

**CONTRACT No. 19-28-0025-HRC**

**BETWEEN**

**COUNTY OF ORANGE**

**AND**

**ORANGE COUNTY HUMAN RELATIONS COUNCIL**

**FOR**

**SUPPORT OF**

**ORANGE COUNTY HUMAN RELATIONS COMMISSION  
PROGRAMS & SERVICES**



## Contract

Table of Contents.....	2
Recitals.....	5

### ARTICLES

#### TERMS AND CONDITIONS

1. Coordination/Administration of Contract .....	6
2. Scope of Service .....	6
3. Contract Term .....	6
4. Contingency of Funds.....	6
5. Fiscal Appropriations .....	6
6. Payment Requirements .....	7
7. Adjustment-Scope of Services.....	7
8. Amendments – Changes/Extra Work.....	7
9. Breach of Contract.....	8
10. Conditions Affecting Work .....	8
11. Conflict of Interest – Contractor’s Personnel.....	8
12. Conflict of Interest – County Personnel.....	8
13. Consulting Contract – Follow on Work.....	8
14. Contractor Personnel .....	9
15. Contractor’s Project Manager and Key Personnel .....	9
16. Contractor’s Records.....	9
17. Data – Title To.....	9
18. County Of Orange Child Support .....	9
19. EDD Independent Contractor Reporting Requirements .....	10
20. Emergency/Declared Disaster Requirements .....	10
21. Drug-Free Workplace .....	10
22. Disputes – Contract.....	10
23. Gratuities.....	11
24. Termination – Orderly .....	11
25. News / Information Release.....	12
26. Notices .....	12
27. Project Manager, County .....	12
28. Reports/Meetings .....	12
29. Publication.....	12
30. Errors and Omissions .....	13
31. Signature in Counterparts.....	13

**GENERAL TERMS AND CONDITIONS**

<b>A.</b>	Governing Law and Venue .....	14
<b>B.</b>	Entire Contract .....	14
<b>C.</b>	Amendments .....	14
<b>D.</b>	Taxes .....	14
<b>E.</b>	Delivery .....	14
<b>F.</b>	Acceptance/Payment .....	14
<b>G.</b>	Warranty .....	14
<b>H.</b>	Patent/Copyright Materials/Proprietary Infringement .....	15
<b>I.</b>	Assignment or Sub-Contracting .....	15
<b>J.</b>	Non-Discrimination .....	15
<b>K.</b>	Termination .....	15
<b>L.</b>	Consent to Breach not Waiver .....	15
<b>M.</b>	Remedies Not Exclusive .....	15
<b>N.</b>	Independent Contractor .....	15
<b>O.</b>	Performance .....	16
<b>P.</b>	Insurance .....	16
<b>Q.</b>	Bills and Liens .....	19
<b>R.</b>	Changes.....	19
<b>S.</b>	Change of Ownership .....	19
<b>T.</b>	Force Majeure .....	19
<b>U.</b>	Confidentiality .....	20
<b>V.</b>	Compliance with Law .....	20
<b>W.</b>	Freight (F.O.B) .....	20
<b>X.</b>	Pricing .....	20
<b>Y.</b>	Waiver of Jury Trial .....	20
<b>Z.</b>	Terms and Conditions .....	20
<b>AA.</b>	Headings.....	20
<b>BB.</b>	Severability.....	20
<b>CC.</b>	Calendar Days .....	20
<b>DD.</b>	Attorney Fees .....	20
<b>EE.</b>	Interpretation .....	20
<b>FF.</b>	Authority.....	21
<b>GG.</b>	Employee Eligibility Verification .....	21
<b>HH.</b>	Indemnification Provisions .....	21
<b>II.</b>	Audits/Inspections .....	21
	Signature Page .....	23

**ATTACHMENTS / EXHIBITS**

Attachment A – Scope of Services  
Attachment B – Budget and Staffing Plan

Exhibit 1 – OC Community Resources Reimbursement Policy  
Exhibit 2 – Drug-Free Workplace

