



## **EXHIBIT A**

### **STANDARD TERMS AND CONDITIONS**

### **COUNTY OF LOS ANGELES ORGANIZATIONAL GRANT PROGRAMS**

## TABLE OF CONTENTS

|  |    |
|--|----|
| § 100. DEFINITIONS.....  | 1  |
| § 101. “Agreement”.....  | 1  |
| § 102. “Auditor-Controller”.....   | 1  |
| § 103. “Commission”.....   | 1  |
| § 104. “Grantee”.....  | 1  |
| § 105. “County”.....   | 1  |
| § 106. “Executive Director”.....   | 1  |
| § 107. “Grant Amount”.....   | 1  |
| § 108. “Grant Application”.....  | 1  |
| § 109. “Grants Program”.....   | 1  |
| § 110. “Services” or “Performance”.....  | 1  |
| § 111. “State”.....  | 1  |
| § 200. ASSURANCES/CERTIFICATIONS.....  | 1  |
| § 201. Compliance with Laws.....   | 1  |
| § 202. Copyrights/Privacy Rights.....  | 2  |
| § 203. Nondiscrimination and Assurance of Compliance with Civil Rights.....    | 2  |
| § 204. Wage and Hour Laws.....   | 3  |
| § 205. Safety and Working Conditions.....                                      | 3  |
| § 206. Employment Eligibility Verification.....                                | 3  |
| § 207. Drug Free Workplace Compliance.....                                     | 4  |
| § 208. Conflict of Interest/Contracts Prohibited.....                          | 4  |
| § 209. Lobbying.....   | 4  |
| § 210. County Layoffs.....   | 4  |
| § 211. GAIN/GROW Program Participants.....                                     | 5  |
| § 212. Covenant Against Contingent Fees.....                                   | 5  |
| § 213. Warranty of Adherence to County’s Child Support Compliance Program..... | 5  |
| § 214. Debarment and Suspension.....   | 5  |
| § 215. Notification of Federal Earned Income Credit.....                       | 6  |
| § 216. Protection Against Fraud and Abuse.....                                 | 7  |
| § 217. Authorization Warranty.....   | 7  |
| § 218. Employee Jury Duty Service Program.....                                 | 7  |
| § 219. Notice to Employees Regarding Safely Surrendered Baby Law.....          | 8  |
| § 220. Grantee's Charitable Activities Compliance.....                         | 8  |
| § 221. Transitional Job Opportunities Preference Program.....                  | 8  |
| § 300. INDEPENDENT STATUS.....   | 9  |
| § 301. Independent Contractor.....   | 9  |
| § 302. No Authority to Bind County.....  | 9  |
| § 303. Requisite Skills.....   | 9  |
| § 304. Identification.....   | 9  |
| § 400. INDEMNIFICATION AND INSURANCE.....                                      | 9  |
| § 401. Indemnification.....  | 9  |
| § 402. Public Entities.....  | 9  |
| § 403. Insurance.....  | 10 |
| § 404. Notification of Incidents, Claims or Suits.....                         | 10 |
| § 405. Compensation for County Costs.....                                      | 11 |
| § 406. Insurance Coverage Requirements for Subcontractors.....                 | 11 |
| § 407. Self-Insurance and Self-Insured Retentions.....                         | 11 |
| § 408. Failure to Procure or Maintain Insurance.....                           | 11 |

|  |    |
|--|----|
| § 500. OPERATIONAL RESPONSIBILITIES.....   | 12 |
| § 501. County Rules.....   | 12 |
| § 502. Permits/Licenses.....   | 12 |
| § 503. Credit.....   | 12 |
| § 504. Prevailing Wage.....  | 12 |
| § 505. Public Statements.....  | 12 |
| § 600. AUDITS/RECORDS/REPORTS.....   | 12 |
| § 601. Audits.....   | 12 |
| § 602. Inspection of Records.....  | 13 |
| § 603. Progress Reports.....   | 13 |
| § 604. Records/Data.....   | 13 |
| § 700. TERMINATION/CANCELLATION OF SERVICES/PERFORMANCES .....   | 14 |
| § 701. Termination of Agreement for Default.....   | 14 |
| § 702. Termination for Convenience.....  | 14 |
| § 703. Termination for Improper Consideration.....   | 14 |
| § 704. Termination for Breach of Warranty to Maintain Compliance with County's Child Support Compliance Program.....         | 14 |
| § 705. Force Majeure.....  | 14 |
| § 706. Program Termination.....  | 15 |
| § 707. Termination for Non-Appropriation of Funds.....   | 15 |
| § 708. Grantee Action Upon Termination.....  | 15 |
| § 709. Reimbursement of Funds.....   | 15 |
| § 800. GENERAL PROVISIONS.....   | 16 |
| § 801. Contract Modifications/Amendments.....  | 16 |
| § 802. Assignments.....  | 16 |
| § 803. Notices.....  | 16 |
| § 804. Waivers.....  | 16 |
| § 805. Validity.....   | 17 |
| § 806. Entire Agreement.....   | 17 |
| § 807. Captions.....   | 17 |
| § 808. Subcontracting.....   | 17 |
| § 809. Public Records Act.....   | 17 |
| § 810. County's Quality Assurance Plan.....  | 18 |
| § 811. Recycled Bond Paper.....  | 18 |
| § 812. Nonexclusivity.....   | 18 |
| § 813. Endorsement.....  | 18 |
| § 814. Governing Law.....  | 18 |
| § 815. Interpretation.....   | 18 |
| § 816. Proprietary Rights.....   | 18 |
| § 817. Warranty of Compliance with County's Defaulted Property Tax Reduction Program.....                                    | 19 |
| § 818. Termination for Breach of Warranty to Maintain Compliance with County's Defaulted Property Tax Reduction Program..... | 19 |

## STANDARD TERMS AND CONDITIONS

### COUNTY OF LOS ANGELES ORGANIZATIONAL GRANT PROGRAMS

**§ 100. DEFINITIONS.** For purposes of the Agreement, including all Exhibits/Attachments thereto, the following definitions shall govern its interpretation:

**§ 101. "Agreement"** shall mean the agreement by and between the Grantee and the County of Los Angeles, by and through its Los Angeles County Arts Commission, which agreement shall include the primary document and all exhibits/attachments and/or documents referenced therein.

**§ 102. "Auditor-Controller"** shall mean the Auditor-Controller of the County of Los Angeles and/or his/her designee.

**§ 103. "Commission"** shall mean the Arts Commission of the County of Los Angeles.

**§ 104. "Grantee"** shall mean the agency or individual contracting with the County under the terms and conditions of this Agreement, including Grantee's employees, agents, assigns, contractors, subcontractors, and anyone else involved in any manner in the exercise of the rights therein given to the Grantee.

