



AGENDA STAFF REPORT

ASR Control 23-000618

**MEETING DATE:** 08/08/23

**LEGAL ENTITY TAKING ACTION:** Board of Supervisors and Orange County Flood Control District

**BOARD OF SUPERVISORS DISTRICT(S):** All Districts

**SUBMITTING AGENCY/DEPARTMENT:** OC Public Works (Approved)

**DEPARTMENT CONTACT PERSON(S):** Zac Henson (714) 834-7452  
Daniel Perez (714) 667-4911

**SUBJECT:** Approve Contract for Maintenance Management Integration Services

<b>CEO CONCUR</b> Pending Review	<b>COUNTY COUNSEL REVIEW</b> Approved Agreement to Form	<b>CLERK OF THE BOARD</b> Discussion 3 Votes Board Majority
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**Budgeted:** Yes                                      **Current Year Cost:** \$314,234                                      **Annual Cost:** FY 2024-25 \$349,681  
FY 2025-26 \$349,681  
FY 2026-27 \$36,404

**Staffing Impact:** No                                      **# of Positions:**                                      **Sole Source:** No

**Current Fiscal Year Revenue:** N/A

**Funding Source:** See Financial Impact Section                                      **County Audit in last 3 years:** No

**Levine Act Review Completed:** Yes

**Prior Board Action:** N/A

**RECOMMENDED ACTION(S):**

Authorize the County Procurement Officer or Deputized designee to execute contracts for Maintenance Management Integration Services with AirDev, Inc. and Efficient BPM LLC, effective upon execution of all necessary signatures for a term of three years, in an aggregate amount not to exceed \$1,050,000, with the option to renew for two additional years upon Board of Supervisors approval.

**SUMMARY:**

Approval of contracts for Maintenance Management Integration Services will aid OC Public Works in integrating its Computerized Maintenance Management System, Assetworks, within OC Public Works.

**BACKGROUND INFORMATION:**

OC Public Works has been working to implement the CEO Real Estate enterprise asset management application from Assetworks since 2018. In 2019 CEO Real Estate went live with its consolidated real

property database. In 2020 OC Public Works went live with its Facility Operations work orders and asset management integrations. OC Public Works is working to launch the Capital Planning and Project Management modules of the application, as well as go live with work orders and asset management for OC Public Works Operations and Maintenance division and OC Public Works Facility Operations-John Wayne Airport division. The contracts will support OC Public Works in the integration and launch of the Assetworks application.

The integration services include data management tasks such as inputting invoices, setting up new projects and batch processing of data, as well as managing integration points with CAPS+, system configuration, including refining existing processes and modules and implementing new integration points. Services will also include providing comprehensive training to County of Orange (County) staff on how to administer and use the Maintenance Management system and integrations, as well as provide support services that included managing and clearing requests submitted by County users, auditing processes and reports for efficiency improvements. These services are integral to ensuring the efficient management and maintenance of the CEO Real Estate enterprise asset management application.

On March 16, 2023, OC Public Works issued a Request for Proposals for Maintenance Management Integration Services (Services) on the County online bidding system. Two proposals were received and deemed responsive. On June 6, 2023, the evaluation panel completed the evaluation process and provided its recommendations. Based on the criteria set forth in the RFP, OC Public Works is recommending contracts be awarded to AirDev, Inc. and Efficient BPM LLC (Contractors) were deemed qualified to perform the needed Services. A summary of the rankings is attached as part of the Memorandum of Recommendation (Attachment D).

OC Public Works is procuring these Services in accordance with the 2021 Contract Policy Manual Section 3.3-102. The Orange County Preference Policy (OCPP) was applicable and incorporated into this solicitation. There were no OCPP qualified proposals submitted.

OC Public Works is recommending the Board of Supervisors (Board) authorize the County Procurement Officer or Deputized designee to execute contracts for Services effective upon execution of all necessary signatures for a term of three years, in an aggregate amount not to exceed \$1.050 million, with the option to renew for two additional years upon Board approval. The work will be assigned to whichever contractor is available and, depending upon the request, work can be assigned to both contractors at the same time.

<b>Contractors</b>	<b>Contracts</b>	<b>Contractor's Location</b>
AirDev, Inc.	MA-080-23010821	San Francisco
Efficient BPM LLC	MA-080-23010821	Long Beach

An analysis was conducted to determine the cost/benefit of contracting out versus providing Services in-house. Based on this analysis, OC Public Works has determined that utilizing Contractors for Services would be more beneficial than in-house service due to their specialized expertise and ability to scale up quickly will provide potential cost savings from not having to invest in training, equipment and additional personnel.

OC Public Works has conducted due diligence on the Contractors. Both Contractors have had prior experience working with OC Public Works. Reference checks were satisfactory and completed with the following entities regarding similar Services.

