



**CONTRACT MA-017-18010491**

**BETWEEN**

**COUNTY OF ORANGE**

**AND**

**e-Builder, Inc.**

**FOR A**

**PROJECT INFORMATION MANAGEMENT SYSTEM**

**Contract Table of Contents**

RECITALS ..... 6

ARTICLES ..... 6

General Terms and Conditions ..... 6

A. Governing Law and Venue ..... 6

B. Entire Contract ..... 6

C. Amendments ..... 6

D. Taxes ..... 7

E. Delivery ..... 7

F. Acceptance/Payment ..... 7

G. Warranty ..... 7

H. Patent/Copyright Materials/Proprietary Infringement ..... 8

I. Assignment or Subcontracting ..... 8

J. Non-Discrimination ..... 9

K. Termination ..... 9

L. Defaults ..... 9

M. Consent to Breach Not Waiver ..... 10

N. Remedies Not Exclusive ..... 10

O. Independent Contractor ..... 10

P. Performance ..... 10

Q. Insurance Provisions ..... 10

R. Bills and Liens ..... 12

S. Changes ..... 13

T. Change of Ownership ..... 13

U. Force Majeure ..... 13

V. Confidentiality ..... 14

W. Confidentiality— Contractor SOC Report ..... 14

X. Compliance with Laws ..... 15

Y. Freight ..... 15

Z. Pricing ..... 15

AA. Waiver of Jury Trial: Intentionally Omitted ..... 15

BB. Terms and Conditions ..... 15

CC. Headings ..... 15

DD. Severability ..... 15

Attachment A  
Redlined Contract Number MA-017-18010491

EE. Calendar Days.....	15
FF. Attorney Fees.....	15
GG. Interpretation .....	15
HH. Authority.....	16
II. Employee Eligibility Verification.....	16
JJ. Indemnification Provisions.....	16
KK. Limitation of Liability .....	16
LL. Audits/Inspections .....	16
Additional Terms and Conditions .....	17
Definitions .....	17
gg. Service Level/Service Level Requirements.....	19
nn. U.S. Intellectual Property Rights.....	19
oo. Workaround.....	19
1. Term of Contract: .....	19
2. Scope of Contract .....	20
3. Compensation: .....	20
4. Fiscal Appropriations, Subject To .....	20
5. Precedence .....	20
6. Waiver of Rights.....	20
7. No Third-Party Beneficiaries.....	20
8. Employee Qualification Verification.....	20
9. Training .....	20
10. Non-Solicitation of Employees.....	21
11. Authority Retained By County .....	21
12. Set-Off .....	21
13. Disputed Amounts .....	21
14. Non-Exclusivity.....	21
15. License to Access and Use Services.....	21
16. Future Releases.....	22
17. Software Maintenance .....	22
18. Legal Entity .....	23
19. Breach.....	23
20. Stop Work.....	23
21. Orderly Termination.....	23
22. County and Contractor Project Manager .....	23
23. County's Project Manager .....	24

Attachment A  
Redlined Contract Number MA-017-18010491

24. Contractor Staff .....	24
25. Contractor’s Project Manager.....	24
26. Qualified Contractor Staff .....	24
27. Reports/Meetings.....	24
28. Documentation: .....	24
29. Conflict of Interest.....	25
30. County Data.....	25
31. Conditions Affecting Work .....	26
32. Contractor’s Expense.....	26
33. Gratuities .....	26
34. Authorization Warranty.....	26
35. News/Information Release .....	26
36. Publication.....	26
37. Promotional/Advertisement.....	26
38. Errors and Omissions.....	26
39. Security Deliverables and Documents.....	27
40. Relationship Management:.....	27
41. Acceptance Testing.....	27
42. Policies and Procedures .....	28
43. Security and Policies .....	29
44. Information Access.....	29
45. Data Security Requirements:.....	29
46. Enhanced Security Measures.....	29
47. General Security Standards.....	30
48. Security Failures.....	30
49. Security Breach Notification .....	30
50. Security Audits .....	30
51. Notices.....	31
52. Usage .....	31
53. Equal Employment Opportunity.....	31
54. Civil Rights.....	31
55. Lobbying.....	31
56. Debarment .....	32
57. Extraction of County Data:.....	32
58. Service Level Commitment.....	32
59. Failure to Meet Service Level Commitment:.....	32

Attachment A

Redlined Contract Number MA-017-18010491

60. Root Cause Analysis, Predictive Analysis and Resolution: ..... 32

61. Compatibility of Resources ..... 32

62. Data Location ..... 33

63. Trans-Border Data Flows ..... 33

64. Security Management Services..... 33

65. Anti-Malware Protections..... 33

66. Disaster Recovery Plan..... 33

67. Redundant Hosting and Backup Requirement..... 34

68. Preparation for Successor to this Contract..... 34

69. Transition Period ..... 34

70. Discovery..... 34

71. Informal Dispute Resolution ..... 34

72. Counterparts: ..... 35

73. Work Order Request Process..... 35

Contract Signature Page ..... 36

Attachment A – Scope of Work ..... 37

Attachment B – Cost/Compensation ..... 43

Attachment C – Implementation Plan and Acceptance and Testing Procedures..... 55

Attachment D – Software Maintenance and Support ..... 60

Attachment E – PIMS Delivery Hosted/Managed ..... 61

Attachment F – Performance, Service Level Guarantees, and Reporting ..... 64

Attachment G – Information Technology Security Policy County of Orange ..... 67

Attachment H – Staffing Plan..... 68

Appendix 1: PIMS Requirements Matrix..... 70

Attachment A  
Redlined Contract Number MA-017-18010491  
**CONTRACT MA-017-18010491**

This contract to provide a Project Information Management System (PIMS) for County of Orange (“Contract”) is made and entered into as of the date fully executed by and between County of Orange, a political subdivision of the State of California, acting through County Executive Office/Office of Information Technology, (“County”) and **e-Builder, Inc.**, with a place of business at **1800 NW 69<sup>th</sup> Ave, Suite 201, Plantation FL, 33313** (“Contractor”). County and Contractor may be referred to individually as a “Party” or collectively as “Parties”.

**RECITALS**

**WHEREAS**, County conducted Request for Proposal (RFP) OCIT-C007795-TS for a Project Information Management System as further set forth herein; and

**WHEREAS**, Contractor responded to the RFP and represented that its proposed services shall meet or exceed the requirements and specifications of the RFP in accordance with Contractor’s proposal response; and

**WHEREAS**, County’s Board of Supervisors has authorized the Purchasing Agent or authorized Deputy to enter into this Contract to obtain a Project Information Management System.

**NOW, THEREFORE**, the Parties mutually agree as follows:

**ARTICLES**

**General Terms and Conditions**

- A. Governing Law and Venue:** This Contract has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure section 394. Furthermore, Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.
- B. Entire Contract:** This Contract, including its Attachments and Exhibit attached hereto and incorporated herein by this reference, when accepted by Contractor either in writing or by the shipment of any article or other commencement of performance hereunder, constitutes the entire Contract between the Parties with respect to the matters herein and there are no restrictions, promises, warranties or undertakings, other than those set forth herein or referred to herein. All previous proposals, offers, discussions, preliminary understandings, and other communications relative to this Contract, oral or written, are hereby superseded, except to the extent that they have been incorporated into this Contract.
- Electronic acceptance of any additional terms, conditions or supplemental contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless authorized by County in writing in an amendment to this Contract. All automated end-user agreements (including, but not limited to, click-throughs, shrinkwrap, browse wrap and other non-negotiated terms and conditions provided with any of the Services) and documentation provided with any of the Services are specifically excluded and null and void. All terms and conditions in such agreements and documentation do not constitute a part or amendment of this Contract and shall have no force and effect and shall be non-binding on County, its employees, agents, and other authorized users, even if access to or use of such Service or documentation requires affirmative acceptance of such terms and conditions.
- C. Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties; no oral understanding or contract not incorporated herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.

Attachment A  
Redlined Contract Number MA-017-18010491

- D. Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax. Out-of-state Contractors shall indicate California Board of Equalization permit number and sales permit number on invoices, if California sales tax is added and collectable. If no permit numbers are shown, sales tax will be deducted from payment. The Auditor-Controller will then pay use tax directly to the State of California in lieu of payment of sales tax to Contractor.
- E. Delivery:** Time of delivery of Services is of the essence in this Contract. Time of the essence is not waived in any way by County's waiver of or failure to take action with respect to any one particular time of the essence breach. County reserves the right to refuse any Services and to cancel all or any part of the descriptions or Services that do not conform to the prescribed Attachment A, Scope of Work. Delivery on each milestone shall not be deemed to be complete until it is accepted in writing by County pursuant to Paragraph F, "Acceptance/Payment".
- F. Acceptance/Payment:** Unless otherwise agreed to in writing by County, 1) acceptance of the Services shall not be deemed complete unless in writing and until all the Services under this Contract have actually been received, inspected, and tested to the satisfaction of County in accordance with the agreed upon Milestones in Attachment B, Implementation Plan and Acceptance and Testing Procedures, and 2) payment shall be made in arrears after the receipt of a proper invoice as detailed in Attachment B, Cost/Compensation.
- G. Warranty:** Contractor expressly represents and warrants that:
- a. Contractor has and will continue to have the unconditional and irrevocable right, power, and authority, including all permits and licenses required, to provide the Services and to grant all rights and licenses granted or required to be granted by it under this Contract.
  - b. Contractor has not and will not assign or otherwise enter into an agreement by which it purports to assign or transfer any right, title, or interest to any technology or intellectual property right that would conflict with its obligations under this Contract.
  - c. Contractor will and has the expertise to perform all Services in a timely, professional and workmanlike manner with a level of care, skill, practice, and judgment consistent with the highest professional standards and with generally recognized industry standards and practices for similar services, using personnel with the requisite skill, experience, and qualifications, and will devote adequate resources to meet Contractor's obligations under this Contract.
  - d. Contractor acknowledges that County is relying on its representation of Contractor's experience and expert knowledge and that any substantial misrepresentation may result in damage to County.
  - e. the Services covered by this Contract are and will remain free of liens or encumbrances.
  - f. the Services covered by this Contract do not infringe any intellectual property rights of any third party and there are no actual or threatened actions arising from, or alleged under, any intellectual property rights of any third party.
  - g. the PIMS is free of harmful code (e.g., computer viruses, worms, trap doors, time bombs, disabling code, or any similar malicious mechanism designed to interfere with the intended operation of, or cause damage to, computers, data, or software); will remain free of harmful code or such harmful code will be promptly eliminated by Contractor once Contractor becomes aware of such harmful code; and no loss of County Data will result from such items if present in the Services.
  - h. the PIMS will conform to the requirements of this Contract (including without limitation all descriptions, specifications, and drawings prescribed in Attachment A, Scope of Work and all availability requirements prescribed in Attachment F, Performance, Service Level Guarantees, and Reporting) and will provide all material functionality required thereby.
  - i. Contractor will not knowingly use the services of any ineligible person or subcontractor for any purpose in the performance of the Services under this Contract.

Unless otherwise specified in Attachment A, Scope of Work, where Contractor resells commercial hardware or commercial software it purchased from a third party, Contractor, to the extent it is legally able to do so, will pass through any such third party warranties to County and will reasonably cooperate in enforcing them. Such warranty pass-through will not relieve Contractor from Contractor's warranty obligations set forth above.

All representations and warranties, including special warranties, specified in this Contract, shall inure to County, its successors, assigns, customer agencies, and governmental users of the Deliverables or Services. Contractor will indemnify, defend and hold County and County Indemnitees, as more fully described in Paragraph JJ below, harmless from liability, loss, damage and expense, including reasonable attorney fees, incurred or sustained by County by reason of the failure of the Services to conform to such representations and warranties.

- H. Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor represents and warrants that any materials (e.g., software, documentation, specifications) or any part thereof, as modified through the Services provided under this Contract will not infringe upon or violate any patent, copyright, trademark, trade secret, or any other proprietary right, of any third party. Contractor agrees that, in accordance with the more specific requirement contained in Paragraph JJ below, it shall indemnify, defend and hold County and County Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorneys fees, costs and expenses.

In the event any materials or any part thereof, as modified through the Services provided under this Contract, is or becomes the subject of a claim of infringement or misappropriation of a patent, copyright, trademark, trade secret, or any other proprietary right, or is enjoined, Contractor at its own expense will with all reasonable speed and due diligence provide or otherwise secure for County, at Contractor's expense and election, one of the following: (a) the right to continue use of any such materials or any part thereof to the full extent contemplated by this Contract; (b) an equivalent system having the specifications as provided in this Contract; or (c) modification of the system or its component parts so that they become non-infringing while performing in a substantially similar manner to the original system and meeting the requirements of this Contract. If none of these options are available on commercially reasonable terms, County will stop using the affected Services provided under this Contract and Contractor will refund to County any sums County has paid to Contractor for the affected Services during the current contract year (not to exceed 12 months). County then shall have the option of immediately terminating the Contract, or applicable portions thereof, in accordance with the Termination with Cause provisions described in Paragraph K.

The foregoing indemnification obligations of Contractor shall not apply with respect to: (a) the Services that, after delivery or access, are modified or used by any party other than Contractor, in a manner where such modification or use was not recommended, authorized in writing or required by Contractor, and where such modification or use is the basis of the claim; and (b) the Services are combined or bundled with any non-Contractor products, processes or materials that were not recommended, authorized or provided by Contractor, if such liability would not have arisen but for such combination or bundling.

- I. Assignment or Subcontracting:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or subcontracted by Contractor without the express prior written consent of County, which consent shall not be unreasonably withheld. Any attempt by Contractor to assign or subcontract the performance or any portion thereof of this Contract without the express prior written consent of County shall be invalid and shall constitute a material breach of this Contract. Contractor shall provide no less than sixty (60) calendar days' written notification of its intent to assign, sell, delegate or otherwise dispose of the rights and obligations of this Contract.

In the event that Contractor is authorized by County to subcontract, this Contract shall prevail and the terms of the subcontract shall incorporate by reference and not conflict with the terms of this Contract. All representations,

warranties and obligations herein that refer to Contractor shall be obligations for the subcontractor. All matters related to this Contract shall be handled by Contractor with County; County will have no direct contact with the subcontractor in matters related to this Contract. The approval to subcontract shall not relieve Contractor in any way of its responsibility for performance of the work. Contractor is solely responsible for the performance of work under this Contract. Contractor will remain responsible and liable for acts and omissions of each subcontractor to the same extent as if such acts or omissions were by Contractor. Any noncompliance by any subcontractor with provisions of this Contract will constitute breach by Contractor. Furthermore, County maintains its authority and right to approve all work performed, as stated elsewhere in this Contract.

- J. Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military or veteran status of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to all the penalties imposed for a violation of Section 1720 et seq. of the California Labor Code.
- K. Termination:** In addition to any other remedies or rights it may have by law and those set forth in this Contract, County has the right to terminate this Contract, in accordance with the proceeding cure and notice provisions, without penalty with cause or after thirty (30) days' written notice without cause, unless otherwise specified. Cause shall include, but not be limited to, any breach of this Contract, any misrepresentation or fraud on the part of Contractor, any change of ownership without prior written approval, any conduct by Contractor that may expose County to liability or endanger the value, integrity, or security of County Resources (including County systems), County Data, or County's facilities or personnel, and any default under this Contract. County's decision to exercise the right to terminate the Contract relieves County of all further obligations under this Contract. The rights, obligations, and conditions, that by their express terms or nature and context are intended to survive the termination or expiration of this Contract, survive any termination or expiration of this Contract.
1. Termination with cause:
    - a. If County is terminating this Contract for Cause, County shall provide written notice to Contractor. In that notice, Contractor shall be allotted thirty (30) days to cure.
    - b. The cure must be mutually agreed upon by the Parties.
    - c. If Contractor does not cure within 30 days or the cure is not mutually agreed upon by the Parties, the Contract shall be deemed terminated for Cause.
    - d. If County terminated this Contract for Cause, County shall be entitled to a refund of any prepaid, but unused fees.
  2. Termination without cause:
    - a. If County is terminating this Contract without Cause, all previously paid fees for Services are non-refundable and all earned, but unpaid fees, related to Services must be paid in full in the event of termination without cause.
  3. Contractor must include in its contracts with subcontractors a termination provision similar to this provision to prevent any claims against County arising from termination of subcontracts after County's termination of this Contract. Contractor is not entitled to make any claim against County resulting from any subcontractor claim against Contractor or County to the extent inconsistent with this provision.

**L. Defaults:**

The following constitute events of default:

- a. Any material misrepresentation, whether negligent or willful and whether in the inducement or in the performance, made by Contractor to County.
- b. Failure, as a result of insolvency, filing for bankruptcy or assignment for the benefit of creditor, to perform the Services in a manner reasonably satisfactory to County.
- c. Discontinuance of the Services for reasons within Contractor's reasonable control. This shall not include any Discontinuances related to Contractor suspending access to County based on County's default for non-payment subject to the terms and conditions herein.

- d. Contractor's repeated or continued violations of County ordinances unrelated to performance under the Contract that in the reasonable opinion of County indicate a willful or reckless disregard for County laws and regulations.

- M. Consent to Breach Not Waiver:** Any action or inaction by County or failure of County in any one or more instances to insist upon strict performance of any of the terms of this Contract or to enforce any right or provision contained herein shall not be construed as a waiver or relinquishment by County of its rights hereunder and shall not prevent County from enforcing such provision or right on any future occasion. Further, no term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach. No course of dealing by either Party in exercising of its rights shall constitute a waiver or excuse for breach of a term or provision of this Contract.
- N. Remedies Not Exclusive:** The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either Party to any other remedies provided by law.
- O. Independent Contractor:** This Contract shall in no event be construed in such a way that either Party constitutes, or is deemed to be, the representative, agent, employee, partner, or joint venture of the other Party. Contractor is and shall at all times be an independent contractor with regard to all performance under this Contract. Neither Party shall have the authority to enter into any Contract, nor to assume any liability, on behalf of the other Party, nor to bind or commit the other Party in any manner, except as expressly provided herein. Contractor's and its subcontractors' employees who provide Services pursuant to this Contract, or who at any time are located or provide Services on County's premises, shall remain the respective employees of Contractor or its subcontractors, as applicable, and Contractor and its subcontractors shall have sole responsibility for all such employees, including responsibility for payment of all compensation to them, the provision of employee benefits to them, and responsibility for injury to them in the course of their employment. Neither Contractor, nor any of its employees, subcontractors, or anyone working for or with Contractor, shall be considered an agent or an employee of County. Neither Contractor, nor any of its employees, subcontractors, or anyone working for or with Contractor, shall qualify for workers' compensation or other fringe benefits of any kind through County. Contractor and its subcontractors shall be responsible for all aspects of labor relations with such employees, including their hiring, supervision, evaluation, discipline, firing, wages, benefits, overtime, and job and shift assignments, and all other terms and conditions of their employment, and County shall have no responsibility whatsoever for any of the foregoing.
- P. Performance:** Contractor shall perform all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other services furnished by Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefore; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors.
- Q. Insurance Provisions:** Prior to the provision of Services under this Contract, Contractor agrees to purchase all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy County that the insurance provisions of this Contract have been complied with. Contractor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this Contract shall be covered under Contractor's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from Contractor under this Contract. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this Contract for inspection by County representative(s) at any reasonable time.

Attachment A

Redlined Contract Number MA-017-18010491

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any SIR in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by County’s Risk Manager, or designee, upon review of Contractor’s current audited financial report. If Contractor’s SIR is approved, Contractor, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

- 1) In addition to the duty to indemnify and hold County harmless against any and all liability, claim, demand or suit resulting from Contractor’s, its agents, employee’s or subcontractor’s performance of this Contract, Contractor shall defend County at its sole cost and expense with counsel approved by Board of Supervisors against same; and
- 2) Contractor’s duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
- 3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and Contractor’s SIR provision shall be interpreted as though Contractor was an insurer and County was the insured.

If Contractor fails to maintain insurance acceptable to County for the full term of this Contract, County may terminate this Contract in accordance with the Termination with Cause provisions described in Paragraph K.

**Qualified Insurer**

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by Contractor shall provide the minimum limits and coverage as set forth below:

Coverage	Minimum Limits
Commercial General Liability	\$1,000,000 per occurrence
	\$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers Compensation	Statutory
Employers Liability Insurance	\$1,000,000 per occurrence
Technology Errors & Omissions	\$1,000,000 per claims made
	\$1,000,000 aggregate

**Required Coverage Forms**

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

**Required Endorsements**

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming ***County of Orange its elected and appointed officials, officers, agents and employees*** as Additional Insureds, or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN CONTRACT.***
- 2) A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that Contractor's insurance is primary and any insurance or self-insurance maintained by County of Orange shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against ***County of Orange, its elected and appointed officials, officers, agents and employees*** or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN CONTRACT.***

With the exception of Technology Errors & Omissions, all insurance policies required by this Contract shall waive all rights of subrogation against County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

Contractor shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which County may suspend or terminate this Contract.

If Contractor's Technology Errors & Omissions is a "Claims-Made" policy, Contractor shall agree to maintain coverage for two (2) years following the completion of the Contract.

The Commercial General Liability policy shall contain a severability of interests clause also known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to the agency/department address listed in this Contract.

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract **which shall be mutually agreed upon**. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

- R. Bills and Liens:** Contractor shall pay promptly all indebtedness for labor, materials and equipment used in performance of all work under this Contract. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, subject to Contractor's Limitation of Liability described in Paragraph KK, Contractor shall promptly procure its release and, in accordance with the requirements of Paragraph JJ below, indemnify, defend, and

hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related to the lien or charge.

**S. Changes:** Contractor shall make no changes in the work or perform any additional work without County's specific written approval.

~~**T. Change of Ownership:** Any change or transfer in ownership of Contractor requires prior written approval from County for this Contract to be assigned to the new owners, which prior written approval shall not be unreasonably withheld. If County provides this prior written approval, Contractor agrees that when the change or transfer in ownership of Contractor's business occurs before expiration or termination of this Contract the new owners shall be contractually required under terms of sale or other transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of County. If County does not provide this prior written approval, County reserves the right to immediately terminate this Contract without penalty upon the change or transfer in ownership of Contractor.~~

**U.T. Change of Ownership/Name, Litigation Status, Conflicts with County Interests:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of the County.

County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Contract.

In addition, Contractor has the duty to notify the County in writing of any change in the Contractor's status with respect to name changes that do not require an assignment of the Contract. The Contractor is also obligated to notify the County in writing if the Contractor becomes a party to any litigation against the County, or a party to litigation that may reasonably affect the Contractor's performance under the Contract, as well as any potential conflicts of interest between Contractor and County that may arise prior to or during the period of Contract performance. While Contractor will be required to provide this information without prompting from the County any time there is a change in Contractor's name, conflict of interest or litigation status, Contractor must also provide an update to the County of its status in these areas whenever requested by the County.

The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with County interests. In addition to the Contractor, this obligation shall apply to the Contractor's employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. The Contractor's efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties.

**V.U. Force Majeure:** Contractor shall not be assessed with liquidated damages, Service Credits as found in the Attachment B, unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract to the extent such delay is caused by any act of God, war, civil disorder, employment strike or other cause, beyond Contractor's reasonable control, provided Contractor gives written notice of the cause of the delay to County within thirty-six (36) hours of the start of the delay and Contractor avails itself of any available remedies to end the delay and minimize the effects of such delay. In the event of such a delay, County may suspend its performance hereunder until such time as Contractor resumes performance. County may terminate this Contract by written notice to Contractor if the delay continues substantially uninterrupted for a period of five (5) business days or more. Unless County terminates this Contract pursuant to the preceding sentence, any date specifically designated for Contractor's performance under this Contract will automatically be extended for a period up to the duration of the delay. No Force Majeure event excuses Contractor's other obligations under this Contract.

Notwithstanding the foregoing or any provision of this Contract, in no event will the following be considered a Force Majeure event: (a) shutdowns, disruptions, or malfunctions of Contractor Systems or any of Contractor's telecommunication or internet services other than as a result of general and widespread internet or telecommunication failures that are not limited to Contractor Systems which do constitute Force Majeure events; and (b) the delay or failure

of any Contractor personnel (including subcontractors) to perform any obligation of Contractor hereunder unless such delay or failure to perform is itself by reason of a Force Majeure event.

For clarification purposes, actions or inactions of third parties that disrupt the general flow of data outside Contractor's network and Contractor's control and thereby impair or disrupt County's connection to the internet (or portions thereof) shall be considered a Force Majeure event. In addition to the other actions required in this Paragraph U to avoid liability herein for such events, Contractor will use commercially reasonable efforts to take all appropriate actions to remedy and avoid such events.

**W.V. Confidentiality:** Subject to the California Public Records Acts, all County Data shall be deemed confidential. Contractor will hold all County Data in strict confidence and maintain the confidentiality of all County Data pursuant to all statutory laws (including federal and state) relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. Contractor will not copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose, such County Data to third parties other than employees, agents, or subcontractors who require County Data for performance of this Contract and will not use such County Data for any purpose other than for performance of this Contract. In addition, Contractor shall protect County Data from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to County. If the methods and procedures employed by Contractor for the protection of Contractor data and information are deemed by County to be adequate for the protection of County Data, such methods and procedures may be used, with the written consent of County, to carry out the intent of this paragraph. Contractor will advise and require its employees, agents, and subcontractors of their obligations to keep all County Data confidential in compliance with this paragraph.