**§ 105. "County"** shall mean the County of Los Angeles.

**§ 106. "Executive Director"** shall mean the Executive Director of the Arts Commission and/or her designee.

**§ 107. "Grant Amount"** shall mean the amount(s) awarded to Grantee and identified in **Section 4** of the primary document to this Agreement.

**§ 108. "Grant Application"** shall mean Grantee's application submitted of the Los Angeles County Organizational Grant Program administered by the Commission.

**§ 109. "Grants Program"** shall mean the Los Angeles County Organizational Grants Program administered by the Commission.

**§ 110. "Services" or "Performance"** shall mean the services, performance, and/or project identified in Section 2 of the primary document of this Agreement, as more specifically set forth in the Grantee's Grant Application submitted for the current funding period for the Organizational Grants Program.

**§ 111. "State"** shall mean the State of California.

**§ 200. ASSURANCES/CERTIFICATIONS.** The Grantee provides the following assurances and certifications, and agrees to the following terms:

**§ 201. Compliance with Laws.** The Grantee certifies and agrees that it shall comply with all applicable federal, State and local laws, rules, regulations, ordinances, and directives, and all provisions required to be included in this Agreement are incorporated by this

reference. The County reserves the right to review the Grantee's policies and procedures to ensure compliance with such laws, rules, regulations, ordinances, and directives, as applicable. The Grantee shall indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officials, officers, employees and agents from and against any and all loss, damage or liability resulting from a violation by the Grantee, its agents, officers and employees of any such laws, rules, regulations, ordinances, and directives.

**§ 202. Copyrights/Privacy Rights.** The Grantee shall neither violate nor infringe upon any copyright, right of privacy, or other statutory or common law right of any person, firm or corporation, nor, if authorized to do radio or television broadcasts pursuant to amendment hereto, violate the rules and regulations of the Federal Communications Commission or the National Association of Broadcasters. Further, the Grantee will not defame or harm the reputation of any person, firm or corporation as a result of entering into this Agreement. The Grantee shall indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officials, officers, employees and agents from any and all sanctions or other liability which may be assessed against the County by reason of the Grantee's failure to comply with the foregoing.

**§ 203. Nondiscrimination and Assurance of Compliance with Civil Rights.** (a) The Grantee assures and certifies that all persons employed by it, its affiliates, subsidiaries or holding companies, if any, are and will be treated equally by it without regard to, or because of race, color, creed, religion, ancestry, national origin, sex, age, disability, medical condition, genetic information, marital status, familial status, political affiliation, or sexual orientation, in compliance with all anti-discrimination laws and regulations of the United States of America and the State as they now exist or may hereafter be amended.

(b) Grantee certifies to, and agrees to comply with the provisions of the Grantee's EEO Certification.

(c) Grantee shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, ancestry, national origin, condition of physical or mental disability, marital status or political affiliation, in compliance with all applicable federal and State anti-discrimination laws and regulations. Such action shall include but not be limited to, the following employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(d) Grantee hereby assures that it will comply with the Civil Rights Act of 1964, 42 USC sections 2000e through 2000e-17, to the end that no person shall, on grounds of race, religion, color, sex, national origin, condition of physical or mental disability, marital status or political affiliation be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement.

(e) To the extent applicable, Grantee certifies and agrees that it shall deal with its subcontractors, bidders or vendors without regard to or because of race, color, creed, religion, ancestry, national origin, sex, age, disability, medical condition, genetic information, marital status, familial status, political affiliation, or sexual orientation as required by all applicable anti-discrimination laws and regulations of the United States and the State as they now exist or may hereafter be amended.

(f) The Grantee certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable federal and State laws and regulations to the end that no person shall, on the grounds of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, be excluded from participation in, be denied

the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement.

(g) Subject to applicable privacy law and the requisite individual consents, Grantee shall allow authorized County representatives access to its employment records during regular business hours to verify compliance with these provisions when so requested by the Executive Director.

(h) If County finds that any of the above provisions in this **§ 203** have been violated, the same shall constitute a material breach of contract upon which County may determine to cancel, terminate, or suspend this Agreement. While County reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated, in addition, a determination by the State Fair Employment and Housing Commission or the federal Equal Employment Opportunity Commission that Grantee has violated State or federal anti-discrimination laws or regulations shall constitute a finding by County that Grantee has violated the anti-discrimination provisions of this Agreement.

(i) The parties agree that in the event Grantee violates the anti-discrimination provisions of this Agreement, County shall, at its option, be entitled to revoke the grant award and recover from Grantee all amounts paid by County to the Grantee pursuant to this Agreement.

**§ 204. Wage and Hour Laws.** To the extent applicable, the Grantee assures and certifies that it shall comply with all State and federal wage and hour laws, including but not limited to the federal Fair Labor Standards Act, as amended. The Grantee shall indemnify, defend, and hold harmless the County, its Special Districts, elected and appointed officials, officers, employees, and agents from and against any and all liability including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law including, but not limited to, the federal Fair Labor Standards Act, as amended, for Services/Performances performed by the Grantee's employees or covered individuals for which the County may be found jointly or solely liable.

**§ 205. Safety and Working Conditions.** (a) To the extent applicable, the Grantee shall comply with the provisions of the federal Occupational Safety and Health Act of 1970, as amended (29 USC § 651 *et seq.*) and the California Occupational Safety and Health Act and successor statutes, as well as other applicable health and safety statutes, ordinances, regulations and rules. Grantee assures that no employee will be required or permitted to work under working conditions which are unsanitary, hazardous or otherwise detrimental to the person's health or safety.

(b) Consistent with this **§ 205** and to the extent applicable, Grantee agrees that it shall comply with section 3203 of title 8 in the California Code of Regulations which requires all California employers to have a written, effective Injury and Illness Prevention Program (IIPP) that addresses hazards pertaining to the particular workplace covered by the program.

(c) In addition to other requirements set forth herein, Grantee certifies that it shall, at its own expense, provide its employees all necessary general and specific training with respect to safety and working conditions and provide its employees with all required personal protective equipment necessary to perform Services/Performances under this Agreement.

