

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

**8.48 TERMINATION FOR NON-APPROPRIATION OF FUNDS**

Notwithstanding any other provision of this Contract, the COUNTY shall not be obligated for the CONTRACTOR's performance hereunder or by any provision of this Contract during any of the COUNTY's future fiscal years unless and until the COUNTY's Board of Supervisors appropriates funds for this Contract in the 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. The COUNTY shall notify the CONTRACTOR in writing of any such non-allocation of funds at the earliest possible date.

**8.49 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.

**8.50 WAIVER**

No waiver by the COUNTY of any breach of any provision of this Contract shall constitute a waiver of any other breach or of such provision. Failure of the COUNTY 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 8.50 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

**8.51 WARRANTY AGAINST CONTINGENT FEES**

8.51.1 The 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.

8.51.2 For breach of this warranty, the 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.

#### **8.52 COUNTY LOBBYISTS**

Each County lobbyist as defined in Los Angeles County Code Section 2.160.010, retained by CONTRACTOR, shall fully comply with the COUNTY Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of any COUNTY lobbyist retained by CONTRACTOR to fully comply with the COUNTY Lobbyist Ordinance shall constitute a material breach of this Contract upon which COUNTY may immediately terminate or suspend this Contract. CONTRACTOR shall comply with all conflict of interest laws, ordinances and regulations now in effect or hereafter to be enacted during the term of this Agreement. CONTRACTOR warrants that it is not now aware of any facts which do or could create a conflict of interest. If CONTRACTOR hereafter becomes aware of any facts which might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to COUNTY. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances.

#### **8.53 PROHIBITION FROM INVOLVEMENT IN THE BIDDING PROCESS OF FUTURE RFPs**

CONTRACTOR understands and agrees that neither CONTRACTOR nor its subsidiaries shall be involved in any way in the bidding process on any Request for Proposals (RFPs) developed or prepared by or with the assistance of CONTRACTOR's services rendered pursuant to this Agreement, whether as a prime contractor or subconsultant, or as a contractor to any other prime contractor or subconsultant. Any such involvement by CONTRACTOR shall result in the rejection by COUNTY of the bid or proposal by the prime contractor in question.

#### **8.54 PROPRIETARY RIGHTS**

All materials, data and other information of any kind obtained from COUNTY personnel, and all materials, data, reports and other information of any kind developed by CONTRACTOR under this Agreement are confidential to and are solely the property of COUNTY. CONTRACTOR shall take all necessary measures to protect the security and confidentiality of all such materials, data, reports and information. The provisions of this Paragraph shall survive the expiration or other termination of this Agreement.

All materials, data and other information of any kind obtained from CONTRACTOR personnel, and all materials, data, reports and other



information of any kind developed by CONTRACTOR under this Agreement are confidential to and are solely the property of CONTRACTOR. COUNTY shall take all necessary measures to protect the security and confidentiality of all such materials, data, reports and information. The provisions of this Paragraph shall survive the expiration or other termination of this Agreement.

**8.55 LICENSES, PERMITS, REGISTRATIONS AND CERTIFICATES**

CONSULTANT shall obtain and maintain in effect during the term of this Agreement, all licenses, permits, registrations and certificates, if any, required by law, which are applicable to the performance of this Agreement, and shall further ensure that all of its officers, employees and agents who perform services hereunder obtain and maintain in effect during the term of this Agreement, all licenses, permits, registrations and certificates required by law which are applicable to their performance of services hereunder.

**8.56 COUNTERPARTS**

This Agreement may be executed in counterparts, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original, and all such counterparts together shall constitute one and the same instrument.

**8.57 TIME OFF FOR VOTING**

The Contractor shall notify its employees, and shall require each subcontractor to notify and provide to its employees, information regarding the time off for voting law (Elections Code Section 14000). Not less than 10 days before every statewide election, every Contractor and subcontractor shall keep posted conspicuously at the place of work, if practicable, or elsewhere where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of Section 14000.

**8.58 COMPLIANCE WITH COUNTY'S ZERO TOLERANCE POLICY ON HUMAN TRAFFICKING**

Contractor acknowledges that the County has established a Zero Tolerance Human Trafficking Policy prohibiting contractors from engaging in human trafficking.

If a Contractor or member of Contractor's staff is convicted of a human trafficking offense, the County shall require that the Contractor or member of Contractor's staff be removed immediately from performing services under the Contract. County will not be under any obligation to disclose confidential information regarding the offenses other than those required by law.

Disqualification of any member of Contractor's staff pursuant to this paragraph shall not relieve Contractor of its obligation to complete all work in accordance with the terms and conditions of this Contract.

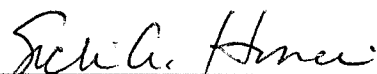
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DELEGATED AUTHORITY AGREEMENT FOR DATA MANAGEMENT OF CUSTOMER CALL CENTER SERVICES  
DELEGATED AUTHORITY AGREEMENT CONTRACT NUMBER: AO-18-022


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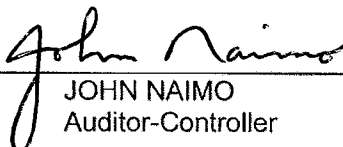
IN WITNESS THEREOF, COUNTY has caused this Contract to be executed by the Chief Executive Officer. CONTRACTOR has caused this Contract to be executed by its duly authorized representative.

COUNTY OF LOS ANGELES

By   
SACHI A. HAMAI  
Chief Executive Officer

Date 10/6/17

By   
LORI GLASGOW  
Executive Officer  
Board of Supervisors

By   
JOHN NAIMO  
Auditor-Controller

APPROVED AS TO FORM:

MARY C. WICKHAM  
County Counsel

By   
Deputy County Counsel

CONTRACTOR

By (see attached)  
CALPINE ENERGY SOLUTIONS, LLC

\_\_\_\_\_  
Taxpayer Identification No.

IN WITNESS THEREOF, COUNTY has caused this Contract to be executed by the Chief Executive Officer. CONTRACTOR has caused this Contract to be executed by its duly authorized representative.

COUNTY OF LOS ANGELES

By \_\_\_\_\_  
SACHI A. HAMAI  
Chief Executive Officer

Date \_\_\_\_\_

By \_\_\_\_\_  
LORI GLASGOW  
Executive Officer  
Board of Supervisors

By \_\_\_\_\_  
JOHN NAIMO  
Auditor-Controller

APPROVED AS TO FORM:

MARY C. WICKHAM  
County Counsel

By \_\_\_\_\_  
Deputy County Counsel

CONTRACTOR

By \_\_\_\_\_  
CALPINE ENERGY SOLUTIONS, LLC

\_\_\_\_\_  
Taxpayer Identification No.

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## **STATEMENT OF WORK**

### **I. Background:**

The County of Los Angeles (County) solicited proposals to provide data management and call center services to serve retail electric customers of the Los Angeles Community Choice Energy (LACCE) who will participate in LACCE's Community Choice Aggregation Program. The Business Plan for LACCE is available online at <http://file.lacounty.gov/SDSInter/green/247381 BoardMotionofSept152016ItemNo6-FinalReport.pdf>.

It is anticipated that a Joint Powers Authority (JPA) will be formed to ultimately govern LACCE. When the JPA is formed, this agreement may be assigned from the County to the JPA.

It is anticipated that LACCE will ramp up to full operation in three phases. This Statement of Work is intended to fulfill the needs of the phase 1 accounts only, however the County reserves the right to retain the service provider for subsequent phases. Phase 1 will initiate the operations of LACCE and include all County-owned facilities within the County's unincorporated areas. A timeline and summary of the expected characteristics of this phase is presented below.

<b>Exhibit 1 LACCE Metrics</b>				
<b>Phase</b>	<b>Initiation Date</b>	<b>Number of Customers</b>	<b>Peak Load MW</b>	<b>Annual MWa</b>
1	January 2018	1,728	40	20

### **II. Purpose and Objectives:**

The County seeks proposals for data manager and call center services to support LACCE's customer enrollment, billing, and call center activities.

### **III. Scope of Work:**

Under the direction of the COUNTY Project Manager, CONSULTANT shall provide **all** of the following services:

#### **3.1 Electronic Data Exchange Services**

- i. Receive and process CCA service requests ("CCASRs") from SCE which specify the changes to a LACCE customer's account status such as a rate class change or opening/closing of an account.
- ii. Obtain customer usage data from the SCE's server, including hourly interval usage data at billing level quality.
- iii. Communicate and store the amount to be billed by SCE for services provided by LACCE.
- iv. Receive and store payment transactions toward LACCE charges from SCE after payment is received by the SCE from customers.

### **3.2 Reporting**

Prepare reports for LACCE including the following:

- i. Submit a monthly generation extract file to Western Renewable Energy Generation Information System (WREGIS) on LACCE's behalf.
- ii. Daily and monthly report of billing information (usage, amount, customer information, etc.) and payment transactions received.
- iii. Weekly report of delinquent accounts, exceptions (usage delayed, usage received but unbilled, usage gaps, etc.), and accounts added and dropped.
- iv. Monthly report of billing errors, billing timeliness, customer call center inquiries received, average time required to respond to the inquiry, and percentage of issues resolved.
- v. Other reports as may be proposed by the service provider.