Contractor shall immediately report to County any and all unauthorized disclosures or uses of County Data or suspected or threatened unauthorized disclosures or uses of County Data of which Contractor or Contractor's employees, agents and/or subcontractors is aware or has knowledge or reasonable belief. Contractor acknowledges that any unauthorized publication or disclosure of County Data to others or unauthorized use of County Data may cause immediate and irreparable harm to County. If Contractor should publish, disclose, or use such County Data without authorization, or threaten such action, County shall immediately be entitled to injunctive relief and any other remedies to which it is entitled under law or equity, without requiring a cure period. Contractor shall, in accordance with the more specific requirements contained in Paragraph JJ below, indemnify, defend, and hold County and County Indemnitees harmless from and against any and all damages, costs, liabilities, and expenses (including without limitation reasonable attorneys' fees) relating to or arising from Contractor's unauthorized publication, use, or disclosure of County Data.

**X.W. Confidentiality— Contractor SOC Report:** County acknowledges that Contractor has Confidential Information (such as Contractor's Security Audit (SOC I Type 2 or SOC II Type 2) Result ("SOC Report")) and considers such information as confidential, material, and non-public. Contractor understands and agrees that County is subject to the California Public Records Act. To the extent permitted by the California Public Records Act, County agrees that it will hold Contractor's Confidential Information (such as the SOC Report) in strict confidence. County specifically agrees to maintain the confidentiality of the SOC Report. If a request for public records includes Contractor Confidential Information (such as the SOC Report), or County is otherwise legally compelled to disclose Contractor Confidential Information, County will provide reasonable written notice to Contractor before disclosure of the SOC Report in order for Contractor to obtain a court order restricting the disclosure of the such Contractor Confidential Information or other judicial remedy and/or waive compliance of this paragraph.

In addition and specific to the SOC report, County acknowledges that, as between the Parties, the SOC Report shall remain the property of Contractor. No rights to use, license or otherwise exploit the SOC Report is granted to County, by implication or otherwise. Further, County acknowledges that Contractor may suffer irreparable harm in the event that County fails to comply with this provision, and that monetary damages will be inadequate to compensate Contractor for such a breach. As a consequence, in the event of any threatened or actual violation of this provision, County consents to Contractor seeking the enforcement of this provision through injunctive relief, specific performance or other equitable relief, without proof of irreparable injury, actual damages or any requirement to post a bond, in addition to any and all other remedies available to Contractor. Upon termination of the Contract, County shall comply with Paragraph 21, Orderly Termination, in handling the SOC Report.

This provision shall be inoperative as to such portions of Contractor Confidential Information that (i) is or becomes generally available to the public through no fault of or action by County; (ii) is or becomes available to County on a non-confidential basis from a source, other than Contractor, which is not known to County to be prohibited (whether by law, regulation, contract or fiduciary duty) from disclosing such portions of Contractor Confidential Information; or (iii) is developed or learned of by County on its own and without the violation of this provision.

~~Y.X.~~ **Compliance with Laws:** Contractor represents and warrants that it shall at all times perform its obligations hereunder in compliance in all material respects with all applicable federal, state, and local laws and regulations of all applicable domestic jurisdictions, including, without limitation, any applicable requirements of any federal, state, and local authority regulating health, safety, employment, civil rights, the environment, Hazardous Materials, privacy, confidentiality, security, exportation or telecommunication, and all applicable laws and regulations relating to the collection, dissemination, transfer, storage and use of data, specifically including, without limitation, the privacy and security of confidential, personal, sensitive or other protected data.

Contractor represents and warrants that Services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the Services at the time Services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of Paragraph JJ below, Contractor agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all loss, liability, damages, costs and expenses arising from or related to a violation of such laws.

~~Z.Y.~~ **Freight (F.O.B. Destination):** Intentionally Omitted.

~~AA.Z.~~ **Pricing:** The Contract price, which is set forth in Attachment B, Cost/Compensation, shall include full compensation for providing all required Services specified herein, including Attachment A, Scope of Work, and no additional compensation will be allowed, unless otherwise provided for in this Contract.

~~BB.AA.~~ **Waiver of Jury Trial:** Intentionally Omitted.

~~CC.BB.~~ **Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.

~~DD.CC.~~ **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.

~~EE.DD.~~ **Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

~~FF.EE.~~ **Calendar Days:** Any reference to the word "day" or "days" herein mean calendar day or calendar days, respectively, unless otherwise expressly provided.

~~GG.FF.~~ **Attorney Fees:** In any action or proceeding to enforce or interpret any provisions of this Contract, or where any provisions hereof is validly asserted as a defense, each Party shall bear its own attorney's fees, costs and expenses.

~~HH.GG.~~ **Interpretation:** This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other Party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to effect the purpose of the Parties and this Contract.

**~~HH.~~** **Authority:** Parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.

**~~JJ.~~** **Employee Eligibility Verification:** Contractor represents and warrants that it is and will be in full compliance with all Federal and State statutes and regulations regarding the employment of aliens (as that term is defined in applicable statutes and/or regulations) and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. Subject to Contractor's Limitation of Liability described in Paragraph KK, Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against Contractor or County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

**~~KK.~~** **Indemnification Provisions:** Contractor agrees to indemnify, defend with counsel approved in writing by County (not to be unreasonable withheld), and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from and against any and all claims, demands, suits, actions, proceedings, or liability arising from or relating to Contractor's (or any of its affiliates, agents, subcontractors, employees, suppliers, or laborers furnishing or supplying work, services, materials or supplies in connection with performance of Services under this Contract): breach of confidentiality obligations; negligent acts or omissions; willful misconduct; alleged infringement or misappropriation of any copyright, patent, trade mark, trade secret, or any other intellectual property rights; and indemnification obligations stated elsewhere in this Contract. Contractor will not, without County's express prior written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, suit, action, or proceeding. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.

**~~LL.~~** **Limitation of Liability:** In no event will a Party's liability for any one or more claims taken in the aggregate arising out of this Contract ever exceed the amount of \$500,000. Neither Party shall be liable to the other for special, indirect, or incidental damages, damages which are unforeseeable to the Parties at the time of contracting, damages which are not proximately caused by a Party, such as lost profits, failure to realize expected savings, income, goodwill, or revenue in connection with or arising out of this Contract. These limitations on the liability of either Party may have against the other, irrespective of the nature of the cause of action underlying a claim, demand or action, including, without limitation, whether it sounds in contract or tort.

The limitations contained in this Paragraph shall not apply to: (a) claims arising out of Contractor's confidentiality obligations; (b) claims with respect to Contractor's infringement of County's or a third party's intellectual property rights; (c) claims arising out of Contractor's gross negligence, fraud, or willful misconduct; and (d) claims arising out of Contractor's willful and/or deliberate breach of this Contract.

**~~MM.~~** **Audits/Inspections:** Contractor agrees to permit County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of this Contract including, but not limited to, the costs of administering this Contract. County will provide reasonable notice of such an audit or inspection.

County reserves the right to audit and verify Contractor's records before final payment is made.

Contractor will maintain such records for possible audit for a minimum of seven (7) years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor will allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor will include a similar right to County to audit records and interview staff of any subcontractor related to performance of this Contract.

Contractor will have the right, during normal business hours and upon at least five (5) days' prior written notice to County, to have an independent firm as agreed upon by County audit the CIP capitalization amount per year that the PIMS manages. The audit will be conducted at Contractor's expense.

### **Additional Terms and Conditions**

#### **Definitions:**

- a. Acceptance Criteria.** The term "Acceptance Criteria" shall have the meaning set forth in Paragraph 41.
- b. Acceptance Testing.** The term "Acceptance Testing" shall have the meaning set forth in Paragraph 41.
- c. Annual Maintenance and Support.** The term "Annual Maintenance and Support" shall mean the Services set forth in Attachment D, Software Maintenance and Support, of the Contract.
- d. Annual Maintenance and Support Period.** The term "Annual Maintenance and Support Period" shall mean the twelve (12) month consecutive period (first year of contract is sixteen (16) months, following years are twelve (12) month periods) commencing on the day of County's acceptance of the PIMS System. Each successive "Annual Maintenance and Support Period" shall commence at 12:00 a.m. (PT) midnight of the calendar day of the expiration of the prior period.
- e. Availability.** The term "Availability" shall mean the percentage of time that a given Service or System is fully operational and available when its resources are called upon at a random point in time. Subject to Contractor's Maintenance Windows, Availability represents a measure of the fraction of time (expressed as a percentage) during a defined period when the Service or System is deemed to be equal to or better than a designated service level.  
  
Availability measurement calculations shall be limited to those Service and System components that are directly under control of Contractor, as well as Service and System components for which Contractor is responsible for subcontracting to third parties.
- f. BOS.** The term "BOS" shall mean County of Orange Board of Supervisors.
- g. Business Day.** The term "Business Day" or "business day", whether capitalized or not and unless expressly specified otherwise, shall mean any day on which County of Orange is open for business.
- h. CAPS+.** The term "CAPS+" shall mean the central accounting software system for County. CAPS+ is based on Oracle database and web-based User Interface.
- i. Calendar Day.** The term "Calendar Day" or "calendar day", whether capitalized or not and unless expressly specified otherwise, shall mean any day of the week, month or year.
- j. CEO.** The term "CEO" shall mean County of Orange County Executive Office.
- k. Change(s).** The term "Change(s)" or "change(s)", whether capitalized or not and unless expressly specified elsewhere, shall mean any change, modification, action or decision with respect to the Services or the Systems.
- l. Commercial Software.** The term "Commercial Software" shall mean Software developed or regularly used that:  
(i) has been sold, leased, or licensed to the general public; (ii) has been offered for sale, lease or license to the general public; (iii) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this Contract; or (iv) satisfies a criterion expressed in (i), (ii), or (iii) above and would require only minor modifications to meet the requirements of this Contract.
- m. Consent.** The term "Consent" or "consent", whether capitalized or not and unless expressly specified otherwise, shall mean, with regard to either a specified or an applicable Party whose consent is required hereunder, the voluntary, freely-given approval of such Party, which may be withheld in such Party's sole discretion, with no duty to be reasonable in the withholding of such approval.

- n. County Data.** The term “County Data” shall have the meaning set forth in Paragraph 30.
- o. CRM.** The term “CRM” shall mean the Customer Relationship Management system. This is the public facing system Orange County Public Works uses for relationship management.
- p. Deliverable.** The term “Deliverable” shall mean tangible and intangible information or material that must be provided by Contractor to County under the terms of this Contract, including any such items furnished incident to the provision of Services.
- q. Data Loss Prevention.** The term “Data Loss Prevention” shall mean the strategy used to ensure sensitive or critical data is not transmitted outside of the system.
- r. Documentation.** The term “Documentation” shall mean, with respect to any particular items: (i) all of the written, printed, electronic, or otherwise formatted materials that relate to such items, or any component thereof; (ii) all user, operator, system administration, technical, training, support, and other manuals and all other written, printed, electronic, or other format materials that represent, demonstrate, explain or describe the functional, operational or performance capabilities of such items; and (iii) all specifications, materials, flow charts, notes, outlines, manuscripts, writings, pictorial or graphical materials, schematics, and other documents that represent, demonstrate, explain or describe such items.
- s. Go Live.** The term “Go Live” shall mean the milestone in Attachment B where County provides Contractor written notice that the PIMS implementation and system is fully functional and finally accepted, except for the final acceptance of the CAPS+ and CRM Integration.
- t. PIMS.** The term “PIMS” shall mean Project Information Management System.
- u. e-Builder Enterprise.** The term “e-Builder Enterprise” shall mean Contractor’s PIMS and any reference to PIMS herein constitutes a reference to e-Builder Enterprise and any reference to e-Builder Enterprise constitutes a reference to PIMS.
- v. Effective Date.** The term “Effective Date” shall mean the date that the Contract is fully executed by all parties.
- w. End User.** The term “End User” or “end user”, whether capitalized or not and unless expressly specified elsewhere, shall mean the person upon whom County intends to confer the right to access and use PIMS or receive the benefit of PIMS.
- x. Equipment.** The term “Equipment” shall mean either individual machine or the complete data processing System.
- y. Hardware.** The term “Hardware” shall mean computer Equipment and is contrasted with Software.
- z. Incident.** The term “Incident” shall mean any event which is not part of the standard operation of a Service and which causes, or may cause, an interruption to, or a reduction in, the quality of that Service.
- aa. Including.** The term “Including” or “including”, whether capitalized or not and unless expressly specified otherwise, shall mean “including, but not limited to.”
- bb. Integration.** The term “Integration” shall mean to link together different systems and/or applications, either physically or functionally.
- cc. Malware.** The term “Malware” shall mean software designed to infiltrate or damage a computer system without the owner's informed consent. Software is considered Malware based on the perceived intent of the creator rather than any particular features. Malware includes computer viruses, worms, Trojan horses, most rootkits, spyware, dishonest adware, crime ware and other malicious and unwanted software.
- dd. Owner-Centric.** The term “Owner-Centric” shall mean a project information management system that allows owners to measure and manage every step of the capital project delivery process from planning, design, procurement, construction and operations including capital program costs, schedule, and documents utilizing workflow and business intelligence.

- ee. SaaS.** The term “SaaS” means capability provided to County to use applications made available by Contractor running on a cloud infrastructure. The applications are accessible from various County devices through a thin County interface such as a web browser (e.g., web-based email). County does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage, or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.
- ff. Service(s).** The term “Service(s)” means the duties and tasks undertaken by Contractor to fulfill the requirements and specifications of this Contract, including but not limited to providing web browser access by authorized users to PIMS and to related services, such as Contractor hosted computer storage, customization/integration, databases, support, maintenance, training, documentation, Deliverables and other functionalities, as a SaaS solution.
- gg. Service Level/Service Level Requirements.** “Service Level” means, generally, a minimum acceptable level of service or performance for a particular task, activity, or Service performed by Contractor hereunder, as specified in Attachments B and F. “Service Level Requirements” or “SLR” is the specific performance requirement for a Service Level (typically, but not exclusively, a measure of efficiency expressed as a percentage).
- hh. SOC (Service Organization Controls) Reports for Service Organizations**
- A. SOC 1 Report — Type 2 Report on Controls at a Service Organization Relevant to User Entities Internal Control over Financial Reporting (SSAE 16).
- B. SOC 2 Report— Report on Controls at a Service Organization Relevant to Security, Availability, Processing Integrity, Confidentiality or Privacy.
- ii. Software.** The term “Software” shall mean computer programs and program objects of any kind (including object code and source code, and any intermediate forms or versions thereof), program set-up and customization parameters and data, and the tangible media on which any of the foregoing are recorded.
- jj. System.** The term “System” shall mean a set of interacting or independent components forming an integrated whole providing a business process.
- kk. TLS.** The term “TLS” shall mean Transport Layer Security.
- ll. Update.** The term “Update” shall mean any bugs, patches, fixes, enhancements, improvements to the Software and any addition of new features pertaining only to County’s existing modules.
- mm. Upgrade.** The term “Upgrade” shall mean platform changes, addition of new modules or new integration points or the creation of new versions.
- nn. U.S. Intellectual Property Rights.** The term “U.S. Intellectual Property Rights” shall mean intellectual property rights enforceable in the United States of America, including without limitation rights in trade secrets, trademarks, copyrights, and U.S. patents.
- oo. Workaround.** The term “Workaround” shall mean a temporary PIMS that Contractor or County can implement in the event of an Incident as an alternate method of providing full Service or process functionality that allows the affected System(s) and/or process(s) to deliver to County an acceptable level of business operations functionality until the Incident is resolved.

~~1.—**Term of Contract:** The Term of the Contract is for forty (40) consecutive months from the Effective Date. The Contract may be renewed for a total of two (2) consecutive two-year periods under the same terms and conditions and pricing structure by written consent of both Parties. County does not have to give any reason should it elect not to renew the Contract. Any renewal may require approval of County of Orange Board of Supervisors.~~

2.1. The Term of the Contract is for sixty-four (64) consecutive months from the Effective Date. The Contract may be renewed for a total of one (1) two-year period under the same terms and conditions and pricing structure by written

consent of both parties. County does not have to give any reason should it elect not to renew the Contract. Any renewal may require approval of the County of Orange Board of Supervisors.

**3.2. Scope of Contract:** This Contract specifies the contractual terms and conditions by which County will procure PIMS from Contractor as further detailed in the Scope of Work, identified and incorporated herein by this reference as Attachment A.

**4.3. Compensation:** Contractor agrees to accept the compensation as set forth in Attachment B, Cost/Compensation, as full remuneration for (a) performing all Services and furnishing all staffing and materials required, (b) any reasonably unforeseen difficulties not caused by County which may arise or be encountered in the performance of the Services until acceptance, (c) risks not controlled by County connected with the Services, and (d) performance by Contractor of all its duties and obligations required herein. County has no obligation to pay any sum in excess of the total Contract amount specified herein unless authorized by written amendment. Any terms and conditions in Contractor's invoice shall be deemed to be solely for the convenience of Contractor and no such term or condition shall be binding upon the Parties. Contractor may suspend access to Services if County fails to timely remit payment pursuant to Attachment B, Cost/Compensation (and subject to the terms and conditions herein, including Paragraph 12, Set-Off, Paragraph 13, Disputed Amounts, and Paragraph 19, Breach), or is otherwise in material default hereunder, and fails to timely cure such failure to pay or default within forty-five (45) days of written notice from Contractor.

**5.4. Fiscal Appropriations, Subject To:** This Contract is subject to and contingent upon applicable budgetary appropriations being approved by County of Orange Board of Supervisors for each fiscal year during the term of this Contract. If such appropriations are not forthcoming, the Contract shall be terminated without penalty. Contractor acknowledges that funding or portions of funding for this Contract may also be contingent upon the receipt of funds from, and/or appropriation of funds by, the State of California to County. If such funding and/or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.

**6.5. Precedence:** The Contract documents will consist of this Contract, including its Attachments and Exhibit. In the event of a conflict or inconsistency between or among the Contract documents, the following order of precedence shall apply: (a) the provisions of the main body of this Contract (i.e., those provisions set forth in the recitals and articles), excluding its Attachments and Appendix; (b) Attachment A; (c) Attachment B; (d) Attachment C; (e) Attachment D; (f) Attachment E; (g) Attachment F; (h) Attachment G; and (i) Appendix 1.

**7.6. Waiver of Rights:** Any action or inaction by County or the failure of County on any occasion, to enforce any right or provision of the Contract, shall not be construed to be a waiver by County of its rights hereunder and shall not prevent County from enforcing such provision or right on any future occasion. The rights and remedies of County herein are cumulative and are in addition to any other rights or remedies that County may have at law or in equity.

**8.7. No Third-Party Beneficiaries:** This Contract is an agreement by and between the Parties, and neither: (a) confers any rights upon any of the employees, agents, or contractors of either Party, or upon any other person or entity not a party hereto; or (b) precludes any actions or claims against, or rights of recovery from, any person or entity not a party hereto.

**9.8. Employee Qualification Verification:** Subject to and in accordance with applicable law, Contractor, prior to employing Contractor personnel, shall have appropriately verified the qualifications of such individual, including a security background check that includes investigation and identification of all state or federal misdemeanor or felony convictions of such individual, and criminal charges pending against such individual, during the immediately preceding seven (7) years. When requested by County (which request shall be no frequent than annually), Contractor will certify in writing to County that each and every employee of Contractor and any subcontractor working on County's account or having access to County Data meets all employee qualifications required in this Contract. Failure to provide such certification constitutes a material breach of this Contract.

**10.9. Training:** Contractor shall provide, and cause its subcontractors to provide throughout the Term of this Contract, all such technical and interpersonal training to Contractor personnel, and to any employees of Contractor's subcontractors that are assigned to provide Services hereunder, as may be necessary and appropriate for them to collectively perform, on behalf of Contractor, all of Contractor's duties under this Contract. In any event, the levels

and extent of training provided by Contractor to Contractor personnel shall be at least equal to the average levels of training given to other Contractor employees holding comparable positions, under similar circumstances, and performing work of a similar nature and level of complexity.

- 11.10. Non-Solicitation of Employees:** Except as otherwise expressly provided in this Contract, during the Term and for the first twelve (12) months thereafter, neither Party shall, without the prior written consent of the other Party, directly or indirectly solicit, entice, encourage, or otherwise recruit any employee of such other Party whose duties and responsibilities include performing Services directly or indirectly connected with performance under this Contract to leave such other Party's employ in order to accept employment or other engagement with the soliciting Party, its affiliates, or any other person. Notwithstanding the foregoing, the Parties acknowledge and agree that this Contract shall not prohibit solicitations by either Party through general advertising or other publications of general circulation. In no way is this paragraph intended, nor shall it be deemed, to restrict or limit any individual's right to seek employment, but rather this paragraph is intended to, and shall, prevent each Party from actively recruiting the employees of the other Party (except as provided in this Contract), thereby depriving such other Party of vital resources in the securing, development, training, and deployment of whom it has expended considerable time and resources.
- 12.11. Authority Retained By County:** County shall have and at all times retain the exclusive right and authority to: (a) define, determine, and control County's PIMS-related policies, strategies, objectives, and goals; (b) define, determine, and alter any or all of County's business processes; and (c) assess Contractor's quality and performance.
- 13.12. Set-Off:** County may set-off against any and all amounts otherwise payable to Contractor pursuant to any of the provisions of this Contract: (i) any and all amounts claimed by County in good faith to be owed by Contractor to County pursuant to any of the provisions of this Contract; and (ii) any and all amounts claimed by County in good faith to be owed by Contractor pursuant to any other written agreement between the Parties. Within twenty (20) days after any such set-off by County, County shall provide Contractor with a written accounting of such set-off and a written statement of the reasons therefore. If the amount set-off is insufficient to cover the excess costs, Contractor is liable for and must promptly remit to County the balance upon written demand. This right to set-off is in addition to, and not a limitation of, any other remedies available to County. Contractor may not fail to perform or suspend performance of any Services hereunder by reason of County's good faith set-off in accordance with this paragraph. Contractor's failure to perform shall be considered a material breach of this Contract.
- 14.13. Disputed Amounts:** County may withhold payment of fees or any other charges otherwise due to Contractor under this Contract to the extent that County disputes such charges in good faith. In such case, County shall provide to Contractor a reasonably detailed written explanation of the basis for the dispute and shall continue to make payments of undisputed amounts as otherwise provided in this Contract. If any disputed amounts are later determined to have been improperly withheld (i.e., properly charged by Contractor), then County shall be obligated to pay the withheld amount in accordance with this Contract, until paid in full. If any paid amounts are later disputed by County and determined to have been improperly paid (i.e., improperly charged by Contractor), then Contractor shall promptly pay County, in cash, the improperly paid amount. The failure of County to withhold payment shall not waive any other rights County may have with respect to disputed amounts or overpayments. Except as otherwise provided herein, any dispute relating to amounts owed by a Party hereunder, shall be considered a disagreement. This right to withhold is in addition to, and not a limitation of, any other remedies available to County. Contractor may not fail to perform or suspend performance of any Services hereunder by reason of County's good faith withholding of any payment or amount in accordance with this paragraph. Contractor's failure to perform shall be considered a material breach of this Contract.
- 15.14. Non-Exclusivity:** Subject to the License to Access and Use Services paragraph below, nothing herein shall prevent County from providing for itself or obtaining from any third party, at any time during the term or thereafter, the Services, or any type of products or services in any way analogous, similar, or comparable to the Services, as applicable, or any other products or services. Nor shall anything in this Contract be construed or interpreted as limiting County's right or ability during the Term to increase or decrease its demand for Services hereunder.
- 16.15. License to Access and Use Services:** Contractor grants County a limited, non-exclusive, non-transferable license to use and access all Services and other functionalities or services, provided, furnished, or accessible under this Contract, including that described in Attachment A, Scope of Work. County is authorized to access County Data and any

Contractor-provided data as specified herein and to transmit revisions, updates, deletions, enhancements, or modifications to County Data. This shall include the right of County to, and access to, all PIMS maintenance and warranty updates, upgrades, patches, fixes and support without Contractor requiring a separate maintenance or support agreement. Subject to an agreed limitation on the number of users, County may use the Services with any computer, computer system, server, or desktop workstation owned or utilized by County or other authorized users. User access to the Services shall be routinely provided by Contractor and is subject to the SLRs in Attachment F, Performance, Service Level Guarantees, and Reporting.

Contractor shall not reduce or eliminate functionality in the Services during the term of this Contract. Where Contractor has reduced or eliminated functionality in the Services, County, at County's sole election and in County's sole determination, shall have, in addition to any other rights and remedies under this Contract or at law, the right to immediately terminate this Contract and be entitled to a return of any prepaid fees in accordance with the Termination with Cause provisions described in Paragraph K, Termination. Where Contractor has introduced like functionality in other services (which does not constitute a new or different product from that provided herein for which Contractor charges its customers an additional fee), County shall have an additional right to use and access the new services, at no additional charge, with the same rights, obligations, and limitations as for the Services.

Except as authorized by Contractor in writing, County will NOT: (i) access or use PIMS to provide any products or services to third parties; (ii) access or use PIMS beyond the agreed limitation on the number of users; (iii) resell, sublicense, lease, encumber, copy, distribute, publish, exhibit, transmit, provide access to, or provide use of PIMS to any third party, nor use or allow them to be used in any public system, public electronic bulletin board (unless agreed by Contractor), multiple computer or user arrangement or network that includes access by any third party; (iv) derive specifications from, reverse engineer, reverse compile, disassemble, translate, record or create derivative works based on PIMS; or (v) use PIMS, or any part or aspect thereof, for any unlawful purpose or to mislead or harass anyone. Use of or access to PIMS in violation of this provision is strictly prohibited. Permission to access or use PIMS may be limited or suspended immediately if, in Contractor's discretion, this provision has been violated. County agrees that a violation of this provision will cause Contractor irreparable and immediate harm, and that Contractor is entitled to injunctive relief to prevent such violation. For purposes of this paragraph, a third party shall not include consultants, lawyers, accountants, and part-time or temporary workers.

