

CONTRACT MA-003-24010749

FOR

Property Tax System Technical Support

BETWEEN

Orange County Auditor-Controller

AND

ARK Technologies



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MA-003-24010749
with
ARK Technologies
for
Property Tax System Technical Support

This Contract MA-003-24010749 for Property Tax System Technical Support (“Contract”) is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California (“County”) and ARK Technologies with a place of business at 1021 Miramar St., Laguna Beach, CA 92651 (“Contractor”), with County and Contractor sometimes referred to individually as a “Party” or collectively as the “Parties”.

ATTACHMENTS

This Contract is comprised of this document and the following Attachments, which are attached hereto and incorporated by this reference into this Contract:

- Attachment A – Scope of Work
- Attachment B – Compensation and Invoicing

RECITALS

WHEREAS, Contractor agrees to provide Property Tax System Technical Support to County as further set forth in the Scope of Work, attached hereto as Attachment A; and

WHEREAS, County agrees to pay Contractor based on the schedule of fees set forth in Payment/Compensation, attached hereto as Attachment B; and

WHEREAS, the County Board of Supervisors has authorized the Purchasing Agent or designee to enter into this Contract for Property Tax System Technical Support with Contractor;

NOW, THEREFORE, the Parties mutually agree as follows:

DEFINITIONS

“DPA” shall mean the Deputy Purchasing Agent assigned to this Contract.

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 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 adjudication to another county.

- B. **Entire Contract:** This Contract contains the entire agreement 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 County's Purchasing Agent or designee.
- 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:** Unless otherwise provided herein or by law, price quoted does not include California 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 County's Auditor-Controller will then pay use tax directly to the State of California in lieu of payment of sales tax to the Contractor.
- E. **Delivery:** Time of delivery of services is of the essence in this Contract. County reserves the right to refuse services and to cancel all or any part of the services that do not conform to the prescribed Scope of Work as described in Attachment A.
- F. **Acceptance/Payment:** Unless otherwise agreed to in writing by County, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made in arrears after satisfactory acceptance.
- G. **Warranty:** Contractor expressly warrants that the goods covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) 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 its indemnitees as identified in paragraph "Z" below, and as more fully described in paragraph "Z," harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods/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 "Z" 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, costs and expenses but not including attorney's fees.
- I. **Assignment:** 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 by Contractor without the express written consent of County. Any attempt by Contractor to assign 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 penalties pursuant to Section 1741 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 immediately terminate this Contract without penalty for cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any material 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 obligation.
- 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. **Independent Contractor:** Contractor shall be considered an independent contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through County.
- N. **Performance Warranty:** Contractor shall warrant 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 goods/services furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all necessary labor, supervision, machinery, equipment, materials, and supplies, 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. If permitted to subcontract, Contractor shall be fully responsible for all work performed by subcontractors.

O. **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 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 Contract, 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:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage owned or scheduled, 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
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 the ***County of Orange, its elected and appointed officials, officers, employees, and agents*** 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 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 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, employees, and agents*** or provide blanket coverage, which will state ***As Required by Written Contract***.

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, employees, and agents 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.

All insurance policies required by this Contract shall waive all rights of subrogation against the ***County of Orange, its elected and appointed officials, officers, employees, and agents*** 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 the County may suspend or terminate this Contract.

If Contractor's Technology Errors & Omissions and/or Network Security & Privacy Liability are "Claims-Made" policy(ies), 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 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.

- P. **Changes:** Contractor shall make no changes in the work or perform any additional work without the County’s specific written approval.
- Q. **Change in Ownership:** 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 terms of sale or other 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.
- 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 36 hours of the start of the delay and Contractor avails himself of any available remedies.
- 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.
- 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 Article “Z” 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 any violation of such laws.