This Agreement Number 189-28-0025-HRC, hereinafter referred to as "Contract" is made between the County of Orange, a political subdivision of the State of California, with a place of business at 1300 S. Grand, Bldg. B770 North Broadway, Santa Ana, CA 9270556-26424434; (hereinafter referred to as "**County**") and Orange County Human Relations Council, a nonprofit corporation, in the State of California, with a place of business at 1801 E. Edinger Ave., Suite 115, Santa Ana, CA 92705-4776, DUNS Number 039841668; (hereinafter referred to as "**Contractor**") with County and Contractor sometimes referred to as "**Party**," or collectively as "**Parties**."

### ATTACHMENTS & EXHIBITS

This CONTRACT is comprised of this document and the following Attachments and Exhibits, which are incorporated by reference into this CONTRACT:

Attachment A – General Program Requirements

Attachment B – Scope of Services

Exhibit 1 – OC Community Resources Contract Reimbursement Policy

Exhibit 2 – Drug Free Workplace Certification

### RECITALS

**WHEREAS**, Contractor responded to a Request for Proposal for FY 2017-2020 Orange County Human Relations Commission Programs & Services and was deemed eligible for funding;

**WHEREAS**, County, has appropriated County General Funds to engage Contractor to provide support staff for Orange County Human Relations Commission Programs and Services described herein to the residents of Orange County;

~~**WHEREAS**, OC Community Resources—Director or Designee, hereinafter referred to as "Administrator" shall administer this Contract as necessary; and~~

**WHEREAS**, Contractor is responsible for the administration, implementation, and coordination of Orange County Human Relations Commission Programs and Services and will identify a CEO designated liaison from Contractor; and

**WHEREAS**, the County has approved \$252,000 (Two Hundred Fifty-Two Thousand Dollars and 00 cents) to pay Contractor as specifically described in Budget, attached hereto as Attachment "B" and incorporated herein; and

**WHEREAS**, Contractor agrees to provide support staff for Orange County Human Relations Commission Programs and Services for the period of July 1, 2019 through June 30, 2020, under the same terms, conditions and scope of work hereinafter set forth;

**WHEREAS**, County Board of Supervisors has authorized the OC Community Resources Director or his designee to enter into this Contract to provide information and referral services to Orange County residents with the Contractor; and

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

## ARTICLES

### Terms and Conditions:

1. **Coordination/Administration of Contract:** ~~County's Orange County~~ Community Resources Director or designee (hereinafter referred to as "**Director**"), ~~and OC Community Services project coordinator (hereinafter referred to as "County's Project Manager")~~ shall assume responsibilities through coordinating the grant, and its Regulation for services provided by the County. The Director and County's Project Manager ~~Contract Manager (hereinafter referred to as "Contract Manager")~~ shall administer this Contract as is necessary or reasonable to comply with County policies.
2. **Scope of Services:** This Contract specifies the contractual terms and conditions by which the County will procure services from Contractor as further detailed in ~~the Attachment A,~~ Scope of Services, identified and incorporated herein by this reference, ~~as Attachment A.~~
3. **Contract Term:** This Contract shall be effective from July 1, 2019 through June 30, 2020, unless otherwise terminated by the County.

A3.1. The County will reclaim any unused funds for reallocation to other County approved programs.

~~B-3.2~~ The County does not have to give a reason, should it decide not to renew.

~~C-3.3~~ Prior to, and at the effective date of the termination of this Contract, Contractor shall cooperate with the County in transition of the operation of the support and services to the County or the County designated cContractor, in order to facilitate and effectuate an orderly and systematic transition of the Contractor's duties and activities as they pertain under this Contract.

~~D-3.4~~ Upon termination of this Contract, Contractor shall forthwith deliver to the County such cContract's, documents, accounting records, and all other related records pertaining to services provided under this Contract, as may be reasonably requested, and furnish all such information and take all actions as deemed necessary.