County acknowledges that title to and copyright in the software applications supplied by Contractor (including but not limited to the e-Builder Enterprise™, e-Builder Professional™, e-Builder mobile applications, and other e-Builder add on software) are reserved by Contractor. County acquires no right in any software, copyrights, patents or any other intellectual property belonging to or licensed by Contractor, other than the limited rights to use PIMS. Contractor is and shall remain the sole owner of all copyrights, trademarks, patents and other proprietary rights in and to all aspects of PIMS (including, without limitation, all software, code, business process and designs used in providing PIMS). County acknowledges that Contractor's software may be modified or upgraded from time to time, and that PIMS shall be the most recent version thereof.

**17.16. Future Releases:** Unless otherwise specifically provided in this Contract or Attachment A, Scope of Work, if improved versions, e.g., patches, bug fixes, Updates or releases, of any PIMS are developed by Contractor ("Updates"), and are made available to other licensees, they will be made available to County at no additional cost only if such are made available to other licensees at no additional cost. The Updates do not include any new or different products by Contractor to its Customer Base for which additional fees apply. If Contractor offers new versions or Upgrades to the PIMS, they shall be made available to County at County's option at a price no greater than the Contract price plus a price increase proportionate to the increase from the list price of the original version to that of the new version, if any. If the Software product has no list price, such price increase will be proportionate to the increase in average price from the original to the new version, if any, as estimated by Contractor in good faith.

**18.17. Software Maintenance:** The correction of any residual errors in any software products which may be discovered by Contractor or by County will be considered maintenance. Such maintenance will be performed by Contractor without additional charge for the duration of this Contract.

~~19~~18. **Legal Entity:** Should Contractor cease to exist as a legal entity, Contractor's records pertaining to this Contract shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to County's Project Manager.

~~20~~19. **Breach:** The failure of Contractor to comply with any of the provisions, covenants, requirements or conditions of this Contract shall be a material breach of this Contract. In such event, County may, in addition to any other remedies available at law, in equity, or otherwise specified in this Contract, do any of the following:

- a. Afford Contractor written notice of the breach and, if the breach is curable, thirty (30) calendar days or such shorter time that may be specified in this Contract, within which Contractor is to cure the breach;
- b. Discontinue payment to Contractor for and during the period in which Contractor is in breach;
- c. Offset against any monies billed by Contractor but yet unpaid by County those monies disallowed pursuant to subsections a, b, and d; and
- d. Terminate the Contract per Paragraph K, Termination.

Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

~~21~~20. **Stop Work:** County may, at any time, by written stop work order to Contractor, require Contractor to stop all or any part of the work called for by this Contract for a period up to ninety (90) business days after the stop work order is delivered to Contractor and for any further period to which the Parties may agree. The stop work order shall be specifically identified as such and shall indicate it is issued under this paragraph. Upon receipt of the stop work order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage. Within a period of ninety (90) business days after a stop work order is delivered to Contractor or within any extension of that period to which the Parties shall have agreed, County shall either:

- a. Cancel the stop work order; or
- b. Terminate the Contract without cause in accordance with Paragraph K, Termination, in whole or in part in writing as soon as feasible. County shall not be liable to Contractor for loss of profits because of a stop work order issued under this paragraph.

~~22~~21. **Orderly Termination:** Upon expiration or earlier termination of this Contract, each Party shall promptly return to the other Party all papers, materials, and other properties of the other held by each for purposes of performance of this Contract. In addition, each Party shall assist the other Party in orderly termination of this Contract and the transfer of all assets, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party. Upon expiration or earlier termination of this Contract, Contractor will return all County Data and files in a format acceptable to County within thirty (30) calendar days of the expiration or termination date. In addition, Contractor shall erase, destroy, and render unreadable all data in its entirety remaining in Contractor's (including any subcontractor's) possession, but only after County Data has been returned to County. County Data must be rendered in a manner that prevents its physical reconstruction through the use of commonly available file restoration utilities. Certification in writing that these actions have been completed must be provided within thirty (30) calendar days of termination or expiration of this Contract or within seven (7) calendar days of a request of County, whichever shall come first.

~~23~~22. **County and Contractor Project Manager:** County shall appoint a Project Manager to act as liaison between County and Contractor during the term of this Contract, as described in Paragraph 23. Contractor shall appoint a Project Manager to direct Contractor's efforts in fulfilling Contractor's obligations under this Contract and who will ensure that County personnel interface with Contractor personnel in a manner conducive to facilitating Contractor's performance of the Services under this Contract, including the timely evaluation and testing of the Services, as described in Paragraph 41. County's Project Manager shall have the right to require the removal and replacement of Contractor's Project Manager from providing Services to County under this Contract. County's Project Manager shall notify Contractor in writing of such action. Contractor shall accomplish the removal within thirty (30) calendar days after written notice by

County's Project Manager. County is not required to provide any reason, rationale or factual information in the event it elects to request the removal of Contractor's Project Manager from providing Services to County under this Contract.

**24.23. County's Project Manager:** County represents that the individual designated as County's Project Manager is, and shall ensure that any replacement holder of such position shall be, an experienced manager who is knowledgeable as to County, its respective businesses, business practices, functions, and related activities, and its respective systems, requirements, and needs. County's Project Manager shall at all times: (a) act as the primary liaison between County and Contractor's Project Manager; (b) have overall responsibility for directing and coordinating all of County's activities hereunder; and (c) be vested with the necessary authority to fulfill all of the responsibilities of County's Project Manager described in this paragraph.

**25.24. Contractor Staff:** In addition to the rights set forth in Paragraph 22, County and Contractor Project Manager, above, County's Project Manager shall have the right to require the removal and replacement of any of Contractor's personnel from providing Services to County under this Contract. County's Project Manager shall notify Contractor's Project Manager in writing of such action. Contractor shall accomplish the removal of the specified personnel within thirty (30) calendar day after written notice by County's Project Manager. County is not required to provide any reason, rationale or factual information in the event it elects to request the removal of any of Contractor's personnel from providing services to County under this Contract.

**26.25. Contractor's Project Manager:** Contractor represents that the individual designated as Contractor's Project Manager is, and promises that any replacement holder of such position shall be, an experienced manager who is knowledgeable as to County, its respective businesses, business practices, functions, and related activities, and its respective solution, requirements, and needs. Unless Contractor's Project Manager's employment with Contractor is terminated, Contractor shall not, without the prior written consent of County's Project Manager, which consent shall not be unreasonably withheld: (a) designate a replacement for Contractor's Project Manager; or (b) voluntarily replace or reassign the individual serving as Contractor's Project Manager during the first twelve (12) months after the date that such individual commences performing the duties of Contractor's Project Manager hereunder. Contractor's Project Manager shall at all times: (i) act as the primary liaison between Contractor and County's Project Manager; (ii) have overall responsibility for directing all of Contractor's activities hereunder, including directing the performance of all Services from inception through completion; (iii) be vested with the necessary authority to fulfill all of the responsibilities of Contractor's Project Manager described in this Contract; and (iv) coordinate and conduct periodic program review sessions with County to discuss costs, Attachments, and any relevant technical aspects of Contractor's performance under this Contract.

**27.26. Qualified Contractor Staff:** Contractor shall, at all times, make available appropriate and sufficient numbers and types of qualified Contractor personnel, in addition to Contractor's Project Manager, to timely perform Contractor's obligations hereunder, in accordance with this Contract. In the event Contractor fails to meet any of its obligations with respect to the required proficiency of any Contractor personnel, Contractor shall promptly, as directed by County, either: (a) take such action with respect to such Contractor personnel, including promptly providing appropriate training, education, or orientation, as necessary for such Contractor personnel to meet the applicable requirements set forth in this paragraph; or (b) in the event that County has notified Contractor that such Contractor personnel does not meet the applicable requirements, remove and replace such Contractor personnel with an appropriately qualified individual, in accordance with this Contract, and such position shall be filled by a qualified person no later than thirty (30) days following the date of removal or replacement.

**28.27. Reports/Meetings:** Contractor shall develop reports and any other relevant documents necessary to complete the Services and requirements as set forth in this Contract. County's Project Manager and Contractor's Project Manager shall meet on reasonable notice to discuss Contractor's performance and progress under this Contract. If requested, Contractor's Project Manager and other project personnel shall attend all meetings. Contractor shall provide such information that is requested by County for the purpose of monitoring progress under this Contract.

**29.28. Documentation:**

- a) Contractor agrees to provide to County, at no charge, all Documentation as described within Attachment A, Scope of Work, and updated versions thereof, which are necessary or useful to County in its use of the PIMS

provided hereunder. Contractor agrees to provide additional Documentation at prices not in excess of charges made by Contractor to its other customers for similar Documentation.

b) If Contractor is unable to perform maintenance, then upon written notice by County, this Contract shall be terminated per the Termination with Cause provisions described in Paragraph K, Termination.

~~30~~29. **Conflict of Interest – (Contractor):** Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that result in a conflict with the best interests of County. This obligation shall apply to Contractor; Contractor's employees, agents, relatives, sub-tier contractors; and third parties associated with accomplishing work and Services hereunder. Contractor's efforts shall include, but are not limited to, establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interest of County.

~~31~~30. **County Data:** All materials, documents, data, reports, information, or other materials obtained from County data files or any County medium furnished to Contractor in performance of this Contract and created or modified by County through its use of PIMS, including all Intellectual Property Rights in or pertaining to the same, ("County Data") shall be owned solely and exclusively by County and will at all times remain the property of County. County Data also includes user identification information and metadata which may contain County Data or from which County Data may be ascertainable. To the extent there is any uncertainty as to whether data constitutes County Data, the data in question shall be treated as County Data. Contractor acknowledges and agrees that, as between the Parties, County owns all right, title, and interest in, and all Intellectual Property Rights in and to, all County Data. Such County Data may not be used or copied for direct or indirect use by Contractor, except as required in connection with performance of its duties under this Contract or as specifically directed by County in writing. Contractor must keep and maintain County Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss, and Contractor may not otherwise use, disclose, modify, merge with other data, commercially exploit, make available or make any other use of County Data or take, or refrain from taking, any other action that might, in any manner or form, adversely affect or jeopardize the integrity, security, or confidentiality of County Data, except as expressly permitted herein or as expressly directed by County in writing. All County Data, including copies, must be promptly returned or delivered to County upon expiration or earlier termination of this Contract. In addition, Contractor shall provide County upon request a copy of any County Data, reports and other documents or materials created by or obtained from County being stored by Contractor under this Contract.

As the Parties agree that County shall always own County Data, County expressly agrees to have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all of County Data when entered into PIMS. During the performance of the Contract, Contractor shall be responsible for any loss or damage to County Data while it is in Contractor's possession, and any such loss or damage shall be restored at the expense of Contractor. Contractor shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any County Data by County.

Except for the right to access and use PIMS subject to the terms and conditions contained herein, this Contract does not confer upon County an interest in or ownership of PIMS. PIMS was developed exclusively at Contractor's private expense. County agrees that PIMS includes, without limitation, enhancements, edits, improvements, additions, modifications and derivations thereto, and will remain the exclusive property of Contractor. Contractor will have the unrestricted and permanent right to use and implement all ideas, advice, recommendations or proposals of County with respect to PIMS in any manner and in any media, when provided by County as general feedback or as a result of Contractor's performance under this Contract, which Contractor shall own. If in the course of the Services found in Attachment A (or any Services performed pursuant to an Amendment to this Contract), the Services results in the creation of derivative works from the PIMS or any new Contractor technology, Contractor shall own all right, title, and interest therein. For purposes of clarity, Contractor shall own all software configurations, regardless of which Party creates the configuration.

**32.31. Conditions Affecting Work:** Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to reasonably know the general conditions which can affect the work or the cost thereof. Any unreasonable failure by Contractor to do so shall not relieve Contractor from responsibility for successfully performing the work without additional cost to County. County assumes no responsibility for any understanding or representations made by any of its officers or agents during or prior to the execution of this Contract concerning the nature, location(s) or general conditions of the Contract, unless such understanding or representations by County are expressly stated in the Contract and the Contract expressly provides that County assumes the responsibility.

**33.32. Contractor's Expense:** Contractor will be responsible for all costs related to photocopying, telephone communications, fax communications, travel, parking, and any and all "out of pocket" expenses incurred by Contractor during the performance of the Services under this Contract, unless otherwise specified. Contractor shall be responsible for payment of all parking costs and expenses incurred at a County facility while performing work under this Contract, except to the extent County facility has free parking available to the public and Contractor makes appropriate use of this free parking. However, County will at no point provide free parking to Contractor in County Civic Center.

**34.33. Gratuities:** Contractor warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Contractor or any agent or representative of Contractor to any officer or employee of County with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, County shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by County in procuring on the open market any goods or services which Contractor agreed to supply shall be borne and paid for by Contractor, subject to Contractor's Limitation of Liability described in Paragraph KK. The rights and remedies of County provided in the paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

**35.34. Authorization Warranty:** Contractor represents and warrants that the person executing this Contract on behalf of and for Contractor is an authorized agent who has actual authority to bind Contractor to each and every term, condition and obligation of this Contract and that all requirements of Contractor have been fulfilled to provide such actual authority.

**36.35. News/Information Release:** Contractor agrees that it will not issue any news releases in connection with either the award of this Contract or any subsequent amendment of or effort under this Contract without first obtaining review and written approval of said news releases from County through County's Project Manager.

**37.36. Publication:** No copies of sketches, schedules, written documents, computer based data, photographs, maps or graphs, including graphic art work, resulting from performance or prepared in connection with this Contract, are to be released by Contractor and/or anyone acting under the supervision of Contractor to any person, partnership, company, corporation, or agency, without prior written approval by County, except as necessary for the performance of the Services under this Contract. All press releases, including graphic display information to be published in newspapers, magazines, etc., are to be administered only by County unless otherwise agreed to by both Parties.

**38.37. Promotional/Advertisement:** County owns all rights to the name, logos and symbols of County. The use and/or reproduction of County's name and/or logo for any purpose, including commercial advertisement, promotional purposes, announcements, displays or press releases, without County's express prior written consent is expressly prohibited. No use or reproduction may state or imply that County endorses Contractor's products or Services. County hereby provides written consent for Contractor to use the name, logo and symbol of County in County's instance of PIMS, but only to the extent such name, logo and/or symbol is viewable internally by County.

**39.38. Errors and Omissions:** All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as Project Manager and key personnel in Attachment H, prior to submission to County. Contractor agrees that County review is discretionary and Contractor shall not assume that County shall discover errors and/or omissions. If County discovers any errors or omissions prior to approving Contractor's reports, files and other written documents, the reports, files or other written

documents shall be returned to Contractor for correction. Should County or others discover errors or omissions in the reports, files or other written documents submitted by Contractor after County approval thereof, County approval of Contractor's reports, files or other written documents shall not be used as a defense by Contractor in any action between County and Contractor, and the reports, files or other written documents shall be returned to Contractor for correction.

**40.39. Security Deliverables and Documents:** As this Contract may involve Contractor having direct access to County proprietary information, IT staff, and Systems, Contractor shall provide a SOC 1 Type II or SOC 2 Type II report (within twelve (12) months of report date but no older than twenty-four (24) months) at a minimum thirty (30) calendar days prior to Go-Live.

**41.40. Relationship Management:**

- a. Status Reports: Periodically during the Term of this Contract, but not less frequently than once each month, Contractor shall be responsible for identifying, analyzing, managing and recording issues and risks throughout the Implementation period and will provide County with an action plan for resolution. Contractor shall deliver to County's Project Manager a written report summarizing the progress of the Services and the operation of the PIMS System during the preceding month, including problems that have occurred and that could delay Contractor's performance of anticipated activities and expected problems during the upcoming month (each such report, a "Status Report"). At a minimum, each Status Report shall include: (a) the current status and progress of the performance of the Services and an assessment of how such status and progress compares to the deadlines set forth in the Attachment A, Scope of Work; (b) any actual delays; (c) any reasonably anticipated delays; (d) any failures, or correction of any failures; and (e) such other information as County may reasonably request from time to time. Notwithstanding the foregoing, Contractor shall immediately notify (but in no event more than five (5) business days after Contractor first knew of such obstruction or delay) County's Project Manager, in writing, in the event that Contractor is materially obstructed or delayed in its performance of the Services.
- b. County Delays: Any material delays caused by County, in performance of County's obligations with respect to the configuration and implementation Services provided by Contractor, as set forth in Attachment A or C, shall extend any date specifically designated for Contractor's performance under this Contract for a period up to the duration of the material delay. Further, Contractor shall provide County thirty (30) days to fulfill its obligations. Notwithstanding any such delays, County shall continue to remit payment for configuration and implementation to Contractor hereunder pursuant to Attachment B, Cost/Compensation. For purposes of clarity, the delays covered by this Paragraph include only those for which County has discretion and control, and specifically excludes matters that are beyond County's discretion and control.
- c. Contractor delays: Any material delays caused by Contractor, in performance of Contractor's obligations with respect to the configuration and implementation Services provided by Contractor, as set forth in Attachment A or C, shall extend any date specifically designated for Contractor's performance under this Contract for a period up to the duration of the material. Further, County shall provide Contractor thirty (30) days to fulfill its obligations during which time County will not be required to remit payment(s) with regards to the Services and Subscription portion of payments. After thirty (30) days, County may terminate this Contract in accordance with the Termination with Cause provisions described in Paragraph K, Termination.
- d. Status Meetings: During the Term, representatives of the Parties shall meet and/or teleconference periodically as requested by County to discuss matters arising under this Contract. The place and time, and whether to meet via teleconference or in person, shall be as mutually agreed upon by the Parties.
- e. Action Plan: Contractor shall be responsible for identifying, analyzing, managing and recording issues and risks throughout the Implementation period and will provide County with an action plan for resolution.

**42.41. Acceptance Testing:** All Deliverables shall be provided to County by Contractor in conformity with all requirements, specifications, Acceptance Criteria, and time periods set forth or referenced in this Contract. Contractor shall at all times utilize complete and thorough Acceptance Testing Procedures, and appropriate Acceptance Criteria,

all of which shall be subject to review and approval by County's Project Manager, and no such activities shall be deemed completed until all Acceptance Criteria, whether set forth in this Contract or mutually agreed upon by the Parties in writing, have been successfully met. The following provisions apply to the Deliverables of the PIMS:

- a. **Acceptance Testing:** Following Contractor's notification to County that Contractor has completed any component or Deliverable identified in this Contract, at a mutually agreed scheduled time thereafter, County shall begin testing the component or Deliverable to determine whether such component or Deliverable conforms to the applicable specifications and/or standards (collectively, the "Acceptance Criteria"). After County has completed such testing or upon expiration of the agreed-upon testing period (the "Acceptance Testing Period"), County shall notify Contractor in writing either that the component or Deliverable: (a) meets the Acceptance Criteria and that acceptance of such component or Deliverable has occurred ("Acceptance"); or (b) does not meet the Acceptance Criteria and the reasons therefor.
- b. **Cure:** If County determines that a Deliverable does not conform to the applicable Acceptance Criteria, and that it is in County's interest to allow Contractor time to correct the problem, County shall deliver to Contractor a written exception report describing the nonconformity (the "Exception Report"). Within thirty (30) calendar days following receipt of the Exception Report, Contractor shall: (a) perform a Root Cause Analysis to identify the cause of the nonconformity; (b) provide County with a written report detailing the cause of, and procedure for correcting, such nonconformity; (c) provide County with satisfactory evidence that such nonconformity will not recur; and (d) use best efforts to correct critical errors (as determined by County) and use commercially reasonable efforts to correct all other errors reasonably requested by County and accepted by Contractor; provided, however, that if the nonconformity of critical errors is incapable of cure within such ten (10) calendar day period then, within such ten (10) calendar day period, Contractor shall present to County a mutually agreeable plan to cure such nonconformity within a reasonable amount of time. Upon Contractor's notice to County that Contractor has cured any such nonconformity, County shall re-test the defective component or Deliverable for an additional testing period of up to thirty (30) calendar days or such other period as the Parties may mutually agree upon in writing, at the end of which period the process described in subsections (a) through (c) above shall be repeated. In the event County rejects the component or Deliverable a second time and Contractor disagrees with such rejection, then the Parties shall escalate the issue(s) to senior management of both Parties for mutual resolution.
- c. **Final Acceptance:** Upon achievement of Conditional Acceptance for all identified components or Deliverables related to Implementation (including integration) described in Attachment A or C, County shall begin testing the System that is comprised of such components or Deliverables using the applicable test procedures and standards to determine whether such System performs as an integrated whole in accordance with the Acceptance Criteria. After County has completed such testing or upon expiration of the testing period (the "Final Acceptance Testing Period"), County shall notify Contractor in writing that the System, and all components and Deliverables that are a part thereof: (a) meet the Acceptance Criteria and that final acceptance of the System and such components and Deliverables has occurred ("Final Acceptance") and County may be billed for the last milestone in the "One-time Fees Milestone Payment Schedule"; or (b) does not meet the Acceptance Criteria and the reasons therefor. If County determines that the Acceptance Criteria have not been so met, the process described in subsection (b) above shall be initiated, with all references to "component or Deliverable" being references to the "System," and all references to the "Acceptance Testing Period" being references to the "Final Acceptance Testing Period." Neither Conditional Acceptance, Acceptance nor Final Acceptance by County shall constitute a waiver by County of any right to assert claims based upon defects not discernible through conduct of the applicable test procedures and subsequently discovered in a component or Deliverable or the System following County's Final Acceptance thereof. Nothing else, including County's use of the System, or any component thereof, shall constitute Final Acceptance, affect any rights and remedies that may be available to County and/or constitute or result in "acceptance" under general contract law, any state uniform commercial code or any other law.

**43.42. Policies and Procedures:** Contractor, its subcontractors, Contractor personnel, and all other agents and representatives of Contractor, will at all times comply with and abide by policies and procedures of County that are made part of this Contract. Contractor shall cooperate with County in ensuring Contractor's compliance with County policies and procedures described in this Contract, and any material violations or disregard of such policies or

procedures shall, in addition to all other available rights and remedies of County, be cause for termination of this Contract.

**44.43. Security and Policies:** All performance under this Contract shall be in accordance with Attachment G, Information Technology Security Policy County of Orange. Contractor shall at all times use industry best practices and methods with regard to the prevention, detection, and elimination, by all appropriate means, of fraud, abuse, and other inappropriate or unauthorized access to County Data accessed in the performance of Services in this Contract.

**45.44. Information Access:** Contractor shall at all times use appropriate safeguard and security measures so as to ensure the confidentiality and security of all County Data. At all times during the term, Contractor shall, and shall cause Contractor personnel and subcontractors, and the employees or agents of any of the foregoing, to fully comply with Attachment G, Information Technology Security Policy County of Orange, including those prohibiting or restricting remote access to PIMS and County Data. Contractor shall, and shall cause Contractor personnel and subcontractors to, fully comply with and abide by all such Security Policies at all times during the term. County shall authorize, and Contractor shall issue, any necessary information-access mechanisms, including access IDs and passwords, and in no event shall Contractor permit any such mechanisms to be shared or used by other than the individual Contractor person to whom issued. Contractor shall provide each Contractor person with only such level of access as is required for such individual to perform his or her assigned tasks and functions. From time to time throughout the term, upon request from County but at least once each Contract quarter, Contractor shall provide County with an accurate, up-to-date list of those Contractor personnel having access to PIMS or County Data, and the respective security level or clearance assigned to each such Contractor person. All County Resources (all applicable County software, systems, items, and other resources that are owned by or leased or licensed to County, or that are provided to County by third party service providers), and all data contained therein, including County Data, used or accessed by Contractor personnel: (a) shall be used and accessed by such Contractor personnel solely and exclusively in the performance of their assigned duties in connection with, and in furtherance of, the performance of Contractor's obligations hereunder; and (b) shall not be used or accessed except as expressly permitted hereunder, or commercially exploited in any manner whatsoever, by Contractor, Contractor personnel or any subcontractor, at any time. Contractor acknowledges and agrees that any failure to comply with the provisions of this paragraph shall constitute a breach of this Contract and entitle County to deny or restrict the rights of such non-complying Contractor personnel to access and use PIMS and County Data, as County in its sole discretion shall deem appropriate.

**46.45. Data Security Requirements:** Without limiting Contractor's obligation of confidentiality as further described in this Contract, Contractor shall establish, maintain, and enforce a data privacy and information security program, including safety and physical and technical security policies and procedures that are at least equal to applicable best industry practices and standards. Contractor also shall provide technical and organizational safeguards against accidental, unlawful, or unauthorized access to or use, destruction, loss, alteration, disclosure, transfer, commingling, or processing of such information that ensure a level of security appropriate to the risks presented by the processing of County Data, consistent with best industry practice and standards. Further, Contractor shall take all reasonable measures to secure and defend all locations, equipment, systems, and other materials and facilities employed in connection with the Services against "hackers" and others who may seek, without authorization, to disrupt, damage, modify, access or otherwise use Contractor Systems or the information found therein; and prevent County Data from being commingled with or contaminated by the data of other customers or their users of the Services and unauthorized access to any County Data. Contractor shall also continuously monitor its systems for potential areas where security could be breached. In no case shall the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by County (set out in Attachment G). Without limiting any other audit rights of County, County shall have the right to review Contractor's information security program prior to commencement of Services and from time to time during the term of this Contract.

**47.46. Enhanced Security Measures:** County may, in its discretion, designate certain County owned areas or facilities as ones that require a higher level of security and access control. County shall notify Contractor in writing reasonably in advance of any such designation becoming effective. Any such notice shall set forth in reasonable detail the enhanced security or access-control procedures, measures, or requirements that Contractor shall be required to observe, as well as the date on which such procedures and measures shall take effect. Contractor shall, and shall cause Contractor

personnel and subcontractors to, fully comply with and abide by all such enhanced security and access measures and procedures as of such date.