- U. **Freight:** Prior to the County's express acceptance of delivery of products, Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
- 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.
- W. **Attorney Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, each Party shall bear its own attorney's fees, costs, and expenses.
- 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 had 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.
- Y. **Employee Eligibility Verification:** Contractor warrants that it fully complies with all federal and State laws 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 law and regulation. Contractor shall obtain from all employees performing work hereunder all verification and other documentation of employment eligibility status required by federal or State laws 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. Contractor shall indemnify, defend with counsel approved in writing by County, and hold County and County Indemnitees (as defined in Article Z below) harmless from employer sanctions and any other liability which may be assessed against the Contractor or County or both in connection with any alleged violation of any federal or State law or regulation pertaining to the eligibility for employment of any persons performing work under this Contract.
- 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 for 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.
- 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 subcontractor related to performance of this Contract.

Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this Contract shall be forwarded to the County Project Manager.

- 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-assigned DPA 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.

Additional Terms and Conditions

1. **Scope of Contract:** This Contract specifies the contractual terms and conditions by which the County will procure services from Contractor as further detailed in the Scope of Work, identified and incorporated herein by this reference as "Attachment A."
2. **Term of Contract:** The term of this Contract shall commence on February 1, 2024, and continue through June 30, 2025.
3. **Precedence:** The Contract documents consist of this Contract and its exhibits and attachments. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, and then the exhibits and attachments.
4. **Compensation:** This is a not-to-exceed contract between the County and Contractor for services provided in Attachment A – Scope of Work. Compensation for services shall be as set forth in Attachment B – Compensation and Invoicing, attached hereto and made a part hereof.

Payment does not imply acceptance of work. Any payment by County, or the receipt thereof by Contractor, shall in no way lessen Contractor's obligation to replace unsatisfactory work, equipment, or materials whether or not the unsatisfactory character of such work, equipment, or materials was apparent or detected at the time such payment was made.

5. **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.

6. **Conflict of Interest – Contractor’s Personnel:** 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 Contractor, its employees, agents, and subcontractors associated with accomplishing work and services hereunder. Contractor’s efforts shall include, but not be limited to, establishing precautions to prevent 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 from acting in the best interests of the County.
7. **Conflict of Interest – County Personnel:** County Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest or creating the appearance of such a conflict. Contractor shall not, during the period of this Contract, employ any County employee for any purpose.
8. **County Project Manager:** County shall appoint a “County Project Manager” to act as liaison between the County and the Contractor during the term of this contract. The County Project Manager shall coordinate the activities of the County staff assigned to work with the Contractor.
9. **Contractor Project Manager and Key Personnel:**

Contractor shall appoint a “Contractor Project Manager” to direct the Contractor’s efforts in fulfilling Contractor’s obligations under this Contract. This Contractor Project Manager shall be subject to approval by the County and shall not be changed without the written consent of the County Project Manager, which consent shall not be unreasonably withheld.

The Contractor Project Manager shall be assigned to this project for the duration of the Contract and shall diligently pursue all work and services to meet the project timelines. The County Project Manager shall have the right to require the removal and replacement of the Contractor Project Manager from providing services to the County under this Contract. The County Project Manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within three (3) business days after written notice by the County Project Manager. The County Project Manager shall review and approve the appointment of the replacement for the Contractor Project Manager. The County is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor Project Manager from providing further services under the Contract.

10. **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 without first obtaining written approval of said news releases from the County Project Manager.
11. **Publication:** No copies of sketches, schedules, written documents, computer-based data, photographs, maps or graphs, including graphic artwork, 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 newspaper, magazines, etc., are to be administered only by the County unless otherwise agreed to by both Parties.
12. **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 time by the Contractor Project Manager and the County’s Project Manager, such

matter shall be brought to the attention of the County Deputy Purchasing Agent by way of the following process:

- a. Contractor shall submit to the agency/department assigned Deputy Purchasing Agent 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.
 - b. Contractor's written demand shall be fully supported by true and factual information, and, if such demand involves a cost adjustment to the Contract, 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 Contractor believes the County is liable.
- B. Pending the final resolution of any dispute arising under, related to, or involving this Contract, Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. 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 Deputy Purchasing Agent or his designee. If County fails to render a decision within 90 days after receipt of Contractor's demand, such failure to respond shall be deemed a final decision denying Contractor's demanded relief. Nothing in this Article 14 shall be construed as affecting County's right to terminate the Contract for cause or for convenience as stated in Article K of the General Terms and Conditions.