<b>Contractors</b>	<b>Reference</b>	<b>Reference</b>	<b>Reference</b>
AirDev, Inc.	Consenna, Ltd.	Teach for America	Hive
Efficient BPM LLC	Adventist Health	Los Angeles World Airport	City of Frisco, Texas

The Contracts do not currently include subcontractors or pass through to other providers. See Attachment C for Contract Summary Forms.

**Compliance with CEQA:** This action is not a project within the meaning of CEQA Guidelines Section 15378 and is therefore not subject to CEQA, since it does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The approval of this agenda item does not commit the County to a definite course of action in regard to a project since the approval is for integration services of desktop data management tasks such as inputting invoices, setting up new projects and batch processing of data, as well as managing integration points with CAPS+, system configuration. This proposed activity is therefore not subject to CEQA. Any future action connected to this approval that constitutes a project will be reviewed for compliance with CEQA.

**FINANCIAL IMPACT:**

Appropriations for the contracts will be absorbed in the FY 2023-24 Budget and will be included in the budgeting process for the following budget control/funds:

Budget Control 080, OC Public Works	50%
Fund 115, OC Road	25%
Fund 400, OC Flood	25%

The proposed contracts include a provision stating the contracts are subject to, and contingent upon, applicable budgetary appropriations being approved by the Board for each fiscal year during the term of the contracts. If such appropriations are not approved, the contracts may be immediately terminated without penalty to the County.

**STAFFING IMPACT:**

N/A

**REVIEWING AGENCIES:**

John Wayne Airport

**ATTACHMENT(S):**

- Attachment A - Contract MA-080-23010821 with AirDev, Inc.
- Attachment B - Contract MA-080-23010821 with Efficient BPM LLC
- Attachment C - Contract Summary Forms
- Attachment D - Memorandum of Recommendation



**CONTRACT MA-080-23010821**

**FOR**

**MAINTENANCE MANAGEMENT INTEGRATION SERVICES**

**BETWEEN**

**OC PUBLIC WORKS**

**AND**

**AIRDEV, INC.**



**CONTRACT MA-080-23010821  
FOR  
MAINTENANCE MANAGEMENT INTEGRATION SERVICES  
WITH  
AIRDEV, INC.**

THIS Contract MA-080-23010821 for Maintenance Management Integration Services (“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”), Orange County Flood Control District, a body corporate and politic, (“District”), and AirDev, Inc., with a place of business at 2261 Market St #4165, San Francisco, CA 94114 (“Contractor”), with the County, District and Contractor sometimes referred to as “Party” or collectively as “Parties.”

**ATTACHMENTS**

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

Attachment A – Scope of Work

Attachment B – Payment/Compensation

**RECITALS**

WHEREAS, Contractor, District, and County are entering into this Contract for Maintenance Management Integration Services under a firm fixed fee Contract; and,

WHEREAS, the District relies on County staff to carry out its duties pursuant to the Orange County Flood Control District Act, Water Code App. §§ 36-1 et seq., and County staff may request Contractor to perform services under this Contract on behalf of District; and,

WHEREAS, County solicited Contract for Maintenance Management Integration Services as set forth herein, and Contractor represented that it is qualified to provide Maintenance Management Integration Services to the County as further set forth here; and,

WHEREAS, Contractor agrees to provide Maintenance Management Integration Services to the 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 Procurement Officer or designee to enter into a Contract for Maintenance Management Integration Services with the Contractor; and,

NOW, THEREFORE, the Parties mutually agree as follows:

**ARTICLES**

**General Terms and Conditions:**

- A. **Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and 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 Contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County's Procurement Officer 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 state sales or use tax. Out-of-state Contractors shall indicate California Board of Equalization permit number and sales permit number on invoices, if California sales tax is added and collectable. If no permit numbers are shown, sales tax will be deducted from payment. The Auditor-Controller will then pay use tax directly to the State of California in lieu of payment of sales tax to the Contractor.
- E. **Delivery:** Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments nor deprive it of the right to return goods already accepted at Contractor's expense. Over shipments and under shipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by County.
- 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, District, and County Indemnities as identified in **article "Z,"** and as more fully described in **article "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 **article “Z”** below, it shall indemnify, defend and hold County, District, 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.

In the event of change of control, to the extent necessary, Contractor shall provide reasonably requested assistance in the transferring of services.

- 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 Requirements:** Prior to the provision of services under this Contract, the Contractor agrees to carry 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 current, provide Certificates of Insurance, and endorsements to the County during the entire term of this Contract.

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 (SIR)'s shall be clearly stated on the Certificate of Insurance. Any SIR in excess of Fifty Thousand Dollars \$50,000 shall specifically be approved by the County's Risk Manager, or designee. The County reserves the right to require current audited financial reports from Contractor. If Contractor is self-insured, Contractor will indemnify the County and District for any and all claims resulting or arising from Contractor's services in accordance with the indemnity provision stated in this Contract.