**48.47. General Security Standards:** Contractor will be solely responsible for the information technology infrastructure, including all computers, software, databases, electronic systems (including database management systems) and networks used by or for Contractor to access County Data or otherwise in connection with the Services (“Contractor Systems”) and shall prevent unauthorized access to County Data through Contractor Systems. At all times during the term, Contractor shall maintain a level of security with regard to Contractor System and County Data for which Contractor has agreed in this Contract to provide or manage physical security, that in all events is at least as secure as each of the following levels of security: (a) that are maintained by Contractor with regard to its own systems, data, and facilities of a similar nature and import; and (b) that are common and prevalent in the industry and in accordance with industry best practices. Contractor shall maintain all appropriate administrative, physical, technical, and procedural safeguards to secure County Data from data breach, protect County Data and the Services from loss, corruption, unauthorized disclosure, and from hacks, and the introduction of viruses, Disabling Devices, malware, and other forms of malicious and inadvertent acts that can disrupt County’s access and use of County Data and the Services.

**49.48. Security Failures:** Any failure of the Services to meet the requirements of this Contract with respect to the security of County Data, including any related backup, disaster recovery, or other policies, practices or procedures, and any breach or violation by Contractor or its subcontractors, or the employees or agents of any of the foregoing, of Attachment H, shall be deemed a material breach of this Contract and may result in termination of this Contract and reimbursement to County of any fees prepaid by County prorated to the date of such termination. The remedy provided in this Paragraph shall not be exclusive and is in addition to any other rights and remedies provided by law or under the Contract.

**50.49. Security Breach Notification:** In the event Contractor becomes aware of any act (except for Contractor’s release of information when required by law), error or omission, negligence, misconduct, or security breach, that compromises or is suspected to compromise the security, confidentiality, or integrity of County Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the security, confidentiality, or integrity of County Data, (“Security Breach”) Contractor shall, at its own expense, (1) immediately notify County’s Project Manager of such occurrence and perform a root cause analysis thereon, (2) investigate such occurrence, (3) provide a remediation plan, acceptable to County, to address the occurrence and prevent any further incidents, (4) conduct a forensic investigation to determine what systems, data and information have been affected by such event, and (5) cooperate with County and any law enforcement or regulatory officials investigating such occurrence, including but not limited to making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by County and/or any law enforcement or regulatory officials, and (6) perform or take any other actions required to comply with applicable law as a result of the occurrence (at the direction of County). County shall make the final decision on notifying County persons, entities, employees, service providers, and/or the general public of such occurrence, and the implementation of the remediation plan. County has ultimate authority, after consultation with Contractor, to make the final decision regarding notification of non-Party persons and/or entities. If notification to particular persons is required under any law or pursuant to any of County’s privacy or security policies, then notifications to all persons and entities who are affected by the same event shall be considered legally required. Subject to the Paragraph KK Limitation of Liability, Contractor shall reimburse County for all notification related costs incurred by County arising out of or in connection with any such occurrence due to Contractor’s acts, errors or omissions, negligence, and/or misconduct resulting in a requirement for legally required notifications.

**51.50. Security Audits:** Contractor shall maintain complete and accurate records relating to its Statement on Standards for Attestation Engagements No. 16 (SSAE 16) or equivalent’s data protection practices and the security of any of County hosted content, including any backup, disaster recovery, or other policies, practices or procedures. Contractor shall ensure a SSAE 16 or equivalent audit shall be performed at least once per calendar year. Contractor will provide a copy of the Security Audit report to County within thirty (30) days after Contractor’s receipt of request for such report, which will include any findings. If Contractor does not perform a SSAE 16 or equivalent audit at least once per calendar year, then County may perform or have performed by an independent security expert its own such security audits, which may include penetration and security tests of Contractor Systems and operating environments. All such testing shall ensure all pertinent County security standards as well as any customer agency requirements (e.g., such as federal tax requirements or HIPPA) are in place. Contractor shall reasonably cooperate with all County security reviews and

testing, including but not limited to penetration testing of any cloud-based PIMS provided by Contractor to County under this Contract. Contractor shall implement any required safeguards as identified by County or by any audit of Contractor's data privacy and information security program. In addition, Contractor will provide to County upon request the most recent third party SOC 1 Type II or SOC 2 Type II report. County may also have the right to review Plans of Actions and Milestones (POA&M) for any outstanding items identified by the SOC 1 Type II or SOC 2 Type II report requiring remediation as it pertains to the confidentiality, integrity, and availability of County Data. A reasonable determination by County that Contractor fails or has failed to meet its obligations under this paragraph shall constitute cause as defined in Paragraph K, Termination. County reserves the right, at its sole discretion, to terminate this Contract or a part thereof in accordance with the termination with cause provisions described in Paragraph K, Termination.

**52.51. Notices:** Any and all notices permitted or required to be given hereunder shall be deemed duly given (1) upon actual delivery, if delivery is by hand; (2) upon delivery by the United States mail, if delivery is by postage paid registered or certified return receipt requested mail; or (3) upon delivery via electronic mail with paper copy delivered by United States mail or hand to Party. Each such notice shall be sent to the respective Party at the address indicated below or to any other address as the respective Parties may designate from time to time.

<p><b><u>For CONTRACTOR:</u></b>  <u>e-Builder Inc.</u>  <u>1800 NW 69th Ave</u>  <u>Suite 201</u>  <u>Plantation, FL 33313</u>  <u>Attn: Jeanne Prayther</u>  <u>CFO</u>  <u>954-513-3105</u>  <u>954-792-5945</u>  <u>For Contractor</u></p> <p><u>e-Builder, Inc.</u>  <u>13450 W. Sunrise Blvd.</u>  <u>Suite 600</u>  <u>Sunrise, FL 33323</u>  <u>Attn: Jeanne Prayther</u>  <u>Phone: 954-513-3105</u>  <u>954-792-5945</u>  <u>E-Mail: Jeanne_Prayther@trimble.com</u></p>	<p><b><u>For County Contracts</u></b>  <u>County of Orange</u>  <u>OCIT/Division of Finance &amp; Contracts</u>  <u>Attn: Tim Shears</u>  <u>Contracts Administrator</u>  <u>1501 East St. Andrew Place, 2nd Floor</u>  <u>Santa Ana, CA 92705</u>  <u>Phone: 714-834-6871</u>  <u>Email: <a href="mailto:timothy.shears@ceoit.ocgov.com">timothy.shears@ceoit.ocgov.com</a></u></p> <p><b><u>For County Contracts</u></b>  <u>Orange County Information Technology</u>  <u>Attn: Tim Shears</u>  <u>Contract Administrator</u>  <u>1055 N. Main Street</u>  <u>6<sup>th</sup> Floor</u>  <u>Santa Ana, CA 92701</u>  <u>Phone: 714-567-7488</u>  <u>Email: <a href="mailto:Timothy.Shears@ocit.ocgov.com">Timothy.Shears@ocit.ocgov.com</a></u></p>
--	--

**53.52. Usage:** No guarantee is given by County to Contractor regarding usage of this Contract. Usage figures, if provided, are approximate, based upon the last usage. Contractor agrees to supply Services and/or commodities requested, as needed by County, at prices listed in the Contract, regardless of quantity requested.

**54.53. Equal Employment Opportunity:** Contractor shall comply with Executive Order 11246, "Equal Employment Opportunity", as amended by Executive order 11375, "Amending Executive Order 11246 relating to Equal Employment Opportunity", and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

**55.54. Civil Rights:** Contractor attests that Services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.

**56.55. Lobbying:** On best information and belief, Contractor certifies no federal appropriated funds have been paid or will be paid by, or on behalf of, Contractor to any person for influencing or attempting to influence an officer or employee of Congress; or an employee of a member of Congress in connection with the awarding of any federal

contract, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

~~57~~.56. **Debarment:** Contractor certifies that neither Contractor nor its principles are presently debarred, proposed for debarment, declared ineligible or voluntarily excluded from participation in the transaction by any Federal department or agency.

~~58~~.57. **Extraction of County Data:** During the term of this Contract, County shall be able to extract County Data itself without cost at any time. Upon termination or expiration of this Contract, Contractor shall, within ten (10) business days of County's request, provide County, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of County Data in the format agreed upon by the Parties, up to three (3) months after the term (so long as County Data remains in Contractor's possession to the extent required under this Contract).

~~59~~.58. **Service Level Commitment:** Except as otherwise specified in this Contract, from and after the Effective Date, Contractor shall perform the Services at levels that are equal to or better than the Service Level Requirements ("SLR") applicable to such Services as stated in Attachment F, Performance, Service Level Guarantees, and Reporting. Contractor shall be responsible for meeting or exceeding the applicable SLRs even where doing so is dependent on the provision of Services by subcontractors or other non-contractor personnel. The Service Level methodology applicable to the SLRs is set forth in Attachment F, Performance, Service Level Guarantees, and Reporting.

~~60~~.59. **Failure to Meet Service Level Commitment:**

- a. Failure by Contractor to meet the Application Performance and Service Level guarantees as stated in Attachment F, Performance, Service Level Guarantees, and Reporting, will result in the Service Credits stated in Attachment B, Cost/Compensation. The Parties agree that the Service Credits reflect the diminished value of the Services as a result of any Contractor failure to provide the Services in accordance with the Service Level guarantee, and accordingly do not constitute nor shall be construed or interpreted as penalties.
- b. Service Credits shall in no event be the sole and exclusive remedy of County with respect to any failure of Contractor as described in this paragraph.
- c. Subject to the Set Off clause found herein, Service Credits shall be in the form of a check payable to County.
- d. Contractor shall provide a high level corrective action plan no later than seventy-two (72) hours of identification of performance issues. Contractor shall provide a detailed corrective action plan no later than fifteen (15) business days from issuance of the high level corrective action plan.

~~61~~.60. **Root Cause Analysis, Predictive Analysis and Resolution:**

- a. Process: Upon Contractor's discovery of, or, if earlier, Contractor's receipt of a notice from County in respect of Contractor's failure to meet an SLR relating to Incident Resolution and Response for PIMS Priority #'s 1 and 2:

Within ten (10) calendar days following receipt of the notice or discovery by Contractor, Contractor shall: (a) perform a Root Cause Analysis to identify the cause of the nonconformity; (b) provide County with a written report detailing the cause of, and procedure for correcting, such nonconformity; (c) provide County with satisfactory evidence that such nonconformity will not recur; and (d) if the nonconformity of critical errors is incapable of cure within such ten (10) calendar day period then, within such ten (10) calendar day period, Contractor shall present to County a mutually agreeable plan to cure such nonconformity within a reasonable amount of time.

- b. Pending Disputes: Notwithstanding the pendency of any disagreement or Root Cause Analysis as to the cause of a defect, malfunction, or difficulty, Contractor shall take prompt and reasonable steps to correct such defect, malfunction, or difficulty at its sole cost.

~~62~~.61. **Compatibility of Resources:** Contractor shall ensure that the PIMS, all Services, and all Software, assets, Hardware, Equipment, and other resources and materials that are provided by Contractor to County, otherwise utilized

by Contractor, or approved by Contractor for utilization by County, in connection with the use or operation of the solution, or with the providing or receiving of the Services, shall be compliant with the requirements set forth in Attachment A, Scope of Work, including but not limited to integration with County Financial System (CAPS+).

**63-62. Data Location:** Except where Contractor obtains County's prior written approval, the physical location of Contractor's data center where County Data is stored shall be within the United States.

**64-63. Trans-Border Data Flows:** Contractor shall not transfer any County Data across a country border. Contractor shall not be held responsible for Internet routing that may traverse country borders, however, all County Data transferred into and out of Contractor's networks will be encrypted. Furthermore, Contractor shall perform all work and Services required under this Contract within the United States.

**65-64. Security Management Services:** Contractor shall provide appropriate and comprehensive security Services, that meet County's security requirements identified in Attachment E, PIMS Delivery Hosted/Managed, using industry best practices and methods, and commercially available technology, to at all times ensure the security and integrity of the PIMS and County Data, and to protect against unauthorized access to, use of, or intrusion into, the Systems and unauthorized disclosure of County Data. Without limiting anything set forth in Attachment A, Scope of Work, such Services shall include operating PIMS under a best practices-based security plan that conforms in all respects to the requirements of all applicable federal, state and local laws, regulations, and ordinances relating to security, privacy, or confidentiality, ensuring compliance with County and County security policies and procedures provided or made available to Contractor, performing all necessary and appropriate security-related audits and reports, and promptly providing County with a full and complete copy of each such report.

**66-65. Anti-Malware Protections:** Contractor's data center shall have strong access controls and secure practices, such as specialized authorization system(s), in effect at all times to prevent unauthorized physical and virtual access to hosted County systems. Contractor servers and network equipment hosted at the data center shall be properly secured from the threat of cyber hackers and viruses through appropriate intrusion detection tools, proactive 24x7x365 monitoring and prompt installation of new software updates, hot fixes and security patches.

Contractor shall use industry best practices which could include using a trusted vendor to regularly identify, screen, and prevent any Disabling Device in resources utilized by Contractor in connection with the provision or receipt of the Services and shall not itself knowingly or intentionally install (and shall prevent its subcontractors from knowingly and intentionally installing) any Disabling Device in resources utilized by Contractor, County, or any subcontractor, in connection with the provision or receipt of the Services. A "Disabling Device" is a computer virus, timer, clock, counter, time lock, time bomb, or other limiting design, instruction, or routine that would purposely and inappropriately erase data or programming or cause any resource to become inoperable or otherwise incapable of being used in the full manner for which such resource was intended to be used, and any device that may be used as a host to access County Data or launch attacks on the PIMS.

Contractor shall assist County in reducing and mitigating the effects of any Disabling Device discovered in any resource related to the provision or receipt of the Services, especially if such Disabling Device is causing a loss of operating efficiency or data. Timers, clocks, counters, and time locks included as part of any Commercial Software, used by County, by the manufacturer of that Software shall not be considered Disabling Devices for purposes of this paragraph.

**67-66. Disaster Recovery Plan:** Contractor shall maintain a universal disaster recovery plan applicable to all Contractor's customers in effect throughout the term of the Contract. The Disaster Recovery Plan shall be made available for County's review no later than three (3) months after the Contract execution date. The disaster recovery plan shall be subject to County's review upon reasonable notice to Contractor. Contractor shall maintain reasonable safeguards against the destruction, loss, intrusion and unauthorized alteration of printed materials and data in its possession.

County's Project Manager may identify and notify Contractor in writing of other items that County's Project Manager reasonably deems appropriate for inclusion in the Disaster Recovery Plan. Contractor shall promptly review and discuss with County's Project Manager all such additional items. At Contractor's election, Contractor may revise the Disaster Recovery Plan to properly address such additional items. Contractor shall also periodically test the procedures set forth

in the Disaster Recovery Plan to ensure that Contractor is capable of promptly and successfully executing them. If requested by County, Contractor shall provide County's Project Manager with a written report summarizing the results of each such test. Any material breach or material violation by Contractor of its obligations regarding execution of the Disaster Recovery Plan during a disaster shall be deemed an incurable and material breach of this Contract by Contractor.

~~68-67.~~ **Redundant Hosting and Backup Requirement:** Contractor shall operate at least one secondary system at a location in the United States that is geographically remote from the primary system on which Contractor hosts PIMS. Contractor shall maintain near real-time replication between the primary and secondary systems, which will enable Contractor to provide PIMS during routine maintenance or any outage or failure of the primary system. "Real time replication" for Contractor shall consist of: RPO (recovery point objective) of 15 minutes and RTO (recovery time objective) of 2 hours. Backups for PIMS shall be to the disk within Contractor's hosting provider— multi site replication and S3 storage.

~~69-68.~~ **Preparation for Successor to this Contract:** At any time or times during the Term, at the written request of County, Contractor shall provide County with any information that County is entitled to receive under this Contract that County desires to use in preparing a request for proposal to solicit responses, or responding to proposals, for the purpose of entering into an agreement that would constitute the successor to this Contract. Such requested information may include, among other things, current and projected transactional or other relevant volumes, resource utilization and performance statistics and trends, forms utilization, and such other information, statistics, and materials related to the provision of the Services or the use, operation, support, and maintenance of PIMS as County shall reasonably deem necessary or appropriate.

~~70-69.~~ **Transition Period:**

- a) For ninety (90) days prior to the expiration date of this Contract, or upon notice of termination of this Contract, Contractor shall assist County in extracting and/or transitioning all County Data in the format mutually agreed upon by the Parties ("Transition Period").
- b) The Transition Period may be modified in Attachment A, Scope of Work, or as agreed upon in writing by the Parties in a contract amendment.
- c) During the Transition Period, Service and Data access shall continue to be made available to County without alteration at the rates set forth in Attachment B, Cost/Compensation.
- d) Contractor agrees to compensate County for damages or losses County incurs as a result of Contractor's failure to comply with this paragraph, subject to Paragraph KK, Limitation of Liability.
- e) Unless otherwise stated in Attachment A, Scope of Work, Contractor shall permanently destroy or render inaccessible any portion of County Data in Contractor's possession or control following the expiration of all obligations in this paragraph. Within thirty (30) days, Contractor shall issue a written statement to County confirming the destruction or inaccessibility of County Data.
- f) County, at its option, may purchase additional transition services as agreed upon in Attachment A, Scope of Work.

~~71-70.~~ **Discovery:** Contractor shall promptly notify County upon receipt of any requests which in any way might reasonably require access to County Data or County's use of Contractor's Services. Contractor shall notify County by the fastest means available and also in writing, with additional notification provided to County's Project Manager or designee, unless prohibited by law from providing such notification. Contractor shall provide such notification within forty-eight (48) hours after Contractor receives the request. Contractor shall not respond to subpoenas, service of process, Public Records Act requests, and other legal requests directed at Contractor regarding this Contract without first notifying County, unless prohibited by law from providing such notification. Contractor will provide its intended responses to County with adequate time for County to review, revise and, if necessary, seek a protective order in a court of competent jurisdiction. Contractor shall not respond to legal requests directed at County unless authorized in writing to do so by County.

~~72-71.~~ **Informal Dispute Resolution:** The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by Contractor's Project Manager and County's Project Manager, such matter shall be referred by either project manager to County's DPA or Contract Administrator. If a disputed matter is referred to

County's DPA or Contract Administrator and such disputed matter has not been resolved by or at the direction of such individuals within twenty (20) days after such dispute was first referred to them (or such longer period as agreed to in writing by the Parties), then the disputed matter shall be escalated to the CIO and Contractor's COO for resolution. If such disputed matter has not been resolved by or at the direction of the CIO and Contractor's COO within twenty (20) days after such dispute was first referred to them (or such longer period as agreed to in writing by the Parties), then the Parties may pursue other remedies and dispute resolution available to them.

72. **Counterparts:** This Contract may be executed in multiple counterparts, each of which when executed and delivered shall be deemed an original, but all of which together shall constitute one and the same agreement. This Contract shall be deemed executed and binding upon the Parties when at least one counterpart bears the signature of each Party's authorized signatory or signatories.
73. **Work Order Request Process:** County may at any time request Contractor to perform additional services related to the Services described in Attachment A, Scope of Work, pursuant to the work order request process outlined in this paragraph. County's Project Manager shall submit a written request to Contractor's Project Manager that specifies the desired services to the same degree of specificity as in the original Scope of Work. Contractor shall, not more than thirty (30) business days (or other mutually agreed upon period) after receiving the written request, notify County whether or not the requested services are possible and, if possible, has an associated impact to cost and/or schedule and, if so, provide a firm proposal that specifies the associated impact to the cost and/or schedule of the original Scope of Work. All professional services shall be at the hourly rate set forth in Attachment B, Table IV. If not possible, Contractor and County shall mutually agree upon an alternative scope of work or decide that the additional services are no longer requested. Contractor will continue performing the Services in accordance with the current Attachment A, Scope of Work, until both Parties otherwise agree to the requested services. If County accepts Contractor's proposal, Contractor shall provide the requested services for the cost stated in the proposal and subject to the terms and conditions of this Contract. County's Project Manager shall have the authority of County to execute any and all such Work Orders.

**Contract Signature Page**

The Parties hereto have executed this Contract on the dates shown opposite their respective signatures below.

**\*E-BUILDER, INCORPORATED:**

By: \_\_\_\_\_ Title: \_\_\_\_\_

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

By: \_\_\_\_\_ Title: \_\_\_\_\_

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

*\*If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision.*

*In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.*

-----  
**COUNTY OF ORANGE**

A political subdivision of the State of California

By: \_\_\_\_\_ Title: \_\_\_\_\_

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

Approved by Board of Supervisors on: \_\_\_\_\_

**APPROVED AS TO FORM  
OFFICE OF COUNTY COUNSEL,**

By: \_\_\_\_\_  
Deputy

**Attachment A – Scope of Work**

**1. OVERVIEW**

County of Orange (“County”) is seeking to implement an Owner-Centric Project Information Management System (PIMS) specifically designed to meet the needs of Orange County Waste & Recycling (OCWR) and Orange County Public Works (OCPW). The PIMS system may be implemented by other Agencies and Departments of County by way of an amendment to this Contract. Any amendment may require approval by County Board of Supervisors.

**2. BACKGROUND**

The Board of Supervisors (“BOS”) acts as the governing body of County of Orange and certain special districts, including the Orange County Flood Control District. The BOS oversees the management of County operations by (among other things) authorizing and approving a robust Capital Improvement Program (“CIP”) that is managed by County Departments and project managers. County’s CIP is a complex collaboration between public and private stakeholders that involves planning, budget development, project communications, project execution, change management, and document management. Responsible Departments, under the general direction of the BOS, administer County’s CIP and report progress and performance to County executive management and the BOS.

**3. CONTRACTOR RESPONSIBILITIES**

**a) General Requirements**

Contractors PIMS is an owner-centric project management information system that allows users to measure and manage every step of the capital project delivery process. PIMS shall support County’s organizational structure incorporating multiple departments and division/programs. The configuration requirements below are for OCWR and OCPW only.

**b) Configuration Requirements**

Modules Configured	Description	Scope
Core Modules	Home – Project – Calendar – Contacts – Setup	OCWR & OCPW
Planning Module	Two (2) Templates	One each for OCWR & OCPW
Cost & Funding Module	Two (2) Templates	One each for OCWR & OCPW
Process Module	Ten (10) Processes	Five (5) processes for each agency (OCWR & OCPW), Two (2) Workflows for each Process
Forms Module	One (1) Form	Plus sixty (60) standard forms
Schedule Module	Two (2) Templates	One each for OCWR & OCPW
Document Module	Two (2) Templates	One each for OCWR & OCPW
Bidding Module	Standard	
Dashboard Module	Five (5) Dashboards <hr/> One (1) Administrator Dashboard	Two (2) for OCWR & Two (2) for OCPW & One (1) additional determined during implementation <hr/> One Admin Dashboard each for OCWR & OCPW
Reports Module	Five (5) Reports	Plus one hundred twenty (120) standard reports
Submittal Module	Standard	
Account Level Cost Module	Standard	
Single Sign On (SSO)	Defined in Section 3.s below	
Integration with County CAPS+ and CRM systems	Defined in Section 3.o, “Integration” below	Defined in Section 3.o, “Integration” below
Adoption Calls	Four (4) weekly post Go-Live calls	Scheduled and Conducted by Contractor in agreement with County

**c) Annual Unlimited Software Subscription**

Contractor shall provide annual unlimited software subscription to the PIMS and shall include the following:

- a. Unlimited users
- b. Unlimited number of projects entered by County end users into the PIMS
- c. Unlimited PIMS document storage
- d. Technical support in accordance with Attachment D, Section 1.d.
- e. Quarterly Enhancements and/or upgrades
- f. Maintenance Releases (including bug fixes)
- g. Single-Sign-On
- h. EZ File Transfer Tool
- i. Amazon Web Services (AWS) GovCloud (US), FedRamp compliant

**d) Security Requirements**

System security is a critical need for County. The PIMS shall be hosted on Amazon Web Services (AWS) GovCloud (US). Contractor's PIMS Hosting Service shall be:

- a. FedRAMP compliance certified.

Contractor's PIMS shall be:

- b. In compliance with SSAE 16 SOC 1 Type II or SOC 2 Type II standards. Contractor must have completed a SOC 1 Type II or SOC 2 Type II audit report within the last twenty-four (24) months. Upon request, but no more frequently than every twenty-four (24) months, Contractor shall provide a copy of the report to County.
- c. Be updated regularly with virus prevention and spam prevention tools.
- d. Support secure encrypted transactions (TLS 1.0 or better).
- e. Support Data Loss Prevention (DLP) technology.
- f. Able to maintain an audit log of users' actions in the system, which may include the change description, date/time stamp, data entry or document movement, and the identification of the user making the change.

**e) User Roles & Permissions**

Contractor's PIMS shall be role-based and allow each user to have multiple roles in the system.

**f) Business Process & Workflow**

Contractor's PIMS shall be user friendly and track all project activities from begin to end. The PIMS shall be able to search and sort the results with the capability of exporting data in Excel. The PIMS shall have pre-defined but editable workflow templates to do fundamental work for all capital and non-capital projects/phases.

**g) Standard forms/Custom forms**

Contractor's PIMS shall have standard and custom forms to do work including progress reports, project cost estimate, transmittal letters.

**h) Budgeting & Forecasting/Cost management**

Contractor's PIMS shall have the ability to allow users to create budget templates and apply to project in line with work breakdown structure. New system shall allow different accounting codes across multiple projects. System must allow users to allocate budget across a minimum of ten (10) fiscal years.