13. **Errors and Omissions:** All reports, files, and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by Contractor Project Manager and applicable key personnel identified in Attachment A prior to submission to County. Contractor agrees that County review is discretionary, and Contractor shall not assume that the County will discover errors and/or omissions. If County discovers any errors or omissions prior to approving Contractor's reports, files, or other written documents, the applicable reports, files, or documents will 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 documents shall not be used as a defense by Contractor in any dispute or action between County and Contractor, and the reports, files, or documents will be returned to Contractor for correction.
14. **Gratuities:** Contractor warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Contractor or its agent or representative to any County officer or employee 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. County's rights and remedies described in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.
15. **Notices:** All notices, requests, demands, and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing with a copy provided to the County DPA, except through the course of the Parties' project managers' routine exchange of information and cooperation during the course of performance. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is made in person, or upon delivery on the actual day of receipt or no greater than four (4) 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.

For Contractor: Company Name: ARK Technologies
 Attention: Alan Van Leuven
 Address: 1021 Miramar St.
 Laguna Beach, CA 92651

For County: Orange County
 Auditor-Controller
 Attention: Clarissa Adriano-Ceres
 1770 N. Broadway
 Santa Ana, CA 92706
 E-mail: clarissa.adriano-ceres@ac.ocgov.com

CC: Orange County
 Auditor-Controller
 Attention: Lorena Bogarin, DPA
 1770 N. Broadway
 Santa Ana, CA 92706
 E-mail: Lorena.Bogarin@ac.ocgov.com

16. Rights in Work Product:

- a. All inventions, discoveries, intellectual property, technical communications, and records originated or prepared by Contractor pursuant to this Contract including documents, reports, charts, computer programs, and other incidental or derivative work or materials furnished hereunder (“Work Product”) shall become and remain County’s sole property and may be used by County as it may require without additional cost to County. None of the Work Product shall be used by Contractor without County’s express written consent.
- b. Software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of this Contract (“Pre-Existing Materials”) do not constitute Work Product. If Contractor creates derivative works of such Pre-Existing Materials, the elements of such derivative works created pursuant to this Contract constitute Work Product, but other elements do not. Nothing in this Article 18 shall be construed to interfere with Contractor’s ownership of Pre-Existing Materials.
- c. County will have Government Purpose Rights to the Work Product delivered to County hereunder. “Government Purpose Rights” are the unlimited, irrevocable, worldwide, perpetual, royalty-free, non-exclusive rights and licenses to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product. “Government Purpose Rights” also include the right to release or disclose the Work Product outside the County for any County government purpose and to authorize recipients to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product for County’s benefit. Such recipients of the Work Product may include without limitation County contractors as well as federal, state, and other local governmental entities. “Government Purpose Rights” do not include any rights to use, modify, reproduce, perform, release, display, create derivative works from, or disclose the Work Product for any commercial purpose.
- d. The ideas, concepts, know-how, or techniques related to data processing developed by Contractor or jointly by Contractor and County during the course of this Contract may be used by either Party without obligation of notice or accounting.

- e. This Contract shall not preclude Contractor from developing materials outside this Contract that are competitive, irrespective of their similarity to materials which might be delivered to County pursuant to this Contract.

17. **Reports and Meetings:** Contractor shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in this Contract. The County Project Manager and the Contractor Project Manager will meet on reasonable notice to discuss Contractor's performance and progress under this Contract. If requested, the Contractor 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.

