



Contract Number

\_\_\_\_\_

SAP Number

\_\_\_\_\_

## Workforce Development Department

<b>Department Contract</b>	_____
<b>Telephone Number</b>	_____
<b>Contractor</b>	_____
<b>Contractor Representative</b>	_____
<b>Telephone Number</b>	_____
<b>Contract Term</b>	_____
<b>Original Contract Amount</b>	\$100,000
<b>Amendment Amount</b>	_____
<b>Total Contract Amount</b>	\$100,000
<b>Cost Center</b>	_____

**IT IS HEREBY AGREED AS FOLLOWS:**

**WHEREAS**, San Bernardino County (County) desires Business Services Outreach Support for the San Bernardino County Workforce Development Department (WDD); subject to Title I of the Workforce Innovation and Opportunity Act (WIOA); and

**WHEREAS**, the County has been allocated funds under the Workforce Innovation and Opportunity Act (WIOA) for the promotion and development of workforce activities; and

**WHEREAS**, the County finds Contractor qualified to provide these services to the Local Workforce Development Board through the Workforce Development Department; and

**WHEREAS**, the County desires that such services be provided by Contractor and Contractor agrees to perform these services as set forth below;

**NOW, THEREFORE**, the County and Contractor mutually agree to the following terms and conditions:

**1. DEFINITIONS**

- a. Business Services Outreach Support – Assistance providing for the economic recovery from the COVID-19 pandemic intended to create a more accessible, employer-driven, and advanced Countywide workforce development system.
- b. Workforce Development Department (WDD) – The San Bernardino County Workforce Development Department administers and operates programs under the Workforce Innovation and Opportunity Act.

- c. Workforce Development Board (WDB) – The County Workforce Development Board oversees programs offered through WDD.
- d. Workforce Innovation and Opportunity Act (WIOA) – WIOA took effect on July 1, 2015, and is designed, in relevant part, to help job seekers access employment, education, training, and support services to succeed in the labor market and to match employers with the skilled workers they need to compete in the global economy. WIOA supersedes the Workforce Investment Act of 1998 and amends the Adult Education and Family Literacy Act, the Wagner-Peyser Act, and the Rehabilitation Act of 1973.

## 2. CONTRACTOR RESPONSIBILITIES

The Scope of Services for Supervisorial District shall consist of a negotiated annual work plan including but not be limited to:

- a. Program Promotion and Outreach
  - i. Identify the objectives, strategies, and tactics to effectively market the County's Workforce Development Programs to employers.
  - ii. Utilize WDD materials to encourage businesses to participate in WDD services and events, including job fairs, recruitments, workshops, Industry Sector events and other special events.
  - iii. Work closely with WDD on how to better provide business services to employers within the County.
  - iv. Encourage employers to submit employment needs and respond in coordination with WDD.
  - v. Develop and coordinate events to engage employers and promote the County's workforce development system programs and services.
  - vi. Assist County businesses to obtain state incumbent worker training funds to support existing workers and develop specific skills needed by local employers.
- b. Employer Relationship Development and Management
  - i. Establish a single workforce development point of contact to coordinate with WDD and communicate with County employers.
  - ii. Engage employers in the field to identify optimal high demand services.
  - iii. Enter employer prospect information into the County's business services database.
  - iv. Introduce employers to the County's workforce development system programs and services.
  - v. Develop "Business Champions" in specified industry sectors that promote Workforce Development programs to the business community.
  - vi. Participate in Industry Sector meetings and recruit industry employers to take part.
  - vii. Refer employers to the AJCCs to identify and hire competent and skilled workers.
  - viii. Connect employers of priority industries and high demand / high wage occupations to the County's workforce development system.
- c. Workforce System Research Services
  - i. Communicate and coordinate with AJCCs to better understand the employment needs of AJCC customers and develop job opportunities with employers that meet those needs.
  - ii. Work with employers to identify and post job opportunities to the County's jobs database, with which AJCC customers may be referred.
  - iii. Conduct employer surveys to gain better understanding of the local labor market, business workforce needs, and current and future business trends.
  - iv. Work with WDD to create a business survey tool, to be utilized consistently county-wide.
  - v. Input business survey data on a regular basis.
- d. Performance Measures
  - i. Contractor shall use its best efforts to meet the following performance measures, which County shall use to evaluate Contractor's performance during the Term of the Contract:

1. Annual placement of at least 100 AJCC referrals in employment for at least six months.
2. The number of job opportunities posted within the County's jobs database.
3. The number of employers entered in the County's business services database.
4. The number of business survey data input.
5. The number of employers entered in the County's business services database that attend the County's workshops.
6. The number of employers entered in the County's business services database that utilize the County's Business Improvement Consulting Services.
7. The number of employers entered in the County's business services database that utilize the County's Human Resources Hotline.
8. The number of employers that participate in WDD programs and events, including job fairs, recruitments, Industry Sector events and other special events.

ii. Performance measures will be reported on a monthly basis.