**§ 206. Employment Eligibility Verification.** (a) To the extent applicable, the Grantee warrants and certifies that it fully complies with all federal, State and local statutes, ordinances, and regulations regarding the employment eligibility of aliens and others, and that all persons performing Services/Performances under the Agreement are eligible for employment in the

United States. The Grantee shall indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officials, officers, employees and agents from and against any and all employer sanctions or other liability which may be assessed against the County by reason of the Grantee's failure to comply with the foregoing.

(b) The Grantee represents that he/she has secured and retained all required documentation verifying employment eligibility of its personnel, if any. The Grantee shall secure and retain verification of employment eligibility from any new personnel and, to the extent applicable, participants participating in or receiving services under this Agreement, in accordance with applicable provisions of law.

**§ 207. Drug Free Workplace Compliance.** The Grantee hereby warrants and certifies that it shall comply with California Drug-Free Workplace Act of 1990 (Cal. Gov. Code § 8350 *et seq.*), as amended, including provision of the requisite certification as set forth therein; and the federal Drug-Free Workplace Act of 1988, including its implementing regulations (29 CFR Part 98 commencing with §98.600), as applicable.

**§ 208. Conflict of Interest/Contracts Prohibited.** (a) The Grantee represents and warrants that no County employee, whose position enables him/her to influence the award of this Agreement, and no spouse or economic dependent of such employee, is or shall be employed in any capacity by the Grantee, or shall have any direct or indirect financial interest in this Agreement.

(b) The Grantee represents and warrants that it is aware of, and its authorized officers have read, the provisions of Los Angeles County Code Chapter 2.180 entitled "Contracting With Current or Former County Employees," and that execution of this Agreement will not violate those provisions. Anyone who is a former employee of the County at the time of execution of this Agreement or who subsequently becomes affiliated with the Grantee in any capacity shall not participate in the provision of Services/Performances provided under this Agreement or share in the profits of Grantee earned for a period of one year from the date he/she separated from County employment.

**§ 209. Lobbying.** The Grantee certifies that each County lobbyist, as defined in section 2.160.010 of the Los Angeles County Code, retained by Grantee shall fully comply with the County Lobbyist Ordinance (Los Angeles County Code Chapter 2.160). Failure on the part of any County lobbyist retained by Grantee to fully comply with the County Lobbyist Ordinance shall constitute a material breach of this Agreement upon which County may immediately terminate or suspend this Agreement.

**§ 210. County Layoffs.** (a) Should the Grantee require additional or replacement personnel after the effective date of this Agreement, the Grantee agrees to give due consideration for such employment openings to qualified permanent County employees who are targeted for layoff or qualified former County employees who are on a re-employment list during the life of this Agreement.

(b) Employment offers to qualified County employees shall be under the same conditions and rate of compensation that apply to other individuals who are employed or may be employed by Grantee.

(c) Grantee shall maintain records of each employment offer made to qualified County employees and other individuals. Such records shall include a description of the position and duties, rate of pay and fringe benefits, and whether the offer was accepted, rejected, or not responded to.

**§ 211. GAIN/GROW Program Participants.** (a) Should the Grantee require additional or replacement personnel after the effective date of this Agreement, the Grantee agrees to give due consideration for such employment openings to participants in the County's Department of Public Social Services' Greater Avenue for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet Grantee's minimum qualifications for the open position. Upon request from Grantee, the County will refer GAIN/GROW participants by job category to the Grantee for consideration.

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

(c) Notwithstanding § 210 and § 211 of these Standard Terms and Conditions, the Grantee and the County agree that, during the term of this Agreement and for a period of one year thereafter, neither party shall in any way intentionally induce or persuade any employee of one party to become an employee or agent of the other party. No bar exists against any hiring action initiated through a public announcement.

**§ 212. Covenant Against Contingent Fees.** (a) Grantee certifies and warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fees.

(b) For breach or violation of this warranty, the County shall have the right to terminate this Agreement and, in its sole discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fees. This right shall be in addition to any other legal remedy available to the County.

**§ 213. Warranty of Adherence to County's Child Support Compliance Program.**

(a) Grantee acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through contract are in compliance with their court-ordered child, family and spousal support obligations, if any, in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

(b) To the extent required by the County's Child Support Compliance Program (Los Angeles County Code Chapter 2.200) and without limiting Grantee's duty under this Agreement to comply with all applicable provisions of law, Grantee warrants that it is now in compliance and shall during the term of this Agreement, maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 U.S.C. § 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement and comply with all lawfully served Wage and Earnings Withholding Orders or District Attorney Notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to section 706.031 of the California Code of Civil Procedure and section 5246(b) of the California Family Code. Unless otherwise exempt by section 2.200.040 of the Los Angeles County Code, failure to comply with such reporting requirements, or failure to implement and comply with lawfully served wage and earnings assignment orders or notices of assignment, shall constitute a default under this Agreement, and failure to cure the default within ninety (90) days of notice by the County shall subject the Agreement to termination.

(c) Unless otherwise exempt under section 2.200.040 of the Los Angeles County Code, failure to comply with the provisions of this § 213 may be cause for debarment.

**§ 214. Debarment and Suspension.** (a) The Grantee certifies that it has not been subject to debarment and/or suspension under any federal (29 CFR Part 98), State or local program and will immediately inform the County of any future debarment or suspension. Said certification,



which shall be in a form acceptable to the County, shall be submitted to the County no later than execution of this Agreement by Grantee.

(b) **Responsible Contractor.** A responsible contractor is a contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is the County's policy to conduct business only with responsible contractors.

(c) **Chapter 2.202 of the Los Angeles County Code.** The Grantee is hereby notified that, in accordance with Los Angeles County Code Chapter 2.202, as may be amended from time to time, if the County acquires information concerning the performance of the Grantee on this or other contracts which indicates that the Grantee is not responsible, the County may, in addition to other remedies provided in the Agreement, debar the Grantee from bidding on County contracts for a specified period of time, and terminate any or all existing contracts the Grantee may have with the County. Notwithstanding any provision in this § 214 to the contrary, the parties agree that debarment proceedings shall be governed by provisions of Los Angeles County Code Chapter 2.202.

(d) **Non-Responsible Contractor.** The County may debar Grantee if the County Board of Supervisors finds, in its discretion, that the Grantee has done any of the following: (1) violated any term of a contract with the County (2) committed any act or omission which negatively reflects on the Grantee's quality, fitness or capacity to perform a contract with the County or any other public entity, or a nonprofit corporation created by the County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

(e) **Contractor Hearing Board.** (1) If there is evidence that the Grantee may be subject to debarment, the Commission will notify the Grantee in writing of the evidence that is the basis for the proposed debarment and will advise the Grantee of the scheduled date for a debarment hearing before the Contractor Hearing Board.