18. **Termination – Orderly:** Upon receipt of a termination notice from County, Contractor shall stop work under this Contract on the date and to the extent specified in the termination notice. Contractor shall complete performance of all portions of the work not terminated by the termination notice, if any. Contractor may submit to County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than sixty (60) calendar days from the effective date of the termination, unless one or more extensions in writing are granted by County upon Contractor's written request. Upon termination, County shall pay Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation combined with 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 performance of the Contract and Contractor shall return all County Data in the file format mutually agreeable by the Parties within thirty (30) calendar days.

In addition, Contractor at its own expense shall erase, destroy, and render unreadable all data in its entirety remaining in Contractor's (including any subcontractor's) possession, **but only after the County Data has been returned to County and County has confirmed the integrity and completeness of such data.** County Data must be erased in a manner that prevents its physical reconstruction using 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 comes first. Encrypted backups must be erased within sixty (60) calendar days after termination or expiration of this Contract. To the extent that any applicable law or court order prevents Contractor from destroying or erasing County Data as set forth herein, Contractor shall retain, in its then current state, all such County Data then within its right of control or possession in accordance with the confidentiality, security, and other requirements of this Contract and perform its obligations under this Article as soon as such law or court order no longer prevents it from doing so.

19. **Breach of Contract:** Contractor's failure 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, in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:

- a. Terminate the Contract immediately pursuant to Article K of the General Terms and Conditions;
- b. Afford 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;
- c. Discontinue payment to Contractor for and during the period in which Contractor is in breach; and
- d. Offset against any monies billed by Contractor but not yet paid by County those monies disallowed pursuant to this Contract.

20. **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 know the general conditions which can affect the work or the cost thereof. Contractor's failure to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to County. County assumes no responsibility for any understanding or representation concerning the nature, location(s), or general conditions made by any of its officers, employees, or agents prior to the execution of this Contract unless such understanding or representation is expressly stated in this Contract.
21. **Contractor's Expense:** Contractor will be responsible for all costs related to photo copying, telephone communications, fax communications, and parking while on County sites during the performance of work and services under this Contract. County will not provide free parking for any service in the County Civic Center except parking located at or near 1770 N. Broadway, Santa Ana CA 92706.
22. **Usage:** No guarantee is given by County to Contractor regarding usage of this Contract. Usage figures, if provided, are approximations. Contractor agrees to supply services and/or commodities requested at rates/prices listed in the Contract, regardless of quantity requested.
23. **SaaS and Data Security:**
- a. Contractor shall certify to the County:
 - i. The sufficiency of its security standards, tools, technologies, and procedures in providing SaaS under this Contract;
 - ii. Compliance with the following:
 - (1) All laws and regulations applicable to Contractor in connection with the operation of its business as it pertains to this Contract;
 - (2) Undergo an annual Statement on Standards for Attestation Engagements (SSAE) No. 16 Service Organization Control (SOC) 2 Type II audit. Audit results and Contractor's plan to correct any negative findings shall be made available to the County upon request; and
 - (3) Privacy provisions of the Federal Privacy Act of 1974; and
 - iii. Compliance with the following, as applicable:
 - (1) Data will be on the government cloud with proper security measures.
 - b. Contractor shall implement and maintain appropriate administrative, physical, technical, and procedural safeguards in accordance with section a) above at all times during the term of this Contract that are designed to secure such data from data breach, protect the Data and the SaaS from hacks, introduction of viruses, disabling devices, Malware and other forms of malicious or inadvertent acts that can disrupt the County's access to its data.
 - c. No County Data shall be copied, modified, destroyed, or deleted by Contractor other than for normal operation or maintenance of SaaS or as otherwise necessary for Contractor to perform its duties under the Contract during the Contract period, or for product analysis or improvement purposes, unless otherwise agreed between the Parties in writing.
24. **Acceptance of Services:** Acceptance of the Services or any portion thereof shall not be deemed complete unless in writing and until all the Services have been received, inspected, and tested to the reasonable satisfaction of County, including but not limited to the testing set forth in Article 27, Acceptance Testing.
25. **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 the 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. Moreover, nothing in this Article shall limit in any way the County's right to terminate immediately for cause or convenience pursuant to Article K of the General Terms and Conditions.