- ~~4. Contingency of Funds: 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; and inclusion of sufficient funding for the services hereunder in the budget approved by approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such funding and/or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty to the County.~~

- ~~5. Fiscal Appropriations: This Contract is subject to and contingent upon applicable budgetary appropriations being approved by the County of Orange Board of Supervisors for each fiscal year during the term of this Contract. If such appropriations are not approved, the Contract will be terminated, reduce County's maximum obligation, or modify the Contract, without penalty to the County.~~

### 6.4. Payment Requirements:

- ~~6.4.1~~ **Contract Amount:** It is expressly agreed and understood that the total amount to be paid by County under this Contract shall not exceed the total County funding

as set forth in Attachment "B", Budget to Contractor attached hereto and incorporated herein by reference.

- ~~64.2~~ Payment of Project Activities: County will reimburse Contractor for eligible approved project-related costs only. Contractor shall submit requests for reimbursement to County on a quarterly basis beginning on or after July 1, 2019 and must provide adequate documentation as required by County in accordance with the *OC Community Resources Contract Reimbursement Policy*, as set forth in Exhibit 1, attached hereto and incorporated herein by reference. In addition, Contractor will provide a monthly performance report by the 2015<sup>th</sup> of the month for the preceding month of services, as prescribed by County. Failure to provide any of the required documentation and reporting will cause a breach of Contract as defined in Paragraph ~~97~~, below.
- ~~64.3~~ Contractor will have forty-five (45) days following the expiration of the Contract to submit outstanding invoices for reimbursement of eligible costs incurred during the Contract period. After the forty- five (45) day period for submitting invoices has expired, County shall reallocate the remaining balance under this Contract for other program purposes and Contractor shall be ineligible for any further reimbursement.

~~7. Adjustment – Scope of Services:~~

~~No adjustments made to the Scope of Services will be authorized without prior written approval of the County assigned Contract Manager. Contractor agrees that County may, at its sole discretion, amend this Contract to conform to federal, State or local governmental guideline, policies, and available funding amounts.~~

~~If any amendment results in a change in the funding amount, Contractor Scope of Services, or schedule of activities to be undertaken as part of this Contract, such modification will be incorporated only by written amendment executed by Director and Contractor.~~

- ~~8.5.~~ **Amendments – Changes/Extra Work:** The Contractor shall make no changes to this Contract without the County's written consent. In the event that there are new or unforeseen requirements, the County ~~with the Contractor's concurrence~~ has the discretion to request official changes at any time without changing the intent of this Contract.

If County-initiated changes or changes in laws or government regulations affect price, the Contractor's ability to deliver services, or the project schedule, the Contractor shall give the County written notice no later than seven (7) calendar days from the date the law or regulation went into effect or the date the change was proposed by the County and the Contractor was notified of the change. Such changes shall be agreed to in writing and incorporated into a Contract Amendment. ~~;~~ ~~Said A~~ amendment shall be issued by the **County Project Manager**, shall require the mutual consent of all Parties, and may be subject to approval by the County Board of Supervisors. Nothing herein shall prohibit the Contractor from proceeding with the work as set forth in this Contract.

- ~~6.~~ **Subcontracting:** No performance of this Contract or any portion thereof may be subcontracted by the Contractor without the express written consent of the County. Any attempt by the Contractor to subcontract any performance of this Contract without the express written consent of the County shall be invalid and shall constitute a breach of this Contract.

In the event that the Contractor is authorized by the County to subcontract, this Contract shall take precedence over the terms of the Contract between Contractor and subcontractor, and shall incorporate by reference the terms of this Contract. The County shall look to the Contractor for performance and indemnification and not deal directly with any subcontractor. All work performed by a subcontractor must meet the approval of the County of Orange.