### **3.3 Customer Information System**

- i. Establish an operational customer relationship management system within 30 days of contract execution, and establish an operational customer information system within 60 days of contract execution.
- ii. Allow LACCE to have functional access to the online database to add customer interactions and other account notes, to view customer email or written letter correspondence within online database, or view SCE bills for LACCE customers.
- iii. Maintain a customer database of all LACCE customers and identify each customer's enrollment status, rate tariff election, payment history, collection status, on-site generating capacity, if applicable, and any correspondence with the customer.
- iv. Maintain and provide as-needed historical usage data on all customers for up to five years.
- v. Maintain accessible archives of billing records for all LACCE customers from the start of LACCE Service or a period of no less than five years.
- vi. Maintain and communicate as needed record of customers who have been offered service with LACCE but have elected to opt out, either before or after starting service with LACCE.
- vii. Maintain and communicate as needed records of net energy metering credits and generation data for customers to be posted on bill and settled at least annually.
- viii. Store historical SmartMeter usage data, as received by the MDMA, for a 48-hour window.
- ix. When requested by LACCE, place program charges on the relevant customer account, identified by Service Agreement ID (SAID).
- x. Identify customers participating in various LACCE programs in database.
- xi. Include various program payment information in all relevant reports. Perform quarterly LACCE program reviews to assess appropriate customer charge level.
- xii. Maintain all customer data according to LACCE's customer privacy policy and the requirements of relevant California Public Utilities Commission Decisions including D.12-08-045, including a daily backup process.

- xiii. Maintain a data management provider security breach policy.

### **3.4 Customer Call Center**

- i. Provide professional Interactive Voice Response (IVR) recordings for CCA customer call center.
- ii. Provide option for IVR self-service and track how many customers start and complete self-service options without live-agent assistance.
- iii. Staff a call center, during any CCA statutory enrollment period, 24 hours a day 7 days a week to process opt out requests.
- iv. Staff a call center during Non-Enrollment Period between the hours of 8 AM and 5 PM PPT Monday through Friday, excluding LACCE and SCE holidays.
- v. Provide sufficient call center staffing to meet the requirements set forth herein, including designating LACCE specific agents to the extent needed to provide for full functionality and a call center supervisor that will serve as the main point of contact between LACCE and the customer call center staff.
- vi. Provide sufficient number of data manager experts available to manage escalated calls between the hours of 8 AM and 5 PM PPT Monday through Friday, excluding LACCE and SCE holidays ("Regular Business Hours").
- vii. Adhere to the following performance standards during non-enrollment periods:
  - a. A minimum of 75% of all calls will be answered within 45 seconds.
  - b. A minimum of 90% of all calls will be answered within 3 minutes.
  - c. 100% of voicemail messages answered within one (1) business day.
  - d. 100% of emails receive an immediate automated acknowledgement.
  - e. 95% of emails receive a customized response within one (1) business day.
  - f. 100% of emails receive a customized response within three (3) business days.
  - g. Achieve a no greater than 7.5% abandon rate for all calls.
- viii. Adhere to the following performance standards during Enrollment Periods:
  - a. A minimum of 75% of all calls will be answered within 60 seconds.
  - b. A minimum of 85% of all calls will be answered within 3 minutes.
  - c. 100% of voicemail messages answered within one (1) business days
  - d. 100% of emails receive an immediate automated acknowledgement.
  - e. 95% of emails receive a customized response within one (1) business day.
  - f. 100% of emails receive a customized response within three (3) business days.
  - g. Achieve a no greater than 10% abandon rate for all calls.
- ix. Provide monthly reports that demonstrate whether performance standards have been met.

- x. Provide callers with the estimated hold time, if applicable. Provide an automated 'call back' option for callers who will be put on hold for an estimated five minutes or longer.
- xi. Record all inbound calls and make recordings available to LACCE staff upon request. Maintain an archive of such recorded calls for a minimum period of 24 months.
- xii. Track call center contact quality with criteria including:
  - a. Use of appropriate greetings and other call center scripts
  - b. Courtesy and professionalism
  - c. Capturing key customer data
  - d. Providing customers with correct and relevant information
  - e. First-contact resolution
  - f. Accuracy in data entry and call coding
  - g. Grammar and spelling in text communication (email and chat)
- xiii. Evaluate customer satisfaction through voluntary customer surveys that ask general questions about call quality, call resolution, and how satisfied the customer was with the service received.
- xiv. Respond to customer inquiries received through email, fax, or web-portal. Receive calls from LACCE customers referred to provider by SCE and receive calls from LACCE customers choosing to contact provider directly without referral from SCE.
- xv. Provide the call center number on SCE invoice allowing LACCEA customers to contact the call center. Collect and/or confirm current email, mailing address and phone number of customers and add to or update database during inbound call.
- xvi. Collect permission (via voice recording, email request, or electronic form submittal) from customers to send electronic correspondence instead of printed mail.
- xvii. Respond to telephone inquiries from LACCE customers using a script developed and updated quarterly by LACCE. For questions not addressed within the script, refer inquiries either back to SCE or to LACCE.
- xviii. Respond to customer inquiries within 24 hours, excluding weekends and holidays, including inquiries received either through telephone calls, email, fax or web-portal.
- xix. Offer bi-annual cross training to SCE call center in coordination with LACCE.
- xx. Participate in coordination meetings, at LACCE request, to promote the resolution of any customer service issues. Such meetings may include LACCE management/ staff and may require on-site participation by Provider's management/staff.
- xxi. Ensure monthly status reports are provided during the first week of each month.
- xxii. Provide weekly status reports during statutory enrollment periods.
- xxiii. Use commercially reasonable efforts to make Spanish speaking call center staff available to customers during regular business hours.
- xxiv. Provide translation services for inbound calls for at least the following languages: Spanish, Mandarin, Tagalog, and Vietnamese.
- xxv. Create and maintain online and downloadable forms for the LACCE website so that customers may perform program related tasks including but not limited to changing their account status to enroll or opt out of



- various LACCE programs. These program changes will be integrated into the customer relationship management system during an hourly sync process
- xxvi. Host LACCE meetings with call center management and representatives on a bimonthly basis.

### **3.5 Billing Administration**

- i. Maintain a table of rate schedules, provided by LACCE, and calculate bills.
- ii. Apply SCE account usage against applicable LACCE rates.
- iii. Review application of LACCE rates to SCE accounts to ensure that the proper rates are applied to the accounts.
- iv. Provide timely billing information to the SCE to meet the SCE's billing window.
- v. Use commercially reasonable efforts to remedy billing errors in a timely manner, within no more than one billing cycle.
- vi. Check preliminary bills from SCE for reasonableness before the bills are sent out.
- vii. Maintain a table of rate schedules offered by LACCE to its customers.
- viii. Send certain LACCE program charges for non-LACCE customers, when supported by SCE, based on information provided to provider by LACCE.
- ix. Send certain LACCE program charges as a separate line item to SCE for placement on monthly bill during term of repayment.
- x. Apply SCE account hourly interval usage data for all LACCE customers against applicable rate to allow for customer billing.
- xi. Review application of LACCE rates to SCE accounts to ensure that the proper rates are applied to the accounts.
- xii. Timely submit billing information for each customer to SCE to meet SCE's billing window.
- xiii. Use commercially reasonable efforts to remedy billing errors for any customer in a timely manner, no more than one billing cycle.
- xiv. Assist with settlement process for net energy metering customers on at least an annual basis and potentially monthly by identifying eligible customers, providing accrued charges and credits, and providing mailing list to LACCE designated printer.
- xv. Provide customer mailing list to LACCE designated printer for new move-in customer notices and opt out confirmation letters routinely within 7 days of enrollment or opt out.
- xvi. Send an LACCE provided letter to customers that are overdue. If no payment is received from the customer after a certain amount of time, issue a CCASR to return customer to SCE.

### **3.6 Settlement Quality Meter Data**

- i. Service provider shall provide LACCE or its designated scheduling coordinator with settlement quality meter data ("SQMD") as required by the CAISO.
- ii. On LACCE's request, service provider will submit SQMD directly to the CAISO on behalf of LACCE or its designated scheduling coordinator.

## ***PRICING SCHEDULE***

### **MAXIMUM NOT TO EXCEED CONTRACT COST: \$10,000.**

The fee will be \$0.25 (twenty-five cents) per active account per month up to 5,000 active accounts. Active account is defined as an SCE service account that is flowing energy supplied by LACCE (post-launch). Additional accounts may be added under a separate pricing schedule only by mutual written agreement of the Parties.

The fees defined in Exhibit B include only those service and items expressly set forth in Exhibit A of this Agreement. Unless otherwise agreed to by County and the Contractor, the cost of additional deliverables approved by County Project Manager and provided by Contractor to County shall be passed through directly to County without mark-up using a labor rate of \$150.00 per hour.

### ***3.7 Certain Bonding Requirements***

- i. CONTRACTOR will post an interim bond or cash equivalent in the amount of ONE HUNDRED THOUSAND UNITED STATES DOLLARS (US\$100,000.00), to the California Public Utility Commission on behalf of COUNTY. The bond or cash equivalent will be replaced by COUNTY, or reimbursed to CONTRACTOR, within ninety (90) days after the initial launch of the CCA program. In the event COUNTY fails to replace or reimburse CONTRACTOR for such bond or cash equivalent as required above, such failure shall constitute a Default under the Agreement.