**i) Contract Management**

Contractor's PIMS shall allow the ability to capture and maintain multiple prime contracts and subcontracts within a project. In addition, the system shall have ability to manage and track detailed work items for a project.

**j) Bid Management/Procurement**

Contractor's PIMS shall support solicitation methods including Request for Proposal (RFP), Request for Qualification (RFQ), prequalification, and Information for Bid (IFB).

**k) Document Management**

Contractor's PIMS shall allow users to upload documents to a centralized repository by definable folder structures with check-in/check-out and version control capabilities, including date stamps and who has viewed or modified each document. In addition, system should allow user to archive files as needed.

**l) Planning/Estimation**

Contractor's PIMS shall provide real-time visibility into the status of capital plans, ability to enforce a standard process to estimate, quantify and prioritize planned projects, integrate with active project data, maintain current and historical planning data, provide for scenario based planning, and integrate with active project data.

**m) Schedule Management**

Contractor's PIMS shall integrate with the standard tools including MS Project, P6 Primavera, manage individual project schedules, track performance against a baseline, provide for integrated Gantt reports providing a graphical representation of project activities and milestones, provide an early warning system,

**n) Reporting and Dashboard**

Contractor's PIMS shall provide real-time reports on all project information including but not limited to: budget, timeline, and status. The system shall produce reports using the real-time data and exporting them to user friendly format including excel and word. The system shall provide fully configurable executive and non-executive dashboards with graphical representation that are easy to use, role based, user configurable, and real-time. The system shall drill-down into the communication of a specific item (e.g., Change Order).

**o) Integration**

Contractor's PIMS shall integrate with County Financial System (CAPS+). The system shall include data import wizards and data export using a query builder.

During the Discovery Phase of the Implementation, Contractor shall conduct an integration workshop requirements session to identify and document the detailed CAPS+ integration requirements and CRM requirements. These requirements shall be presented as an integration requirements document, which will require County approval before development begins.

***Integration Methodology: CAPS+***

Contractor shall use the following integration methodology for CAPS+ system:

- **SFTP Automated Batched Integration (Standard File Transfer)** – Using the e-Builder standard Import/Export toolkit, data will be transferred between systems, via a Secure FTP site. County is responsible for providing, configuring, and granting Contractor access to the Secure FTP site. For each integration data object identified as part of the integration, the transfer interval, data mapping, file formats, and reporting requirements will be defined during the Implementation. Contractor shall provide the following services in support of this integration:
- **Secure FTP (SFTP) Testing & Configuration** – Contractor will test the connection and transfer of files to and from the SFTP site provided by County to e-Builder Enterprise.

- **Requirements Definition & Documentation** – Contractor will conduct the detailed requirements definition to identify the specific integration data, file transfer templates, integration requirements, custom development needs, notifications, and reporting.
- **Integration Configuration & Development (if required)** – Contractor will provide the configuration and development services to implement the integration points identified. Standard templates will be used when possible, but additional custom development may be required in support of this methodology.
- **Integration Testing & Training** – Contractor will provide the testing and QA services to ensure the integration satisfies the identified requirements and provide integration training to County, as needed.
- **Integration Deployment & Support** – Contractor will deploy the integration points into the production account environment and provide the annual maintenance to support the integration.

### *Integration Data Objects*

Based on discussions with County, the Contractor team has identified the following integration data objects.

	<b>Project Design &amp; Requirements</b>	<b>Data Direction</b>	<b>Integration Point Description</b>
<b>1</b>	<b>Commitment Object</b>	One-way	STD Template to be used "Export from CAPS+"
<b>2</b>	<b>Commitment Change Object</b>	One-way	STD Template to be used "Export from CAPS+"
<b>3</b>	<b>Invoice Object</b>	One-way	STD Template to be used "Export from CAPS+"
<b>4</b>	<b>Invoices Status Update Object</b>	One-way	STD Template to be used "Export from CAPS+"
<b>5</b>	<b>Vendor Detail Object</b>	One-way	STD Template to be used "Export from CAPS+"
<b>6</b>	<b>Budget Object</b>	One-way	STD Template to be used "Export from CAPS+"
<b>7</b>	<b>Budget Change Object</b>	One-way	STD Template to be used "Export from CAPS+"
<b>8</b>	<b>Funding Object</b>	One-way	STD Template to be used "Export from CAPS+"

### *Integration Assumptions*

- County will configure and maintain a Secure FTP (SFTP) site for batch file transfer.
- The integration pricing for the above integration data objects (#'s 1 – 8 above) is not to exceed Attachment B, Table I item 5 and is based on the discussions and details provided by County at the time of execution of this Contract. Should additional details or requirements be identified during integration requirements session conducted by Contractor's Project Team, such items may require additional scoping and will require approval by County, before being implemented. Such items may require additional funding.
- County will configure and maintain a Secure FTP (SFTP) site for batch file transfer.
- Due to the integration method being **SFTP Automated Batched Integration**, Contractor will provide the batch transfer data files in Contractor's standard Import/Export template format. If County's system cannot support the file standards, additional development services may be required. Contractor's Implementation Team will document those additional requirements and provide a separate work order for review and approval before additional development services will begin. The separate work order will contain the additional scope and funding required to continue the transfer data of files.
- County is responsible for making any configuration, development, programming or reporting changes to their respective internal system in order to support the integration method(s) and templates implemented.
- Any custom development provided under this Attachment A is in support of the identified Data Objects, which represent individual integration instances between Contractor and County's System. Additional data

points, integration instances, systems, or interface data point not identified in this Attachment A are subject to a change in scope at an additional cost.

***Configuration Methodology: CRM:***

Contractor shall use the following configuration methodology for CRM system:

- **PIMS Data Creation for Export** - Agency will select the data it would like to export from PIMS to CRM. Data from PIMS system will be generated and saved as a csv or text file. Contractor will be responsible for this task.
- **SFTP Automated Batched File Transfer** – Data from PIMS system will be transferred from the PIMS to CRM via a Secure FTP site. Contractor will be responsible for this task.
- **Secure FTP (SFTP) Testing & Configuration** – Contractor will test the connection and transfer of files to the SFTP site provided by County.
- **Integration Development & Testing** – County will configure the CRM system to upload and publish the PIMS data.
- **Integration Testing** – Contractor and County will test all integration points; PIMS data creation and transfer to CRM and upload to CRM system.

**p) Post Implementation On-Site Support**

Contractor shall provide a post Go-Live Qualified Senior Business Analyst (BA) for on-site support for a maximum of sixty (60) non-consecutive business days (Monday through Friday, excluding County holidays) for up to eight (8) hours per day. On-site support will expire after six (6) months after Go-Live date. Scheduled days and times will be mutually agreed upon between County and Contractor prior to Go Live date. BA support includes but is not limited to PIMS configuration and design, additional system discovery, training, business process and workflow development.

**q) Mobile Friendly**

Contractors PIMS shall include e-Builder Mobile to support a Responsive approach. The system shall provide optimal viewing and interaction experience – easy reading and navigation with a minimum of resizing, panning, and scrolling – across a wide range of devices (i.e. desktop monitors, laptops, tablets, and mobile devices such as iOS and Android). e-Builder Mobile shall provide the capability to access project data and construction documents, act on approvals, change orders and issues, document findings, and initiate work.

**r) Application Administration**

Contractor's PIMS shall provide an enterprise wide hierarchy based model which can accommodate County's organizational structure. Administrator can add/change user's access to a project. The system shall allow authorized users or administrators to add user defined data fields to any module of the Software without having to engage professional customization.

**s) Information Technology**

Contractor's PIMS shall be a hosted by a FedRAMP and NIST 800-53 certified cloud-based platform. The system shall support Single Sign On authentication model using County's Active Directory. The system shall be hosted within US. The system shall be able to backup all data and files created by County and submit to County on request per agreed upon format.

**t) Single Sign-On (SSO)**

Contractor's PIMS shall support Single Sign-On through a number of federated identify standards: SAML 2.0 (Security Assertion Markup Language) and/or Active Directory Federation Services (ADFS). County shall maintain and support ADFS.

**u) Documentation**

Contractor's PIMS shall have complete training and user guides, Administrator guides, and quick reference guides. Quick reference guides will be developed during Implementation for County. Once created, the Quick Reference Guides will be maintained by County. All documents are provided in electronic format and County will be able to print if needed. New system enhancements and features will be added to user guides and system help guides. Contractor's PIMS shall contain online help which guides the user to a help menu for whichever module the user is in.

**v) Training**

Contractor shall provide County staff with comprehensive onsite, hands-on training and instruction material to end users, system administrators, and "train-the-trainer" users. Training will be on how to administer and use the PIMS. Training methods and curriculums for various roles of County staff include:

Training Type	Logistics	Parameters
Administrator Training	One (1) Session, @ County offices	3 Days Duration for up to 10 Administrators
End user Training	Three (3) Sessions, @ County offices	2 Days Duration for each session for up to 20 users for each session
Train-the-Trainer	One (1) Session, @ County offices	2 Days Duration for each session for up to 10 users for each session

- a. **Administrator Training.** This training is for those users County has assigned accountability for maintaining PIMS post-implementation. These "super-users" will be trained on the detailed aspects of e-Builder Enterprise setup and configuration including Business Intelligence. Administrators will learn how to perform such key tasks as: create new projects, users, reports, and workflows. They will have the ability to manage the e-Builder Enterprise configuration as County processes evolve over time.
- b. **User Training.** User training is provided in a series of sessions. This training is process/role based and all users may not need to attend every session. The Contractor implementation team will provide a training agenda detailing the sessions and users who need to attend each session. Contractor provides the initial User Training for a number of County users.
- c. **Train-the-Trainer.** Train-the-Trainer training will be provided to those persons County has identified as its ongoing trainers in a series of sessions. This training covers the process/role based user training, operation of key e-Builder Enterprise functionality and detail on recommended training materials and methods.

**w) Reporting**

Contractor shall provide status reports as described in Paragraph 40, Relationship Management.

**Attachment B – Cost/Compensation**

**I. COMPENSATION**

This is a Fixed Fee Schedule Payment Contract between County and Contractor for the PIMS System described in Attachment A, Scope of Work, to be provided to County of Orange.

Contractor agrees to accept the compensation as set forth in this Attachment B as full remuneration for (a) performing all Services and furnishing all staffing and materials required, (b) any reasonably unforeseen difficulties not caused by County which may arise or be encountered in the performance of the Services until acceptance, (c) risks not controlled by County connected with the Services, and (d) performance by Contractor of all its duties and obligations required herein. County shall have no obligation to pay any sum in excess of the total Contract amount specified herein unless authorized by amendment.

**Contractor's Expense**

Contractor will be responsible for all costs related to photocopying, telephone communications, fax communications, travel, parking, and any and all "out of pocket" expenses incurred by Contractor during the performance of the Services under this Contract, unless otherwise specified. Contractor shall be responsible for payment of all parking costs and expenses incurred at a County facility while performing work under this Contract, except to the extent County facility has free parking available to the public and Contractor makes appropriate use of this free parking. However, County will at no point provide free parking to Contractor in County Civic Center.

**H. PRICING**

Implementation Costs for Orange County Waste & Recycling and Orange County Public Works shall be:

**TABLE I**

<b>One-time Fees – Milestone Payment Schedule</b>				
#	Milestone Deliverable	Description & Deliverables	Invoice Amount	Invoice Date
1	Contract Execution	Execution of Contract by all parties	25% of One-Time fees – \$125,825	Completion of Milestone
2	Software Configuration & Testing	Complete Software Configuration	25% of One-Time fees – \$125,825	Completion of Milestone
3	Training	Complete User Training (Software Training, Manuals, and Documentation). Attachment A, Scope of Work, Section 3.V	15% of One-Time fees – \$75,495	Completion of Milestone
4	Go Live	Software System Ready to Go Live	15% of One-Time fees – \$75,495	Completion of Milestone
5	Integration	Complete CAPS + & CRM Integration	20% of One-Time fees – \$100,660	Completion of Milestone

Attachment A  
Redlined Contract Number MA-017-18010491

<b>Total One-Time Fees</b>	<b>\$503,300</b>	
Above One-time fees are inclusive of all Contractor travel expenses, onsite Contractor support, integration services, and incidentals.		
All Milestones paid according to Section IV "Payment Terms" below.		

**TABLE II**

<b>Recurring Fees</b>								
ITEM	DESCRIPTION	OPTIONAL YEARS						
		YEAR 1 (MONTHS 0—16)	YEAR 2 (MONTHS 17—28)	YEAR 3 (MONTHS 29—40)	YEAR 4 <sup>4</sup> (MONTHS 41—52)	YEAR 5 (MONTHS 53—64)	YEAR 6 <sup>4</sup> (MONTHS 65—76)	YEAR 7 (MONTHS 77—88)
1 <sup>2</sup>	ANNUAL UNLIMITED SOFTWARE SUBSCRIPTION FEE TIER 3	\$184,216	NOT TO EXCEED: \$313,560 TIER 5	NOT TO EXCEED: \$313,560 TIER 5	NOT TO EXCEED: \$322,966 TIER 5	NOT TO EXCEED: \$322,966 TIER 5	NOT TO EXCEED: \$332,655 TIER 5	NOT TO EXCEED: \$332,655 TIER 5
2	ANNUAL MAINTENANCE FEE	\$7,972	\$7,972	\$7,972	\$7,972	\$7,972	\$7,972	\$7,972
3	SINGLE SIGN-ON	\$7,995	\$7,995	\$7,995	\$7,995	\$7,995	\$7,995	\$7,995
4	FILE TRANSFER TOOL	\$2,995	\$2,995	\$2,995	\$2,995	\$2,995	\$2,995	\$2,995
5 <sup>3</sup>	HOSTING	\$64,475	\$64,475	\$64,475	\$64,475	\$64,475	\$64,475	\$64,475
	<b>TOTAL ANNUAL RECURRING FEES</b>	<b>\$267,653<sup>1</sup></b>	<b>\$396,977</b>	<b>\$396,977</b>	<b>\$406,403</b>	<b>\$406,403</b>	<b>\$416,092</b>	<b>\$416,092</b>
<b>NOTES</b>								
	<b>YEAR 1 (MONTHS 0—16) RECURRING FEE TO BE PAID AS FOLLOWS:</b>							
1	A	15% OF \$267,653 (\$40,148) TO BE PAID AT CONTRACT EXECUTION						
	B	15% OF \$267,653 (\$40,148) TO BE PAID AT 120 DAYS FROM CONTRACT EXECUTION						
	C	70% OF \$267,653 (\$187,357) TO BE PAID AT 180 DAYS FROM CONTRACT EXECUTION						
	A	ITEM # 1, ANNUAL UNLIMITED LICENSE SUBSCRIPTION FEE BASED ON TABLE III, ANNUAL ENTERPRISE LICENSE FEE MODEL, BELOW.						
	B	IN THE EVENT THAT COUNTY'S SPEND INCREASES BEYOND THE TABLE III THRESHOLD, THE PARTIES AGREE TO NEGOTIATE AN UPDATED TIER.						
2	C	AT THE END OF EACH CONTRACT YEAR (WITH CONTRACT YEAR 1 EQUALING SIXTEEN (16) MONTHS AND ALL OTHER CONTRACT YEARS EQUALING TWELVE (12) MONTHS), COUNTY SHALL RUN A REPORT THAT STATES THE AVERAGE CIP CAPITALIZATION AMOUNT SPENT BY COUNTY USING THE PIMS AND THE AVERAGE NUMBER OF USERS ACCESSING THE PIMS, OVER THE PRECEDING CONTRACT YEAR. IN ACCORDANCE WITH SECTION LL OF THE GENERAL TERMS AND CONDITIONS, THE REPORT IS SUBJECT TO REVIEW AND MUTUAL APPROVAL BY COUNTY AND CONTRACTOR AND WILL ESTABLISH COUNTY'S ANNUAL ENTERPRISE LICENSE TIER ACCORDING TO TABLE III BELOW FOR THE NEXT COUNTY CONTRACT YEAR.						
3	ANNUAL HOSTING FEE SHALL BE AS FOLLOWS: FOR ENTERPRISE LICENSE FEE TIERS 0—2 THE ANNUAL HOSTING FEE SHALL BE 35% OF THE ANNUAL FEE. FOR TIERS 3—5, THE ANNUAL HOSTING FEE SHALL BE \$64,475.							
4	INCLUDES A 3% INCREASE							

**TABLE III**

<b>ANNUAL ENTERPRISE LICENSE FEE MODEL</b>			
<b>TIER</b>	<b>CIP CAPITALIZATION AMOUNT</b>	<b>LICENSE FEE</b>	<b>HOSTING FEE</b>
<del>TIER 0 — UP TO 50 USERS</del>	<del>CIP CAPITALIZATION AMOUNT — NOT APPLICABLE</del>	<del>\$67,313.00</del>	<del>\$23,559</del>
<del>TIER 1 — UNLIMITED LICENSE MODEL</del>	<del>0 — \$20,000,000</del>	<del>\$72,840.00</del>	<del>\$25,494</del>
<del>TIER 2 — UNLIMITED LICENSE MODEL</del>	<del>\$20,000,000 — \$50,000,000</del>	<del>\$123,720.00</del>	<del>\$43,302</del>
<del>TIER 3 — UNLIMITED LICENSE MODEL</del>	<del>\$50,000,001 — \$300,000,000</del>	<del>\$184,216.00</del>	<del>\$64,475</del>
<del>TIER 4 — UNLIMITED LICENSE MODEL</del>	<del>\$300,000,001 — \$400,000,000</del>	<del>\$273,720.00</del>	<del>\$64,475</del>
<del>TIER 5 — UNLIMITED LICENSE MODEL</del>	<del>\$400,000,001 — \$500,000,000</del>	<del>\$313,560.00</del>	<del>\$64,475</del>

**TABLE IV**

<b>PROFESSIONAL SERVICES HOURLY RATES</b>	
<del>BUSINESS ANALYST</del>	<del>\$175.00 PER HOUR</del>
<del>PROJECT MANAGER</del>	<del>\$200.00 PER HOUR</del>
<del>SOFTWARE DEVELOPER</del>	<del>\$200.00 PER HOUR</del>
<del>PROGRAM DIRECTOR</del>	<del>\$200.00 PER HOUR</del>

**TABLE V**

<b>WORK ORDER(S)</b>	
<del>ORANGE COUNTY WASTE AND RECYCLING</del>	<del>UP TO \$100,000 FOR THE LIFE OF THE CONTRACT</del>
<del>ORANGE COUNTY PUBLIC WORKS</del>	<del>UP TO \$100,000 FOR THE LIFE OF THE CONTRACT</del>

Table V represents a contingency amount that each department has allotted for changes made pursuant to Paragraph 73 in the Contract.

**III. SERVICE CREDITS**

Service Credits for missed performance have been designed to encourage the consistent and timely delivery of service and value to County. The Service Credits are not intended to compensate County for damages, but rather to reimburse County for the value of the diminished services actually delivered, and to provide incentive to Contractor to achieve the Contract's stated objectives and focus on County's critical needs.

The Service Credits tables included below outline the circumstances under which County will be entitled to Service Credits for Contractor's failure to achieve the Service Level Requirements as specified in Attachment F — Performance, Service Level Guarantees, and Reporting.

**Service Level Requirements, Performance Thresholds, and Service Credit Amounts**

A Service Credit is defined as an amount equal to the pro-rata Recurring Subscription fees (Total Annual Unlimited Software Subscription Fee only) for one (1) day of Service (out of a possible 365 days a year).

Attachment A  
Redlined Contract Number MA-017-18010491

In order to receive any service credit described below, County must notify Contractor in writing within thirty (30) calendar days from the time County becomes aware of eligibility to receive a Service Credit. Failure to comply with this requirement will forfeit County's right to receive a Service Credit.

The aggregate maximum number of Service Credits to be issued by Contractor to County for any and all missed SLR's in a single calendar month shall not exceed thirty (30) Service Credits. A Service Credit shall be issued on the following invoice following the missed SLR, unless the Service Credit is due in a month where no invoice is issued. In such case, a refund for the dollar value of the Service Credit will be mailed to County.

The following Tables for Service Credits are subject to the Force Majeure provisions found on the Contract and shall not apply if a Force Majeure event occurs.

Downtime Period is defined as all end users have lost connectivity and all or most of the system functionality is lost, the system is not operational, or if the ability of authorized users to search, retrieve, and display information is totally absent, and there is no Workaround.

**Table 1— PIMS Availability**

Service Level Requirement	Performance Threshold (quarterly)	Service Credit Amount
PIMS Availability	<99.80% Availability	One Service Credit per downtime period

**Table 2— Prevention of Unauthorized Access to Solution**

Measurement for preventing the unauthorized access to the PIMS is defined as unauthorized individuals or systems are prevented from 1) entering the PIMS designated for County to browse, store, publish or manipulate the content of system resources and b) gaining access to County data or material that has not been intentionally published or made accessible to such individual or systems.

Security requirements can be found in Attachment E, PIMS Delivery Hosted/Managed, Section 5.

Service Level Requirement	Performance Threshold (annual)	Service Credit Amount
Security Breach (as defined in Section 49) Prevention of Unauthorized Access to Solution	Security Breach occurred (as defined in Section 49)	5 Service Credits per Security Breach

**Table 3— Disaster Recovery Services**

Service Level Requirement	Performance Threshold (annual)	Service Credit Amount
Time to recover from a critical system failure or catastrophic event	Time to recover is > 36 hours following a declared disaster recovery/DR event	5 Service Credits per occurrence

**Table 4—Infrastructure Availability**

Service Level Requirement	Performance Threshold	Service Credit Amount
Time to recover from a critical system failure or catastrophic event defined as Incident Priority Level 1 in Attachment F.	Time to recover is > 36 hours following a declared disaster recovery event	5 Service Credits per occurrence

**Table 5—PIMS Performance**

Service Level Requirement	Performance Threshold	Service Credit Amount
Concurrent Usage 100 concurrent users with less than five (5) second page response	<90% Response Time	3 Service Credits per month
Measured by Contractor's then current vendor with reports found on Vendor's Trust Site.		

**Table 4—Incident Resolution**

Service Level Requirement	Performance Threshold	Service Credit Amount
Incident Resolution Priority number 1	Within 4 hours of Contractor's receipt of a service call and/or receipt of sufficient information and assistance needed to replicate the problem, as agreed upon by County.	1 Service Credit per day
Incident Resolution Priority number 2	Within 8 hours of Contractor's receipt of a service call and/or receipt of sufficient information and assistance needed to replicate the problem, as agreed upon by County.	1 Service Credit per week

**IV. PAYMENT TERMS**

Contractor shall reference the Contract number on the invoice. ~~Payment shall be net forty five (45) days after receipt of an invoice. The invoice shall be: 1) in a format acceptable to County 2) verified for accuracy and approved by County and, 3) subject to routine processing requirements.~~

~~Billing shall cover Services and/or goods not previously invoiced.~~

**a. Payment for One-time Fees:**

~~Payment for One-time fees shall be in accordance with Table I (Milestone Payment Schedule) above.~~

**b. ~~Payment for Recurring fees:~~**

~~Payments for Recurring fees shall be in accordance with Table II above. One half of annual recurring fees are to be paid in advance every six months starting in month number sixteen (16) and payment will be net forty five (45) days after receipt of an acceptable invoice~~

**V. PAYMENT/INVOICING INSTRUCTIONS**

~~During the **Implementation Phase** of the Contract, Contractor shall provide an invoice on Contractor's letterhead for Services rendered after County has notified Contractor in writing that a component or Deliverable meets the Acceptance Criteria according to the procedures in Paragraph 41, Acceptance Testing. Each invoice shall have a unique number and shall include the information in the list below (#'s 1-9). Each invoice will correspond the unique implementation phase as described in Table I "Milestone Payment Schedule" above. There shall be up to a total of eight (8) invoices during the implementation phase.~~

~~Semi-annual invoices for **Recurring Fees** (Table III above), Contractor shall provide an invoice on Contractor's letterhead for Services rendered. Each invoice shall have a unique number and shall include the following information:~~

- ~~1. Contractor's name and address;~~
- ~~2. Contractor's remittance address (if different from #1 above);~~
- ~~3. Name of County agency or department;~~
- ~~4. County Contract number;~~
- ~~5. Service Date(s);~~
- ~~6. Service Description;~~
- ~~7. Cost;~~
- ~~8. Contractor's Federal I. D. number; and~~
- ~~9. Total.~~

~~The responsibility for providing an acceptable invoice to County for payment rests with Contractor. Incomplete or incorrect invoices are not acceptable and shall be returned to Contractor for correction. County's Project Manager, or designee, is responsible for approval of invoices and subsequent submittal of invoices to OCIT Accounts Payable for processing of payment.~~

~~Invoices and support documentation are to be forwarded to:~~

County of Orange  
Information Technology  
Attn: Accounts Payable  
1501 E. St. Andrew Place  
2nd Floor  
Santa Ana, CA 92705

**Attachment B – Cost/Compensation**

**I. COMPENSATION**

This is a Fixed Fee Schedule Payment Contract between County and Contractor for the PIMS System described in Attachment A, Scope of Work, to be provided to County of Orange.

Contractor agrees to accept the compensation as set forth in this Attachment B as full remuneration for (a) performing all Services and furnishing all staffing and materials required, (b) any reasonably unforeseen difficulties not caused by County which may arise or be encountered in the performance of the Services until acceptance, (c) risks not controlled by County connected with the Services, and (d) performance by Contractor of all its duties and obligations required herein. County shall have no obligation to pay any sum in excess of the total Contract amount specified herein unless authorized by amendment.