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

**97.1** Terminate the Contract immediately, pursuant to Paragraph K herein;

**97.2** Afford the Contractor written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach;

**97.3** Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and

**97.4** Seek a refund of monies paid to Contractor by an amount equal to one twelfth (1/12) of the annual payment for terminated services for each month remaining in the Contract term, which shall be computed based upon the date of written termination.

**10.8. Conditions Affecting Work:** The 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 know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to the County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.

**11.9. Conflict of Interest – Contractor’s Personnel:** The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Contractor; the Contractor’s employees, agents, and relatives; sub-tier contractors; and third parties associated with accomplishing work and services hereunder. The Contractor’s efforts shall include, but not be 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 interests of the County.

Contractor agrees to abide by any federal, State and/or local regulations with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Contract.

**12.10. Conflict of Interest – County Personnel:** The County of Orange Board of Supervisors’ policy prohibits its employees from engaging in activities involving a conflict of interest. The Contractor shall not, during the period of this Contract, employ any County employee for any purpose.



- 13.11. Consulting Contract – Follow-On Work:** No person or firm or subsidiary thereof who has been awarded a consulting services Contract or a Contract which includes a consulting component may be awarded a Contract for the provision of services, the delivery of goods or supplies, or the provision of any other related action which is required, suggested, or otherwise deemed appropriate as an end product of the consulting services Contract. Therefore, any consultant that contracts with a County agency/department to develop a feasibility study or to provide formal recommendations is precluded from contracting for any work recommended in the study or included in the recommendations.
- 14.12. Contractor Personnel:** The Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to accept the kind of responsibility anticipated under this Contract.
- 15.13. Contractor’s Project Manager and Key Personnel:** Contractor shall appoint a Project Manager to direct the Contractor’s efforts in fulfilling Contractor’s obligations under this Contract (**Contractor’s Project Manager**). The **Contractor’s Project Manager** and Key Personnel shall be assigned to this project for the duration of this contract and shall diligently pursue all work and services to meet the project time lines. Key personnel are those individuals who report directly to the **Contractor’s Project Manager**.
- 16.14. Contractor’s Records:** The Contractor shall keep an accurate record of time expended by Contractor in the performance of this Contract. Such record shall be available for periodic inspection by the County at reasonable times. Such records will be retained for five (5) years after the expiration or termination of this Contract.
- 17.15. Data – Title To:** All materials, documents, data or information obtained from the County data files or any County medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Contract.
- 18.16. County of Orange Child Support Enforcement:** Contractor certifies it is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to be in compliance throughout the term of the Contract with the County of Orange. Failure to comply shall constitute a material breach of the Contract and failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.
- 19.17. EDD Independent Contractor Reporting Requirements:** Effective January 1, 2001, the County of Orange is required to file in accordance with subdivision (a) of Section 6041A of the Internal Revenue Code for services received from a “service provider” to whom the County pays \$600 or more or with whom the County enters into a Contract for \$600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.

The term “service provider” is defined in California Unemployment Insurance Code Section 1088.8, subparagraph B.2 as “an individual who is not an employee of the service recipient for California purposes and who received compensation or executes a contract for services performed for that service recipient within or without the state.” The term is further defined by the California Employment Development Department to refer specifically to independent contractors. An independent contractor is defined as “an

individual who is not an employee of the government entity for California purposes and who receives compensation or executes a contract for services performed for that ... government entity either in or outside of California.”

The reporting requirement does not apply to corporations, general partnerships, limited liability partnerships, and limited liability companies.

Additional information on this reporting requirement can be found at the California Employment Development Department web site located at [http://www.edd.ca.gov/Employer\\_Services.htm](http://www.edd.ca.gov/Employer_Services.htm).