**CONTRACTOR'S EEO CERTIFICATION**Calpine Energy Solutions, LLC

Contractor Name

401 West A Street, Suite 500, San Diego, CA 92101

Address

77-0212977

Internal Revenue Service Employer Identification Number

**GENERAL CERTIFICATION**

In accordance with Section 4.32.010 of the Code of the County of Los Angeles, the contractor, supplier, or vendor certifies and agrees that all persons employed by such firm, its affiliates, subsidiaries, or holding companies are and will be treated equally by the firm without regard to or because of race, religion, ancestry, national origin, or sex and in compliance with all anti-discrimination laws of the United States of America and the State of California.

**CONTRACTOR'S SPECIFIC CERTIFICATIONS**

1. The Contractor has a written policy statement prohibiting discrimination in all phases of employment. Yes ☒ No ☐
2. The Contractor periodically conducts a self analysis or utilization analysis of its work force. Yes ☒ No ☐
3. The Contractor has a system for determining if its employment practices are discriminatory against protected groups. Yes ☒ No ☐
4. Where problem areas are identified in employment practices, the Contractor has a system for taking reasonable corrective action, to include establishment of goals or timetables. Yes ☒ No ☐

James M. Wood, President

Authorized Official's Printed Name and Title

19  \_\_\_\_\_  
Authorized Official's Signature

10-4-17  
Date

**CONSULTANT EMPLOYEE ACKNOWLEDGMENT AND  
CONFIDENTIALITY AGREEMENT**

I hereby agree that I will not divulge to any unauthorized person, data obtained while performing work pursuant to the contract between \_\_\_\_\_ and the County of Los Angeles.

I agree to forward all requests for the release of information received by me to my immediate supervisor.

I have been informed by my employer of Article 9 of Chapter 4 of Division 3 (Commencing with 6150) of the California Business and Professions Code (i.e. State Bar Act provisions regarding unlawful solicitations as a runner or capper for attorneys) which states:

" . . . It is unlawful for any person, in his individual capacity or in his capacity as a public or private employee, or for any firm, corporation or partnership or association to act as a runner or capper for any such attorneys to solicit any business for such attorneys. . ."

I have also been informed by my employer of Labor Code Section 3219 (i.e. provisions stating it is a felony to offer compensation to claims adjusters and/or for adjusters to accept compensation) which states:

" . . . any person acting individually or through his or her employee or agents, who offers or delivers any rebate, refund, commission, preference, patronage, dividend, discount, or other consideration to any adjuster of claims for compensation, as defined in Section 3207, as compensation, inducement, or reward for the referral or settlement of any claim, is guilty of a felony. . ."

I agree to report any and all violations of the above by any other person and/or by myself to my immediate supervisor, and I agree to ensure that said supervisor reports such violation to the County of Los Angeles, Department of Human Resources. I agree to return all confidential materials to my immediate supervisor upon termination of my employment with \_\_\_\_\_ or upon completion of the presently assigned work task, whichever occurs first.

I acknowledge that violation of this Agreement & Acknowledgment may subject me to civil and/or criminal action and that the County of Los Angeles will seek all possible legal redress.

Signature \_\_\_\_\_ Dated \_\_\_\_\_

Printed Name \_\_\_\_\_

Position/Title \_\_\_\_\_

**INVITATION FOR BID/REQUEST FOR PROPOSAL  
GROUNDS FOR REJECTION**

*Los Angeles County Code Chapter 2.180.010, Certain Contracts Prohibited*, sets forth, among other things, the following:

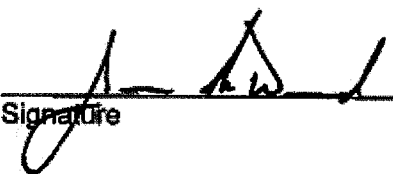
Notwithstanding any other section of this Code, the County shall not contract with, and shall reject any bid or proposal submitted by the persons or entities specified below, unless the Board of Supervisors finds that special circumstances exist which justify the approval of such contract:

- a) Employees of the County or of public agencies for which the Board of Supervisors is the governing body;
- b) Profit making firms or businesses in which employees described in subsection (a) serve as officers, principals, partners or major shareholders;
- c) Persons who, within the immediately preceding twelve (12) months, came within the provisions of subsection (a), and who (1) were employed in positions of substantial responsibility in the area of service to be performed by the Consultant, or (2) participated in any way in developing the Contract or its service specifications; and
- d) Profit making firms or businesses in which the former employees described in subsection (c) serve as officers, principals, partners or major shareholders.

Consultant hereby certifies that personnel who developed and/or participated in the preparation of the Contract do not fall within the scope of Code Section 2.180.010 as outlined above.

James M. Wood, President

Typed Name and Title of Signer

19   
Signature

10-4-12  
Date

# *Safely* Surrendered *Baby Law*



*Babies can be safely surrendered  
to staff at any hospital or fire station in Los Angeles County*

In Los Angeles County: 1-877-BABY SAFE • 1-877-222-9723

[www.babysafela.org](http://www.babysafela.org)



# Safely Surrendered Baby Law



*Babies can be safely surrendered to staff at any hospital or fire station in Los Angeles County*

## What is the Safely Surrendered Baby Law?

California's Safely Surrendered Baby Law allows parents or other persons with lawful custody, without anyone to whom the baby has been committed, to confidentially surrender a baby. As long as the baby is under 72 hours of age, the baby is healthy and has not been abused or neglected, the baby may be surrendered without fear of criminal prosecution.

*Every baby deserves a chance for a healthy life. If someone you know is considering abandoning a baby, let her know there are other options. For three days (72 hours) after birth, a baby can be surrendered to staff at any hospital or fire station in Los Angeles County.*

In Los Angeles County: 1-877-BABY SAFE • 1-877-222-9723

[www.babysafela.org](http://www.babysafela.org)

## How does it work?

A distressed parent who is unable or unwilling to care for a baby can legally, confidentially, and safely surrender a baby within three days (72 hours) of birth. The baby must be handed to an employee at a hospital or fire station in Los Angeles County. As long as the baby shows no sign of abuse or neglect, no name or other information is required. In case the parent changes his or her mind at a later date and wants the baby back, staff will use bracelets to help connect them to each other. One bracelet will be placed on the baby, and a matching bracelet will be given to the parent or other surrendering adult.

## What if a parent wants the baby back?

Parents who change their minds can begin the process of reclaiming their baby within 14 days. These parents should call the Los Angeles County Department of Children and Family Services at 1-800-540-4000.

## Can only a parent bring in the baby?

No. While in most cases a parent will bring in the baby, the Law allows other people to bring in the baby if they have lawful custody.

## Does the parent or surrendering adult have to call before bringing in the baby?

No. A parent or surrendering adult can bring in a baby anytime, 24 hours a day, 7 days a week, as long as the parent or surrendering adult surrenders the baby to someone who works at the hospital or fire station.

## Does the parent or surrendering adult have to tell anything to the people taking the baby?

No. However, hospital or fire station personnel will ask the surrendering party to fill out a questionnaire designed to gather important medical history information, which is very useful in caring for the baby. The questionnaire includes a business reply envelope and can be sent in at a later time.

## What happens to the baby?

The baby will be examined and given medical treatment. Upon release from the hospital, social workers immediately place the baby in a safe and loving home and begin the adoption process.

## What happens to the parent or surrendering adult?

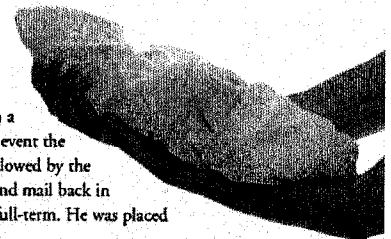
Once the parent or surrendering adult surrenders the baby to hospital or fire station personnel, they may leave at any time.

## Why is California doing this?

The purpose of the Safely Surrendered Baby Law is to protect babies from being abandoned, hurt or killed by their parents. You may have heard tragic stories of babies left in dumpsters or public bathrooms. Their parents may have been under severe emotional distress. The mothers may have hidden their pregnancies, fearful of what would happen if their families found out. Because they were afraid and had no one or nowhere to turn for help, they abandoned their babies. Abandoning a baby is illegal and places the baby in extreme danger. Too often, it results in the baby's death. The Safely Surrendered Baby Law prevents this tragedy from ever happening again in California.

## A baby's story

Early in the morning on April 9, 2005, a healthy baby boy was safely surrendered to nurses at Harbor-UCLA Medical Center. The woman who brought the baby to the hospital identified herself as the baby's aunt and stated the baby's mother had asked her to bring the baby to the hospital on her behalf. The aunt was given a bracelet with a number matching the anklet placed on the baby; this would provide some identification in the event the mother changed her mind about surrendering the baby and wished to reclaim the baby in the 14-day period allowed by the Law. The aunt was also provided with a medical questionnaire and said she would have the mother complete and mail back in the stamped return envelope provided. The baby was examined by medical staff and pronounced healthy and full-term. He was placed with a loving family that had been approved to adopt him by the Department of Children and Family Services.



## EXHIBIT G

### CONSULTANT NON-EMPLOYEE ACKNOWLEDGEMENT AND CONFIDENTIALITY AGREEMENT

Consultant Name \_\_\_\_\_ Contract No. \_\_\_\_\_

Non-Employee Name \_\_\_\_\_

#### GENERAL INFORMATION:

The Consultant referenced above has entered into a contract with the County of Los Angeles to provide certain services to the County. The County requires your signature on this Consultant Non-Employee Acknowledgement and Confidentiality Agreement.