a. Acceptance Testing:

Contractor shall notify County in writing of its completion and delivery of each Deliverable by providing a "Deliverable Acceptance Memorandum" to the County's Project Manager identifying the Deliverable Number and title. At a mutually agreed 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. If the component or Deliverable is identified as being part of a larger, integrated system being developed thereunder, then any Acceptance under the terms of this subsection shall be understood as being conditional acceptance ("Conditional Acceptance"), and such component or Deliverable shall be subject to Final Acceptance, as described below.

b. Cure: If County determines that a component or Deliverable does not conform to the applicable Acceptance Criteria, and that it is in County's interest to allow Contractor additional time to correct the problem, County shall deliver to Contractor a written exception report describing the nonconformity (the "Exception Report"). Within ten (10) 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 reasonably 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 incurable 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, 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"); 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 County’s waiver 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 the County’s Final Acceptance thereof. Nothing else, including the 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” of the System in contract law or otherwise.

26. **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. 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 A. Any resources utilized by the Contractor pursuant to the terms hereof shall incorporate methods permitting measurement of all performance related SLRs. Contractor shall measure and compare the actual or observed performance resulting from Contractor’s performance of the Services with the SLRs during each month. Contractor shall prepare and deliver or make available to the County’s Project Manager by the tenth (10th) business day of the following month, a SLR report in a format to be agreed to by the County’s Project Manager and the Contractor’s Project Manager as set forth in Attachment A.
27. **Service Level Fee Reductions:**
- a. Contractor’s failure to meet the Application Performance and Service Level Requirements described in Attachment A will result in the Fee Reductions stated in Attachment B, Compensation and Invoicing. The Parties agree that the Fee Reductions reflect a reasonable estimate of the diminished value of the Services as a result of any Contractor failure to provide the Services in accordance with the Service Level Requirements, and accordingly do not constitute nor shall be construed or interpreted as unenforceable penalties.
 - b. Fee Reductions shall in no event be County’s sole and exclusive remedy with respect to any failure of Contractor as described in this clause.
 - c. Fee Reductions shall be in the form of a credit to County to be applied to the subsequent invoice(s) until County is fully compensated such Fee Reduction.
 - d. If Contractor fails to issue the Fee Reduction credit, the County may automatically deduct the credit from any monies due or owing to the Contractor from the County.
 - e. Contractor shall provide a corrective action plan upon identification of the issue in accordance with the Service Level Requirement outlined in Attachment A.
28. **Set-Off:** The 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, County shall provide Contractor with a written accounting of such set-off and a written statement of the reasons therefore

29. **Disputed Amounts:** County may withhold payment of fees or any other charges otherwise due to Contractor under this Contract to the extent that County reasonably 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 pay the withheld amount in accordance with this Contract until such amount is 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 reimburse the County, in cash, the improperly paid amount. County's failure to withhold payment shall not constitute County's waiver of any other rights County may have with respect to disputed amounts or overpayments.
30. **Non-Exclusivity:** Nothing herein shall prevent County from providing for itself or obtaining from any third party, at any time during the Contract 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 Contract term to increase or decrease its demand for Services hereunder.
31. **Software License:** Contractor hereby grants to County and County accepts from the Contractor, subject to the terms and conditions of this Contract, a royalty-free, non-exclusive license to use all Software of any type provided by Contractor to County and associated documentation pursuant to this Contract. The license is extended to any contractors, subcontractors, vendors, consultants, and others who have a need to use the Software for County's benefit. County may use the Software only in connection with the use of the Services and according to any licensing terms specified elsewhere in the Contract