### **3. COUNTY RESPONSIBILITIES**

- a. WDD will provide access to applicable related data resources available and relevant to the Services.
- b. WDD will provide access to applicable software available and relevant to the Services.
- c. WDD will make available staff on a periodic basis to assist with the provision of information relevant to the Services.

### **4. TERM OF CONTRACT**

- a. This Agreement is effective as of October 1, 2021 and expires September 30, 2022 but may be terminated earlier in accordance with provisions of this Agreement. The Agreement term may be extended for four additional one-year periods by mutual agreement of the parties.
- b. The County and the Contractor each reserve the right to terminate the Contract, for any reason, with a thirty (30) day written notice of termination. Such termination may include all or part of the services described herein. Upon such termination, payment will be made to the Contractor for services rendered and expenses reasonably incurred prior to the effective date of termination. Upon receipt of termination notice Contractor shall promptly discontinue services unless the notice directs otherwise. Contractor shall deliver promptly to County and transfer title (if necessary) all completed work, and work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

### **5. FISCAL PROVISIONS**

#### **a. Budget**

Contractor shall receive monthly payments of \$8,333.34, but not to exceed \$100,000 total, for the performance of those services set forth in Section 2, of which \$100,000 may be federally funded, and shall be subject to availability of other funds to the County. The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor's services and expenses incurred in the performance hereof, including travel and per diem. Invoices shall be issued with a net sixty (60) calendar day payment term with corresponding Purchase Order number stated on the invoice. Contractor shall submit a monthly report to the County with its invoice detailing how it has met the performance measures set forth in Section 2(d)(ii). Costs for services under the terms of this Agreement shall be incurred during the Agreement term except as approved by County. Contractor shall not use current year funds to pay prior or future year obligations. Contractor shall adhere to the County's Travel Management Policy (8-02 and 08-02SP1) when travel is pursuant to this Agreement and for which reimbursement is sought from the County. In addition, Contractor is encouraged to

utilize local transportation services, including but not limited to, the Ontario International Airport.

**b. Electronic Funds Transfer**

Contractor shall accept all payments from County via electronic funds transfer (EFT) directly deposited into the Contractor's designated checking or other bank account. Contractor shall promptly comply with directions and accurately complete forms provided by County required to process EFT payments.

**c. Tax Treatment**

County is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on Contractor or on any taxes levied on employee wages. The County shall only pay for any State or local sales or use taxes on the services rendered or equipment and/or parts supplied to the County pursuant to the Contract.

**d. Supplanted Funds Restriction**

Funds made available under this Agreement shall not supplant any federal, state or any governmental funds intended for services of the same nature as this Agreement. Contractor shall not claim reimbursement or payment from County for, or apply sums received from County with respect to that portion of its obligations that have been paid by another source of revenue. Contractor agrees that it will not use funds received pursuant to this Agreement, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of the County.

**6. INDEMNIFICATION AND INSURANCE REQUIREMENTS**

**a. Indemnification**

The Contractor agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnities. The Contractor indemnification obligation applies to the County's "active" as well as "passive" negligence but does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code section 2782.

**b. Additional Insured**

All policies, except for Worker's Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

**c. Waiver of Subrogation Rights**

The Contractor shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Contractor and Contractor's employees or agents from waiving the right of subrogation prior to a loss or claim. The Contractor hereby waives all rights of subrogation against the County.

**d. Policies Primary and Non-Contributory**

All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

**e. Severability of Interests**

The Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that

preclude coverage for suits between the Contractor and the County or between the County and any other insured or additional insured under the policy.

**f. Proof of Coverage**

The Contractor shall furnish Certificates of Insurance to the County Department administering the Agreement evidencing the insurance coverage at the time the Agreement is executed, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this Agreement, the Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

**g. Acceptability of Insurance Carrier**

Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".

**h. Deductibles and Self-Insured Retention**

Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

**i. Failure to Procure Coverage**

In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by the Contractor or County payments to the Contractor will be reduced to pay for County purchased insurance.

**j. Insurance Review**

Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

**k. Contractor's Insurance**

The Contractor agrees to provide insurance set forth in accordance with the requirements herein. If the Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so.