**20-18. Emergency/Declared Disaster Requirements:** In the event of an emergency or if Orange County is declared a disaster area by the County, State or federal government, this Contract may be subjected to unusual usage. The Contractor shall service the County during such an emergency or declared disaster under the same terms and conditions that apply during non-emergency/disaster conditions. The pricing quoted by the Contractor shall apply to serving the County’s needs regardless of the circumstances. If the Contractor is unable to supply the goods/services under the terms of the Contract, then the Contractor shall provide proof of such disruption and a copy of the invoice for the goods/services from the Contractor’s supplier(s). Additional profit margin as a result of supplying goods/services during an emergency or a declared disaster shall not be permitted. In the event of an emergency or declared disaster, emergency purchase order numbers will be assigned. All applicable invoices from the Contractor shall show both the emergency purchase order number and the Contract number.

**21-19. Drug-Free Workplace:** The Contractor hereby certifies compliance with government Code Section 8355 in matters relating to proving a drug-free workplace as set forth in Exhibit 32, attached hereto and incorporated herein by reference.

**22-20. Disputes – Contract:**

- A. 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 the Contractor’s **Project Manager** and the **County’s Project Manager**, such matter shall be brought to the attention of the ~~Director~~**Contract Manager** ~~Agent~~ by way of the following process:
  - i. The Contractor shall submit to the ~~agency/department assigned County Contract Manager~~**Director** a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Contract, unless the County, on its own initiative, has already rendered such a final decision.
  - ii. The Contractor’s written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which the Contractor believes the County is liable.
- B. Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the provision of services under this Contract. The Contractor’s failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County Purchasing Agent or his designee. If the County fails to render a decision within ninety (90) days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contentions. Nothing in this section shall be construed as affecting the County's right to terminate the Contract for Cause as stated in Paragraph K herein.

**23-21. Gratuities:** The Contractor warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the 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, the County shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the County in procuring on the open market any services which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the County provided in the clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

**24-22. Termination–Orderly:** After receipt of a termination notice from the County of Orange, the Contractor shall submit to the County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than sixty (60) days from the effective date of the termination, unless one or more extensions in writing are granted by the County upon written request of the Contractor. Upon termination County agrees to pay the Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation plus previously paid compensation shall not exceed the total compensation set forth in the Contract. Upon termination or other expiration 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 execution of the Contract. In addition, each **Party** will assist the other **Party** in orderly termination of this Contract and the transfer of all aspects, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each **Party**.

Contractor may terminate this Contract without penalty after ninety (90) days written notice, unless otherwise specified. Notice shall be deemed served on the date of mailing. Exercise by Contractor to terminate the Contract shall relieve Contractor of all further obligations after the ninety (90) day written notice; but does not release Contractor of any provision of this Contract which imposes any obligation described herein up to or after termination of this Contract that shall survive the termination or expiration of this Contract.

**25-23. News/Information Release:** The 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 or any other subject without first obtaining review and written approval of said news releases from the County through the **County's Project Manager**.

**26-24. Notices:** Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the **pParties'** project managers' routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the

first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the Parties hereto may designate by written notice from time to time in the manner aforesaid.

<p>For County:  OC Community Resources  <u>1300 S. Grand Ave. Bldg. B1770 North Broadway</u>  115  Santa Ana, CA 92705<u>56-4434</u>  Attn: Director</p>	<p>For Contractor:  Orange County Human Relations Council  1801 E. Edinger Ave., Suite  Santa Ana, CA 92705-<u>4776</u>  Attn: Chief Executive Officer</p>
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**27-25. Project Manager, County:** The ~~Administrator shall be the~~ **County's Project Manager shall administer the contract and** to act as liaison between the County and the Contractor during the term of this Contract. The **County's Project Manager** shall coordinate the activities of the County staff assigned to work with the Contractor.

**28-26. Reports/Meetings:** The Contractor shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in this Contract. The **County's Project Manager** and the **Contractor's Project Manager** will meet on reasonable notice to discuss the Contractor's performance and progress under this Contract. If requested, the **Contractor's Project Manager** and other project personnel shall attend all meetings. The Contractor shall provide such information that is requested by the County for the purpose of monitoring progress under this Contract.