Acceptance of Software (including third party Software) will be governed by the terms and conditions of this Contract alone and not any separate license agreement or other similar agreement. All automated end-user license agreements (including, but not limited to, click-throughs, shrink-wrap, or browse-wrap) and other non-negotiated terms and conditions provided with the Software are specifically excluded and null and void. All such terms and conditions do not constitute a part or amendment of this Contract and are non-binding on County, its employees, agents, and other authorized users, even if access to or use of the Software requires affirmative acceptance of such terms and conditions. For any automated end-user license agreement that requires the end user to manifest his or her assent to terms and conditions by clicking an "agree" or other affirmative button on a dialog box or pop-up window as part of the installation process or use of Software, clicking does not represent acknowledgement or agreement to any terms and conditions contained in those agreements. The sole purpose of the automated end-user license agreement is to operate as the mechanism for the installation of the Software.

32. **Future Releases:** Unless otherwise specifically provided in this Contract, or the Scope of Work, if improved versions (e.g., patches, bug fixes, Updates, or releases) of any solution are developed by Contractor, and are made available to other licensees, they will be made available to County at no additional cost if such are made available to other licensees at no additional cost. If Contractor offers new versions or Upgrades to the solution, they shall be made available to County at County's option at a price no greater than the additional price proportionate to the increase from the list price of the original version to that of the new version, if any. If the Software 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.
33. **Software Maintenance:** The correction of any residual errors in Software which may be discovered by either Party will be considered maintenance. Such maintenance will be performed by Contractor without additional charge for the duration of this Contract. Contractor will be available to assist County in isolating and correcting error conditions caused by County's particular hardware or operating system at rates specified in this Contract. If Contractor is called upon to correct an error caused by the County's

negligence, modification by the County, County-supplied data, or machine or operator failure or due to any other cause not inherent in the original Software, Contractor may charge County for such service on a time-and-material basis at rates in accordance with this Contract.

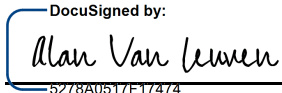
34. **Legal Entity:** Should Contractor cease to exist as a legal entity, Contractor's records pertaining to this Contract shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the County's Project Manager.
35. **Data Location:** Except as explicitly agreed in writing by County, the physical location of the Contractor's data center(s) where County Data is stored shall be within the continental United States.
36. **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, state, or local governmental department or agency.

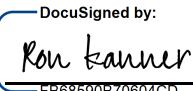
[Signature page follows.]

Signature Page

IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the date following their respective signatures.

Contractor: ARK Technologies

DocuSigned by:			
	Alan Van Leuven	Partner	12/21/2023
Signature	Name	Title	Date

DocuSigned by:			
	Ron Kanner	Partner	12/21/2023
Signature	Name	Title	Date

COUNTY OF ORANGE

A political subdivision of the State of California

COUNTY AUTHORIZED SIGNATURE:

Signature	Name	Title	Date
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APPROVED AS TO FORM:

County Counsel

By  _____
 Deputy

Date 12/21/2023

* If the contracting party is a corporation, (2) two 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 signee to bind the corporation.

Attachment A: Scope of Work

The County's legacy Assessment Tax System (ATS) was built over thirty-five (35) years by the County, utilizing the services of Contractor. The County undertook a five (5) year Property Tax System (PTS) project to modernize the legacy system by re-architecting it from the IBM mainframe to an open system platform. Contractor provided technical and operational expertise to the County and its effort. PTS went live on September 19, 2022.

The County must continue to advance this critical system and to take on two PTS projects over the next two years. First, PTS does not have a disaster recovery site. This state must be addressed on this critical tax system. The Auditor-Controller is in the process of implementing a new disaster recovery system in Fiscal Year 2023-24 and will complete in Fiscal Year 2024-25. Second, the PTS production system's hardware and software platform is reaching a point where it needs to be replaced. After using this platform for five years in the development of PTS and then two years in its production operations, the platform must be refreshed. The platform replacement is scheduled for Fiscal Year 2024-25. Contractor's services will be beneficial on both efforts.