Upon notice of any actual or alleged claim or loss arising out of subcontractor's work hereunder, subcontractor shall immediately satisfy in full the SIR provisions of the policy in order to trigger coverage for the Contractor and Additional Insureds.

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**).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, CEO/ 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:

### **Coverage**

### **Minimum Limits**

Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned or scheduled, non-owned, and hired vehicles	\$1,000,000 combined single limit each accident
Workers Compensation	Statutory
Employers Liability Insurance	\$1,000,000 per accident or disease
Network Security & Privacy	\$1,000,000 per claims-made

## Liability

Technology Errors & Omissions	\$1,000,000 per claims-made \$1,000,000 aggregate
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Increased insurance limits may be satisfied with Excess/Umbrella policies. Excess/Umbrella policies when required must provide Follow Form coverage.

**Required Coverage Forms**

The Commercial General Liability coverage shall be written on occurrence basis utilizing 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, Orange County Flood Control District, and their 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-contributory 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 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, Orange County Flood Control District, and their 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, Orange County Flood Control District, and their elected and appointed officials, officers, employees, and agents*** as Additional Insureds for its vicarious liability.
- 2) A primary and non-contributory endorsement evidencing that the Contractor's insurance is primary, and any insurance or self-insurance maintained by the County shall be excess and non-contributing.

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

Contractor shall provide thirty (30) days prior written notice to the County of any policy cancellation or non-renewal and ten (10) days prior written notice where cancellation is due to 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 Network Security & Privacy Liability are "Claims-Made" policy(ies), Contractor shall agree to the following:

- 1) The retroactive date must be shown and must be before the date of the Contract or the beginning of the Contract services.
- 2) Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after expiration or earlier termination of Contract services.
- 3) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the contract services, Contractor must purchase an extended reporting period for a minimum of three (3) years after expiration of earlier termination 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 emailed to [OCPWCompliance@ocpw.ocgov.com](mailto:OCPWCompliance@ocpw.ocgov.com)

If email is not possible, then Insurance certificates should specifically be forwarded to:

OC Public Works  
Attn: OCPW Procurement  
601 N. Ross Street, 4<sup>th</sup> Floor  
Santa Ana, CA 92701

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 of Ownership/Name, Litigation Status, Conflicts with County Interests:**

Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new

owner(s) shall be required under the terms of sale or other instruments of transfer to assume Contractor's duties and obligations contained in this Contract, and complete them to the satisfaction of the County.

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

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

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

- 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, District, and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a 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 their 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:** The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain from all employees performing work hereunder all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, District, and their agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.
- Z. **Indemnification:** Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County of Orange, Orange County Flood Control District, and their elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County or District by a court of competent jurisdiction because of the concurrent active negligence of County, District, 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's 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 of Orange 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.
- DD. Levine Act Requirements:** Contractor agrees to comply with Government Code Section 84308. Contractor further agrees to disclose to the County any contribution made to any members of the Board of Supervisors or County Agency Officers by Contractor, Contractor's agent or lobbyist, or, if applicable, any subcontractor(s) for the twelve (12) months prior to and twelve (12) months following the approval, renewal, or extension of this Contract.

### **Additional Terms and Conditions:**

1. **Scope of Contract:** This Contract specifies the contractual terms and conditions by which the County will procure Maintenance Management Integration 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:** This Contract shall commence upon execution of all necessary signatures and continue for three (3) years from that date, unless otherwise terminated by County.
3. **Renewal:** This Contract may be renewed by mutual written agreement of both Parties for a two-year renewable term. The County does not have to give reason if it elects not to renew. Renewal periods may be subject to approval by the County of Orange Board of Supervisors.
4. **Aggregate Contract:** This is an Aggregate Contract with AirDev, Inc. and Efficient BPM LLC with a Total Aggregate Contract Amount not to exceed \$1,050,000.00.
5. **Adjustments – Scope of Work:** No adjustments made to the Scope of Work will be authorized without prior written approval of the County assigned DPA.
6. **Breach of Contract:** The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the County

may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:

- a) Terminate the Contract immediately, pursuant to Section K herein;
  - b) Afford the Contractor written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
  - c) Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and
  - d) Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.
7. **Civil Rights:** Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.
8. **Conflict of Interest – Contractor’s Personnel:** The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Contractor; the Contractor’s employees, agents, and subcontractors associated with accomplishing work and services hereunder. The 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.
9. **Conflict of Interest – County Personnel:** The County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The Contractor shall not, during the period of this Contract, employ any County employee for any purpose.
10. **Contractor’s Project Manager and Key Personnel:** Contractor shall appoint a Project Manager to direct the Contractor’s efforts in fulfilling Contractor’s obligations under this Contract. This Project Manager shall be subject to approval by the County and shall not be changed without the written consent of the County’s Project Manager, which consent shall not be unreasonably withheld.
- The Contractor’s 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 time lines. The County’s Project Manager shall have the right to require the removal and replacement of the Contractor’s Project Manager from providing services to the County under this Contract. The County’s Project Manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within five (5) business days after written notice by the County’s Project Manager. The County’s Project Manager shall review and approve the appointment of the replacement for the Contractor’s Project Manager. The County is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor’s Project Manager from providing further services under the Contract.
11. **Contractor Personnel – Reference Checks:** The Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to adequately perform the work under this Contract. Contractor’s employees assigned to this project

must meet character standards as demonstrated by background investigation and reference checks, coordinated by the agency/department issuing this Contract.

12. **Contractor's Expense:** The 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. The County will not provide free parking for any service in the County Civic Center.
13. **Contractor Personnel – Uniform/Badges/Identification:** The Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to accept the kind of responsibility under this Contract.

All Contractor's employees shall be required to wear uniforms, badges, or other means of identification which are to be furnished by the Contractor and must be worn at all times while working on County property. The assigned DPA must be notified in writing, within seven (7) days of notification of award of Contract of the uniform and/or badges and/or other identification to be worn by employees prior to beginning work and notified in writing seven (7) days prior to any changes in this procedure.

14. **Contractor's Records:** The Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three (3) years after final payment is received from the County. Storage of records in another county will require written approval from the County of Orange assigned DPA.
15. **Conditions Affecting Work:** The Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to the County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.
16. **Cooperative Agreement:** The provisions and pricing of this Contract will be extended to other California local or state governmental entities. Governmental entities wishing to use the pre-negotiated prices and terms in this Contract will be responsible for issuing their own purchase documents/contracts, providing for their own acceptance, and making any subsequent payments. Contractor shall be required to include in any contract entered into with another department or entity that is entered into and incorporates by reference the pre-negotiated prices and terms of this Contract a contractual clause that will hold harmless the County of Orange from all claims, demands, actions or causes of actions of every kind resulting directly or indirectly, arising out of, or in any way connected with the use of this Contract. Failure to do so will be considered a material breach of this Contract by Contractor and grounds for immediate Contract termination. Departments or entities making use of the pre-negotiated prices and terms of this Contract are responsible for obtaining all certificates of insurance and bonds required when entering into their own contract. The Contractor is responsible for providing each cooperative entity a copy of the Contract upon request by the cooperative entity. The County of Orange makes no guarantee of usage by other users of this Contract.

The Contractor shall be required to maintain a list of the cooperative entities using this Contract. The list shall report dollar volumes spent annually and shall be provided on an annual basis to the County, at the County's request.



17. **County of Orange Disabled Veteran Business Enterprise Preference Requirements:** Contractor certifies it is in compliance with County of Orange Disabled Veteran Business Enterprise Preference requirements at the time this Contract is executed.
18. **County of Orange Local Small Business Preference Requirements:** Contractor certifies it is in compliance with County of Orange Local Small Business Preference requirements at the time this Contract is executed.
19. **Data – Title To:** All materials, documents, data or information obtained from the County data files or any County medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Contract.
20. **Default – Reprocurement Costs:** In case of Contract breach by Contractor, resulting in termination by the County, the County may procure the goods and/or services from other sources. If the cost for those goods and/or services is higher than under the terms of the existing Contract, Contractor will be responsible for paying the County the difference between the Contract cost and the price paid, and the County may deduct this cost from any unpaid balance due the Contractor. The price paid by the County shall be the prevailing market price at the time such purchase is made. This is in addition to any other remedies available under this Contract and under law.
21. **Disputes – Contract:** The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor’s Project Manager and the County’s Project Manager, as specified in Article 30 “Notices,” such matter shall be brought to the attention of the County DPA by way of the following process:
- a. The Contractor shall submit to the agency/department assigned DPA 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. The Contractor’s written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which the Contractor believes the County is liable.
- Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. The Contractor’s failure to diligently proceed shall be considered a material breach of this Contract.
- Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County DPA or his designee. If the County fails to render a decision within 90 days after receipt of the Contractor’s demand, it shall be deemed a final decision adverse to the Contractor’s contentions. Nothing in this section shall be construed as affecting the County’s right to terminate the Contract for cause or termination for convenience as stated in Article K herein.
22. **Drug-Free Workplace:** The Contractor hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The Contractor will:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a)(1).
- b. Establish a drug-free awareness program as required by Government Code Section 8355(a)(2) to inform employees about all of the following:
  - i. The dangers of drug abuse in the workplace;
  - ii. The organization's policy of maintaining a drug-free workplace;
  - iii. Any available counseling, rehabilitation and employee assistance programs; and
  - iv. Penalties that may be imposed upon employees for drug abuse violations.
- c. Provide as required by Government Code Section 8355(a)(3) that every employee who works under this Contract:
  - i. Will receive a copy of the company's drug-free policy statement; and
  - ii. Will agree to abide by the terms of the company's statement as a condition of employment under this Contract.