**Contractor’s Expense**

Contractor will be responsible for all costs related to photocopying, telephone communications, fax communications, travel, parking, and any and all "out of pocket" expenses incurred by Contractor during the performance of the Services under this Contract, unless otherwise specified. Contractor shall be responsible for payment of all parking costs and expenses incurred at a County facility while performing work under this Contract, except to the extent County facility has free parking available to the public and Contractor makes appropriate use of this free parking. However, County will at no point provide free parking to Contractor in County Civic Center.

**II. PRICING**

Implementation Costs for Orange County Waste & Recycling and Orange County Public Works shall be:

**TABLE I**

<b><u>One-time Fees - Milestone Payment Schedule</u></b>				
<b><u>#</u></b>	<b><u>Milestone Deliverable</u></b>	<b><u>Description &amp; Deliverables</u></b>	<b><u>Invoice Amount</u></b>	<b><u>Invoice Date</u></b>
<u>1</u>	<u>Contract Execution</u>	<u>Execution of Contract by all parties</u>	<u>25% of One-Time fees - \$125,825</u>	<u>Completion of Milestone</u>
<u>2</u>	<u>Software Configuration &amp; Testing</u>	<u>Complete Software Configuration</u>	<u>25% of One-Time fees - \$125,825</u>	<u>Completion of Milestone</u>
<u>3</u>	<u>Training</u>	<u>Complete User Training (Software Training, Manuals, and Documentation). Attachment A, Scope of Work, Section 3.V</u>	<u>15% of One-Time fees - \$75,495</u>	<u>Completion of Milestone</u>
<u>4</u>	<u>Go Live</u>	<u>Software System Ready to Go Live</u>	<u>15% of One-Time fees - \$75,495</u>	<u>Completion of Milestone</u>
<u>5</u>	<u>Integration</u>	<u>Complete CAPS + &amp; CRM Integration</u>	<u>20% of One-Time fees - \$100,660</u>	<u>Completion of Milestone</u>

Attachment A  
Redlined Contract Number MA-017-18010491

<u>Total One-Time Fees</u>	<u>\$503,300</u>
<u>Above One-time fees are inclusive of all Contractor travel expenses, onsite Contractor support, integration services, and incidentals.</u>	
<u>All Milestones paid according to Section IV "Payment Terms" below.</u>	

**TABLE II**

<u>Recurring Fees</u>								
<u>ITEM</u>	<u>DESCRIPTION</u>	<u>OPTIONAL YEARS</u>						
		<u>YEAR 1</u> <u>(MONTHS 0 – 16)</u>	<u>YEAR 2</u> <u>(MONTHS 17 – 28)</u>	<u>YEAR 3</u> <u>(MONTHS 29 – 40)</u>	<u>YEAR 4</u> <sup>4</sup> <u>(MONTHS 41 – 52)</u>	<u>YEAR 5</u> <u>(MONTHS 53 – 64)</u>	<u>YEAR 6</u> <sup>4</sup> <u>(MONTHS 65 – 76)</u>	<u>YEAR 7</u> <u>(MONTHS 77 – 88)</u>
<u>1</u> <sup>2</sup>	<u>ANNUAL UNLIMITED SOFTWARE SUBSCRIPTION FEE</u>	<u>\$184,216</u> <u>TIER 3</u>	<u>NOT TO EXCEED:</u> <u>\$313,560</u> <u>TIER 5</u>	<u>NOT TO EXCEED:</u> <u>\$313,560</u> <u>TIER 5</u>	<u>NOT TO EXCEED:</u> <u>\$322,966</u> <u>TIER 5</u>	<u>NOT TO EXCEED:</u> <u>\$322,966</u> <u>TIER 5</u>	<u>NOT TO EXCEED:</u> <u>\$332,655</u> <u>TIER 5</u>	<u>NOT TO EXCEED:</u> <u>\$332,655</u> <u>TIER 5</u>
<u>2</u>	<u>ANNUAL MAINTENANCE FEE</u>	<u>\$7,972</u>	<u>\$7,972</u>	<u>\$7,972</u>	<u>\$7,972</u>	<u>\$7,972</u>	<u>\$7,972</u>	<u>\$7,972</u>
<u>3</u>	<u>SINGLE SIGN-ON</u>	<u>\$7,995</u>	<u>\$7,995</u>	<u>\$7,995</u>	<u>\$7,995</u>	<u>\$7,995</u>	<u>\$7,995</u>	<u>\$7,995</u>
<u>4</u>	<u>FILE TRANSFER TOOL</u>	<u>\$2,995</u>	<u>\$2,995</u>	<u>\$2,995</u>	<u>\$2,995</u>	<u>\$2,995</u>	<u>\$2,995</u>	<u>\$2,995</u>
<u>5</u> <sup>3</sup>	<u>HOSTING</u>	<u>\$64,475</u>	<u>\$64,475</u>	<u>\$64,475</u>	<u>\$64,475</u>	<u>\$64,475</u>	<u>\$64,475</u>	<u>\$64,475</u>
<u>6</u>	<u>ONE-TIME SERVICE CREDIT</u>				<u>(\$10,000)</u>			
	<u>TOTAL ANNUAL RECURRING FEES</u>	<u>\$267,653</u> <sup>1</sup>	<u>\$396,977</u>	<u>\$396,977</u>	<u>\$396,403</u>	<u>\$406,403</u>	<u>\$416,092</u>	<u>\$416,092</u>
<u>INVOICE BREAKDOWN PER AGENCY</u>								
<u>INVOICE AMOUNT FROM CONTRACTOR</u>	<u>TO: ORANGE COUNTY PUBLIC WORKS</u>			<u>294,802.25</u>	<u>\$304,802.25</u>	<u>\$312,069</u>	<u>\$312,069</u>	<u>\$312,069</u>
	<u>TO: ORANGE COUNTY WASTE &amp; RECYCLING</u>			<u>\$101,600.75</u>	<u>\$101,600.75</u>	<u>\$104,023</u>	<u>\$104,023</u>	<u>\$104,023</u>
				<u>ABOVE "OPTIONAL YEARS" RECURRING FEES TO BE BILLED SEMI-ANNUALLY</u>				

<u>NOTES</u>		
<u>1</u>	<u>A</u>	<u>15% OF \$267,653 (\$40,148) TO BE PAID AT CONTRACT EXECUTION</u>
	<u>B</u>	<u>15% OF \$267,653 (\$40,148) TO BE PAID AT 120 DAYS FROM CONTRACT EXECUTION</u>
	<u>C</u>	<u>70% OF \$267,653 (\$187,357) TO BE PAID AT 180 DAYS FROM CONTRACT EXECUTION</u>
<u>2</u>	<u>A</u>	<u>ITEM # 1, ANNUAL UNLIMITED LICENSE SUBSCRIPTION FEE BASED ON TABLE III, ANNUAL ENTERPRISE LICENSE FEE MODEL, BELOW.</u>
	<u>B</u>	<u>IN THE EVENT THAT COUNTY'S SPEND INCREASES BEYOND THE TABLE III THRESHOLD, THE PARTIES AGREE TO NEGOTIATE AN UPDATED TIER.</u>
	<u>C</u>	<u>AT THE END OF EACH CONTRACT YEAR (WITH CONTRACT YEAR 1 EQUALING SIXTEEN (16) MONTHS AND ALL OTHER CONTRACT YEARS EQUALING TWELVE (12) MONTHS), COUNTY SHALL RUN A REPORT THAT STATES THE AVERAGE CIP CAPITALIZATION AMOUNT SPENT BY COUNTY USING THE PIMS AND THE AVERAGE NUMBER OF USERS ACCESSING THE PIMS, OVER THE PRECEDING CONTRACT YEAR. IN ACCORDANCE WITH SECTION LL OF THE GENERAL TERMS AND CONDITIONS, THE REPORT IS SUBJECT TO REVIEW AND MUTUAL APPROVAL BY COUNTY AND CONTRACTOR AND WILL</u>

Attachment A  
Redlined Contract Number MA-017-18010491

	<u>ESTABLISH COUNTY'S ANNUAL ENTERPRISE LICENSE TIER ACCORDING TO TABLE III BELOW FOR THE NEXT COUNTY CONTRACT YEAR.</u>
<u>3</u>	<u>ANNUAL HOSTING FEE SHALL BE AS FOLLOWS: FOR ENTERPRISE LICENSE FEE TIERS 0 – 2 THE ANNUAL HOSTING FEE SHALL BE 35% OF THE ANNUAL FEE. FOR TIERS 3 – 5, THE ANNUAL HOSTING FEE SHALL BE \$64,475.</u>
<u>4</u>	<u>INCLUDES A 3% INCREASE. TO BE BILLED SEMI-ANNUALLY.</u>

**TABLE III**

<u>ANNUAL ENTERPRISE LICENSE FEE MODEL</u>			
<u>TIER</u>	<u>CIP CAPITALIZATION AMOUNT</u>	<u>LICENSE FEE</u>	<u>HOSTING FEE</u>
<u>TIER 0 – UP TO 50 USERS</u>	<u>CIP CAPITALIZATION AMOUNT – NOT APPLICABLE</u>	<u>\$67,313.00</u>	<u>\$23,559</u>
<u>TIER 1 – UNLIMITED LICENSE MODEL</u>	<u>0 - \$20,000,000</u>	<u>\$72,840.00</u>	<u>\$25,494</u>
<u>TIER 2 – UNLIMITED LICENSE MODEL</u>	<u>\$20,000,000 - \$50,000,000</u>	<u>\$123,720.00</u>	<u>\$43,302</u>
<u>TIER 3 – UNLIMITED LICENSE MODEL</u>	<u>\$50,000,001 - \$300,000,000</u>	<u>\$184,216.00</u>	<u>\$64,475</u>
<u>TIER 4 – UNLIMITED LICENSE MODEL</u>	<u>\$300,000,001 - \$400,000,000</u>	<u>\$273,720.00</u>	<u>\$64,475</u>
<u>TIER 5 – UNLIMITED LICENSE MODEL</u>	<u>\$400,000,001 - \$500,000,000</u>	<u>\$313,560.00</u>	<u>\$64,475</u>

**TABLE IV**

<u>PROFESSIONAL SERVICES HOURLY RATES</u>	
<u>BUSINESS ANALYST</u>	<u>\$175.00 PER HOUR</u>
<u>PROJECT MANAGER</u>	<u>\$200.00 PER HOUR</u>
<u>SOFTWARE DEVELOPER</u>	<u>\$200.00 PER HOUR</u>
<u>PROGRAM DIRECTOR</u>	<u>\$200.00 PER HOUR</u>

**TABLE V**

<u>WORK ORDER(S)</u>	
<u>ORANGE COUNTY WASTE AND RECYCLING</u>	<u>UP TO \$100,000 FOR THE LIFE OF THE CONTRACT</u>
<u>ORANGE COUNTY PUBLIC WORKS</u>	<u>UP TO \$100,000 FOR THE LIFE OF THE CONTRACT</u>

Table V represents a contingency amount that each department has allotted for changes made pursuant to Paragraph 73 in the Contract.

**III. SERVICE CREDITS**

Service Credits for missed performance have been designed to encourage the consistent and timely delivery of service and value to County. The Service Credits are not intended to compensate County for damages, but rather to reimburse County for the value of the diminished services actually delivered, and to provide incentive to Contractor to achieve the Contract's stated objectives and focus on County's critical needs.

The Service Credits tables included below outline the circumstances under which County will be entitled to Service Credits for Contractor's failure to achieve the Service Level Requirements as specified in Attachment F – Performance, Service Level Guarantees, and Reporting.

**Service Level Requirements, Performance Thresholds, and Service Credit Amounts**

Attachment A

Redlined Contract Number MA-017-18010491

A Service Credit is defined as an amount equal to the pro-rata Recurring Subscription fees (Total Annual Unlimited Software Subscription Fee only) for one (1) day of Service (out of a possible 365 days a year).

In order to receive any service credit described below, County must notify Contractor in writing within thirty (30) calendar days from the time County becomes aware of eligibility to receive a Service Credit. Failure to comply with this requirement will forfeit County’s right to receive a Service Credit.

The aggregate maximum number of Service Credits to be issued by Contractor to County for any and all missed SLR’s in a single calendar month shall not exceed thirty (30) Service Credits. A Service Credit shall be issued on the following invoice following the missed SLR, unless the Service Credit is due in a month where no invoice is issued. In such case, a refund for the dollar value of the Service Credit will be mailed to County.

The following Tables for Service Credits are subject to the Force Majeure provisions found on the Contract and shall not apply if a Force Majeure event occurs.

Downtime Period is defined as all end users have lost connectivity and all or most of the system functionality is lost, the system is not operational, or if the ability of authorized users to search, retrieve, and display information is totally absent, and there is no Workaround.

**Table 1 – PIMS Availability**

<u>Service Level Requirement</u>	<u>Performance Threshold (quarterly)</u>	<u>Service Credit Amount</u>
<u>PIMS Availability</u>	<u>&lt; 99.80% Availability</u>	<u>One Service Credit per downtime period</u>

**Table 2 – Prevention of Unauthorized Access to Solution**

Measurement for preventing the unauthorized access to the PIMS is defined as unauthorized individuals or systems are prevented from 1) entering the PIMS designated for County to browse, store, publish or manipulate the content of system resources and b) gaining access to County data or material that has not been intentionally published or made accessible to such individual or systems.

Security requirements can be found in Attachment E, PIMS Delivery Hosted/Managed, Section 5.

<u>Service Level Requirement</u>	<u>Performance Threshold (annual)</u>	<u>Service Credit Amount</u>
<u>Security Breach (as defined in Section 49)</u> <u>Prevention of Unauthorized Access to Solution</u>	<u>Security Breach occurred (as defined in Section 49)</u>	<u>5 Service Credits per Security Breach</u>

**Table 3 – Disaster Recovery Services**

<u>Service Level Requirement</u>	<u>Performance Threshold (annual)</u>	<u>Service Credit Amount</u>
----------------------------------	---------------------------------------	------------------------------

Attachment A  
Redlined Contract Number MA-017-18010491

<u>Time to recover from a critical system failure or catastrophic event</u>	<u>Time to recover is &gt; 36 hours following a declared disaster recovery or event</u>	<u>5 Service Credits per occurrence</u>
---	---	---

**Table 4 – Infrastructure Availability**

<u>Service Level Requirement</u>	<u>Performance Threshold</u>	<u>Service Credit Amount</u>
<u>Time to recover from a critical system failure or catastrophic event defined as Incident Priority Level 1 in Attachment E.</u>	<u>Time to recover is &gt; 36 hours following a declared disaster recovery event</u>	<u>5 Service Credits per occurrence</u>

**Table 5 – PIMS Performance**

<u>Service Level Requirement</u>	<u>Performance Threshold</u>	<u>Service Credit Amount</u>
<u>Concurrent Usage</u> <u>100 concurrent users with less than five (5) second page response</u>	<u>&lt; 90% Response Time</u>	<u>3 Service Credits per month</u>
<u>Measured by Contractor's then current vendor with reports found on Vendor's Trust Site.</u>		

**Table 4 – Incident Resolution**

<u>Service Level Requirement</u>	<u>Performance Threshold</u>	<u>Service Credit Amount</u>
<u>Incident Resolution Priority number 1</u>	<u>Within 4 hours of Contractor's receipt of a service call and/or receipt of sufficient information and assistance needed to replicate the problem, as agreed upon by County.</u>	<u>1 Service Credit per day</u>
<u>Incident Resolution Priority number 2</u>	<u>Within 8 hours of Contractor's receipt of a service call and/or receipt of sufficient information and assistance needed to replicate the problem, as agreed upon by County.</u>	<u>1 Service Credit per week</u>

**IV. PAYMENT TERMS**

Contractor shall reference the Contract number on the invoice. Payment shall be net forty-five (45) days after receipt of an invoice. The invoice shall be: 1) in a format acceptable to County 2) verified for accuracy and approved by County and, 3) subject to routine processing requirements.

Billing shall cover Services and/or goods not previously invoiced.

**a. Payment for One-time Fees:**

Payment for One-time fees shall be in accordance with Table I (Milestone Payment Schedule) above.

**b. Payment for Recurring fees:**

Payments for Recurring fees shall be in accordance with Table II above. One half of annual recurring fees are to be paid in advance every six months starting in month number sixteen (16) and payment will be net forty-five (45) days after receipt of an acceptable invoice

**V. PAYMENT/INVOICING INSTRUCTIONS**

During the **Implementation Phase** of the Contract, Contractor shall provide an invoice on Contractor's letterhead for Services rendered after County has notified Contractor in writing that a component or Deliverable meets the Acceptance Criteria according to the procedures in Paragraph 41, Acceptance Testing. Each invoice shall have a unique number and shall include the information in the list below (#'s 1 – 9). Each invoice will correspond the unique implementation phase as described in Table I "Milestone Payment Schedule" above. There shall be up to a total of eight (8) invoices during the implementation phase.

Semi-annual invoices for **Recurring Fees** (Table II above), Contractor shall provide an invoice on Contractor's letterhead for Services rendered. Semi-annually, Contractor will submit two (2) invoices:

- 1) Orange County Public Works and,
- 2) Orange County Waste & Recycling.

Each invoice shall have a unique number and shall include the following information:

1. Contractor's name and address;
2. Contractor's remittance address (if different from #1 above);
3. Name of County agency or department;
4. County Contract number;
5. Service Date(s);
6. Service Description;
7. Cost;
8. Contractor's Federal I. D. number; and
9. Total.

Invoices and support documentation are to be forwarded to both of the following according to the amounts in Table II above:

**Orange County Public Works**

Email Invoice to:

[AccountsPayables@ocpw.ocgov.com](mailto:AccountsPayables@ocpw.ocgov.com)

**AND**

Mail invoice to:

OC Public Works/Procurement Services  
ATTN: Accounts Payable  
PO Box 4048  
Santa Ana, CA 92702-4048

**Orange County Waste & Recycling**

Email Invoice to:

[ocwrinvoice@ocwr.ocgov.com](mailto:ocwrinvoice@ocwr.ocgov.com)

**AND**

Mail invoice to:

OC Waste & Recycling  
ATTN: Accounts Payable  
601 North Ross Street, 5<sup>th</sup> Floor  
Santa Ana, CA 92701

The responsibility for providing an acceptable invoice to County for payment rests with Contractor. Incomplete or incorrect invoices are not acceptable and shall be returned to Contractor for correction. County's Project Manager, or designee, is responsible for approval of invoices and subsequent submittal of invoices to OCIT Accounts Payable for processing of payment.

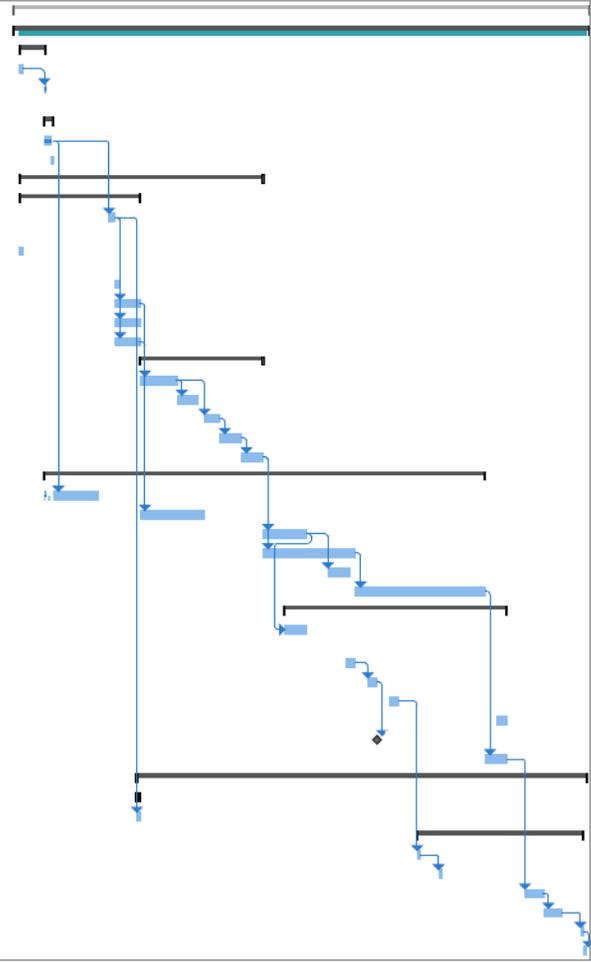
End of Attachment B

**Attachment C – Implementation Plan and Acceptance and Testing Procedures**

1. Contractor shall provide a detailed Implementation Plan and Acceptance and Testing Procedures (known as a “Project Plan” by Contractor) at most thirty (30) days of Contract effective date to be used to ensure Services are provided in compliance with County specifications and requirements, including, but not limited to, the following:
  - a. Contractor shall deliver Software(s) with the appropriate configurations to support County’s requirements at the end of the implementation phase, as specified in the Contract.
  - b. Contractor shall provide professional services to implement the proposed PIMS System (includes project management, PIMS and report development, and testing).
  - c. Software configurations, functional and non-functional system testing, report development and testing, system integration testing and user acceptance testing are all part of Contractor’s implementation plan.
  - d. Contractor shall integrate the proposed PIMS System with County Financial System (CAPS+), based on CAPS+ requirements, and County’s CRM. Integration must be through industry standard interfaces.
  - e. Contractor and County shall meet regularly throughout the implementation period to discuss items including but not limited to issues, problems, concerns, and updates,
2. Contractor shall follow the implementation methodology of the Project Management Institute’s five (5) phases of project management.
3. Estimated Implementation Schedule (Actual Implementation Schedule will be developed and agreed upon after initial kickoff meeting)

Attachment A  
Redlined Contract Number MA-017-18010491

ID	Task Name	Duration	Notes
0	Orange County	125 days	
1	Orange Count - Initial Implementation	126 days	
2	KICKOFF	6.5 days	
3	Champion Call	1 day	Call
4	External Kickoff Call	0.5 days	1/2 Day On-Site for the full team including stakeholders
5	DISCOVERY	3 days	
6	Account Discovery	2 days	2 Days following Kick-off
7	Integration Discovery	1 day	1 Day following Account Discovery
8	DESIGN	51 days	
9	Account Design	28 days	
10	Onsite Design Session & 1st Value Training	2 days	2 Days On-Site: 2 Days for Account Design
11	1st Value Training: Project Initiation, Documents, &	1 day	1 Day On-Site training which included Project Initiation, Documents, &
12	Integration Design	1 day	during Account Design
13	Prepare Solution Document	6 days	
14	Prepare Adoption Plan	6 days	
15	Prepare Integration documents	6 days	
16	Process Design (10 workflows)	23 days	
17	Process Design Session #1	3 days	3 Days On-Site
18	Prepare Process Requirements	5 days	
19	Process Design Session #2	3 days	3 Days On-Site
20	Prepare Process Requirements	5 days	
21	Client Review & Signoff	5 days	
22	CONFIGURATION	95 days	
23	1st Value Configuration	10 days	
24	Account Configuration	10 days	
25	Process Configuration	10 days	
26	Integration Configuration	20 days	
27	Onsite UAT & Admin Training	3 days	3 Days On-Site
28	Integration Testing	30 days	
29	TRAINING	50 days	
30	Prepare Training Documentation & Agenda	5 days	
31	Admin & User Training	3 days	Following Process UAT - Same trip
32	End User Training	3 days	3 Days On-site
33	End User Training Session #2	3 days	3 Days On-Site
34	Train the Trainer	3 days	3 Days On-Site - eb Admin
35	Account "Go Live"	0 days	
36	Integration "Go Live"	5 days	
37	ADOPTION	97 days	
38	Phase 1	1 day	
39	Adoption Call #1	1 day	1 hour call
40	Phase 2	38 days	
41	Adoption Call #1	1 day	1 hour call
42	Adoption Call #2	1 day	1 hour call
43	Support Session #1	4 days	
44	Support Session #2	4 days	
45	Adoption Call #3	1 day	1 hour call
46	Transition to Account Management	1 day	30 minute call



4. Implementation phase descriptions:

1. Kickoff meeting:

The Kickoff meeting is between County’s core project team members and Contractor’s professional services team. The kickoff meeting will:

- Formally transition Contractor’s relationship with County from the sales team to the implementation team. This includes a recap of business needs and goals.
- Introduce County to Contractor’s professional services team that will be performing the implementation.
- Define criteria for a successful implementation and the metrics to measure these criteria.
- Discuss potential implementation risks and issues.
- Identify roles and responsibilities.
- Review the implementation guide that outlines the guidelines and assists in the proper data gathering and delivery prior to Contractor’s professional services team arriving at County.
- Set dates for the implementation schedule. This schedule will be maintained by Contractor’s Project Manager in coordination with County’s Project Manager.
- Schedule the required two (2) hour online sessions with County users identified during the Kickoff meeting. These sessions are to introduce Contractor, discover specific user level process steps, and validate the data gathering information prior to arriving onsite. These sessions assist the implementation team in defining the business and functional requirements.

**2. Planning & Design Specification:**

In the Planning phase, the joint implementation team will facilitate a series of sessions over several weeks based upon the implementation scope. The goal of these sessions is final validation of the information gathered in the Kickoff phase and confirming the final configuration of e-Builder Enterprise. Part of this validation is to review and confirm each process delivered as part of the implementation.

The Design sessions will require the involvement of County's key project team members for each session. A detailed agenda of each session will be provided prior to the onsite visit. At the completion of the Planning phase the implementation team will provide a solutions requirement specification document that details County's specific e-Builder Enterprise configuration.

**3. Configuration and Execution:**

Contractor will perform the configuration phase remotely and requires regular validation reviews by County. This phase includes the configuration of County's e-Builder Enterprise account per the mutually approved solutions requirements document. The solutions requirement document and resulting e-Builder Enterprise configuration will address County's requirements for the modules and core features specified in Attachment A, Scope of Work.