**29-27. 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 the County, except as necessary for the performance of the services of this Contract. All press releases, including graphic display information to be published in newspapers, magazines, etc., are to be administered only by the County unless otherwise agreed to by both Parties.

**30-28. 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 **Contractor's Project Manager** and key personnel attached hereto, prior to submission to the County. Contractor agrees that County review is discretionary, and Contractor shall not assume that the County will discover errors and/or omissions. If the County discovers any errors or omissions prior to approving Contractor's reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should the 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 documents shall not be used as a defense by Contractor in any action between the County and Contractor, and the reports, files or documents will be returned to Contractor for correction.

**31-29. Signature in Counterparts:** The Parties agree that separate copies of the Contract may be signed by each of the Parties, and this Contract will have the same force and effect as if the original had been signed by all Parties.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK



**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 the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the 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 Attachments A and B, and Exhibits 1 and 2, which are attached hereto and incorporated herein by this reference, when accepted by the Contractor either in writing or by the shipment of any article or other commencement of performance hereunder,~~ contains 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. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. 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 accepted in writing by Director or designee Contract Manager.
- 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 agreement 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.
- D. Taxes:** “Intentionally Left Blank”
- E. Delivery:** Time of delivery of services is of the essence in this Contract. 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 Scope of Services. Delivery shall not be deemed to be complete until all services have actually been received and accepted in writing by County.
- F. Acceptance/Payment:** Unless otherwise agreed to in writing by the County, 1) acceptance shall not be deemed complete unless in writing and until all the services have actually been received to the satisfaction of County, and 2) payment shall be made in arrears after satisfactory acceptance.
- G. Warranty:** Contractor expressly warrants that the services covered by this Contract are fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor’s part to indemnify, defend and hold County and County Indemnitees as identified in Paragraph “HHZ” below, and as more fully described in Paragraph “HHZ”, harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
- 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



warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in Paragraph "~~HHZ~~" 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, attorney's fees, costs and expenses.

- I. ~~Assignment or Sub-Contracting:~~** 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 sub-contracted~~ by Contractor without the express written consent of County. Any attempt by Contractor to assign or sub-contract the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of 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, or sex 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, County has the right to terminate this Contract without penalty immediately with cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any breach of Contract, any misrepresentation or fraud on the part of the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligations.
- L. ~~Consent to Breach Not Waiver:~~** 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.
- ~~**M. ~~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.**~~
- N.M. ~~Independent Contractor:~~** Contractor shall be considered an independent Contractor and neither Contractor nor its employees; nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor nor its employees; nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through County.
- O.N. ~~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 the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workman-like 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 sub-Contractors.

**P.O. Insurance:**

**Insurance Provisions**

Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy the 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 the 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.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the 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 Agreement/Contract, agrees to all of the following:

- 1) In addition to the duty to indemnify and hold the 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 Agreement, Contractor shall defend the 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 the Contractor's SIR provision shall be interpreted as though the Contractor was an insurer and the County was the insured.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

**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 the Contractor shall provide the minimum limits and coverage as set forth below:

<b><u>Coverage</u></b>	<b><u>Minimum Limits</u></b>
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
Network Security & Privacy* Liability	\$1,000,000 per claims made
Professional Liability	\$1,000,000 per claims made \$1,000,000 aggregate
Sexual Misconduct	\$1,000,000 per occurrence
Employee Dishonesty* (Client Coverage)	Funding Amount Advanced

\*Network Security & Privacy Liability is required if Contractor has access to sensitive data. Employee Dishonesty coverage may be required if funding is advanced.

### **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 the ***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 AGREEMENT**.