Without in anyway affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the Agreement term the following types of insurance with limits as shown: :

- i. Workers' Compensation/Employer's Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers

providing services on behalf of the Contractor and all risks to such persons under this Agreement.

If Contractor has no employees, it may certify or warrant to the County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Director of Risk Management.

With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

- ii. Commercial/General Liability Insurance – The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:
  - a. Premises operations and mobile equipment.
  - b. Products and completed operations.
  - c. Broad form property damage (including completed operations).
  - d. Explosion, collapse and underground hazards.
  - e. Personal injury.
  - f. Contractual liability.
  - g. \$2,000,000 general aggregate limit.
- iii. Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the Contractor is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.
- iv. Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.
- v. Professional Liability – Professional Liability Insurance with limits of not less than one million (\$1,000,000) per claim and two million (\$2,000,000) aggregate limits;  
or  
If insurance coverage is provided on a "claims made" policy, the "retroactive date" shall be shown and must be before the date of the state of the contract work. The claims made insurance shall be maintained or "tail" coverage provided for a minimum of five (5) years after contract completion.

## 7. RIGHT TO MONITOR AND AUDIT

### a. Cooperation

The County, State and Federal government shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of Contractor in the delivery of services provided under this Agreement. Contractor shall give full cooperation, in any auditing or monitoring conducted. Contractor shall cooperate with the County in the implementation, monitoring, and evaluation of this Agreement and comply with any and all reporting requirements established by the County.

**b. Examination**

All records pertaining to services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by County representatives for a period of three years after final payment under this Agreement or until all pending County, State and Federal audits are completed, whichever is later.

**8. CORRECTION OF PERFORMANCE DEFICIENCIES**

**a. Material Breach**

Failure by Contractor to comply with any of the provisions, covenants, requirements or conditions of this Agreement shall be a material breach of this Agreement.

**b. Cure of Breach**

In the event of a non-cured breach, County may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this Agreement:

- i. Afford Contractor thereafter a time period within which to cure the breach, which period shall be established at the sole discretion of County; and/or
- ii. Discontinue reimbursement to Contractor for and during the period in which Contractor is in breach, which reimbursement shall not be entitled to later recovery; and/or
- iii. Withhold funds pending duration of the breach; and/or
- iv. Offset against any monies billed by Contractor but yet unpaid by County those monies disallowed pursuant to Item "2" of this paragraph; and/or
- v. Terminate this Agreement immediately and be relieved of the payment of any consideration to Contractor. In the event of such termination, the County may proceed with the work in any manner deemed proper by the County. The cost to the County shall be deducted from any sum due to the Contractor under this Agreement and the balance, if any, shall be paid by the Contractor upon demand.

**9. NOTICES**

All written notices provided for in this Agreement or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

San Bernardino County Workforce Development Department Attn: 290 North D Street, Suite 600 San Bernardino, CA 92415 TEL: FAX: EMAIL:	Attn:  TEL: EMAIL:
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Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

**10. GENERAL CONTRACT REQUIREMENTS**

The recitals set forth above are true and correct and incorporated herein by this reference.

**a. Legality and Severability**

The parties' actions under the Agreement shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Agreement are specifically made severable. If a provision of the Agreement is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

**b. Representation of the County**

- In the performance of this Agreement, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of San Bernardino County. Contractor, at Contractor's own expense, is responsible for providing disability, unemployment, worker's compensation, and other insurance, training, permits, licenses, and all other employment related insurance, benefits, or programs desired by Contractor or required by law. Contractor agrees that Contractor will not be entitled to the rights or benefits afforded to employees of WDD including, without limitation, WDD provided disability or unemployment insurance, worker's compensation, medical insurance, retirement plans, sick leave, or any other WDD employment benefit.
- c. Relationship of the Parties**

Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.
  - d. Primary Point of Contact**

Contractor will designate an individual to serve as the primary point of contact for the Contract. Contractor or designee must respond to County inquiries within five (5) business days. Contractor shall not change the primary contact without written acknowledgement to the County. Contractor will also designate a back-up point of contact in the event the primary contact is not available.
  - e. Change of Address**

Contractor shall notify the County in writing, of any change in mailing address within ten (10) business days of the change.
  - f. Subcontracting**

Contractor agrees not to enter into any subcontracting agreements for work contemplated under the Agreement without first obtaining written approval from the County. Any subcontracting shall be subject to the same terms and conditions as Contractor. Contractor shall be fully responsible for the performance and payments of any subcontractor's Contract.
  - g. Agreement Assignability**