(2) The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Grantee and/or the Grantee's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a proposed decision, which shall contain a recommendation regarding whether the Grantee should be debarred, and, if so, the appropriate length of time of the debarment. If the Grantee fails to avail itself of the opportunity to submit evidence to the Contractor Hearing Board, the Grantee may be deemed to have waived all rights of appeal.

(3) A record of the hearing, the proposed decision and any other recommendation of the Contractor Hearing Board shall be presented to the County Board of Supervisors. The County Board of Supervisors shall have the right to modify, deny or adopt the proposed decision and recommendation of the Hearing Board.

(f) **Subcontractors.** This § 214 shall also apply to subcontractors of County contractors, if any.

**§ 215. Notification of Federal Earned Income Credit.** With thirty (30) days of execution of this Agreement, the Grantee certifies that it shall notify its employees, and shall require each subcontractor, if any, to notify its employees, that they may be eligible for federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in *Internal Revenue Service Notice 1015*.

**§ 216. Protection Against Fraud and Abuse.** The Grantee (including its employees and agents), in performing all obligations under the terms of this Agreement, assures that it will perform such obligations and services in a reasonable and prudent manner in order to safeguard against fraud and abuse. The Grantee agrees to indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officials, officers, employees and agents from and against any and all loss, damage, or liability (including without limitation disallowed costs if State or federal grant funds are used in for payment of services) resulting from a violation by the Grantee, its officers, employees and agents of this section.

**§ 217. Authorization Warranty.** The Grantee represents and warrants that the person executing this Agreement on behalf of the Grantee is an authorized agent who has actual authority to bind Grantee to each and every term, condition, and obligation set forth in this Agreement, and that all requirements of Grantee have been fulfilled to provide such actual authority.

**§ 218. Employee Jury Duty Service Program.** (a) **Jury Service Program.** This Agreement is subject to the provisions of the County's ordinance entitled "Contractor Employee Jury Service" ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code.

(b) **Written Employee Jury Service Policy.** (1) Unless Grantee has demonstrated to the County's satisfaction either that Grantee is not a "contractor" as defined under the Jury Service Program (section 2.203.020 of the Los Angeles County Code) or that Grantee qualifies for an exception to the Jury Service Program (section 2.203.070 of the Los Angeles County Code), Grantee shall have and adhere to a written policy that provides that its employees shall receive from the Grantee, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that employees deposit any fees received for such jury service with the Grantee or that the Grantee deduct from the employee's regular pay the fees received for jury service.

(2) For purposes of this **§ 218**, "Contractor" means a person, partnership, corporation or other entity which has a contract with the County or a subcontract with a County contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full time employee of a Grantee. "Full time" means 40 hours of more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) Grantee has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary service of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If Grantee uses any subcontractor to perform services for the County under the Agreement, the subcontractor shall also be subject to the provisions of this **§ 218**. The provisions of this **§ 219** shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the Agreement.

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

the Jury Service Program's definition of "contractor" and/or that Grantee continues to qualify for any exception to the Program.

(4) Grantee's violation of this **§ 218** may constitute a material breach of the Agreement. In the event of such material breach, County may, in its sole discretion, terminate the Agreement and/or bar Grantee for the award of future County agreements for a period of time consistent with the seriousness of the breach.

**§ 219. Notice to Employees Regarding Safely Surrendered Baby Law.** The Grantee shall notify and provide to its employees and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is available on the Internet at [www.babysafela.org](http://www.babysafela.org) for printing purposes.

**§ 220. Grantee's Charitable Activities Compliance.** The Supervision of Trustees and Fundraisers for Charitable Purposes Act (Cal. Gov. Code § 12580 et seq.) regulates entities receiving or raising charitable contributions. The "Nonprofit Integrity Act of 2004" (SB1262, Chapter 919) increased Charitable Purposes Act requirements. To the extent applicable, all County contractors which receive or raise charitable contributions must comply with California law in order to protect the County and its taxpayers. A contractor which receives or raises charitable contributions without complying with its obligations under California law commits a material breach subjecting it to either contract termination or debarment proceedings (Los Angeles County Code Chapter 2.202) or both.

**§ 221. Transitional Job Opportunities Preference Program** (a) This Agreement is subject to the provisions of the County's ordinance entitled Transitional Job Opportunities Preference Program, as codified in Chapter 2.205 of the Los Angeles County Code.

(b) Grantee shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Transitional Job Opportunity vendor.

(c) Grantee shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a Transitional Job Opportunity vendor.

(d) If Grantee has obtained County certification as a Transitional Job Opportunity vendor by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this Agreement to which it would not otherwise have been entitled, shall: (i) pay to the County any difference between the Agreement amount and what the County's costs would have been if the Agreement had been properly awarded; (ii) in addition to the amount described in (i), be assessed a penalty in an amount of not more than 10 percent (10%) of the amount of the Agreement; and (iii) be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment). The forgoing penalties shall also apply to any entity that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the certifying department of this information prior to responding to a solicitation or accepting a contract award.

## **§ 300. INDEPENDENT STATUS**

**§ 301. Independent Contractor.** The Grantee shall at all times be acting as an independent contractor. This Agreement is not intended, and shall not be construed to create the relationship of agent, servant, employee, partner, joint venture, or association, as between the County and the Grantee. Grantee understands and agrees that all of Grantee's personnel are employees solely of the Grantee and not of the County for purposes of workers' compensation liability.

**§ 302. No Authority to Bind County.** As an independent contractor and except as otherwise expressly provided in the Agreement, Grantee has no power or authority to bind the County to any obligations, agreements, or contracts.

**§ 303. Requisite Skills.** The Grantee represents and warrants to the County, and County relies on such representation and warranty, that the Grantee (including its employees and agents) has the necessary skills, competence and expertise to fully and completely perform the specialized Services/Performances called for under this Agreement. The County and the Grantee understand and agree that the Grantee is responsible for the means and methods of performing these specialized Services/Performances and accomplishing the results, deliverables, objectives and/or purposes specified and/or requested by the County pursuant to this Agreement.

**§ 304. Identification.** As an independent contractor, Grantee must, at its own expense, supply any and all identification material (e.g., business cards, etc.) used in the performance of this Agreement. Use of the County seal or other County identifier requires prior written approval of the County Chief Administrative Officer or his or her designee. **IMPROPER USE OF THE COUNTY SEAL OR OTHER IDENTIFIER SHALL BE REFERRED TO THE COUNTY DISTRICT ATTORNEY OR OTHER APPROPRIATE PROSECUTORIAL AGENCY FOR INVESTIGATION AND PROSECUTION TO THE FULL EXTENT PERMITTED BY LAW.** To the extent such material includes the County seal or other identifier, such material shall be distinguishable from County materials and expressly and clearly indicate that Grantee is an independent contractor or consultant.