- 2) A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Network Security and Privacy Liability policy shall contain the following endorsements which shall accompany the Certificate of Insurance:

- 1) An Additional Insured endorsement naming the **County of Orange, its elected and appointed officials, officers, agents and employees** as Additional Insureds for its vicarious liability.
- 2) A primary and non-contributing endorsement evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.
- 3) The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the **County of Orange, its elected and appointed officials, officers, agents and employees** or provide blanket coverage, which will state **AS REQUIRED BY WRITTEN AGREEMENT. (Required if services are provided at a County Facility.)**

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

The County of Orange shall be the loss payee on the Employee Dishonesty coverage. A Loss Payee endorsement evidencing that the County of Orange is a Loss Payee shall accompany the Certificate of Insurance. (Only include this provision when Employee Dishonesty Insurance is required).

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 the County may suspend or terminate this Contract.

If Contractor's Professional Liability and Network Security & Privacy Liability are "Claims Made" policies, Contractor shall agree to maintain coverage for two (2) years following the completion of the Contract. (Only include this provision when Professional Liability, Technology Errors & Omissions and/or Network Security & Privacy Liability Insurance are required. Only reference the type(s) of insurance required in 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 on the solicitation.

If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

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. 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.

~~Q. Bills and Liens: "Intentionally Left Blank"~~

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

Q. Change of Ownership/Name, Litigation Status, Conflicts with the County Interest:

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, new owners shall be required under 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.

The Contractor has confirmed in writing that they understand and are in compliance with the County's Conflict of Interest Policy as stated in Paragraph Q herein.

**S.R. Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its 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 himself of any available remedies.

**T.S. Confidentiality:** Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.

**U.T. Compliance with Laws:** 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 "~~HHZ~~" below, Contractor agrees that it shall defend, indemnify and hold County and County INDEMNITEES harmless from all liability, damages, costs, and expenses arising from or related to a violation of such

**V.U. Freight (F.O.B):** "Intentionally Left Blank"

~~W. Pricing: "Intentionally Left Blank"~~

~~X. Waiver of Jury Trial: "Intentionally Left Blank"~~

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

~~Z. 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.~~

**AA.V. 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.

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

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

**DD.X. 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 affect the purpose of the Parties and this Contract.

~~**EE. Authority:** The 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.~~

**FF.Y. Employee Eligibility Verification:** The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees, consultants and subcontractors 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. The Contractor shall retain all such documentation for all covered employee, consultants and subcontractors for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

**GG.Z. Indemnification:** Contractor agrees to indemnify, defend with counsel approved in writing by County, 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 any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. 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.

**HH.AA. Audits/Inspections:** Contractor agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the 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 the Contract including, but not limited to, the costs of administering the contract. The County will provide reasonable notice of such an audit or inspection.

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

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records.

Further, Contractor agrees to include a similar right to the County to audit records and interview staff of any sub-Contractor related to performance of Contract.

Should the Contractor cease to exist as a legal entity, the 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 the **County's ProjectROJECT ManagerANAGER**.

**BB.** Contingency of Funds: Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty

**CC.** Expenditure Limit: The Contractor shall notify the County of Orange assigned Deputy Purchasing Agent in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The County will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless a change order to cover those costs has been issued.

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**IN WITNESS WHEREOF**, the Parties hereto certify that they have read and understand all the terms and conditions contained herein and hereby cause this Contract to be executed.

**\*ORANGE COUNTY HUMAN RELATIONS COUNCIL**

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

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

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

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

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

\*For Contractors that are corporations, signature requirements are as follows: 1) One signature by the Chairman of the Board, the President or any Vice President; and 2) One signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or an Assistant Treasurer.

For Contractors that are not corporations, the person who has authority to bind the contractor to a contract, must sign on one of the lines above.

\*\*\*\*\*

**County OF ORANGE**

A Political Subdivision of the State of California

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

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

Dylan Wright, Director  
OC Community Resources

**APPROVED AS TO FORM  
COUNTY COUNSEL**

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

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

DEPUTY COUNTY COUNSEL