#### NON-EMPLOYEE ACKNOWLEDGEMENT:

I understand and agree that the Consultant referenced above has exclusive control for purposes of the above-referenced contract. I understand and agree that I must rely exclusively upon the Consultant referenced above for payment of salary and any and all other benefits payable to me or on my behalf by virtue of my performance of work under the above-referenced contract.

I understand and agree that I am not an employee of the County of Los Angeles for any purpose whatsoever and that I do not have and will not acquire any rights or benefits of any kind from the County of Los Angeles by virtue of my performance of work under the above-referenced contract. I understand and agree that I do not have and will not acquire any rights or benefits from the County of Los Angeles pursuant to any agreement between any person or entity and the County of Los Angeles.

I understand and agree that I may be required to undergo a background and security investigation(s). I understand and agree that my continued performance of work under the above-referenced contract is contingent upon my passing, to the satisfaction of the County, any and all such investigations. I understand and agree that my failure to pass, to the satisfaction of the County, any such investigation shall result in my immediate release from performance under this and/or any future contract.

#### CONFIDENTIALITY AGREEMENT:

I may be involved with work pertaining to services provided by the County of Los Angeles and, if so, I may have access to confidential data and information pertaining to persons and/or entities receiving services from the County. In addition, I may also have access to proprietary information supplied by other vendors doing business with the County of Los Angeles. The County has a legal obligation to protect all such confidential data and information in its possession, especially data and information concerning health, criminal, and welfare recipient records. I understand that if I am involved in County work, the County must ensure that I, too, will protect the confidentiality of such data and information. Consequently, I understand that I must sign this agreement as a condition of my work to be provided by the above-referenced Consultant for the County. I have read this agreement and have taken due time to consider it prior to signing.



I hereby agree that I will not divulge to any unauthorized person any data or information obtained while performing work pursuant to the above-referenced contract between the above-referenced Consultant and the County of Los Angeles. I agree to forward all requests for the release of any data or information received by me to the above-referenced Consultant.

I agree to keep confidential all health, criminal, and welfare recipient records and all data and information pertaining to persons and/or entities receiving services from the County, design concepts, algorithms, programs, formats, documentation, Consultant proprietary information, and all other original materials produced, created, or provided to or by me under the above-referenced contract. I agree to protect these confidential materials against disclosure to other than the above-referenced Consultant or County employees who have a need to know the information. I agree that if proprietary information supplied by other County vendors is provided to me, I shall keep such information confidential.

I agree to report to the above-referenced Consultant any and all violations of this agreement by myself and/or by any other person of whom I become aware. I agree to return all confidential materials to the above-referenced Consultant upon completion of this contract or termination of my services hereunder, whichever occurs first.

SIGNATURE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

POSITION: \_\_\_\_\_

**Staff Report – Item 5**

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To: Los Angeles Community Choice Energy Board of Directors

From: LACCE Staff

Subject: **Approve the assignment of the contract with EES Consulting for technical and regulatory services**

Date: November 2, 2017

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**RECOMMENDATION**

1. Approve the assignment to the LACCE Authority of the County of Los Angeles contract with EES Consulting, Inc. (EES) for technical and regulatory services.
2. Delegate authority to the Executive Director, or designee, to take any necessary action and execute agreements to effectuate assignment of the contract with between the County of Los Angeles and EES to the LACCE Authority for an amount not to exceed \$160,000.
3. Delegate authority to the Executive Director, or designee, to negotiate and execute amendments provided that LACCE Authority counsel approval is obtained.
4. Delegate authority to the Executive Director, or designee, to terminate the contract as necessary provided that LACCE Authority counsel approval is obtained.

**BACKGROUND**

The County of Los Angeles (County) first engaged EES on development of a Community Choice Aggregation (CCA) program in early 2016, directing them to prepare the LACCE Business Plan which was completed in September 2016. Since then, EES has continued to provide technical and regulatory support to the County and LACCE, including the preparation of the LACCE Implementation Plan, submitted to the Public Utilities Commission on August 15, 2017.

EES provides a broad array of economic, engineering, and environmental services to clients involved in electric power, natural gas, water, and other energy and natural resource-related businesses. Their economic and financial specialties include conservation, electric generation, alternative and renewable energy analysis (wind, solar, geothermal, biomass), electricity and fuel price forecasting, and any other demand or supply arrangements within utility business. Their engineering and environmental areas of expertise include hydro projects, dam design and safety, transmission or distribution

plant systems analysis, planning and valuation, and GIS. Their professional staff members have backgrounds in the areas of economics, finance, financial analysis, commerce, engineering, environmental sciences, regulatory compliance, public administration, operations research and corporate management.

EES is currently providing services to the LACCE Authority through the Memorandum of Understanding between LACCE and the County executed on August 4, 2017. Attachment 1 to this report provides an overview of EES's services to LACCE. Staff is recommending that the Board approve the assignment of the County's contract to the LACCE Authority to create a direct relationship between EES and LACCE.

Staff anticipates EES will assist LACCE with many important tasks, including rate analysis and design, financial planning and proformas, regulatory and legislative research, and other technical support as needed.

EES' contract contains no contract minimum, and work would be undertaken upon direction from LACCE management. The LACCE FY17-18 Budget provides for \$160,000 for these services. LACCE staff will return to the Board with a budget adjustment should the work needed under this contract exceed \$160,000.

Attachments:

- 1) Overview of EES Services
- 2) EES Master Services Agreement No. I104408 for Energy Support Services (to be provided under separate cover)

# EES Consulting, Inc.

Technical Energy Consultant to LACCE

November 2, 2017

**Presented by:**

**Gary Saleba, President/CEO**

**EES Consulting, Inc.**

A registered professional engineering and management consulting firm with offices in Kirkland, WA, Portland, OR and La Quinta, CA

Telephone (425) 889-2700 Facsimile (425) 889-2725

[saleba@eesconsulting.com](mailto:saleba@eesconsulting.com)

[www.eesconsulting.com](http://www.eesconsulting.com)

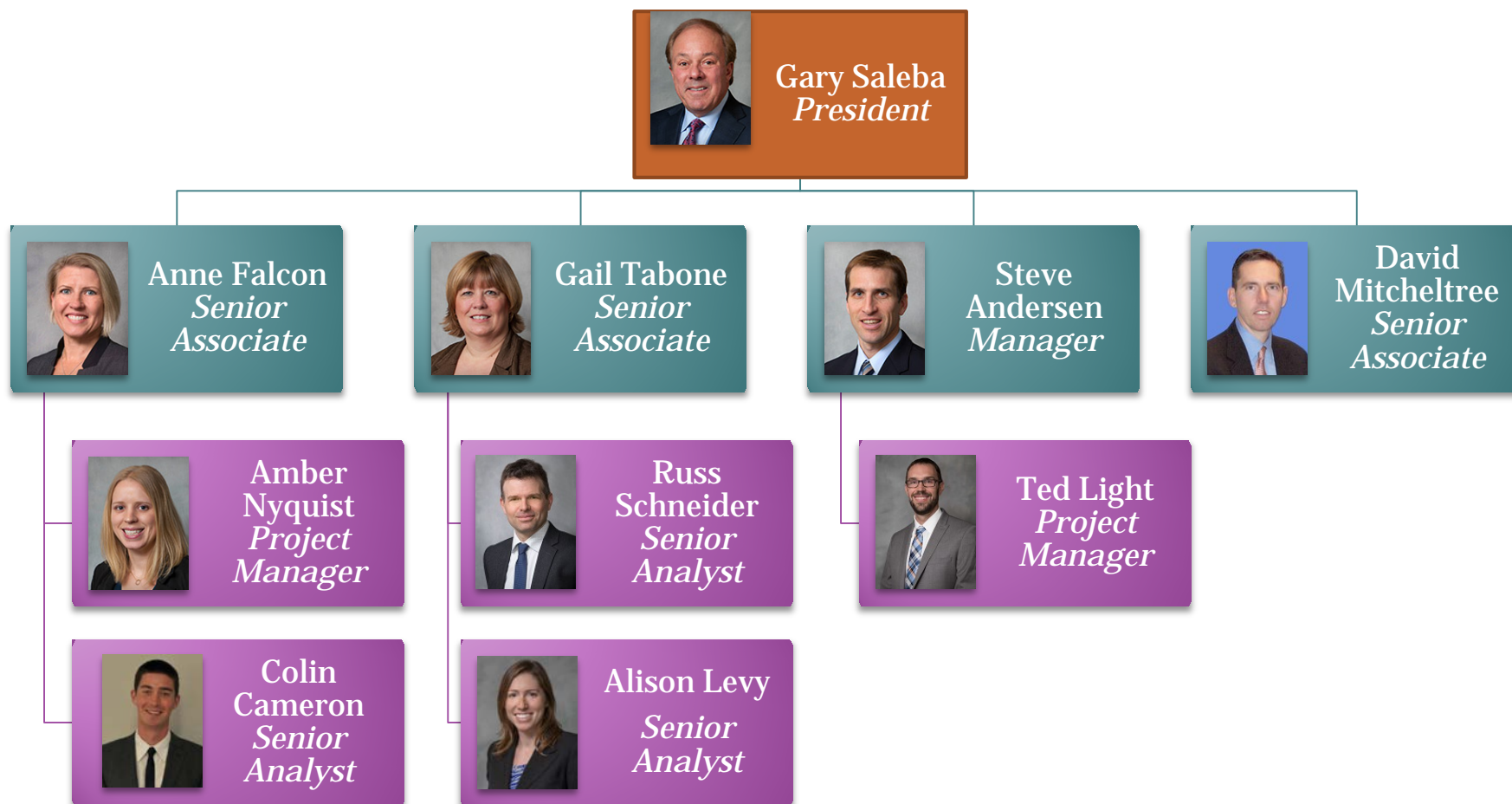


# Background on EES Consulting, Inc. (EES)

- **Registered Professional Engineering and Management Consulting Firm Operating Since 1978**
- **Over 500 Electric Utility Clients across western North America**
- **California Client Examples**