## **§ 400. INDEMNIFICATION AND INSURANCE**

**§ 401. Indemnification.** The Grantee shall indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officers, employees, and agents ("County Indemnitees") from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with Grantee's acts and/or omissions arising from and/or relating to this Agreement, except for such loss or damage arising from the sole negligence or willful misconduct of the County Indemnitees.

**§ 402. Public Entities.** (a) To the extent both parties to this Agreement are public entities, and this provision is activated in writing by the County in the primary document, the following provision shall be substituted for **§ 401** herein:

In contemplation of the provisions *California Government Code* section 895.2 imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an Agreement as defined by *California Government Code* section 895, the parties hereto, as between themselves, pursuant to the authorization contained in sections 895.4 and 895.6, will each assume the full liability imposed upon it, or any of its officers, agents, or employees by law for injury caused by negligent or

wrongful act or omission occurring in the performance of this Agreement to the same extent that such liability would be imposed in the absence of section 895.2. To achieve the above-stated purpose, each party indemnifies and holds harmless the other party for any liability imposed solely by virtue of section 895.2. The provisions of *California Civil Code* section 2778 are made a part hereto as if fully set forth herein. The Grantee certifies that it has adequate self-insured retention of funds to meet any obligation arising from this Agreement.

**§ 403. Insurance.** Without limiting the Grantee's indemnification of the County, and to the extent expressly required in the primary document or as required by law, the Grantee shall provide and maintain at its own expense during the term of this Agreement the following program(s) of insurance (at such limits set forth in the primary document or as set forth in writing by the County's Risk Manager) covering its operations hereunder. Such insurance, which shall be provided by insurer(s) satisfactory to the Executive Director or County's Risk Manager, shall be primary to and not contributing with any other insurance maintained by the County. Proof of insurance shall be delivered to the Executive Director (specifying the Executive Director as the contract administrator and the Commission as the contract department) on or before the effective date of this Agreement. Such evidence shall specifically identify this Agreement and shall contain express conditions that the County is to be given written notice at least thirty (30) days in advance of any modification or termination of any program of insurance.

All insurance required hereunder shall be primary with respect to any insurance maintained by the County and shall not call on County's program for contributions. Insurance is to be provided by an insurance company acceptable to the County with an A.M. Best rating of not less than A:VII, unless otherwise approved by County. To the extent applicable, programs of insurance shall include:

(a) **Comprehensive General Liability:** A program, including but not limited to comprehensive general liability, endorsed for contractual liability and independent contractor coverage, and comprehensive general liability. Such insurance shall be primary to and not contributing with any other insurance maintained by the County and shall name the County as an additional insured.

(b) **Comprehensive Automotive Liability:** A program, including but not limited to comprehensive auto liability. Such insurance shall be primary to and not contributing with any other insurance maintained by the County and shall name the County as an additional insured.

(c) **Workers' Compensation:** To the extent applicable, a program of workers' compensation insurance in an amount and form to meet all applicable requirements of the California Labor Code and which specifically covers all persons providing services by or on behalf of the Grantee and all risks to such persons under this Agreement.

**§ 404. Notification of Incidents, Claims or Suits.** Grantee shall report to County: (a) any accident or incident relating to services performed under this Agreement which involves injury or property damage which may result in the filing of a claim or lawsuit against Grantee and/or County. Such report shall be made in writing within 24 hours of occurrence, where possible.

(b) Any third party claim or lawsuit filed against Grantee arising from or related to services performed by Grantee under this Agreement.

(c) Any injury to Grantee or any of Grantee's employees which occurs on County property. This report shall be submitted on a County "Non-employee Injury Report" to the County Program Manager.

(d) Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies or securities entrusted to Grantee under the terms of this Agreement.

**§ 405. Compensation for County Costs.** In the event that Grantee fails to comply with any of the indemnification or insurance requirements of this Agreement, and such failure to comply results in any costs to County (including cost of obtaining requisite insurance for Grantee), Grantee shall pay full compensation for all costs incurred by County.

**§ 406. Insurance Coverage Requirements for Subcontractors.** Grantee shall ensure any and all subcontractors performing services under this Agreement meet the insurance requirements of this Agreement by either:

(a) Providing evidence of insurance covering the activities of sub-contractors, or

(b) Providing evidence submitted by sub-contractors evidencing that sub-contractors maintain the required insurance coverage. County retains the right to request, and Grantee agrees to provide upon such request, copies of evidence of sub-contractor insurance coverage at any time.

**§ 407. Self-Insurance and Self-Insured Retentions.** Self-insurance programs are subject to separate approval by the County upon review of evidence of Grantee's financial capacity to respond. Additionally, such programs must provide the County with at least the same protection from liability and defense of suits as would be afforded by first-dollar insurance. The County may, in its sole discretion, consider a self-insured program as an alternative to commercial insurance from the Grantee upon review and approval of the following:

(a) A formal declaration to be self-insured for the type and amount of coverage indicated. This can be a corporate resolution or a certified statement from a corporate officer or an authorized principal of a partnership or a sole proprietorship. Grantee must notify the County immediately of discontinuation or substantial change in the program.

(b) Agreement to provide the County at least the same defense of suits and payment of claims as would be provided by first-dollar commercial insurance.

(c) Agreement to notify the County immediately of any claim, judgment, settlement, award, verdict or change in Grantee's financial condition which would have a significant negative effect on the protection that the self-insurance program provides the County.

(d) Name, address and telephone number of Grantee's legal counsel and claims representative, respectively, for the self-insurance program.

(e) Financial statement that gives evidence of Grantee's capacity to respond to claims falling within the self-insured program. Re-submission is required at least annually for the duration of the affected operation or more frequently at County's request. **FAILURE TO COMPLY WILL RESULT IN WITHDRAWAL OF COUNTY APPROVAL.**

**§ 408. Failure to Procure or Maintain Insurance.** Failure on the part of the Grantee to procure or maintain insurance or otherwise satisfy the requirements of § 400 through § 408, inclusive, of these Standard Terms and Conditions, shall constitute a material breach upon

which the County may, in its sole discretion, immediately terminate or suspend this Agreement or procure or renew such insurance and pay any and all premiums in connection therewith, and all monies so paid by the County shall be repaid by the Grantee to the County upon demand or the County may set off the cost of the premiums against any monies due to the Grantee from the County.