The County intends to utilize Contractor's knowledge and expertise in the required disaster recovery site's development, its platform technology upgrade, and to provide continued PTS technical support.

During this timeframe, the following technical upgrades/refresh efforts will be undertaken:

1. Upgrade PTS from JAVA 8 to JAVA 17 - Includes performance enhancements, language improvements, security updates, better tool support, bug fixes, and long-term support. Effort includes:
 - Upgrading the PTS framework (Spring Boot, Spring Batch) and (2) build-management tools (Control-M, Jenkins, Maven), updating the libraries to the latest versions, and updating or replacing incompatible or deprecated services and Application Programming Interfaces (APIs)
 - Testing to verify that the changes made to the code do not break existing functionality.
2. Development of PTS Disaster Recovery Platform
 - The County currently does not have a dedicated disaster recover site for this critical system. The PTS environment currently consists of a Dev, UAT and Production environments hosted on premise. PTS needs a viable path to enable a Disaster Recovery Production environment that also includes development and deployment infrastructures to be available if there is a system-wide outage.
 - The PTS-IT Team needs to work with OCIT/SAIC to come up with the solution.
 - The PTS-IT Team needs to test the solution to make sure the DR configuration works the same way as the Production state.
3. Perform PTS Platform Refresh
 - The PTS servers will be at least seven years old by FY 2024-25 and will need to be refreshed to ensure that the infrastructure remains up to date with computing power and capabilities and take advantage of improved security.
 - The PTS-IT Team needs to participate in this upgrade and to test the application's functionalities after the refresh to make sure PTS still works as expected with existing features and connections. The team also needs to evaluate performance and impacts of the changes, assess security implications, and evaluate how the new infrastructure handles increased loads or stress.

Contractor will significantly and qualitatively add to the PTS team's resources and minimize its risk by supplying the services outlined herein.

1. For system issues, user request, and approved changes, including required changes to or addition of system interfaces:
 - a. Analyze service requests/issues reported by users.
 - b. Help gather requirements and ticket details.
 - c. Research, analyze, troubleshoot, and determine probable solutions
 - d. Document root cause analysis and solution
 - e. Conduct impact and effort analysis. Communicate outcome of analysis with County
 - f. Code-review changes to identify potential issues or improvements to newly introduced code
 - g. Test PTS application including:
 - i. Creation of test data
 - ii. Create test plan
 - iii. Document complex scenarios
 - iv. Test individual components/functions
 - v. Integration testing
 1. Test how different components interact with each other
 2. Verify that changes in one part do not negatively impact other parts
 - h. Evaluate output of programs
 - i. Evaluate database changes, data fixes and recommendations to potentially improve database structure
 - j. Prepare program/s for deployment
 - k. Maintain service ticket
2. Address and resolve balancing issues.
3. Provide backup support to developers and analysts
4. Work with end-users to test changes/fixes to ensure they meet user expectations and requirements, especially customer-facing functionalities
5. Assist the County in the maintenance of interfaces.
6. Assist the County in the assessment of changes to hardware and software infrastructure.
7. Assist the County in the testing of changes to hardware and software infrastructure
8. Assist the County in building test scenarios and prepare test data.
9. Assist the County in testing through data verification and the resulting functionalities.
10. Provide the necessary technical and troubleshooting support.
11. Assist the County in the development or maintenance of system and end-user documentation.

Attachment B: Compensation and Invoicing

1. **Compensation:** This is a not-to-exceed fee Contract between the County and Contractor for Property Tax System Technical Support as set forth in Attachment A, "Scope of Work."