POUs			CCAs	
Anaheim	Lodi	Palo Alto	LACCE	County of Alameda
Riverside	Turlock Irrigation District	Alameda	Solana Beach	City of San Jose
Pasadena	Modesto Irrigation District	Redding	County of Butte	CVAG
Glendale	Imperial Irrigation District	SMUD	County of San Bernardino	South San Joaquin Irrigation District
LADWP	Lodi	Roseville	WRCOG	South San Joaquin Irrigation District

# Our CCA Team



# EES Scope of Work for LACCE

Task	Name	Services
1	Implementation Services	<ul style="list-style-type: none"> <li>Formulate Goals and CCA Programs</li> </ul>
2	Financing Short-Term Needs	<ul style="list-style-type: none"> <li>Determine Cash Flow Needs and Financial Proformas</li> </ul>
3	Power Procurement	<ul style="list-style-type: none"> <li>RFP for Power Supply Vendor</li> </ul>
		<ul style="list-style-type: none"> <li>Develop, Issue and Evaluate</li> </ul>
		<ul style="list-style-type: none"> <li>Draft Power Purchase Agreement(s)</li> </ul>
		<ul style="list-style-type: none"> <li>Data Management, Call Center, Legal Vendors, Services</li> </ul>
		<ul style="list-style-type: none"> <li>Draft/Evaluate RFPs as Needed</li> </ul>
		<ul style="list-style-type: none"> <li>CPUC/SCE Liaison</li> </ul>

## EES Scope of Work for LACCE (cont'd)

Task	Name	Services
4	Program Administration and Compliance	<ul style="list-style-type: none"> <li>Regulatory – RA, RPS, GHG, etc.</li> </ul>
		<ul style="list-style-type: none"> <li>DSM/EE/DER Program Development</li> </ul>
		<ul style="list-style-type: none"> <li>Ongoing Communication and Outreach Input and Assistance</li> </ul>
		<ul style="list-style-type: none"> <li>Financial Planning – Develop Model for Budgeting</li> </ul>
		<ul style="list-style-type: none"> <li>Develop Alternative Financing Options</li> </ul>
		<ul style="list-style-type: none"> <li>Rate Setting – Develop Options and Programs</li> </ul>
		<ul style="list-style-type: none"> <li>Risk Management Strategy</li> </ul>
5	Long-Term Planning – Prepare IRP	<ul style="list-style-type: none"> <li>Load Forecast</li> </ul>
		<ul style="list-style-type: none"> <li>Resource Evaluations</li> </ul>
		<ul style="list-style-type: none"> <li>Market Price Forecasts</li> </ul>
		<ul style="list-style-type: none"> <li>Environmental/Economic Analysis</li> </ul>
		<ul style="list-style-type: none"> <li>Financial/Rate Analysis</li> </ul>
		<ul style="list-style-type: none"> <li>Risk Management Analysis</li> </ul>

- Operate as Extension of LACCE Staff
- Available and On-Call for All LACCE-Related Tasks as Assigned by LACCE Management



**Staff Report – Item 6**

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To: Los Angeles Community Choice Energy Board of Directors

From: LACCE Staff

Subject: **Approve cost sharing agreements with the Western Riverside Council of Governments and the Coachella Valley Council of Governments**

Date: November 2, 2017

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**RECOMMENDATION:**

1. Approve the Executive Director to partner with the Western Riverside Council of Governments and the Coachella Valley Association of Governments in California Public Utilities Commission proceedings that are of keen interest to Community Choice Aggregators (CCA).
2. Authorize the Executive Director to negotiate and execute two cost sharing agreements, and any related documents, with the Western Riverside Council of Governments and the Coachella Valley Association of Governments for technical services with EES Consulting in an amount not to exceed \$56,000, and legal services with Best, Best and Krieger in an amount not to exceed \$60,000.

**BACKGROUND AND DISCUSSION:**

There are a number of current and scheduled California Public Utilities Commission (CPUC) proceedings that are of keen interest to CCAs. Chief among these is the proceeding to evaluate and revise the Power Charge Indifference Adjustment (PCIA), the current mechanism to calculate the stranded costs associated with the departure of CCA customers from their Investor Owned Utility (IOU). Participation in the PCIA proceedings will require both technical expertise to properly inspect IOU data, and legal expertise to navigate the CPUC's regulatory apparatus.

Besides the LACCE Authority, there are two other multijurisdictional CCAs within Southern California Edison's (SCE) territory who are also paying close attention to this CPUC proceeding, and who intend to launch over the course of the next year: the Western Riverside Council of Governments (WRCOG) and the Coachella Valley Association of Governments (CVAG).

## Los Angeles Community Choice Energy

LACCE staff has been working with the staff of these two agencies to determine if our interests in the PCIA proceeding are similar enough to warrant a cost sharing agreement for the needed technical and regulatory services for participation.

After discussions among staff, it was determined that cost sharing agreements would be prudent as much of the work needed for the three entities will be identical. Furthermore, staff believes that the collaboration produced by the cost sharing agreements will help all three entities more effectively advocate their interests on behalf of their customers.

Staff worked with LACCE Counsel to draft the two attached agreements:

### **Technical Services** (Attachment 1)

This agreement will be managed by LACCE, through its contract with EES Consulting. The not to exceed amount for these services is \$56,000 in total, or approximately \$18,666.66 per agency. This cost is within the scope of Board-adopted LACCE budget for FY 17-18.

### **Legal Services** (Attachment 2)

The legal services cost sharing agreement will be managed by the WRCOG, through it's contract with Best, Best, and Kreger (BBK). The not to exceed amount for these services is \$60,000, or \$20,000 per agency. This cost is within the scope of Board-adopted LACCE budget for FY 17-18.

All work performed by EES and BBK under these agreements will require the mutual consent of all three parties.

**COST SHARING AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE  
WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS, COACHELLA VALLEY  
ASSOCIATION OF GOVERNMENTS AND LOS ANGELES COMMUNITY CHOICE  
ENERGY**

THIS COST-SHARING AGREEMENT (“**Agreement**”) is made as of \_\_\_\_\_, 2017 (“**Effective Date**”), by and between the WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS (“**WRCOG**”), a California joint powers authority, COACHELLA VALLEY ASSOCIATION OF GOVERNMENTS (“**CVAG**”), a California joint powers authority, and LOS ANGELES COMMUNITY CHOICE ENERGY (“**LACCE**”), a California joint powers authority. WRCOG, CVAG AND LACCE may individually referred to as a “**Party**” or collectively as the “**Parties**.”

**RECITALS**

A. The Parties desire to reduce consultant costs of supporting its officers and employees with respect to regulatory issues associated with their respective development and implementation of community choice aggregation programs (“**Program**”).

B. The Parties desire to provide for a cost sharing arrangement relating to each Party’s use of certain technical consultants for the Program.

**AGREEMENT**

NOW, THEREFORE, the Parties hereby agree as follows:

1. Shared Costs. The Parties shall furnish through third party consultants engaged by LACCE, all or part of the following services to be utilized by the Parties for the Program:

1.1. technical advisory services regarding California Public Utilities Commission proceedings and regulatory requirements in an amount not to exceed \_\_\_\_\_;

1.2. technical advisory services regarding community choice aggregation issues as agreed to in writing between the Parties; and

1.3. other third party technical consultant services as agreed to in writing by the Parties.

2. Reimbursement of Shared Costs. WRCOG and CVAG agree to reimburse LACCE on a monthly basis in arrears for the costs of the services provided hereunder based on the actual cost attributable to each Party as rendered or on an equal basis, as agreed to in writing by the Parties. The Parties agree that all charges to each Party for services provided under this Agreement shall be based on the actual costs without any allowance or margin for profit to the other Party.

3. Books and Records. Each Party shall maintain appropriate and accurate books of account and records relating to the services utilized by the Parties under this Agreement, and such books of account and records shall be accessible for inspection by representatives (including the auditors) of the other Party at any time during normal business hours. Except in the ordinary course of business of each Party, the other shall, and shall use commercially reasonable efforts to cause each of its employees, contractors, agents, officers and directors to, keep confidential any and all information he or she may obtain from time to time in connection with the services he or she renders under this Agreement.

5. Term. This Agreement shall commence on the Effective Date and shall continue in full force and effect until terminated by either Party upon thirty (30) days written notice.

6. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, personal representatives, successors and assigns as provided in this Agreement.

7. Entire Agreement. This Agreement contains the entire agreement and understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof. This Agreement may not be modified or amended other than by an agreement in writing.

8. Alternative Dispute Resolution. The Parties shall make reasonable efforts to informally settle all disputes arising out of or in connection with this Agreement. If a dispute is unable to be informally resolved or settled by the Parties, then thirty (30) days prior to filing any legal action, other than a legal action for temporary injunctive relief as contemplated herein, the executive officers of each Party shall meet together in person in good faith to endeavor to reach a mutually beneficial resolution and settlement of such dispute.

9. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

**WESTERN RIVERSIDE COUNCIL OF  
GOVERNMENTS**

*Approved By:*

\_\_\_\_\_  
Rick Bishop, Executive Director

\_\_\_\_\_  
Date

*Approved As To Form:*

\_\_\_\_\_  
General Counsel

**COACHELLA VALLEY ASSOCIATION  
OF GOVERNMENTS**

*Approved By:*

\_\_\_\_\_  
Tom Kirk, Executive Director

\_\_\_\_\_  
Date

*Approved As To Form:*

\_\_\_\_\_  
General Counsel

**LOS ANGELES COMMUNITY CHOICE  
ENERGY**

*Approved By:*

\_\_\_\_\_  
Bill Carnahan, Executive Director

\_\_\_\_\_  
Date

*Approved As To Form:*

\_\_\_\_\_  
General Counsel

**COST SHARING AGREEMENT FOR LEGAL SERVICES BETWEEN THE  
WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS, COACHELLA VALLEY  
ASSOCIATION OF GOVERNMENTS AND LOS ANGELES COMMUNITY CHOICE  
ENERGY**

THIS COST-SHARING AGREEMENT (“**Agreement**”) is made as of \_\_\_\_\_, 2017 (“**Effective Date**”), by and between the WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS (“**WRCOG**”), a California joint powers authority, COACHELLA VALLEY ASSOCIATION OF GOVERNMENTS (“**CVAG**”), a California joint powers authority, and LOS ANGELES COMMUNITY CHOICE ENERGY (“**LACCE**”), a California joint powers authority. WRCOG, CVAG and LACCE may individually referred to as a “**Party**” or collectively as the “**Parties**.”

**RECITALS**

A. The Parties desire to reduce the legal services costs of supporting its officers and employees with respect to regulatory issues associated with their respective development and implementation of community choice aggregation programs (“**Program**”).

B. The Parties desire to provide for a cost sharing arrangement relating to each Party’s use of certain legal consultants for the Program.

**AGREEMENT**

NOW, THEREFORE, the Parties hereby agree as follows:

1. Shared Costs. The Parties shall furnish through third party consultants engaged by WRCOG, all or part of the following services to be utilized by the Parties for the Program:

1.1. legal counsel regarding California Public Utilities Commission proceedings and regulatory requirements in an amount not to exceed \$60,000;

1.2. legal counsel regarding community choice aggregation issues as agreed to in writing between the Parties; and

1.3. other third party legal services as agreed to in writing by the Parties.

2. Reimbursement of Shared Costs. CVAG and LACCE agree to reimburse WRCOG on a monthly basis in arrears for the costs of the legal services provided hereunder based on the actual cost attributable to each Party as rendered or on an equal basis, as agreed to in writing by the Parties. The Parties agree that all charges to each Party for services provided under this Agreement shall be based on the actual costs without any allowance or margin for profit to the other Party.

3. Common Interest: To further their common interests in the Program, the Parties and their respective counsel have shared, and desire to continue to share, orally, in writing, and by

other means, information concerning the Program and other material that is subject to the attorney-client privilege, the attorney work product doctrine, and other related or applicable privileges and protections (collectively, “**Common Interest Materials**”) without in any way waiving any applicable privilege, protection, or immunity, or diminishing the confidentiality of the Common Interest Materials. With these goals in mind, the Parties agree as follows:

3.1 Exchange of Information. In consideration of their common interests, the Parties agree that any exchanges among the Parties, their counsel, consultants and/or experts acting on their behalf (collectively, “**Party Affiliates**”) of Common Interest Materials does not waive any privilege, protection, or confidentiality applicable to such materials. The Parties intend that all privileges, protections, and confidentiality applicable to Common Interest Materials shared among the Parties and/or Party Affiliates under this Agreement will apply to the same extent as if the Common Interest Materials had not been shared. Without limiting the foregoing, this Agreement and any drafts thereof are Common Interest Materials.

3.2 Confidentiality. Each Party will keep all Common Interest Materials in strict confidence, and will use such materials only as permitted under this Agreement or as otherwise permitted by the disclosing Party. No Party may disclose Common Interest Materials to any third party for any purpose, except as otherwise permitted by the disclosing Party. For the avoidance of doubt, this Agreement does not restrict a Party from disclosing Common Interest Materials to its own counsel. Nothing in this Agreement obligates any Party to disclose to another Party any privileged or confidential information.

3.3 Injunctive Relief. The Parties agree that the disclosure of any Common Interest Materials in violation of this Agreement may cause irreparable harm for which there is no adequate remedy at law. Each Party agrees that immediate injunctive relief is an appropriate and necessary remedy for violation of this Agreement.

3.4 Relationship. Nothing in this Agreement creates either: (a) a fiduciary duty among the Parties or with any third party or (b) an attorney-client relationship between any attorney and any Party that is not represented by that attorney as its counsel.

4. Books and Records. Each Party shall maintain appropriate and accurate books of account and records relating to the services utilized by the Parties under this Agreement, and such books of account and records shall be accessible for inspection by representatives (including the auditors) of the other Party at any time during normal business hours. Except in the ordinary course of business of each Party, the other shall, and shall use commercially reasonable efforts to cause each of its employees, contractors, agents, officers and directors to, keep confidential any and all information he or she may obtain from time to time in connection with the services he or she renders under this Agreement.

5. Term. This Agreement shall commence on the Effective Date and shall continue in full force and effect until terminated by either Party upon thirty (30) days written notice.

6. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, personal representatives, successors and assigns as provided in this Agreement.

7. Entire Agreement. This Agreement contains the entire agreement and understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof. This Agreement may not be modified or amended other than by an agreement in writing.

8. Alternative Dispute Resolution. The Parties shall make reasonable efforts to informally settle all disputes arising out of or in connection with this Agreement. If a dispute is unable to be informally resolved or settled by the Parties, then thirty (30) days prior to filing any legal action, other than a legal action for temporary injunctive relief as contemplated herein, the executive officers of each Party shall meet together in person in good faith to endeavor to reach a mutually beneficial resolution and settlement of such dispute.

9. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.



IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

**WESTERN RIVERSIDE COUNCIL OF  
GOVERNMENTS**

*Approved By:*

\_\_\_\_\_  
Rick Bishop, Executive Director

\_\_\_\_\_  
Date

*Approved As To Form:*

\_\_\_\_\_  
General Counsel

**COACHELLA VALLEY ASSOCIATION  
OF GOVERNMENTS**

*Approved By:*

\_\_\_\_\_  
Tom Kirk, Executive Director

\_\_\_\_\_  
Date

*Approved As To Form:*

\_\_\_\_\_  
General Counsel

**LOS ANGELES COMMUNITY CHOICE  
ENERGY**

*Approved By:*

\_\_\_\_\_  
Bill Carnahan, Executive Director

\_\_\_\_\_  
Date

*Approved As To Form:*

\_\_\_\_\_  
General Counsel

## Staff Report – Item 8

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To: Los Angeles Community Choice Energy Board of Directors

From: LACCE Staff

**Item 8: Logo designs for Los Angeles Community Choice Energy**

Date: November 2, 2017

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### **BACKGROUND AND DISCUSSION:**

As authorized by the Board, LACCE staff issued an RFP for website design and program branding on August 30, 2017. After evaluating proposals, conducting interviews, and contacting references, staff determined that the proposal from ATAK Interactive best met the needs of LACCE and was within the FY 17-18 budget allocation for these services.

Staff executed a final contract with ATAK Interactive on October 18, 2017. Under the terms of the contract, ATAK Interactive is to provide website design and branding services beginning October 2017 through June 2018. Work on both the logo and website design is underway

In particular, ATAK has provided several logo drafts to the staff for review and comment and ATAK has provided several revisions. Based on this iterative process, staff are now providing various designs for Board consideration and discussion, with the expectation that the Board will provide instruction to staff on final logo design.

Attachment:

1. Draft Logo Designs







# LACCE

LOS ANGELES COMMUNITY CHOICE ENERGY



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**Staff Report – Item 9**

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To: Los Angeles Community Choice Energy Board of Directors

From: LACCE Staff

Subject: **Legislative and Regulatory Update**

Date: November 2, 2017

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**Regulatory**

1. PCIA Review Proceeding (R.17-06-026)

- The first step in the proceeding is establishing what data non-IOU parties can access.
- On October 23, 2017, the parties to the proceeding jointly issued a statement on the points of consensus as well as outstanding issues to resolve. The key issues to be resolved are:
  - What types of data will be released?
  - What time-period should the data cover?
  - What restrictions should determine who has access to the data and what can be done with it?
- The next step is the Administrative Law Judge will decide the disputed issues and finalize the data access policy. We expect a decision sometime next month, but no official decision due date has not been established.
- This is a crucial step as it will determine what data about SCE's power contracts we have to inform our decision-making and strategy for engaging in the remainder of the PCIA proceeding.

2. IOU Advice Letters re: Market Price Benchmark

- The Market Price Benchmark (MPB) has been the basis on which the IOUs calculated the PCIA. Each year, the IOUs are required to submit data to be used in calculating the MPB. This year, the IOUs have argued

that that data source, from the U.S. National Renewable Energy Laboratory, is “fatally flawed and unusable.”.