## **§ 500. OPERATIONAL RESPONSIBILITIES**

**§ 501. County Rules.** Grantee shall, in all details of the Services/Performances to be performed by Grantee, comply with and abide by all applicable rules, regulations and directions of the County, and shall be governed by the policy and guideline requirements of the Commission, relevant County commissions and, to the extent applicable, State and/or federal agencies responsible for funding the Services/Performances herein.

**§ 502. Permits/Licenses.** Grantee shall comply with all applicable County and local ordinances and all State and federal laws, and in the course thereof, obtain and keep in effect, at a cost solely borne by the Grantee, all permits and licenses required to conduct the Services/Performances.

**§ 503. Credit.** (a) Proper acknowledgement of this grant award is as follows: placement of the Arts Commission logo on printed materials and websites; listing the Los Angeles County Arts Commission as a supporter; and/or the following credit line on printed materials and websites or by verbal announcement when no printed publications or websites are used:

***"This [ORGANIZATION/PROJECT/PERFORMANCE/EXHIBITION] is supported, in part, by the Los Angeles County Board of Supervisors through the Los Angeles County Arts Commission."***

(b) Any credit provided in accordance with this **§ 503**, shall not give rise to any liability whatsoever on the part of the County.

**§ 504. Prevailing Wage.** Grantee will pay all professional performers and related or supporting personnel employed to carry out the Services/Performance without subsequent deduction or rebate on any account, not less than the minimum compensation as determined by the Secretary of Labor to be the prevailing minimum wage of the State of California for persons employed in similar activities. For the proper construction of this **§ 504**, Grantee is referred to Part 505 of Title 29 of the Code of Federal Regulations, as amended.

**§ 505. Public Statements.** Grantee shall indicate in any press statement(s) or release(s) to the public that is related to the Services/Performance that such Services/Performance are funded by the County.

## **§ 600. AUDITS/RECORDS/REPORTS**

**§ 601. Audits.** (a) The County Auditor-Controller shall at all times have access for audit purposes to the books, records, and accounts maintained by the Grantee in connection with all money expended under the terms of this Agreement.

(b) The Grantee shall take all actions necessary to enable the County Auditor-Controller or other authorized County representative(s) to clearly determine whether the Grantee is properly performing its contractual obligations, especially in relation to payments received.

(c) If, at any time during the term of this Agreement or within five (5) years after the expiration or termination of this Agreement, authorized representatives of County conduct an audit of Grantee regarding the Services/Performances provided to County hereunder and if such audit finds that County's dollar liability for such Services/Performances is less than payments made by County to Grantee, then Grantee agrees that the difference, at the County's discretion and in its sole direction, shall be either:

(1) Repaid forthwith by Grantee to County by cash payment; or

(2) Credited against future payments hereunder to Grantee. If such audit finds that County's dollar liability for Services/Performances provided hereunder is more than payments made by County to Grantee, then the difference shall be paid to Grantee by County provided that in no event shall the County's maximum obligation for this Agreement exceed the maximum grant amount specified in **Section 4** of the primary document to this Agreement.

(d) Failure by the Grantee to comply with the requirements of this **§ 601** shall constitute a material breach of contract upon which the County may cancel, terminate, or suspend this Agreement.

**§ 602. Inspection of Records.** (a) During normal business hours, Grantee shall allow the County to inspect the books, records, documents and other evidence bearing on the costs and expenses of the Grantee with respect to work performed hereunder to determine compliance with the terms of this Agreement, and shall allow the Executive Director, the County and/or authorized State or federal governmental representatives access for any other purpose incidental to the performance of the responsibilities of those governmental entities.

(b) All material subject to inspection, and all pertinent cost, accounting, financial records, and proprietary data, must be kept and maintained by the Grantee in a location within Los Angeles County for a period of five (5) years after completion of this Agreement unless County's written permission is obtained to dispose of material prior to this time. In the event Grantee's books, records or documents are located outside the County of Los Angeles, the Grantee agrees to pay the County for traveling and per diem costs connected with an inspection or audit.

**§ 603. Progress Reports.** The Grantee shall, at the direction of the Executive Director, submit periodic progress reports outlining progress in completing Services/Performances set forth in this Agreement.

**§ 604. Records/Data.** (a) All data and information collected by Grantee in performance of its obligations under the terms of this Agreement shall remain or become the property of the County and shall not be appropriated by the Grantee for private, proprietary use. All reports and other data collected during the term of this Agreement shall be relinquished to the County upon termination of this Agreement.

(b) The Grantee shall maintain all books, records, documents or other evidence bearing on the costs and expenses of the Grantee with respect to work performed hereunder, as are deemed necessary or required by the County or State or federal regulations or rules, for five (5) years after final settlement under this Agreement unless permission to destroy them is granted by an authorized County representative.

(d) County obtains the right to use, duplicate and disclose in whole or in part, in any manner, for any purpose whatsoever, any information or data generated from the services rendered by the Grantee under the terms of this Agreement.



- (e) This provision shall survive termination or expiration of the Agreement.

## **§ 700. TERMINATION/CANCELLATION OF SERVICES/PERFORMANCES**

**§ 701. Termination of Agreement for Default.** (a) This Agreement may be terminated in whole or in part by the County providing to Grantee a written Notice of Default if the Grantee fails to perform any covenant or condition of this Agreement, as determined by the Executive Director.

(b) The Grantee shall have ten (10) calendar days from the date of the Notice of Default in which to cure the Default(s), however, in her sole discretion, the Executive Director, may extend this period or authorize a longer period for cure.

**§ 702. Termination for Convenience.** Except as otherwise provided in this Agreement, this Agreement may be terminated for convenience at any time for any reason, or for no stated reason, by either the County or Grantee, upon thirty (30) days written notice to the other party, without liability for any services to be performed after the date of such cancellation/termination. Termination of work hereunder shall be effected by delivery to the other party of a Notice of Termination specifying the date upon which such termination becomes effective. In the event Grantee terminates the Agreement pursuant to this **§ 702**, the Grantee shall within ten (10) days of sending the Notice of Termination reimburse the County the full amount of all grant funds paid by County to Grantee pursuant to the Agreement, and Grantee shall forfeit all grant funds not yet paid by County to Grantee. In the event the County terminates the Agreement pursuant to this **§ 702**, the provisions of **§ 709** of these Standard Terms and Conditions shall govern.