**4. Training/Test (Control):**

Contractor's implementation team performs this phase of the implementation onsite. The success of any software or technology implementation hinges on thorough testing and a quality education program tailored to a specific process or processes. County project team will be changing the way they work – so it is critical that Contractor is sensitive to the change and work to make the transition as smooth as possible. Contractor's implementation team will educate County team on the e-Builder Enterprise features and functions, but more importantly how the system is used for County's processes. Contractor will provide training manuals and quick reference guides in electronic format tailored to help County's users complete processes related to job responsibilities. County may print and distribute these materials to users with an e-Builder Enterprise account.

**5. Adoption (Closure):**

Following the rollout of e-Builder Enterprise, Contractor's team will review system use and initiate calls to County's users to collect any feedback or lessons learned. If necessary, Contractor will also provide additional training at no cost to County. The feedback and lessons learned will be used to optimize County's processes or configuration as needed.

Contractor's implementation team will communicate any findings and recommended actions with County's Project Manager. The Adoption phase for County is not complete until the success criteria defined in the implementation Kickoff phase is achieved and County has signed off on this phase.

**6. Post Implementation On-Site Support**

Contractor shall provide a post Go-Live Qualified Senior Business Analyst (BA) for on-site support for a maximum of sixty (60) non-consecutive business days (Monday through Friday, excluding County holidays) for up to eight (8) hours per day. On-site support will expire after six (6) months after Go-Live date. Scheduled days and times will be mutually agreed upon between County and Contractor prior to Go Live date, subject to modification upon mutual agreement of the Parties. BA support includes but is not limited to PIMS configuration and design, additional system discovery, training, business process and workflow development.



## Attachment D – Software Maintenance and Support

Software maintenance and support will include but is not limited to: application hosting services, application maintenance, application operation, infrastructure management, site availability, access to other technology resources which include hardware, network, and operating software, and user support. This includes maintenance and support services to diagnose problems, determine proper solutions and provide the implementation of, and/or implement any required solutions, changes, modifications, updates or other services as are necessary. Contractor also agrees to provide phone and e-mail assistance by support specialists with experience in functional and operational areas regarding issues involving the usage of the system.

**1. Contractor shall provide Annual Maintenance and Support that, at a minimum, meet the following requirements:**

- a. Contractor shall provide all PIMS System Software maintenance and warranty Updates, Upgrades, patches, fixes, etc. at no additional cost. The updates referenced herein do not include any new or different products provided by Contractor to its customer base for which additional fees apply.
- b. Contractor’s Software maintenance and warranty services will extend to all configurations, workflow development, and report development efforts included in the PIMS implementation.
- c. Contractor shall use commercially reasonable efforts to provide modifications or Upgrades to the Software to retain compatibility with future Microsoft Office products.
- d. Help Desk Support:
  - a. Phone Support - During the term of the Contract, Contractor shall provide phone support at **1-888-288-5717** (eBuilder Help Desk).
  - b. Email Support - During the term of the Contract, Contractor shall provide e-mail support at [Support@eBuilder.net](mailto:Support@eBuilder.net)

Support days and times are as follows:

Days	Times	Time Zone
<b>Monday – Thursday</b>	<b>5am – 5pm</b>	<b>Pacific</b>
<b>Friday</b>	<b>5am – 2pm</b>	<b>Pacific</b>
<b>On-Call Help Support available outside of the above hours: 24 X 7</b>		

- e. Contractor holidays shall not exceed nine (9) days per calendar year and must correlate to County Holidays.

**2. Contractor Maintenance Window (all times Pacific)**

Days	Sun	Mon	Tue	Wed	Thu	Fri	Sat
<b>Start Time</b>	N/A	7 PM	N/A	N/A	7 PM	N/A	N/A
<b>Stop Time</b>	N/A	9 PM	N/A	N/A	9 PM	N/A	N/A

**Attachment E – PIMS Delivery Hosted/Managed**

**I. Contractor shall be responsible for end-to-end, secure hosting and technical support of all Hardware and Software required to operate Contractor's PIMS. Contractor's Infrastructure Management Services shall include:**

**1. Hosting**

- a. Contractor's PIMS shall be hosted in a highly secure data center located in the United States and no information shall cross country borders. The PIMS shall have sufficient Internet bandwidth, computing capacity, security, storage, monitoring, disaster recovery and IT service management and incident response processes to meet County technical requirements, security requirements and PIMS performance metrics.
- b. Contractor will implement and maintain a disaster recovery plan that provides for the continued delivery of the Service in the event of a power outage, system outage or other circumstances that may interrupt the normal provision of the Service.
- c. Annually, Contractor shall provide the SOC 1 Type II or SOC 2 Type II Report.

**2. Architectural, Performance, Sizing and Capacity Planning**

- a. Contractor shall provide system architectural, sizing and capacity planning recommendations that will enable the production PIMS System to operate at optimal performance and within acceptable County Service Levels at all times.
- b. Contractor shall provide a PIMS that meets County performance, security and infrastructure requirements.
- c. Contractor shall conduct routine architectural, capacity and operational reviews of County's production PIMS environment and, at a minimum, annually implement architectural improvements to improve PIMS performance, availability, reliability and sustainability in accordance with County Service Levels.

**3. IT Service Management**

- a. Contractor shall manage the PIMS and all supporting software and hardware environments under a consistent set of IT life cycle service management framework that utilizes industry standards and best practices.
- b. Contractor shall perform system changes in accordance with an agreed upon change management and notification process.
- c. Contractor shall perform routine system maintenance, including OS patching, critical and high security.
- d. Contractor shall perform industry standard data backup plans for daily, weekly and monthly backups. Contractor shall use backups to restore data in the event of an outage or Incident.

**4. Application Performance Testing, Monitoring and Reporting**

- a. Contractor shall monitor the overall PIMS.
- b. Contractor shall identify the root cause of Service Level degradation and take corrective action to resolve issues and promptly bring service level back within acceptable levels.

**5. Security**

- a. All Contractor -hosted infrastructure shall be secured in a manner acceptable to County in accordance with County security and usage policies.
- b. Contractor's PIMS will integrate with County's Active Directory System using Security Assertion Markup Language (SAML) for single sign-on. This authentication methodology will be available before Go-Live.
- c. Contractor's PIMS will allow County users to access the Application (i.e., PIMS) via the Internet using HTTPS.
- d. Any passwords required by Contractor's PIMS shall be securely stored with a minimum of 256-bit encryption, a cryptographic hash function, or other technology as will be made available in the future, and in accordance with County best business practice for passwords.
- e. Contractor's PIMS shall transmit data using a secure transaction.
- f. Contractor's PIMS sessions shall support Transport Layer Security (TLS) 1.0 or better connections. The TLS version used must be consistent with the ability to provide access to County systems. This means the service must utilize the same TLS version as County computer systems.
- g. Contractor's PIMS will require no thick client piece to be installed or supported at the host level, and all access to the application will be through a web browser.
- h. Contractor's PIMS shall have a unique account for each end user that supports strong, non-repudiation with audit capabilities.
- i. Contractor shall have independent third-party security audits performed annually and a copy of the report shall be provided to County.
- j. Upon County request, Contractor shall provide County a copy of their System Reuse and Mass Storage Decommissioning Policies.
- k. Contractor shall immediately notify County of any and all intrusions, security violations and/or Incidents. County reserves the right to participate in any consequential investigation at the level of involvement deemed necessary by County.
- l. The above requirements will be reviewed by County and Contractor annually on the anniversary of contract award or more frequently as reasonably determined by County to reflect changes in best practices and technology.

**6. Performance Guarantees**

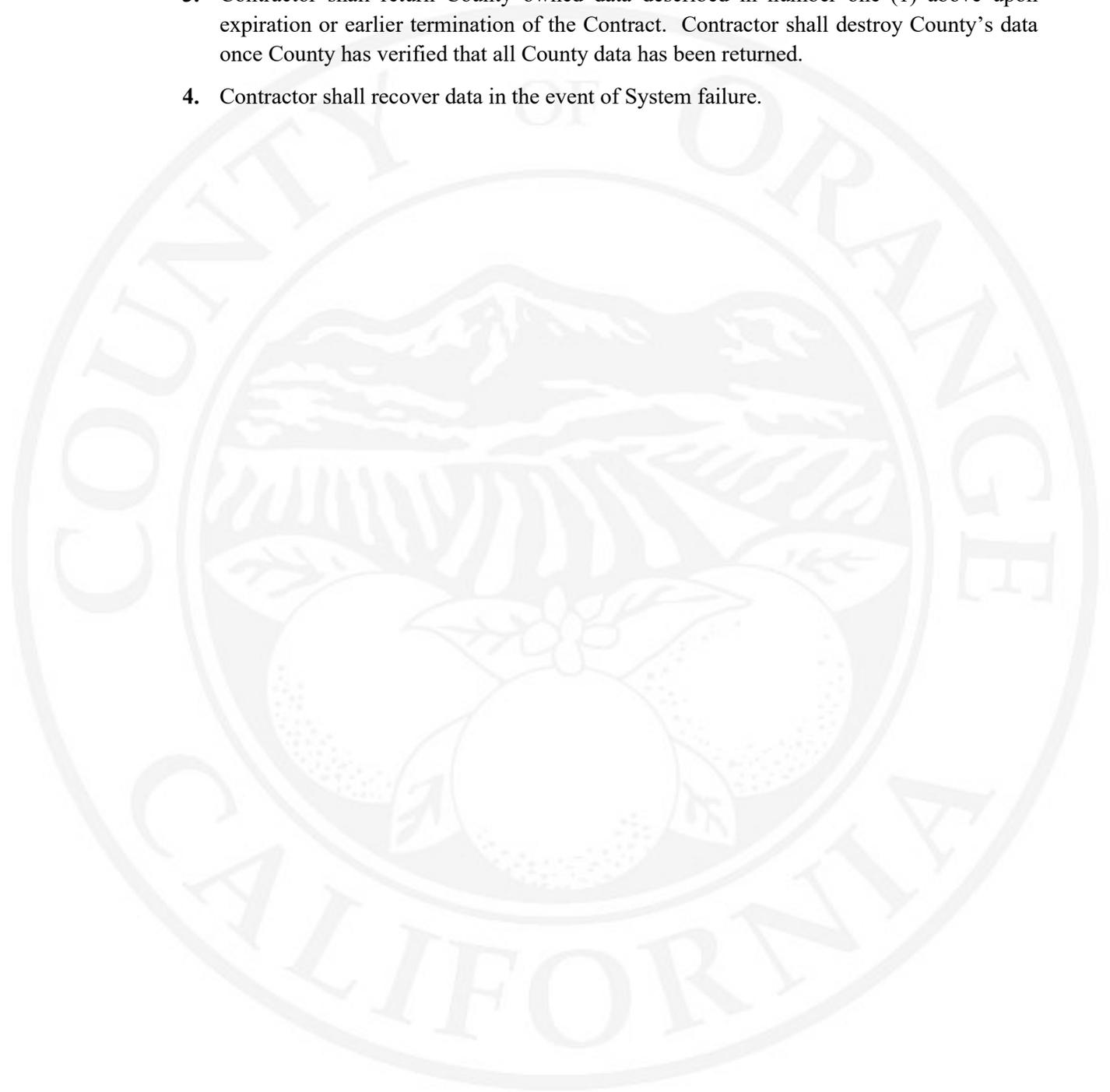
- a. Contractor shall issue Service Credits for failing to successfully maintain Service Performance Guarantees as set forth in Attachment B and Attachment F.
- b. Contractor shall issue Service Performance Guarantee reports in a format agreed upon in Attachment F.

**7. Data Ownership**

1. County will solely own the Data entered by County into and extracted from the PIMS System.

Attachment A  
Redlined Contract Number MA-017-18010491

2. Contractor shall safeguard County's data from co-mingling with data of various Contractor customers by logically segregating County's data from the data of Contractor's various customers.
3. Contractor shall return County owned data described in number one (1) above upon expiration or earlier termination of the Contract. Contractor shall destroy County's data once County has verified that all County data has been returned.
4. Contractor shall recover data in the event of System failure.



**Attachment F – Performance, Service Level Guarantees, and Reporting**

Incident Priority Levels and Descriptions	
Priority Level	Description
<b>1 – Critical</b>	All end users have lost connectivity and all or most of the system functionality is lost, the system is not operational, there has been a material security problem detected within the system, or if the ability of authorized users to search, retrieve, and display information is totally absent, and there is no Workaround.
<b>2 – High</b>	More than one end user has lost connectivity and much of the system operation is lost. Incident or problem is causing PIMS downtime, is causing major PIMS application performance degradation, is preventing a functional component from working properly, system response time is in excess of two (2) minutes per query over a one-hour period, or County is not able to use the system. Although a Workaround for PIMS may exist, it is unacceptable for a long-term circumvention.
<b>3 – Medium</b>	Some functionality on the system is lost or there is a problem which affects a non-critical part of the system functionality. A high problem can be dropped to medium if an acceptable Workaround is found, if mutually agreed to by the Parties. However, the Workaround is still unacceptable for a long-term circumvention.
<b>4 – Low</b>	Incident has little impact on system or system user experience and can be handled on a scheduled basis.

Service Level Reporting Requirement					
Service Requirement Report	Reporting Period	Report Interval	Delivery Method	Format	Service Credit
PIMS Application Up-Time	Monthly	Tenth (10th) business day of the following month	Web Portal	HTML *	Yes See Attachment B. Cost/Compensation
PIMS Infrastructure Up-Time	Monthly	Tenth (10th) business day of the following month	Web Portal	HTML *	Yes See Attachment B. Cost/Compensation
Disaster Recovery Critical System Failure	Monthly	Tenth (10th) business day of the following month	Web Portal	HTML *	Yes See Attachment B. Cost/Compensation
Security Breach Prevention of Unauthorized access to solution	Case-by-case	Within 72 hours of identification	E-mail or Web Portal	Excel or PDF	Yes See Attachment B. Cost/Compensation

Attachment A  
Redlined Contract Number MA-017-18010491

\*Service Level Reporting will be provided via Contractor’s Trust Site. County will be able to retrieve Service Level reports on an on-demand basis.

Service Level Requirements				
Section #	Service Requirement	Service Measure	Performance Target	SLR Performance %
1	Availability			
1.1	PIMS Application Uptime	PIMS Application Availability	NA	99.95%
1.2	PIMS Infrastructure Uptime	PIMS Infrastructure Availability	NA	99.95%
1.3	Disaster Recovery	Time to recover	36 hour RTO	100%
2	Performance			
2.1	PIMS Performance	Performance	100 concurrent users at less than 5 second page response	90%
2.2	Concurrent PIMS Users	Performance	Support a minimum of 100 concurrent PIMS users	100%
3	IT Service Management Incident Resolution and Response			
3.1	Incident Resolution Priority 1	Time to resolve	Within 4 hours of Contractor’s receipt of service call and/or receipt of sufficient information and assistance needed to replicate the problem, as agreed upon by County	95%
3.2	Incident Resolution Priority 2	Time to resolve	Within 8 hours of the initial service call, a mutually satisfactory date and time will be agreed upon in which Contractor must fix the problem or provide a temporary, acceptable Workaround.	95%
3.3	Incident Resolution Priority 3 & 4	Time to Respond	< 48 hours	95%
3.5	Incident Logging and Tracking	Report	All Incidents	100%
4	Security			

Attachment A  
Redlined Contract Number MA-017-18010491

Service Level Requirements				
Section #	Service Requirement	Service Measure	Performance Target	SLR Performance %
4.1	Prevent Unauthorized Access to PIMS	Security breach prevented	Unauthorized individuals and systems prevented from entering PIMS.	100%
4.2	Security Intrusion Detection Monitoring and Reporting	Security breach prevented	Monitor 24x7x365	99.9%
5	Service Desk			
5.1	Routine Support Availability	Schedule	Monday-Thursday 8am – 8pm Eastern Friday 8am-7pm Eastern Excluding County Holidays	100%

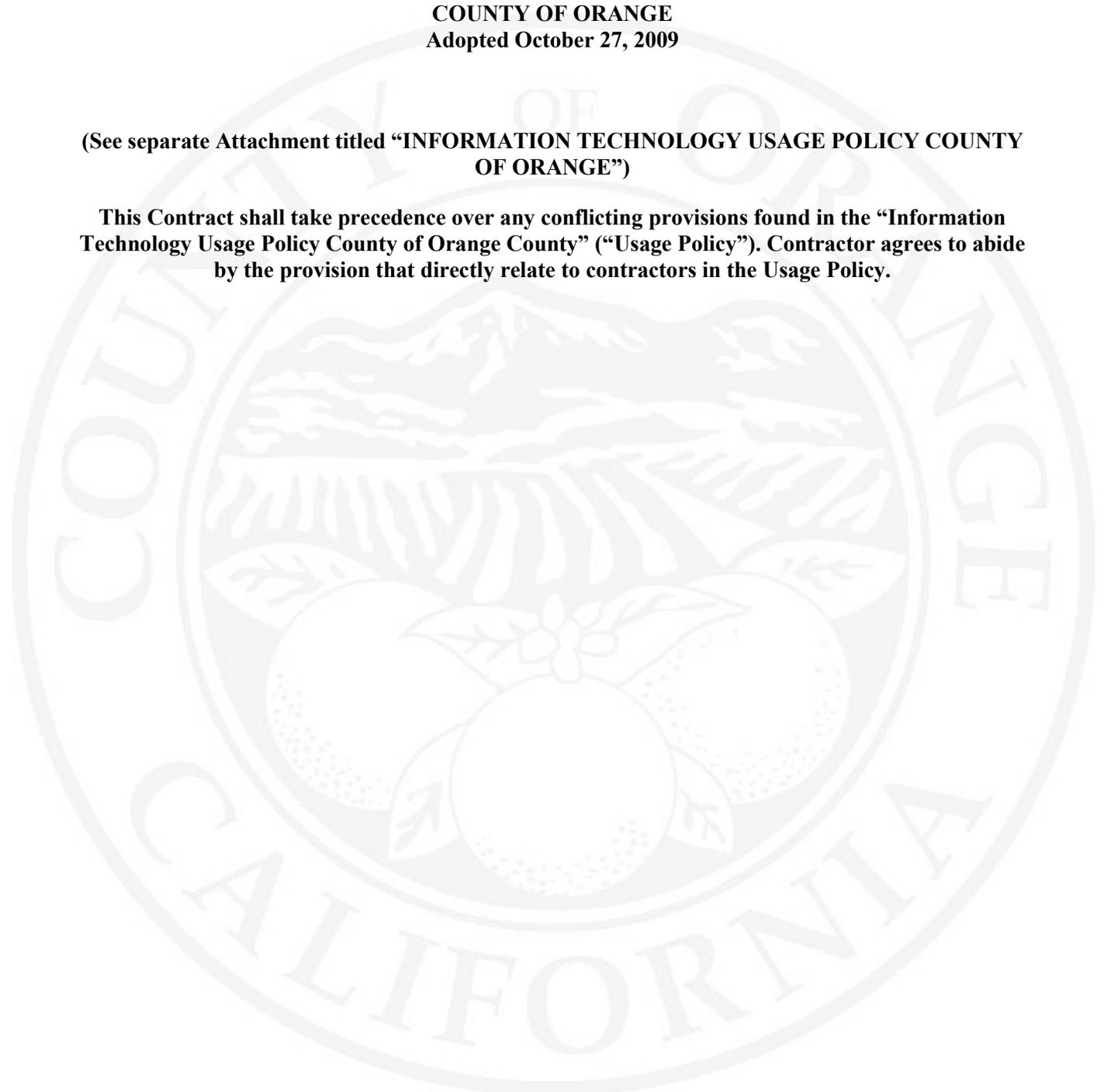
**Attachment G – Information Technology Security Policy County of Orange**

**INFORMATION TECHNOLOGY SECURITY POLICY**

**COUNTY OF ORANGE**  
**Adopted October 27, 2009**

(See separate Attachment titled “INFORMATION TECHNOLOGY USAGE POLICY COUNTY OF ORANGE”)

**This Contract shall take precedence over any conflicting provisions found in the “Information Technology Usage Policy County of Orange County” (“Usage Policy”). Contractor agrees to abide by the provision that directly relate to contractors in the Usage Policy.**



**Attachment H – Staffing Plan**

**Contractor’s Key Personnel to perform Services under Contract:**

Name and Title	Role in Implementation
Program Director*	Oversees the implementation process and assists in escalation activity as needed being the liaison between County and Contractor’s executive team. Also manages the performance of Project Managers and Business Analysts ensuring project delivery that is on time, on budget, and of high quality. The Program Director oversees Contractor’s implementations for multiple clients and be involved with County at various levels.
Project Manager*	<p>Works directly with the County Project Manager and Team throughout all phases of the implementation and accountable for project completion. Responsible for managing the project scope, schedule and quality. The Project Manager may be involved with other Contractor client implementations but will be involved frequently with County. Project Manager will be responsible for but not limited to the following:</p> <ul style="list-style-type: none"> <li>• Responsible for overseeing the Orange County implementation, timelines, and communications,</li> <li>• Liaison between County’s Project Manager, County Agency leads, and Contractor,</li> <li>• Conduct weekly status meeting with the County team and provide project status report outlining accomplishments, plans, and issues,</li> <li>• Review deliverables with County team and ensure deliverables are achieved per project schedule and scope.</li> </ul>
Business Analyst*	An industry expert working with the County Team to execute system configuration, data validation, testing, training and conducting other tasks related to the rollout. Our Business Analyst (BA) brings best practices to the implementation and will reach out to other Contractor resources when needed. The BA will be primarily focused on the County implementation and may be less involved during times when custom work is being developed by the Software Engineer.

**\*Must have Construction Management Experience**

This is a partial list of Contractor’s resources that may be used for the Implementation. Resources will be identified and assigned during the Kickoff meeting after the Contract is signed. Resources will remain unchanged after being assigned during the Kickoff meeting, except to the extent the change is due to the resource’s change in employment status or, pursuant to the removal provisions in the body of the Contract, County’s dissatisfaction with the resource. Contractor agrees that any member of the project team shall have the relevant skills, training and experience to perform the Services.