The Contractor agrees to accept the specified compensation as set forth in this Contract as full payment for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder. The Contractor shall only be compensated as set forth herein for work performed in accordance with the Scope of Work. The County shall have no obligation to pay any sum in excess of the fixed rates specified herein unless authorized by amendment in accordance with Article C of the County Contract Terms and Conditions.

2. **Fees and Charges:** County will pay the following fees in accordance with the provisions of this Contract. Payment shall be as follows:

	FY 2023 – 2024	FY 2024 - 2025	Total
Months	2/1/2024 – 6/30/2024	7/1/2024 – 6/30/2025	
Hourly Rate	\$168.35	\$168.35	
Maximum # Hours	1,906.67	4,576.00	6,482.67
Maximum Cost	\$320,987.89	\$770,369.60	\$1,091,357.49

The total not-to-exceed amount of this contract is \$1,091,357.49.

3. **Price Increase/Decreases:** No price increases will be permitted during the first period of the Contract. The County requires documented proof of cost increases on Contracts prior to any price adjustment. A minimum of 30 days advance notice in writing is required to secure such adjustment. No retroactive price adjustments will be considered. All price decreases will automatically be extended to the County of Orange. The County may enforce, negotiate, or cancel escalating price Contracts or take any other action it deems appropriate, as it sees fit. The net dollar amount of profit will remain firm during the period of the Contract. Adjustments increasing the Contractor's profit will not be allowed.
4. **Firm Discount and Pricing Structure:** Contractor guarantees that prices quoted are equal to or less than prices quoted to any other local, state, or federal government entity for services of equal or lesser scope. Contractor agrees that no price increases shall be passed along to the County during the term of this Contract not otherwise specified and provided for within this Contract.
5. **Contractor's Expense:** The Contractor will be responsible for all costs related to photo copying, telephone communications and fax communications while on County sites during the performance of work and services under this Contract.
6. **Payment Terms – Payment in Arrears:** Invoices are to be submitted in arrears to the end-user agency/department to the ship-to address, unless otherwise directed by County. Vendor shall reference the Contract number on all invoices. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange and verified and approved by the agency/department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

Billing shall cover services and/or goods not previously invoiced. The Contractor shall reimburse the County of Orange for any monies paid to the Contractor for goods or services not provided or when goods or services do not meet the Contract requirements.

Payments made by the County shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.

7. **Taxpayer ID Number:** The Contractor shall include its taxpayer ID number on all invoices submitted to the County for payment to ensure compliance with IRS requirements and to expedite payment processing.

8. **Payment – Invoicing Instructions**

Contractor will provide an invoice on Contractor's letterhead for goods delivered and/or services rendered. In the case of goods, Contractor will leave an invoice with each delivery. Each invoice will have a number and will include the following information:

1. Contractor's name and address
2. Contractor's remittance address, if different than 1 above
3. Name of County Department
4. Contract # **MA-003-24010749**
5. Contractor's Federal I.D. Number
6. Milestone Name and Description
7. Service dates
8. Invoice Amount (the amount invoiced shall not exceed the established fixed fee price for each Milestone)
9. Total Due to Contractor

Contractor is responsible for providing acceptable invoices. Incomplete or incorrect invoices are not acceptable and shall be returned to Contractor for correction. The County's Project Manager, or designee, is responsible for approval of invoices and subsequent submittal of invoices to the Auditor-Controller for processing of payment.

Invoices and support documentation are to be forwarded to:

Orange County Auditor-Controller/Finance Department
Attention: AC Invoices
1770 N. Broadway
Santa Ana, CA 92706
Email: ACInvoices@ac.ocgov.com

9. **Payment (Electronic Funds Transfer)**

County offers Contractor the option of receiving payment directly to its bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT shall also receive an Electronic Remittance Advice with the payment details via e-mail.

An e-mail address will need to be provided to County via an EFT Authorization Form. Contractor may request a form from the agency/department representative listed in the Contract.