**§ 703. Termination for Improper Consideration.** (a) The County may, by written notice to the Grantee, immediately terminate the right of the Grantee to proceed under this Agreement if it is found that consideration, in any form, was offered or given by the Grantee either directly or through an intermediary, to any County officer, employee or agent with the intent of securing the Agreement or securing favorable treatment with respect to the award, amendment or extension of the Agreement or the making of any determinations with respect to the Grantee's performance pursuant to the Agreement. In the event of such termination, the County shall be entitled to pursue the same remedies against the Grantee as it could pursue in the event of default by the Grantee.

(b) Grantee shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (800) 544-6861, or via e-mail at [Hotline@auditor.lacounty.gov](mailto:Hotline@auditor.lacounty.gov).

(c) Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

**§ 704. Termination for Breach of Warranty to Maintain Compliance with County's Child Support Compliance Program.** Failure of Grantee to maintain compliance with the requirements set forth in **§ 213** of these Standard Terms and Conditions shall constitute a default by Grantee under this Agreement. Without limiting the rights and remedies available to the County under any other provision of this Agreement, failure to cure such default within 90 days of notice by the County shall be grounds upon which the County may terminate this Agreement.

**§ 705. Force Majeure.** (a) The parties will be excused from the performance of this Agreement in whole or in part, only by reason of the following causes:

- (1) when such is prevented by operation of law;
- (2) when such is prevented by an irresistible superhuman cause, including but not limited to flood, earthquakes and fires; and,
- (3) when such is prevented by an act of the public enemies of the State of California or of the United States of America, or by strike, mob violence, fire, delay in transportation beyond the control of Grantee, or unavoidable casualty.

(b) In the event the Grantee's performance is excused in accordance with this **§ 705**, and the Services/Performances are not provided, the Grantee shall forfeit any unpaid portion of the Grant Amount and agrees to reimburse the County any prepaid and unused portion of the Grant Amount. For the purposes of this **§ 705**, if Grantee is required by this Agreement to contribute a cash match, grant funds paid by the County to Grantee shall not be deemed used unless and until Grantee's cash match funds have first been exhausted.

**§ 706. Program Termination.** In the event the Services/Performances to be provided herein are directly related to a federal, State or local program (including but not limited to the County's Organizational Grant Program) and said program is terminated for any reason, the County may terminate this Agreement immediately, and Grantee shall forfeit any unpaid portion of the Grant Amount.

**§ 707. Termination for Non-Appropriation of Funds.** The County's obligation is payable only from funds appropriated for the purpose of this Agreement. All funds for payments after the end of the current fiscal year are subject to the County's legislative appropriation for this purpose. In the event this Agreement extends into succeeding fiscal year periods and the Board of Supervisors does not allocate sufficient funds for the next succeeding fiscal year payments, Services/Performances shall automatically be terminated in accordance with the provisions of **§ 702** (Termination for Convenience), as of the end of the then current fiscal year; provided, however, that the notice required in such an event may be less than that required under **§ 702**. The County shall make a good faith effort to notify the Grantee in writing of such non-allocation at the earliest time.

**§ 708. Grantee Action Upon Termination.** After receipt of a Notice of Termination pursuant to the terms of this Agreement, and except as otherwise directed by the Executive Director or her designee, the Grantee shall:

- (a) Incur no new or additional obligations in connection with the terminated work, and on the date set in the Notice of Termination, the Grantee shall stop work to the extent specified.
- (b) Take all reasonable steps to minimize costs allocable to the work terminated by the notice.
- (c) Terminate outstanding orders and subcontracts as they relate to the terminated work. The Grantee shall settle the liabilities and claims arising out of the termination of subcontracts and order connected with the terminated work.
- (d) Complete performance of such part of the work that shall not have been terminated by the Notice of Termination.

**§ 709 Reimbursement of Funds.** Except as provided in **§ 702** of these Standard Terms and Conditions, in the event this Agreement is terminated and/or the Grantee's Services/Performances are cancelled, all unpaid portions of the Grant Amount shall be forfeited,

except for those expenses incurred by Grantee in support of the Services/Performance prior to the effective date of termination. If Grantee is required by this Agreement to contribute a cash match, Grantee shall not be entitled to reimbursement of any expenses unless and until Grantee's cash match funds have first been exhausted.

## **§ 800. GENERAL PROVISIONS**

**§ 801. Contract Modifications/Amendments.** This Agreement fully expresses the Agreement of the parties. Except where expressly provided herein, any modification or amendment of the terms or conditions of this Agreement must be by means of a separate written document approved by the Executive Director. No oral conversation between any officer or employee of the parties shall modify or otherwise amend this Agreement in any way.

**§ 802. Assignments.** (a) The Grantee shall not assign its rights or delegate its duties under this Agreement without the prior written consent of the Executive Director. Any unapproved assignment or delegation shall be null and void. Any payments by the County to any approved delegate or assignee on any claim under this Agreement shall be deductible, at the County's sole discretion, against the claims, which the Grantee may have against the County.

(b) If any assumption, assignment, delegation, or takeover of any of the Grantee's duties, responsibilities, obligation, or performance of same by any entity other than the Grantee, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without the County's express prior written approval, may result in the termination of this Agreement.

**§ 803. Notices.** (a) The Executive Director shall be the County representative to whom the Grantee shall forward all notices, documents, reports, and records as required herein. Notices to the parties shall be addressed as listed in the primary document to this Agreement.

(b) Notices, demands and communications to be given hereunder by either party shall be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed communicated as of the date of mailing.

(c) If the name and/or address of the person designated to receive the notices, demands or communications changes, the affected party shall notify the other party in writing of such change in accord with this section, within five (5) working days of said change.

**§ 804. Waivers.** (a) Any waiver by the County of any breach of any one or more of the covenants, conditions, terms and agreements contained herein shall not be construed to be a waiver of any subsequent or other breach of the same or any other covenant, condition, term or agreement contained herein, nor shall failure on the part of the County to require exact, full and complete compliance with any of the covenants, conditions, terms or agreements contained herein be construed as in any manner changing the terms of this Agreement or stopping the County from enforcing the full provision thereof.

(b) No delay, failure, or omission of the County to exercise any right, power, privilege or option, arising from any default, nor any subsequent payments then or thereafter made shall impair any such right, power, privilege or option, or be construed as a waiver of or acquiescence in such default or as a relinquishment of any right.

(c) Waivers of the provisions of this Agreement shall be in writing and signed by the Executive Director.

**§ 805. Validity.** The invalidity of any provision of this Agreement shall not void or affect the validity of any other provision.