Failure to comply with these requirements may result in suspension of payments under the Contract or termination of the Contract or both, and the Contractor may be ineligible for award of any future County contracts if the County determines that any of the following has occurred:

1. The Contractor has made false certification, or
2. The Contractor violates the certification by failing to carry out the requirements as noted above.

23. **EDD Independent Contractor Reporting Requirements:** Effective January 1, 2001, the County of Orange is required to file in accordance with subdivision (a) of Section 6041A of the Internal Revenue Code for services received from a "service provider" to whom the County pays \$600 or more or with whom the County enters into a contract for \$600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.

The term "service provider" is defined in California Unemployment Insurance Code Section 1088.8, subarticle B.2 as "an individual who is not an employee of the service recipient for California purposes and who received compensation or executes a contract for services performed for that service recipient within or without the state." The term is further defined by the California Employment Development Department to refer specifically to independent Contractors. An independent Contractor is defined as "an individual who is not an employee of the ... government entity for California purposes and who receives compensation or executes a contract for services performed for that ... government entity either in or outside of California."

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

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

24. **Emergency/Declared Disaster Requirements:** In the event of an emergency or if Orange County is declared a disaster area by the County, state or federal government, this Contract may be subjected to unusual usage. The Contractor shall service the County during such an emergency or declared disaster under the same terms and conditions that apply during non-emergency/disaster conditions. The pricing quoted by the Contractor shall apply to serving the County's needs regardless of the circumstances. If the Contractor is unable to supply the goods/services under the terms of the Contract, then the Contractor shall provide proof of such disruption and a copy of the invoice for the goods/services from the Contractor's supplier(s). Additional profit margin as a result of supplying goods/services during an emergency or a declared disaster shall not be permitted. In the event of an emergency or declared disaster, emergency purchase order numbers will be assigned. All applicable invoices from the Contractor shall show both the emergency purchase order number and the Contract number.
25. **Errors and Omissions:** All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as Project Manager and key personnel attached hereto, prior to submission to the County. Contractor agrees that County review is discretionary, and Contractor shall not assume that the County will discover errors and/or omissions. If the County discovers any errors or omissions prior to approving Contractor's reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should the County or others discover errors or omissions in the reports, files or other written documents submitted by the Contractor after County approval thereof, County approval of Contractor's reports, files or documents shall not be used as a defense by Contractor in any action between the County and Contractor, and the reports, files or documents will be returned to Contractor for correction.
26. **Equal Employment Opportunity:** The Contractor shall comply with U.S. Executive Order 11246 entitled, "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable state of California regulations as may now exist or be amended in the future. The Contractor shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

Regarding handicapped persons, the Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.

Regarding Americans with disabilities, Contractor agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.

27. **Follow-On Work – Service Contract:** No person, firm, subsidiary or subcontractor of a firm that has been awarded a consulting services contract or a contract which includes a consulting component may be awarded a Contract for the performance of services, the purchase of goods or

supplies, or the provision of any other related action which arises from or can reasonably be deemed an end-product of work performed under the initial consulting to consulting-related Contract.

28. **Intellectual Property:** The Contractor hereby agrees and acknowledges that all work performed and deliverables furnished by Developer under this Agreement (collectively, the "Work Product"), including, without limitation, all software, methodologies, inventions, discoveries, creations, works, designs, graphics, ideas, concepts, techniques, processes, documentation, data, and any other developments or intellectual property, whether or not they are patentable or registerable under copyright or similar statutes, that are conceived, developed, contributed to, made, or performed by Developer pursuant to this Agreement, shall be the sole and exclusive property of Orange County ("County"). Developer acknowledges that, to the extent possible, all work product is to be considered as "work made for hire" as that term is used in the United States Copyright Act. Developer agrees to develop all software and methodologies for the County in a manner that ensures they can be transferred, adopted, maintained, and managed by the County upon completion of the scope. This will include, but not be limited to, the provision of all source code, programming logic, appropriate software documentation, software licenses, keys, configurations, system requirements, methodologies, and training materials necessary for the County to independently operate, maintain, and modify the software and methodologies without reliance on Developer. Developer agrees to perform adequate knowledge transfer activities, such as training sessions, and will provide ongoing support for a period to be defined by both parties, subject to scope, to ensure a smooth transition.
29. **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 review and written approval of said news releases from the County through the County's Project Manager.
30. **Notices:** Any and 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 assigned DPA, except through the course of the parties' project managers' routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (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.