- SCE and PG&E filed CPUC Advice Letters on October 2, 2017 requesting approval to use a different data source in response to their contention that the DOE data is now flawed.
- CCAs have protested this request arguing it should be resolved through the PCIA review proceeding that was noted above, rather than through this ad hoc appeal.
- If the CPUC accepts the IOU’s advice letters, it creates a precedent for how the MPB will be calculated in the future which may be less favorable to the CCAs.

### 3. Bond Methodology

- The Surety Bond is intended to cover costs associated with CCA customer reentry to IOU service if a CCA were to fail.
- IOUs and CCAs are debating whether the bond should just cover the administrative costs associated with transferring customers (the CCA position), or whether it should include the incremental power procurement costs (the IOU position).
- Hearings on this matter were concluded on October 12, 2017.
- A proposed decision is expected in Spring 2018.

### 4. Integrated Resources Planning

- The CPUC is opened a proceeding in 2016 to implement one of the requirements of California Senate Bill 350 to increase resource planning across all load serving entities in the state.
- CPUC staff released a Proposed Reference System Plan setting statewide GHG planning targets on September 19, 2017.
- Parties to the proceeding are currently reviewing the plan and will meet November 2<sup>nd</sup>. The CPUC’s final decision is expected by the end of 2017.
- CalCCA will be filing comments to clarify that the requirements of the IRP process do not supersede the statutory rights of CCAs to set their own

portfolios. That is, CCAs strongly believe they should be treated like other municipally-owned utilities that are overseen by their own boards of directors, rather than by the state through the CPUC or other agency.

**Legislative/Other**

1. California Legislature is out of session, but there is activity during the recess. The CPUC will hold a workshop in the state capitol on October 31, 2017 to educate lawmakers about CCAs. The workshop is titled: "An Evaluation of Regulatory Framework Options for an Evolving Electric Market".
2. We are working with CalCCA and other CCA groups to educate and engage lawmakers before the 2018 session begins.



## **Staff Update**

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To: Los Angeles Community Choice Energy Board of Directors

From: LACCE Staff

Subject: **Staff Update**

Date: November 2, 2017

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### **STAFF UPDATE:**

#### **LACCE Membership Update**

- One of the top priorities of staff is to continue to provide information and presentations to cities and city councils who are considering joining LACCE.
- To date, staff has given over 85 presentations to various city councils, city commissions and committees, city staff, councils of governments, and the general public.
- As the open enrollment period to join LACCE comes to an end, staff anticipates a substantial increase in engagement with interested cities. We currently have nearly 20 additional presentations scheduled over the next months with many others in process.
- We expect that many cities will make a decision to join LACCE in late November or early December so that they have enough time to have a second reading of the enabling ordinance prior to the end of the year.

#### **LACCE Workplan**

- Staff has developed and continues to update a LACCE Workplan for Fiscal Year 17-18 (Attachment A), which highlights the timing of important Board actions and key milestones.
- Importantly, the Workplan shows that some important organizational and policy decisions will not be made until the close of the open enrollment period at the end of this year.
- Staff is now anticipating a few weeks delay for the launch of Phase 1, so LACCE service may not be begin for County accounts until early February. The workplan

has been revised to note this change which is the result of the requirement that LACCE have its Implementation Plan certified by the CPUC (which must be completed by November 14, 2107) before we may apply for and be certified as a Load Serving Entity.

- This delay will not affect the launch of Phase 2 (June 2018) and Phase 3 (December 2018) which remain unchanged.

### **Community Advisory Committee**

- Staff had been working to conduct two community workshops in October to provide a general program update, and to discuss the formation of the Community Advisory Committee (CAC).
- It was decided it would be best if, prior to conducting these meetings, staff worked with LACCE Directors to ensure appropriate participation among their constituents.
- Staff is planning two workshops for the remainder of the year, and will notify the Board once scheduled.
- Staff encourages ideas from Directors to help advertise the workshops in their communities.
- After conducting these meetings and synthesizing community input, staff will work with the Board to develop a final plan for CAC formation.

### **Budget Update**

- LACCE had 3 expenditures in the month of October, which fell within the scope of the Board-adopted budget:
  - First payment for logo design and website development
  - Payment for legal assistance to respond to the Southern California Edison comment letter on the LACCE Implementation Plan
  - Monthly payment for the services of the Executive Director
- Under the terms of the MOU between LACCE and the County of Los Angeles, LACCE is to reimburse the County at the end of FY17-18 for the cost of staff and contractor time provided to assist in the implementation of LACCE.

- LACCE staff is still working with County staff on a budget tracking method for these costs with the intent to return to the Board at a future meeting with the cost-to-date for this County staff and contractor assistance.
- As authorized by the Board on October 5, 2017, Mr. Carnahan has contracted for temporary part time staff assistance, on an hourly basis, for an amount not to exceed \$10,000. This person has been hired to provide general administrative assistance in the operations of LACCE.

### **Contracts Update**

#### Scheduling Coordinator

- At its October meeting, authorized staff to execute a contract with TEA for scheduling coordination services for Phase 1 accounts, based on the contract terms provided to the Board in the staff report, and the proposal submitted by TEA in response to the LACCE RFP.
- LACCE and TEA are in the final stages of contract negotiations, and expect to execute the final contract in early November.

#### Power Supply

- At its October meeting, the LACCE Board delegated conditional authority to the Executive Director to negotiate contract terms with Constellation for power supply for Phase 1 if it were determined that, after requesting updated pricing that excluded coal, they were still the lowest and most responsive proposer.
- Constellation has stated that the exclusion of coal resources was within the scope of their original proposal, and would therefore have no effect on their price. After checking with other responsive proposers, it was determined that Constellation remained most responsive. Staff has therefore entered into contract negotiations with Constellation for Phase 1 power supply.
- As part of these negotiations, Constellation has also agreed to exclude nuclear power from the Phase I resource mix and has tentatively agreed to limit the use of “unspecified” power to less than 25% (consistent with Marin Clean Energy) and to procure other non-carbon emitting power (e.g., large hydroelectric or other non-renewable clean power) for the remainder of the mix.
- As a result, the Phase I power mix for County facilities will be among the cleanest in the state with approximately 60% from renewable resources, 15% from other non-carbon resources, and no more than 25% from unspecified sources.

**Website Design and Branding**

- Staff executed a contract with ATAK Interactive on October 18, 2017 to begin work on website design and branding services.
- Draft logos have been provided today to the Board for review and discussion.
- Staff is holding regular meetings with ATAK to ensure timely delivery of services

LACCE Workplan  
August 2017 - July 2018  
Finance

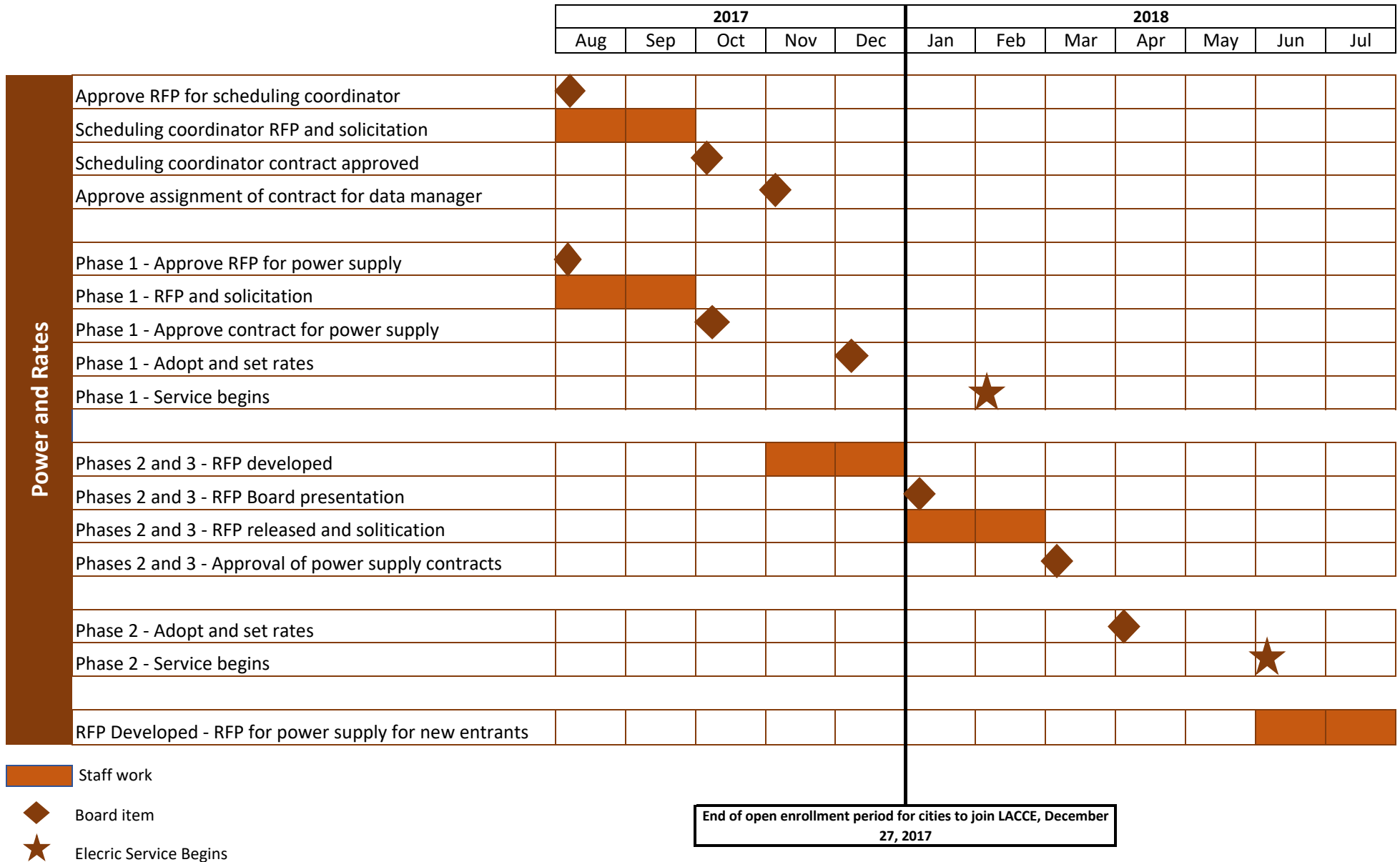
		2017					2018						
		Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul
Finance	Approve MOU with LA County												
	Adopt Intial Budget												
	Engagement with the financial community												
	Development of loan package												
	Approval of commerical loan for phases 2 and 3												
	Repayment of County loan												
	Board Presentation on draft FY 18-19 Budget												
	Adopt FY 18-19 Budget												