**§ 806. Entire Agreement.** (a) This Agreement constitutes the entire, full, complete and exclusive statement of understanding between the parties which supersede all previous written or oral agreements, and all prior communications between the parties relating to the subject matter of this Agreement.

(b) Grantee warrants that he/she has received a copy of this Agreement, including all exhibits thereto, and upon execution of this Agreement, it shall be Grantee's responsibility to retain on file, and to abide by the entire Agreement.

**§ 807. Captions.** The section headings appearing anywhere in this Agreement shall not be deemed to govern, limit, modify or in any way affect the scope, meaning or intent of the terms and conditions of this Agreement.

**§ 808. Subcontracting.** (a) No performance of this Agreement or any portion thereof may be subcontracted by the Grantee without prior written notice to the Executive Director or her authorized designee. Furthermore, Grantee agrees that, to the extent any part of this Agreement is to be subcontracted, Grantee shall comply with all applicable County, State and/or federal procurement requirements.

(b) Any attempt by the Grantee to subcontract any performance of the terms or conditions of this Agreement without first providing written notice to the Executive Director or her authorized designee, shall be null and void and shall constitute a breach of this Agreement.

(c) All notices of subcontracting shall be directed to the Executive Director and shall, at a minimum, include:

- (1) A description of the services to be provided by the subcontract; and
- (2) Identification of the proposed subcontractor(s) and an explanation of why and how the proposed subcontractor(s) were selected.

(d) Subcontracts shall be made in the name of the Grantee and shall neither bind nor purport to bind the County. The making of subcontracts hereunder shall not relieve the Grantee of any requirement under the terms of this Agreement, including, but not limited to, the duty to properly supervise and coordinate the work of subcontractor(s). Notice to the Executive Director of any subcontract shall not be construed to constitute a determination of the allowability of any cost under this Agreement. In no event shall approval of any subcontract by the Executive Director be construed as affecting any increase in the amount of this Agreement. Grantee shall be responsible for all costs associated with subcontracting.

**§ 809. Public Records Act.** (a) Any documents submitted by the Grantee; all information obtained in connection with the County's right to audit and inspect the Grantee's documents, books, and accounting records pursuant to this Agreement; as well as those documents which were required to be submitted in response to any solicitation or application process for this Agreement, become the exclusive property of the County. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in California Government Code section 6250 et seq. (Public Records Act) and which are marked "trade secret," "confidential," or "proprietary." The County shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.

(b) In the event the County is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of an RFP or other solicitation marked "trade secret", "confidential", or "proprietary", the Grantee agrees to defend and indemnify the County from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the Public Records Act.

**§ 810. County's Quality Assurance Plan.** County, through the Commission, will evaluate Grantee's performance under this Agreement on not less than an annual basis. Such evaluation will include assessing Grantee's compliance with all Agreement terms and performance standards. Grantee deficiencies which the Commission determines are severe or continuing and that may place performance of the Agreement in jeopardy if not corrected will be reported to the Executive Director. The report will include improvement/corrective action measures taken by the Commission staff and Grantee. If improvement does not occur consistent with the corrective action measures, the Executive Director may terminate this Agreement in whole or in part or impose other penalties as specified in the Agreement.

**§ 811. Recycled Bond Paper.** Consistent with the County Board of Supervisor's policy to reduce the amount of solid waste disposal at the County landfills, the Grantee agrees to use recycled-content paper to the maximum extent possible in providing Services/Performances.

**§ 812. Nonexclusivity.** Nothing in this Agreement is intended nor shall be construed as creating any exclusive arrangement with Grantee. This Agreement shall not restrict County from acquiring similar, equal or like Services/Performances from other entities or sources.

**§ 813. Endorsement.** Except as expressly provided in this Agreement, the Grantee shall not, in any manner, advertise, publish or represent that the County endorses the Services/Performances herein provided without the prior written consent of the County. Any published document, opinion or article referencing the County must have prior written consent of the Executive Director.

**§ 814. Governing Law.** This Agreement shall be governed by, and construed in accordance with the laws of the State. Grantee agrees and consents to the exclusive jurisdiction of the courts of the State for all purposes regarding this Agreement and further agrees and consents that venue to any action brought hereunder shall be exclusively in the County of Los Angeles, California.

**§ 815. Interpretation.** No provision of this Agreement is to be interpreted for or against either party because that party or that party's legal representative drafted such provision.

**§ 816. Proprietary Rights.** (a) Any materials, data and information not developed under this Agreement, which Grantee considers to be proprietary and confidential, shall be plainly and prominently marked by Grantee as "TRADE SECRET", "PROPRIETARY", or "CONFIDENTIAL".

(b) County will use reasonable means to ensure that Grantee's proprietary and confidential materials, data and information are safeguarded and held in confidence. However, County will notify Grantee of any Public Records Act request for items described in **§ 816 (a)**. County agrees not to reproduce or distribute such materials, data and information to non-County entities without the prior written permission of Grantee.

(c) Notwithstanding any other provision of this Agreement, the County will not be obligated to the Grantee in any way under this **§ 816** for any of the Grantee's proprietary and/or

confidential items which are not plainly and prominently marked with restrictive legends as required by § 816(a) or for any disclosure which the County is required to make under any State or federal law or order of court.

(d) Grantee shall protect the security of and keep confidential all materials, data and information received or produced under this Agreement. Further, Grantee shall use whatever security measures are necessary to protect all such materials, data and information from loss or damage by any cause, including but not limited to, fire and theft.

(e) Grantee shall not disclose to any party any information identifying, characterizing or relating to any risk, threat, vulnerability, weakness or problem regarding data security in County's computer systems, or to any safeguard, countermeasure, contingency plan, policy or procedure for data security contemplated or implemented by County, without County's prior written consent.

(f) The provisions of § 816(c), (d) and (e) shall survive the expiration or termination of this Agreement.

**§ 817. Warranty of Compliance with County's Defaulted Property Tax Reduction Program.**

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

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

**§ 818. Termination for Breach of Warranty to Maintain Compliance with County's Defaulted Property Tax Reduction Program.** Failure of Grantee to maintain compliance with the requirements set forth in § 817, "Warranty of Compliance with County's Defaulted Property Tax Reduction Program," shall constitute default under this Agreement. Without limiting the rights and remedies available to County under any other provision of this contract, failure of Grantee to cure such default within ten (10) days of notice thereof shall be grounds upon which County may terminate this contract and/or pursue debarment of Grantee, pursuant to Los Angeles County Code Chapter 2.206.

**# # #**