Without the prior written consent of the County, the Agreement is not assignable by Contractor either in whole or in part.
  - h. Agreement Modification**

Contractor agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Agreement and approved by the person(s) authorized to do so on behalf of Contractor and County.
  - i. Duration of Terms**

This Agreement, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Agreement.
  - j. Time of the Essence**

Time is of the essence in performance of this Agreement and of each of its provisions.
  - k. Performance**

Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.
  - l. Mutual Covenants**

The parties to this Agreement mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".
  - m. Notification Regarding Performance**

In the event of a problem or potential problem that could impact the quality or quantity of work, services, or the level of performance under the Contract, the Contractor shall notify the County within one (1) working day, in writing and by telephone.
  - n. Attorney's Fees and Costs**

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

**o. Venue**

The parties acknowledge and agree that this Agreement was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action or claim brought by any party to this Agreement will be the Superior Court of California, San Bernardino County, San Bernardino District or the Federal District Court, Riverside County. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Agreement is brought by any third-party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County, San Bernardino District.

**p. Choice of Law**

This Agreement shall be governed by and construed according to the laws of the State of California. The venue shall be San Bernardino County and state of California.

**q. Licenses, Permits and/or Certifications**

Contractor shall ensure that it has all necessary licenses, permits and/or certifications required by the laws of Federal, State, County, and municipal laws, ordinances, rules and regulations. The Contractor shall maintain these licenses, permits and/or certifications in effect for the duration of this Agreement. Contractor will notify County immediately of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain a required license, permit and/or certification may result in immediate termination of this Agreement.

**r. Conflict of Interest**

Contractor shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the County. Contractor shall make a reasonable effort to prevent employees, Contractor, or members of governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as those with whom they have family business, or other ties. Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and state law. In the event the County determines a conflict of interest situation exists, any increase in costs, associated with the conflict of interest situation, may be disallowed by the County and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Contractor's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

**s. Improper Consideration**

Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this Agreement.

The County, by written notice, may immediately terminate this Agreement if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded.

Contractor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. The report shall be made to the supervisor or manager charged with supervision of the employee or the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

**t. Former County Administrative Officials**

Contractor agrees to provide, or has already provided information on former San Bernardino County administrative officials (as defined below) who are employed by or represent Contractor. The information provided includes a list of former County administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Contractor. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Executive Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

**u. Improper Influence**

Contractor shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables him/her to influence any award of the Agreement or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Agreement or shall have any relationship to the Contractor or officer or employee of the Contractor.

**v. Material Misstatement/Misrepresentation**

If during the course of the administration of this Agreement, the County determines that Contractor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this Agreement may be immediately terminated. If this Agreement is terminated according to this provision, the County is entitled to pursue any available legal remedies.

**w. Ownership of Documents**

All documents, data, products, graphics, computer programs and reports prepared by Contractor pursuant to the Agreement shall be considered property of the County upon payment for services (and product, if applicable). All such items shall be delivered to County at the completion of work under the Contract, subject to the requirements of Section IV—Term of the Contract. Unless otherwise directed by County, Contractor may retain copies of such items.

**x. Copyright**

County shall have a royalty-free, non-exclusive and irrevocable license to publish, disclose, copy, translate, and otherwise use, copyright or patent, now and hereafter, all reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, and any other materials or properties developed under this Agreement including those covered by copyright, and reserves the right to authorize others to use or reproduce such material. All such materials developed under the terms of this Agreement shall acknowledge San Bernardino County as the funding agency and Contractor as the creator of the publication. No such materials, or properties produced in whole or in part under this Agreement shall be subject to private use, copyright or patent right by Contractor in the United States or in any other country without the express written consent of County. Copies of all educational and training materials, curricula, audio/visual aids, printer material, and periodicals, assembled pursuant to this Agreement must be filed with the County prior to publication.

**y. Release of Information**

No news releases, advertisements, public announcements or photographs arising out of the Agreement or Contractor's relationship with County may be made or used without prior written approval of the County.

**z. Air, Water Pollution Control, Safety and Health**

Contractor shall comply with all air pollution control, water pollution, safety and health ordinances and statutes, which apply to the work performed pursuant to this Agreement.

**aa. Drug and Alcohol Free Workplace**

In recognition of individual rights to work in a safe, healthful and productive workplace, as a material condition of this Agreement, the Contractor agrees that the Contractor and the Contractor's employees, while performing service for the County, on County property, or while using County equipment:

- i. Shall not be in any way impaired because of being under the influence of alcohol or a drug.