Staff Work

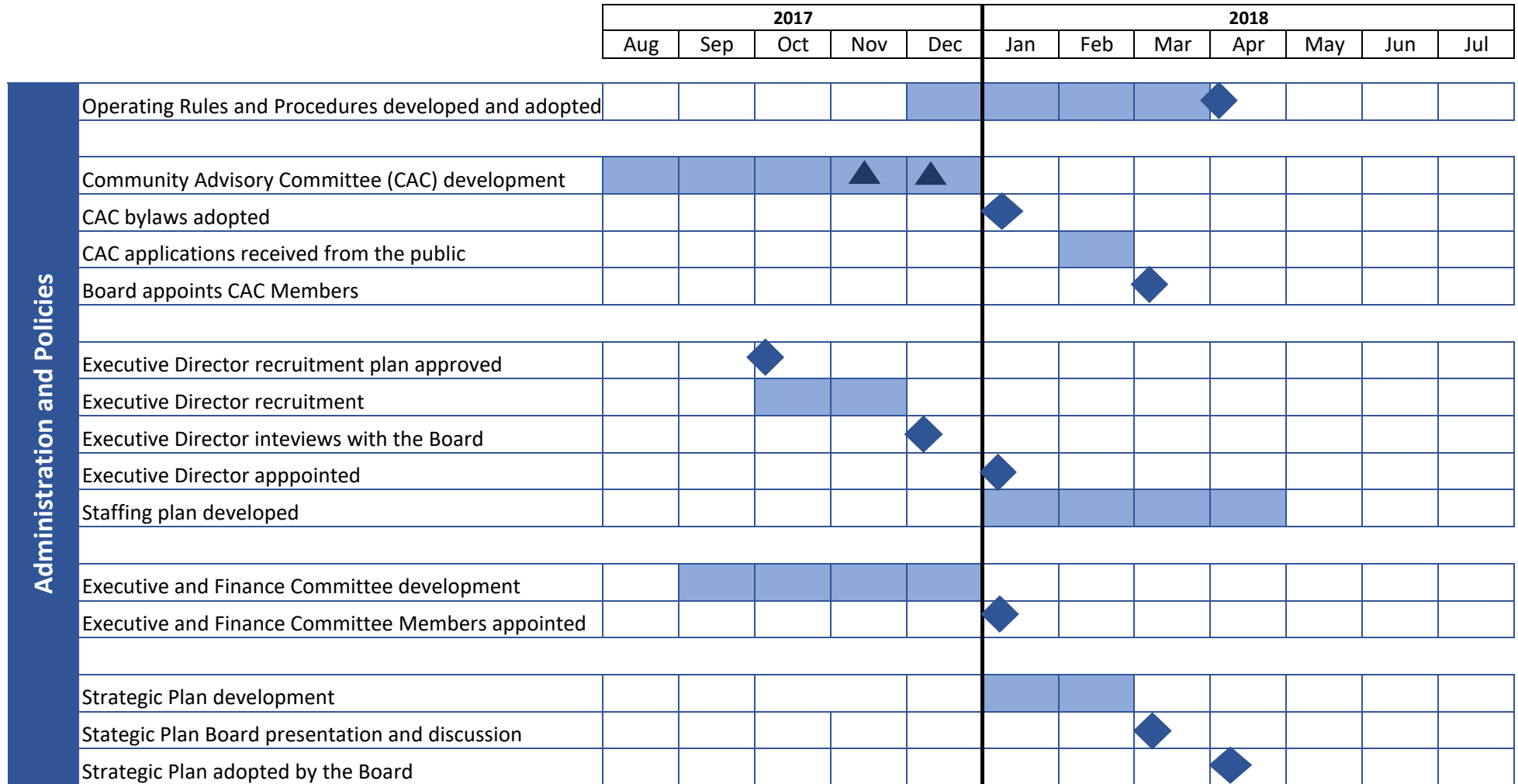
Board Item

End of open enrollment period for cities to join LACCE, December 27, 2017

LACCE Workplan  
August 2017 - July 2018  
Power and Rates



LACCE Workplan  
August 2017 - July 2018  
Administration and Policies



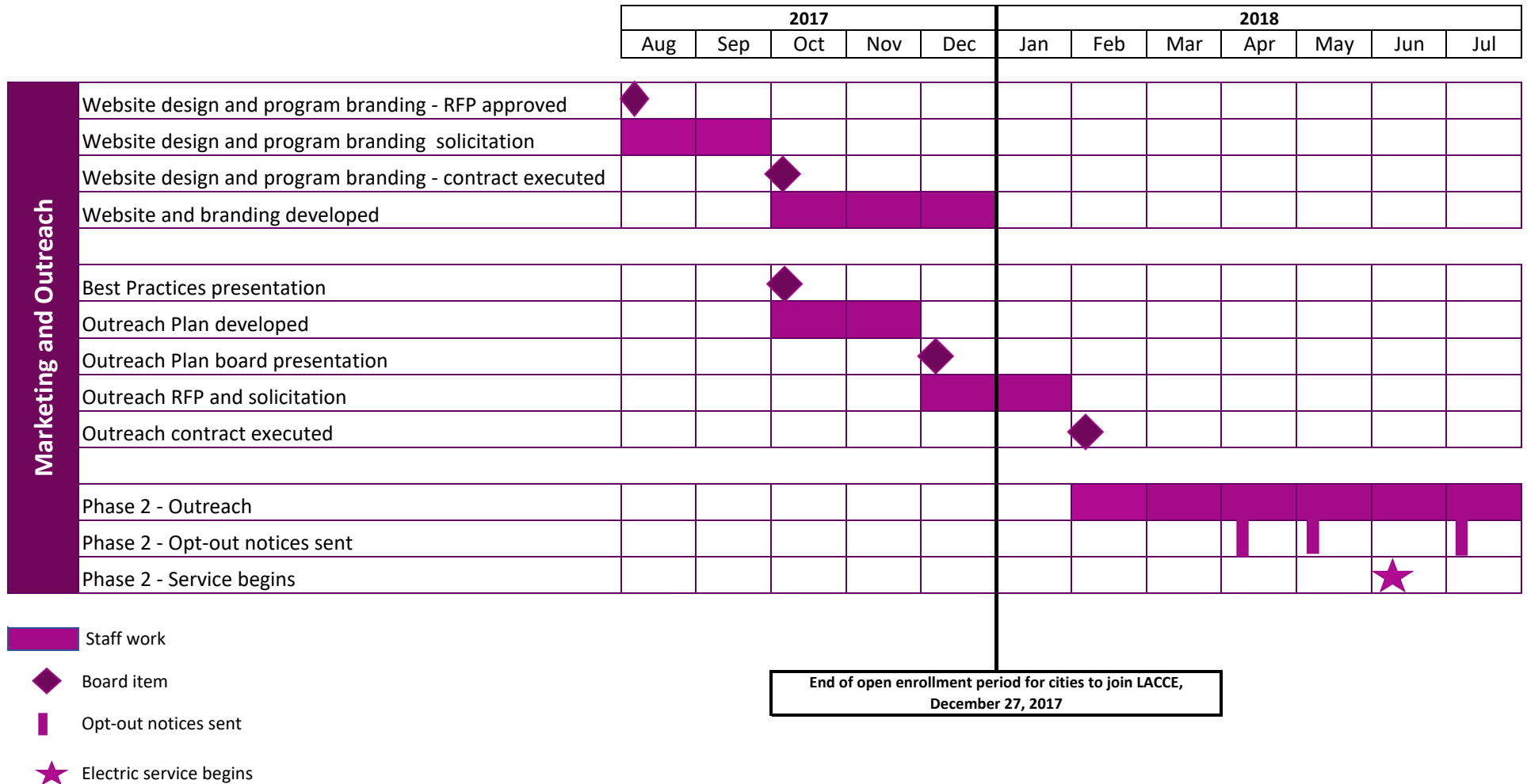
 Staff work

 Board item

 Public Meeting - Community Advisory Committee development

End of open enrollment period for cities to join LACCE,  
December 27, 2017

LACCE Workplan  
August 2017 - July 2018  
Communication and Outreach



End of open enrollment period for cities to join LACCE,  
December 27, 2017