Contractor: AirDev, Inc.  
 Attn: Evan Schwarzbaum  
 2261 Market St #4165  
 San Francisco, CA 94114  
 Phone: 973-508-7458  
 Email: [Evan@airdev.co](mailto:Evan@airdev.co)

County's Project Manager: OC Public Works/Administrative Services  
 Attn: Zac Henson  
 601 North Ross Street  
 Santa Ana, CA 92701  
 Phone: 714-667-1689  
 Email: [Zac.Henson@ocpw.ocgov.com](mailto:Zac.Henson@ocpw.ocgov.com)

cc: OC Public Works/Procurement Services  
Attn: Richard Nguyen, County DPA  
601 North Ross Street  
Santa Ana, CA 92701  
Phone: 714-667-9633  
Email: [Richard.Nguyen@ocpw.ocgov.com](mailto:Richard.Nguyen@ocpw.ocgov.com)

31. **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.
32. **Royalties:** The County will not pay royalties as a result of work performed under this Contract. All written work resulting from this Contract shall be the property of the County of Orange, and any copyrights associated with that work shall belong to the County of Orange and shall be so designated on the written materials.
33. **Termination – Orderly:** After receipt of a termination notice from the County of Orange, the Contractor may submit to the County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than 60 days from the effective date of the termination, unless one or more extensions in writing are granted by the County upon written request of the Contractor. Upon termination County agrees to pay the Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation 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.
34. **Usage:** No guarantee is given by the County to the Contractor regarding usage of this Contract. Usage figures, if provided, are approximations. The Contractor agrees to supply services and/or commodities requested, as needed by the County of Orange, at rates/prices listed in the Contract, regardless of quantity requested.
35. **Usage Reports:** The Contractor shall submit usage reports on an annual basis to the assigned DPA of the County of Orange user agency/department. The usage report shall be in a format specified by the user agency/department and shall be submitted 90 days prior to the expiration date of the contract term, or any subsequent renewal term, if applicable.
36. **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.
37. **Project Manager, County:** The County shall appoint a Project Manager to act as liaison between the County and the Contractor during the term of this Contract. The County's Project Manager shall coordinate the activities of the County staff assigned to work with the Contractor.

The County's Project Manager shall have the right to require the removal and replacement of the Contractor's Project Manager and key personnel. The County's 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 from the County's Project Manager. The County's Project Manager shall review and approve the appointment of the replacement for the Contractor's Project Manager and key personnel. Said approval shall not be unreasonably withheld. The County is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor's Project Manager from providing further services under the Contract.

38. **Mandatory Kick-Off Meeting:** Upon award of this Contract, the awarded Contractor(s) shall attend a mandatory kick-off meeting with County representatives to discuss important information related to the scope of work, the Contract, and the invoice payment process. A quarterly check-in meeting will be required to review any issues with the Contract.

39. **Prevailing Wage:**

a. **Threshold Requirements for Prevailing Wages:** Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

b. **Wage Rates:** Contractor shall post a copy of the wage rates at the job site and shall pay the adopted prevailing wage rates as a minimum. Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the Board of Supervisors has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in this locality for each craft, classification, or type of workman needed to execute this Contract from the Director of the Department of Industrial Relations. These rates are on file with the Clerk of the Board of Supervisors. Copies may be obtained at cost at the office of County's OC Public Works/OC Facilities & Asset Management/A&E Project Management or visit the website of the Department of Industrial Relations, Prevailing Wage Unit at [www.dir.ca.gov/DLSR/PWD](http://www.dir.ca.gov/DLSR/PWD). The Contractor shall comply with the provisions of Sections 1774, 1775, 1776 and 1813 of the Labor Code.

c. **Apprenticeship Requirements: The Contractor shall comply with Section 230.1(A),** California Code of Regulations as required by the Department of Industrial Relations, Division of Apprenticeship Standards by submitting DAS Form to the Joint Apprenticeship Committee of the craft or trade in the area of the site.

d. **Registration of Contractor:** All contractors and subcontractors must comply with the requirements of Labor Code Section 1771.1(a), pertaining to registration of contractors pursuant to Section 1725.5. Bids cannot be accepted from unregistered contractors except as provided in Section 1771.1. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. After award of the contract, Contractor and each Subcontractor shall furnish electronic payroll records directly to the Labor Commissioner in the manner specified in Labor Code Section 1771.4.

**Prevailing Wage and DIR Requirement:** Awarding agencies are not required to submit the notice of contract award through DIR's PWC-100 system on projects that fall within the small project exemption. The small project exemption applies for all public works projects that do not exceed:

- \$25,000 for new construction, alteration, installation, demolition or repair
- \$15,000 for maintenance

If the project meets or exceeds these amounts, the County and the Contractor are required to register the project with the California Department of Industrial Relations.

e. **Payroll Records:** Contractor and any Subcontractor(s) shall comply with the requirements of Labor Code Section 1776. Such compliance includes the obligation to furnish the records specified in Section 1776 directly to the Labor Commissioner in an electronic format, or other format as specified by the Commissioner, in the manner provided by Labor Code Section 1771.4.