- ii. Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal drug.
- iii. Shall not sell, offer, or provide alcohol or a drug to another person.

This shall not be applicable to a Contractor or Contractor's employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

The Contractor shall inform all employees that are performing service for the County on County property, or using County equipment, of the County's objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the County.

**bb. Environmental Requirements**

In accordance with County Policy 11-08, the County prefers to acquire and use products with higher levels of post-consumer recycled content. Environmentally preferable goods and materials must perform satisfactorily and be available at a reasonable price. The County requires Contractor to use recycled paper for any printed or photocopied material created as a result of this Agreement. Contractor is also required to use both sides of paper sheets for reports submitted to the County whenever practicable.

To assist the county in meeting the reporting requirements of the California Integrated Waste Management Act of 1989 (AB 939), Contractor must be able to annually report the County's environmentally preferable purchases. Services providers are asked to report on environmentally preferable goods and materials used in the provision of their service to the County.

The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

**cc. Employment Discrimination**

During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VII of the Civil Rights Act of 1964, the California Fair Housing and Employment Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

**dd. Debarment and Suspension**

The Contractor certifies that neither it nor its principals or subcontracts is presently barred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency as required by Executive Order 12549.

**ee. Anti-Lobbying Provisions**

No funds related to this agreement may be to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. Influencing or attempting to influence means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

**ff. Informal Dispute Resolution**

In the event the County determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Agreement or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith

and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

**gg. County Representative**

The Deputy Executive Officer or his/her designee shall represent the County in all matters pertaining to the services to be rendered under this Agreement, including termination and assignment of this Agreement, and shall be the final authority in all matters pertaining to the Services/Scope of Work by Contractor. The San Bernardino County Board of Supervisors must approve all amendments to this Agreement.

**hh. Records**

Contractor shall maintain all records and books pertaining to the delivery of services under this Agreement and demonstrate accountability for contract performance. All records shall be complete and current and comply with all Agreement requirements. Failure to maintain acceptable records shall be considered grounds for withholding of payments for invoices submitted and/or termination of the Contract.

All records relating to the Contractor's personnel, consultants, subcontractors, Services/Scope of Work and expenses pertaining to this Agreement shall be kept in a generally acceptable accounting format. Records should include primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must comply with the appropriate Office of Management and Budget (OMB) Circulars which state the administrative requirements, cost principles and other standards for accountancy.

**ii. Disclosure of Criminal and Civil Procedures**

The County reserves the right to request the information described herein from the Contractor. The County also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. The Contractor also may be requested to provide information to clarify initial responses.

Contractor is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the Contractor will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, the Contractor is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, the Contractor will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

For purposes of this provision "key employees" includes any individuals providing direct service to the County. "Key employees" do not include clerical personnel providing service at the firm's offices or locations.

**jj. Disclosure of Personal Information**

Contractor shall protect from unauthorized use or disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for statistical information not identifying any participant. The Contractor shall not use or disclose any identifying information for any other purpose other than carrying out the Contractor's obligations under this Agreement, except as may be otherwise required by law. This provision will remain in force even after the termination of the Contract.

**kk. Electronic Signatures**

The Parties agree that this Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which together shall constitute one and the same instrument, and that a photocopy or facsimile may serve as an original. If this Agreement is executed in counterparts, no signatory hereto shall be bound until both the parties have fully executed a counterpart of this Agreement. The Parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF, or other email transmission), which signature shall be binding on the party whose name is contained therein. Each Party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

**II. Entire Agreement**

This Agreement, including all Exhibits and other attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Agreement not expressly set forth herein are of no force or effect. This Agreement is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Agreement and signs the same of its own free will.

**IN WITNESS WHEREOF**, San Bernardino County and the Contractor have each caused this Agreement to be subscribed by its respective duly authorized officers, on its behalf

SAN BERNARDINO COUNTY

\_\_\_\_\_  
(Print or type name of corporation, company, contractor, etc.)

▶ \_\_\_\_\_  
Patrick Scazzini, Director of Purchasing

By ▶ \_\_\_\_\_  
\_\_\_\_\_  
(Authorized signature - sign in blue ink)

Dated: \_\_\_\_\_

Name \_\_\_\_\_  
(Print or type name of person signing contract)

Title \_\_\_\_\_  
(Print or Type)

Dated: \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

Approved as to Legal Form	Reviewed for Contract Compliance	Presented to County for Signature
Sophie A. Akins, Deputy County Counsel	Bradley Gates, Assistant Director	Marlena Sessions, Executive Director
Date	Date	Date