**Appendix 1: PIMS Requirements Matrix**

FUNCTIONAL AREA	FUNCTION	MEETS FULLY OUT-OF-THE-BOX
<b>GENERAL REQUIREMENTS</b>	THE PIMS (SYSTEM) SHALL BE AN OWNER-CENTRIC ENTERPRISE SOLUTION.	X
<b>GENERAL REQUIREMENTS</b>	THE SYSTEM SHALL SUPPORT COUNTY’S ORGANIZATIONAL STRUCTURE WITH MULTIPLE DEPARTMENTS AND DIVISIONS/PROGRAMS.	X
<b>GENERAL REQUIREMENTS</b>	THE SYSTEM SHALL ALLOW USERS ABILITY TO VIEW AND ACCESS PROJECT INFORMATION ONLY PERTAINING TO THEIR HOME DEPARTMENT ONLY.	X
<b>GENERAL REQUIREMENTS</b>	THE SYSTEM SHALL PROVIDE THE USER IN ADMINISTRATIVE ROLE ABILITY TO CUSTOMIZE THE USER ACCOUNT PERMISSIONS FOR ALL ROLES.	X
<b>GENERAL REQUIREMENTS</b>	THE SYSTEM SHALL HAVE ABILITY TO ADD/MODIFY DATA FIELDS/VALUES WITHIN THE LOOK UP TABLES.	X
<b>GENERAL REQUIREMENTS</b>	THE SYSTEM SHALL MAKE ALL NOTIFICATIONS VIA COUNTY EXCHANGE SERVER AND COUNTY EMAIL.	X
<b>SECURITY REQUIREMENTS</b>	THE SYSTEM SHALL HAVE THE ABILITY TO ACCESS THE APPLICATION USING SINGLE SIGN-ON (SSO) BY ALLOWING AUTHENTICATION THROUGH COUNTY’S ACTIVE DIRECTORY.	X
<b>SECURITY REQUIREMENTS</b>	THE SYSTEM MUST SUPPORT SECURE ENCRYPTED TRANSACTIONS (TLS 1.0 OR BETTER).	X
<b>SECURITY REQUIREMENTS</b>	THE SYSTEM MUST BE FEDRAMP CERTIFIED.	X
<b>SECURITY REQUIREMENTS</b>	THE SYSTEM SHALL MAINTAIN AN AUDIT LOG OF USERS’ ACTIONS IN THE SYSTEM, WHICH MAY INCLUDE THE CHANGE DESCRIPTION, DATE/TIME STAMP, DATA ENTRY OR DOCUMENT MOVEMENT, AND THE IDENTIFICATION OF THE USER MAKING THE CHANGE.	X
<b>SECURITY REQUIREMENTS</b>	THE SYSTEM SHALL PROVIDE EASY NAVIGATION TO SEARCH FOR, RETRIEVE, VIEW AND GENERATE REPORTS OF AUDIT LOG INFORMATION.	X
<b>SECURITY REQUIREMENTS</b>	THE SYSTEM SHALL BE SOC 1 TYPE 1 OR TYPE II COMPLIANCE WITHIN LAST 24 MONTHS.	X
<b>SECURITY REQUIREMENTS</b>	THE SYSTEM MUST SUPPORT DATA LOSS PREVENTION (DPL) TECHNOLOGY.	X
<b>SECURITY REQUIREMENTS</b>	THE SYSTEM MUST SUPPORT MULTI-FACTOR AUTHENTICATION.	X
<b>USER ROLES &amp; PERMISSIONS</b>	THE SYSTEM SHALL HAVE ABILITY TO SET UP USER ACCOUNTS AND ASSIGN ROLES.	X

Attachment A  
Redlined Contract Number MA-017-18010491

FUNCTIONAL AREA	FUNCTION	MEETS FULLY OUT-OF-THE-BOX
<b>USER ROLES &amp; PERMISSIONS</b>	THE SYSTEM SHALL HAVE ABILITY TO RESTRICT ACCESS OF THE APPLICATION MODULES OR SPECIFIC FUNCTIONALITY BASED ON USER ROLE.	X
<b>USER ROLES &amp; PERMISSIONS</b>	THE SYSTEM MUST SUPPORT ROLE-BASED ACCESS CONTROL WITH CAPABILITY OF ASSIGNING USERS TO MULTIPLE ROLES.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL HAVE THE ABILITY TO TRACK CONTRACTOR PERFORMANCE AGAINST STANDARD EXPECTATIONS.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL HAVE THE ABILITY TO TRACK CONTRACTOR'S LICENSE AND INSURANCE RENEWALS.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL ALLOW USER TO ATTACH/UPLOAD DOCUMENTS AT ANY TIME DURING THE WORKFLOW PROCESS.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL HAVE A USER-FRIENDLY INTERFACE THAT IS INTUITIVE AND EASY FOR AN AVERAGE USER TO BE ABLE TO PERFORM BUSINESS WITH MINIMAL INSTRUCTIONS.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL BE ABLE TO INPUT/ TRACK, GROUP PROJECTS BY DEPARTMENT, PROGRAM OR ANY DEFINED CRITERIA.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL HAVE ROBUST SEARCH FUNCTIONALITY TO LOCATE THE PROJECTS USING VARIED CRITERIA.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL HAVE ABILITY TO SORT THE SEARCH RESULTS AND EXPORT THEM TO STANDARD FORMATS INCLUDING MS WORD, MS EXCEL, CSV, HTML, XML, AND PDF.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL HAVE ABILITY TO SUPPORT STANDARD CONSTRUCTION CODES ASSOCIATED WITH UNIT COSTS SUCH AS CSI, STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION (AKA "GREENBOOK"), ETC. OR ALSO BE ABLE TO INPUT CUSTOMIZED CODING.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL HAVE ABILITY TO CREATE MULTIPLE PRIME CONTRACTS/SUBCONTRACTS UNDER ONE PROJECT.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL HAVE ABILITY TO TRACK AMENDMENTS AND CHANGE ORDERS FOR CONTRACTS AND SUBCONTRACTS.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL HAVE THE ABILITY TO DEFINE AND MANAGE THE WORK BREAKDOWN STRUCTURE (WBS).	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL PROVIDE PRE-DEFINED, BUT EDITABLE, DOCUMENT AND WORKFLOW TEMPLATES FOR FUNDAMENTAL FUNCTIONS WITHIN ALL CAPITAL/NON-CAPITAL PROJECTS/PHASES.	X

Attachment A  
Redlined Contract Number MA-017-18010491

FUNCTIONAL AREA	FUNCTION	MEETS FULLY OUT-OF-THE-BOX
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL HAVE THE CAPABILITY TO SUPPORT WORKFLOWS FOR ANY BUSINESS PROCESS IN THE SYSTEM, INCLUDING USER CONFIGURABLE FORMS SUCH AS BUT NOT LIMITED TO ENGINEERING REVIEWS, TASK ORDERS, RFIs, CHANGE ORDERS, PAY APPLICATIONS, ETC.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL HAVE ABILITY TO ALLOW AUTHORIZED USERS TO EASILY CREATE AND CUSTOMIZE THE WORKFLOWS FOR ANY BUSINESS PROCESS IN THE SYSTEM VISUALLY WITH HELP OF A WIZARD OR DRAG AND DROP FUNCTIONALITY.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL HAVE THE CAPABILITY TO PROVIDE GRAPHICAL VIEW OF THE WORKFLOW AND ALSO INDICATE THE CURRENT STAGE.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL PROVIDE USER ACTIONS IN WHICH CONFIGURED WORKFLOW ACTIONS ARE REQUIRED BY OTHER USERS SUCH AS BUT NOT LIMITED TO “APPROVE” (PROCEED TO NEXT STEP) AND “REJECT” (RETURN TO PREVIOUS STEP).	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL ALLOW WORKFLOW OR TASKS WITHIN TO BE CONDITIONALLY REDIRECTED TO AN ALTERNATE USER TO COMPLETE A STEP BY ASSIGNING A BACKUP OR MANUALLY ROUTED.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM MUST ALLOW ADMINISTRATORS AND OTHER AUTHORIZED USERS TO SUSPEND AND/OR RESUME AN ONGOING WORKFLOW.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL PROVIDE USER NOTIFICATION WHEN A PROCESS OR TASK HAS BEEN CREATED, ASSIGNED TO THEM, MOVED, CLOSED AND/OR WHEN THEY BECOME OVERDUE.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM MUST HAVE ABILITY TO NOTIFY AND/OR RE-ROUTE THE PROCESS/TASK TO OTHER USERS OR GROUP IF AN ACTION HAS NOT BEEN TAKEN WITHIN A PREDEFINED TIMEFRAME.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL ALLOW THE USER TO VIEW THE ROUTING HISTORY WHICH DISPLAYS THE STATUS, ACTION TAKEN, AND AGE OF EACH STEP IN THE PROCESS.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL PROVIDE USERS WITH AN INBOX CONCEPT THAT LISTS ALL TASKS/PROJECTS ASSIGNED TO THEM IN ONE LOCATION.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL HAVE FEATURE FOR USERS TO COPY EXISTING WORKFLOWS AND CREATE A NEW EDITABLE WORKFLOW.	X
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL ALLOW USER TO REUSE (I.E. COPY, EDIT, DUPLICATE) ALL ACTIVITIES PERTAINING TO A PROJECT IN THE EVENT OF CREATING A SIMILAR PROJECT WITHOUT HAVING TO REDEFINE.	X

Attachment A  
Redlined Contract Number MA-017-18010491

FUNCTIONAL AREA	FUNCTION	MEETS FULLY OUT-OF-THE-BOX
<b>BUSINESS PROCESS &amp; WORKFLOW</b>	THE SYSTEM SHALL HAVE ABILITY TO GENERATE PAY APPLICATION AND SCHEDULE OF VALUES FOR DIFFERENT CONTRACT TYPES (I.E. A-E, PUBLIC WORKS, SERVICE, ETC.)	X
<b>STANDARD FORMS/CUSTOM FORMS</b>	THE SYSTEM SHALL HAVE ABILITY TO UPLOAD STANDARD FORMS USED BY THE BUSINESS INCLUDING BUT NOT LIMITED TO: NOTICE TO PROCEED, INSPECTION REPORTS, CHANGE ORDERS, RFIs, PROJECT COST ESTIMATES, PROGRESS REPORTS, TRANSMITTAL LETTERS ETC.	X
<b>STANDARD FORMS/CUSTOM FORMS</b>	THE SYSTEM SHALL ALLOW EASY CUSTOMIZATION OF STANDARD FORMS/TEMPLATES; ALSO PROVIDE ABILITY TO UPLOAD THEM BACK INTO THE SYSTEM.	X
<b>BUDGETING &amp; FORECASTING/COST MANAGEMENT</b>	THE SYSTEM SHALL PROVIDE PRE-DEFINED, BUT EDITABLE, TEMPLATES FOR PLANNING AND BUDGETING.	X
<b>BUDGETING &amp; FORECASTING/COST MANAGEMENT</b>	THE SYSTEM SHALL ALLOW USERS TO CREATE BUDGET TEMPLATES AND APPLY THEM TO ONE OR MORE PROJECTS.	X
<b>BUDGETING &amp; FORECASTING/COST MANAGEMENT</b>	THE SYSTEM SHALL ALLOW ABILITY TO INPUT ESTIMATED BASE LINE BUDGET FOR DIFFERENT STAGES OF DEVELOPMENT OF THE PROJECT SUCH AS DESIGN, CONSTRUCTION, AND O&M.	X
<b>BUDGETING &amp; FORECASTING/COST MANAGEMENT</b>	THE SYSTEM SHALL HAVE ABILITY TO INPUT BUDGET FOR EACH PROJECT IN LINE WITH THE WBS AND/OR SCHEDULE OF VALUES.	X
<b>BUDGETING &amp; FORECASTING/COST MANAGEMENT</b>	THE SYSTEM SHALL PROVIDE OPTION TO ASSIGN ONE OR MORE FUNDING SOURCES (COST CODE) WITHIN A SINGLE PROJECT AND/OR CONTRACTS/SUB CONTRACTS WITHIN A PROJECT.	X
<b>BUDGETING &amp; FORECASTING/COST MANAGEMENT</b>	THE SYSTEM SHALL HAVE ABILITY TO ALLOCATE FUNDING AMOUNT OR % SPLIT ACROSS EACH FUNDING SOURCE.	X
<b>BUDGETING &amp; FORECASTING/COST MANAGEMENT</b>	THE SYSTEM SHALL PROVIDE COST VARIANCE REPORTING OF BASELINE BUDGET, COST PROJECTIONS, AND ACTUAL COST FOR ANALYSIS.	X
<b>BUDGETING &amp; FORECASTING/COST MANAGEMENT</b>	THE SYSTEM MUST PROVIDE CONSOLIDATED COST SUMMARY OF ONE OR MULTIPLE PROJECTS WITH ABILITY TO DRILL DOWN TO DETAILS.	X
<b>BUDGETING &amp; FORECASTING/COST MANAGEMENT</b>	THE SYSTEM MUST ALLOW USERS TO ALLOCATE AND DISTRIBUTE PROJECT BUDGETS AND ACTUAL COSTS FROM MULTIPLE SOURCES AND ACROSS A MINIMUM OF 10 FISCAL YEARS AND TOPMOST TO 20-25 YEARS.	X
<b>BUDGETING &amp; FORECASTING/COST MANAGEMENT</b>	THE SYSTEM SHALL HAVE ABILITY TO ASSIGN ACCOUNTING CODES ACROSS MULTIPLE PROJECTS.	X

Attachment A  
Redlined Contract Number MA-017-18010491

FUNCTIONAL AREA	FUNCTION	MEETS FULLY OUT-OF-THE-BOX
<b>BUDGETING &amp; FORECASTING/COST MANAGEMENT</b>	THE SYSTEM MUST ALLOW USERS TO ALLOCATE AND DISTRIBUTE PROJECT BUDGETS AND ACTUAL COSTS FOR ON-CALL CONTRACTS.	X
<b>BUDGETING &amp; FORECASTING/COST MANAGEMENT</b>	THE SYSTEM SHALL ALLOW USERS TO TRACK FUNDING FROM GRANTS SIMILAR TO OTHER FUNDING SOURCES.	X
<b>CONTRACT MANAGEMENT</b>	THE SYSTEM SHALL ALLOW ABILITY TO CAPTURE AND MAINTAIN MULTIPLE PRIME CONTRACTS AND SUBCONTRACTS WITHIN A PROJECT.	X
<b>CONTRACT MANAGEMENT</b>	THE SYSTEM SHALL HAVE ABILITY TO MANAGE PROJECT SPECIFIC AND ON-CALL CONTRACTS ALONG WITH ASSOCIATED TASK ORDERS. ON-CALL CONTRACTS HAVE MULTIPLE PROJECTS ASSOCIATED WITH THEM AND EACH PROJECT SHALL HAVE WORK ASSIGNED BY MULTIPLE WRITTEN TASK ORDERS.	X
<b>CONTRACT MANAGEMENT</b>	THE SYSTEM SHALL HAVE ABILITY TO MANAGE AND TRACK DETAILED WORK ITEMS FOR A PROJECT.	X
<b>CONTRACT MANAGEMENT</b>	THE SYSTEM SHALL HAVE CAPABILITY TO ALLOW CHANGE ORDERS TO BE CREATED EITHER MANUALLY OR THROUGH TEMPLATES.	X
<b>CONTRACT MANAGEMENT</b>	THE SYSTEM SHALL HAVE ABILITY TO PROVIDE AN OPTION TO CAPTURE, TRACK AND MANAGE RFIS, NTPs, AND SUBMITTALS ETC.	X
<b>BID MANAGEMENT/PROCUREMENT</b>	THE SYSTEM SHALL SUPPORT SOLICITATION METHODS INCLUDING REQUEST FOR PROPOSAL (RFP), REQUEST FOR QUALIFICATION (RFQ), PREQUALIFICATION, AND INFORMATION FOR BID (IFB).	X
<b>BID MANAGEMENT/PROCUREMENT</b>	THE SYSTEM SHALL SUPPORT PROJECT DELIVERY METHODS INCLUDING DESIGN BID BUILDS (DBB), DESIGN BUILDS (DB), CONSTRUCTION MANAGER AT RISK (CMAR), PROGRAM MANAGER AT RISK (PMAR), CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC), JOB ORDER CONTRACT (JOC).	X
<b>DOCUMENT MANAGEMENT</b>	THE SYSTEM SHALL ALLOW USERS TO UPLOAD DOCUMENTS TO A CENTRALIZED REPOSITORY BY DEFINABLE FOLDER STRUCTURES WITH CHECK-IN/CHECK-OUT AND VERSION CONTROL CAPABILITIES, INCLUDING DATE STAMPS AND WHO HAS VIEWED OR MODIFIED EACH DOCUMENT.	X
<b>DOCUMENT MANAGEMENT</b>	THE SYSTEM SHALL HAVE CAPABILITY TO LOCATE DOCUMENTS EASILY BY ATTRIBUTES INCLUDING DOCUMENT NAME, METADATA, DATE RANGES, AND KEYWORDS.	X
<b>DOCUMENT MANAGEMENT</b>	THE SYSTEM SHALL ALLOW AUTHORIZED USERS TO EASILY ORGANIZE THE FOLDER STRUCTURES BY ALLOWING THEM TO COPY/MOVE FILES IN ONE STEP	X

Attachment A  
Redlined Contract Number MA-017-18010491

FUNCTIONAL AREA	FUNCTION	MEETS FULLY OUT-OF-THE-BOX
	USING TECHNIQUES LIKE DRAG AND DROP (SIMILAR TO WINDOWS EXPLORER).	
<b>DOCUMENT MANAGEMENT</b>	THE SYSTEM SHALL HAVE CAPABILITY TO SEND EMAIL NOTIFICATIONS (USE OF COUNTY EXCHANGE SERVER) TO USERS WHEN NEW FILES ARE PLACED ON FOLDERS FOR THEIR RESPECTIVE PROJECTS.	X
<b>DOCUMENT MANAGEMENT</b>	THE SYSTEM SHALL HAVE ABILITY TO ARCHIVE FILES BASED ON THE P&P'S IN EFFECT.	X
<b>PLANNING/ESTIMATION</b>	THE SYSTEM SHALL HAVE BUILT IN PROJECT PLANNING/ESTIMATION TOOLS.	X
<b>SCHEDULE MANAGEMENT</b>	THE SYSTEM SHALL INTERFACE WITH THE STANDARD TOOLS SUCH AS MS PROJECT, P6 PRIMAVERA ETC.	X
<b>REPORTING AND DASHBOARD</b>	THE SYSTEM SHALL PROVIDE STANDARD CONSTRUCTION MANAGEMENT REPORTS REFLECTING REAL-TIME DATA.	X
<b>REPORTING AND DASHBOARD</b>	THE SYSTEM SHALL PROVIDE EASY TO USE, ROLE BASED, USER CONFIGURABLE, AND REAL-TIME DASHBOARDS.	X
<b>REPORTING AND DASHBOARD</b>	THE SYSTEM SHALL PROVIDE ABILITY TO DRILL DOWN INTO A PROJECT TO VIEW THE MOST GRANULAR DETAILS AVAILABLE FOR ALL ASPECTS OF THE PROJECT.	X
<b>REPORTING AND DASHBOARD</b>	THE SYSTEM MUST ALLOW USERS TO PERFORM AD HOC QUERIES, FULL TEXT SEARCH, AND CREATE CUSTOMIZED REPORTS AND VIEWS.	X

Attachment A  
Redlined Contract Number MA-017-18010491

FUNCTIONAL AREA	FUNCTION	MEETS FULLY OUT-OF-THE-BOX
<b>REPORTING AND DASHBOARD</b>	THE SYSTEM MUST ALLOW USERS TO EXPORT REPORTS INTO MULTIPLE FORMATS (E.G., MS WORD, MS EXCEL, CSV, HTML, XML, AND PDF).	X
<b>REPORTING AND DASHBOARD</b>	THE SYSTEM MUST HAVE ABILITY TO SCHEDULE REPORTS FOR AUTOMATIC EMAIL DELIVERY OR PUBLISH TO A PROJECT FOLDER.	X
<b>REPORTING AND DASHBOARD</b>	THE SYSTEM MUST ALLOW USERS TO GENERATE REPORTS ACROSS GROUPS OF PROJECTS, COMPLETE PROGRAMS, OR MULTIPLE PROGRAMS BASED ON USER DEFINED CRITERIA.	X
<b>REPORTING AND DASHBOARD</b>	THE SYSTEM MUST HAVE THE CAPABILITY TO SUMMARIZE FINANCIAL INFORMATION BY ORGANIZATION, DEPARTMENT, PROGRAM, AND PROJECT LEVEL.	X
<b>REPORTING AND DASHBOARD</b>	THE SYSTEM MUST BE ABLE TO PROVIDE COLOR CODED (E.G. TRAFFIC LIGHT INDICATORS OR SIMILAR) ON VARIOUS SCHEDULE AND FINANCIAL VARIANCES AND TREND ANALYSIS.	X
<b>INTEGRATION</b>	APPLICATION PROGRAMMING INTERFACE (APIS): THE SYSTEM SHALL PROVIDE THE API'S NECESSARY TO ALLOW THE SYSTEM TO TALK TO OTHER COUNTY APPLICATIONS AS NEEDED.	X
<b>INTEGRATION</b>	MICROSOFT AZURE ACTIVE DIRECTORY PREMIUM INTEGRATION: THE SYSTEM SHALL AUTHENTICATE USERS VIA COUNTY'S MICROSOFT AZURE ACTIVE DIRECTORY PREMIUM.	X
<b>INTEGRATION</b>	THE SYSTEM SHALL PROVIDE A USER FRIENDLY WIZARD (STEP BY STEP AND/OR DATA MAPPING TOOL) FOR THE IMPORT/EXPORT OF DATA.	X
<b>INTEGRATION</b>	THE SYSTEM SHALL BE ABLE TO SCHEDULE (E.G., DAILY, WEEKLY, MONTHLY) BATCH IMPORT/EXPORTS OF DATA THROUGH SECURE FTP SITE.	X
<b>INTEGRATION</b>	THE SYSTEM SHALL BE ABLE TO IMPORT DATA FROM COUNTY'S FINANCIAL SYSTEM OF RECORD (CAPS+) AND EXPORT TO THE PIMS.	X

Attachment A  
Redlined Contract Number MA-017-18010491

FUNCTIONAL AREA	FUNCTION	MEETS FULLY OUT-OF-THE-BOX
<b>INTEGRATION</b>	THE SYSTEM SHALL HAVE ABILITY TO INTEGRATE WITH FOLLOWING COUNTY APPLICATIONS CUSTOMER RELATIONSHIP MANAGEMENT (CRM).	X
<b>MOBILE FRIENDLY</b>	THE SYSTEM MUST SUPPORT A RESPONSIVE APPROACH. THE SYSTEM WILL PROVIDE OPTIMAL VIEWING AND INTERACTION EXPERIENCE – EASY READING AND NAVIGATION WITH A MINIMUM OF RESIZING, PANNING, AND SCROLLING – ACROSS A WIDE RANGE OF DEVICES (I.E. DESKTOP MONITORS, LAPTOPS, TABLETS, AND MOBILE DEVICES SUCH AS IOS AND ANDROID).	X
<b>APPLICATION ADMINISTRATION</b>	THE SYSTEM MUST PROVIDE AN ENTERPRISE WIDE HIERARCHY BASED MODEL WHICH CAN ACCOMMODATE COUNTY’S ORGANIZATIONAL STRUCTURE.	X
<b>APPLICATION ADMINISTRATION</b>	THE SYSTEM MUST BE ABLE TO MANAGE SECURITY BY ROLES, TYPES OF PROJECTS, MODULES, FORMS, AND REPORTS.	X
<b>APPLICATION ADMINISTRATION</b>	THE SYSTEM MUST ALLOW ADMINISTRATORS TO ADD A USER TO MULTIPLE PROJECTS AT THE SAME TIME.	X
<b>APPLICATION ADMINISTRATION</b>	THE SYSTEM MUST ALLOW ADMINISTRATORS TO ADD MULTIPLE USERS TO A PROJECT AT THE SAME TIME.	X
<b>APPLICATION ADMINISTRATION</b>	THE SYSTEM MUST ALLOW ADMINISTRATORS TO COPY AN EXISTING USER’S ACCESS RIGHTS TO A NEW USER SO THEY HAVE THE SAME PERMISSIONS.	X
<b>APPLICATION ADMINISTRATION</b>	THE SYSTEM MUST ALLOW AUTHORIZED USERS OR ADMINISTRATORS TO ADD USER DEFINED DATA FIELDS TO ANY MODULE OF THE SOFTWARE WITHOUT HAVING TO ENGAGE PROFESSIONAL CUSTOMIZATION.	X
<b>APPLICATION ADMINISTRATION</b>	THE SYSTEM MUST ALLOW ADMINISTRATORS TO REASSIGN WORK FROM ONE USER TO ANOTHER.	X
<b>APPLICATION ADMINISTRATION</b>	THE SYSTEM MUST ALLOW ADMINISTRATORS TO SET "EDIT", "READ-ONLY", AND "NO ACCESS" TO SPECIFIC FOLDERS AND FILES.	X
<b>INFORMATION TECHNOLOGY</b>	THE SYSTEM SHOULD PROVIDE MICROSOFT ADFS BASED SINGLE SIGN-ON AUTHENTICATION FOR COUNTY EMPLOYEES.	X
<b>INFORMATION TECHNOLOGY</b>	THE SYSTEM MUST WORK ON PC BASED ON WINDOWS 7 OPERATING SYSTEM & HIGHER.	X
<b>INFORMATION TECHNOLOGY</b>	THE SYSTEM SHOULD WORK ON MOBILE DEVICE BASED ON ANDROID AND IOS OPERATING SYSTEM.	X
<b>INFORMATION TECHNOLOGY</b>	THE SYSTEM MUST SUPPORT THE FOLLOWING INTERNET BROWSERS: IE 10+, SAFARI, AND GOOGLE CHROME.	X

Attachment A  
Redlined Contract Number MA-017-18010491

FUNCTIONAL AREA	FUNCTION	MEETS FULLY OUT-OF-THE-BOX
<b>INFORMATION TECHNOLOGY</b>	THE SYSTEM MUST PROVIDE TOTAL INTERNET PROTECTION INCLUDING FIREWALL, VIRUS AND MALWARE SCANNING.	X
<b>INFORMATION TECHNOLOGY</b>	THE SYSTEM SHOULD ALLOW SECURE ACCESS FOR AGENCY APPROVED NON-COUNTY USERS INCLUDING CONTRACTOR/CONSULTANTS WHO ARE WORKING ON THE PROJECT.	X
<b>INFORMATION TECHNOLOGY</b>	THE SYSTEM MUST BE HOSTED WITHIN US - INCLUDING BACKUPS.	X
<b>INFORMATION TECHNOLOGY</b>	CONTRACTOR MUST PROVIDE THE DISASTER RECOVERY AND BACKUP PLAN FOR THE SYSTEM.	X
<b>INFORMATION TECHNOLOGY</b>	THE SYSTEM MUST BE ABLE TO BACKUP ALL DATA AND FILES CREATED BY COUNTY AND SUBMIT TO COUNTY ON REQUEST PER COUNTY ACCEPTABLE FORMAT.	X
<b>INFORMATION TECHNOLOGY</b>	THE SYSTEM SHALL PROVIDE DATA/FILE STORAGE SCALABLE TO BUSINESS NEEDS WITHOUT CONSTRAINTS.	X
<b>DOCUMENTATION</b>	THE SYSTEM MUST HAVE COMPLETE USER MANUAL.	X
<b>DOCUMENTATION</b>	THE SYSTEM SHALL HAVE ON-LINE FREQUENTLY ASKED QUESTIONS (FAQS).	X
<b>DOCUMENTATION</b>	THE SYSTEM SHALL HAVE ON-LINE "HOW-TO-HELP" DOCUMENTATION.	X
<b>TRAINING</b>	CONTRACTOR SHOULD PROVIDE COUNTY STAFF WITH COMPREHENSIVE ONSITE, HANDS-ON TRAINING AND INSTRUCTION MATERIAL TO AN ESTIMATED THREE HUNDRED (300) COUNTY END USERS AND SYSTEM ADMINISTRATORS ON HOW TO ADMINISTER AND USE THE SYSTEM.	X
<b>TRAINING</b>	PROVIDE SEVERAL TRAINING METHODS AND CURRICULUMS TO MEET VARIOUS ROLES OF COUNTY STAFF. THESE ROLES INCLUDE, BUT MAY NOT BE LIMITED TO, GENERAL USERS, APPLICATION ADMINISTRATOR, COUNTY AGENCY/DEPARTMENT ADMINISTRATOR, ETC.	X
<b>TRAINING</b>	PROVIDE INSTRUCTIONAL VIDEOS AND WRITTEN TRAINING MATERIALS FOR ALL TRAINING APPLICATIONS.	X
<b>TRAINING</b>	PROVIDE OPTIONS FOR CONTRACTOR'S CONTINUOUS USER TRAINING ON NEWLY RELEASED PRODUCT FEATURES AND FUNCTIONALITY PER THE TRAINING METHODS LISTED ABOVE.	X
<b>TRAINING</b>	PROVIDE ON-LINE VIDEO TRAININGS.	X