The requirements of Labor Code Section 1776 provide, in summary:

- i. Contractor and any Subcontractor(s) performing any portion of the work under this Contract shall keep an accurate record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by Contractor or any Subcontractor(s) in connection with the work.
- ii. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
  1. The information contained in the payroll record is true and correct; and,
  2. The employer has complied with the requirements of Labor Code Sections 1771, 1811, and 1815 for any work performed by his or her employees in connection with the Contract.
- iii. The payroll records shall be certified and shall be available for inspection at the principal office of Contractor on the basis set forth in Labor Code Section 1776.
- iv. Contractor shall inform County of the location of the payroll records, including the street address, city and county, and shall, within five (5) working days, provide a notice of any change of location and address of the records.
- v. Pursuant to Labor Code Section 1776, Contractor and any Subcontractor(s) shall have 10 days in which to provide a certified copy of the payroll records subsequent to receipt of a written notice requesting the records described herein. In the event that Contractor or any Subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to County, forfeit \$100, or a higher amount as provided by Section 1776, for each calendar day, or portion thereof, for each worker to whom the noncompliance pertains, until strict compliance is effectuated. Contractor acknowledges that, without limitation as to other remedies of enforcement available to County, upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement of the California Department of Industrial Relations, such penalties shall be withheld from progress payments then due Contractor. Contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.
- vi. Contractor and any Subcontractor(s) shall comply with the provisions of Labor Code Sections 1771 et seq., and shall pay workers employed on the Contract not less than the general prevailing rates of per diem wages and holiday and overtime wages as determined by the Director of Industrial Relations. Contractor shall post a copy of these wage rates at the job site for each craft, classification, or type of worker needed in the performance of this Contract, as well as any additional job site notices required by Labor Code Section 1771.4(b). Copies of these rates are on file at the principal office of County's representative, or may be obtained from the State Office, Department of Industrial Relations ("DIR") or from the DIR's website at [www.dir.ca.gov](http://www.dir.ca.gov). If the

Contract is federally funded, Contractor and any Subcontractor(s) shall not pay less than the higher of these rates or the rates determined by the United States Department of Labor.

- f. **Work Hour Penalty:** Eight (8) hours of labor constitute a legal day's work, and forty hours constitute a legal week's work. Pursuant to Section 1813 of the Labor Code of the State of California, the Contractor shall forfeit to the County Twenty Five Dollars (\$25) for each worker employed in the execution of this Contract by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than the legal day's or week's work, except that work performed by employees of said Contractor and subcontractors in excess of the legal limit shall be permitted without the foregoing penalty upon the payment of compensation to the workers for all hours worked in excess of eight hours per day of not less than 1-1/2 times the basic rate of pay.
- g. **Apprentices:** The Contractor acknowledges and agrees that, if this Contract involves a dollar amount greater than or a number of working days greater than that specified in Labor Code Section 1777.5, this Contract is governed by the provisions of Labor Code Section 1777.5. It shall be the responsibility of the Contractor to ensure compliance with this Article and with Labor Code Section 1777.5 for all apprenticeable occupations.

Pursuant to Labor Code Section 1777.5 if that Section applies to this Contract as indicated above, the Contractor and any subcontractors under him employing workers in any apprenticeable craft or trade in performing any work under this Contract shall apply to the applicable joint apprenticeship committee for a certificate approving the Contractor or subcontractor under the applicable apprenticeship standards and fixing the ratio of apprentices to journeymen employed in performing the work.

Pursuant to Labor Code Section 1777.5 if that Section applies to this Contract as indicated above, the Contractor and any subcontractor under him may be required to make contributions to the apprenticeship program.

The Contractor and all subcontractors under him shall comply with Labor Code Section 1777.6 which Section forbids certain discriminatory practices in the employment of apprentices.

**Signature Page Follows**



Signature Page

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

**AIRDEV, INC.\***

<i>Andrew Haller</i>	Andrew Haller	President	7/4/2023
Signature	Name	Title	Date

<i>Vlad Leytus</i>	Vlad Leytus	CFO	7/4/2023
Signature	Name	Title	Date

**COUNTY OF ORANGE**, A political subdivision of the State of California  
**COUNTY AUTHORIZED SIGNATURE:**

		Deputy Purchasing Agent	
Signature	Name	Title	Date

**ORANGE COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic**  
**DISTRICT AUTHORIZED SIGNATURE:**

		Deputy Purchasing Agent	
Signature	Name	Title	Date

**APPROVED AS TO FORM:**  
**County Counsel**

By                     *William Mink*                      
                    Deputy  
Date                     7/5/2023                    

\* 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**

### **I. PROJECT BACKGROUND**

Previously, OC Public Works (OCPW) used multiple, non-integrated Microsoft software tools such as Excel, Word, Access, SharePoint and Project to administer all phases of the Capital Improvement Program (CIP) project life cycle. Those phases include, project initiation, planning, design, procurement, construction, and closeout. The use of multiple software caused inefficiencies, inaccurate and inconsistent information, untimely reporting, and miscommunication. The inefficiencies were compounded by the fact that each project has several supporting divisions with each one using its own tools during the life of the project rather than a single, unified software system. To improve project efficiencies, OCPW has multiple needs to manage integrations of its Asset Works system of information, as well as its Project Management, Asset Management, and Inventory Tracking tools.

### **II. PROJECT DESCRIPTION**

OCPW, on behalf of the County of Orange (County), is establishing a list of contract(s) dedicated for Maintenance Management. Task Orders will be issued on an as-needed basis at the discretion of the County. The requested services will include, but are not limited to the creation/development, design, implementation and integration of customized changes to the existing deployment of Maintenance Management. Contractor will assist OCPW with ongoing configuration, maintenance and support of any developed Maintenance Management integrations. Contractor will also be responsible for training OCPW end-user groups as requested.

These contracts may be utilized by other County Departments. Contractor shall provide all labor, material, tools and equipment for the services under the discipline(s).

Contractor will perform work for the County for various undefined task orders related to this Scope of Work.

### **III. TASK DELIVERY PLAN**

For major tasks as designated by the County Project Manager, the Contractor shall follow the delivery plan:

1. Kickoff and Discover
  - a. Kickoff meeting
  - b. Establish goals and objectives
  - c. Create and maintain a task matrix
  - d. Initial project schedule
  - e. Data gathering
2. Project Design & Requirements
  - a. Solution Documents
3. Project Configuration & Testing
4. Training & Adoption
5. Integration Methodology

### **IV. TASK ASSIGNMENT**

County requests will be submitted via email to designated County Project Managers.

The County Project Manager will assign a due date and priority for each task. If Contractor cannot complete the task by the given deadline or anticipates any delays, Contractor must immediately notify the County Project Manager to coordinate a mutually agreed due date.

Upon completion of each deliverable, Contractor shall submit the hours it took to complete the task to the County Project Manager.

**V. INTEGRATION AND CONFIGURATION BACKGROUND**

- A. Configuration Methodology with Assetworks – The following are the County identified configuration methodology with Assetworks:
- a. REST API – Development and maintenance of existing REST Application Programming Interfaces
  - b. The following are a few of the existing integration points with Assetworks:
    - i. Work Order Management
    - ii. Property Management
    - iii. Capital Planning & Project Management
    - iv. Inventory Management
    - v. Asset Management
    - vi. Time Tracking
    - vii. Personnel Management
- B. Configuration Methodology with CAPS+ – The following are the County identified configuration methodology with CAPS+:
- a. Secure File Transfer Program (SFTP) Automated Batched Integration (Standard File Transfer) – Using the Maintenance Management standard Import/Export toolkit, data is transferred from CAPS + to e- Builder, via a SFTP site. County is responsible for configuring, maintaining, and granting Contractor access to the SFTP site for batch file transfer.
  - b. Maintenance of existing integration points – It is Maintenance Management’s responsibility to ensure the functionality of existing integration points.
  - c. The following are existing integration points with CAPS+:
    - i. Commitment Approval
    - ii. Commitment Change
    - iii. Commitment Invoice
    - iv. Funding Source
    - v. General Invoice
    - vi. Internal Encumbrance
    - vii. Vendor Import
  - d. Exception Reports – any integration exception report is stored in the document structure, under the integration point where the exception occurred, on the Automation Files project.
- C. Configuration Methodology with CRM (Customer Relationship Management a.k.a. Salesforce Software)- The following are the County identified configuration methodology with CRM:
- a. Existing Reports – County maintains a schedule and cost report which is saved to OCPW CRM/CAPS+ Dashboard Integration under the report module.
  - b. SFTP Automated Batched File Transfer – An automated subscription transfers the reports to the SFTP as a csv file type on a monthly interval.

- c. County configures the CRM system to upload and publish the Maintenance Management data.

## **VI. MAINTENANCE MANAGEMENT SUPPORT TASKS**

The support services to be provided by Contractor may include, but are not limited to the following items:

1. Administrator support:
  - a. Data Entry – inputting catch-up invoices, setting up new projects, and batch processing of data
  - b. Integration – Currently the County has seven (7) integration points with CAPS+, if an exception report is generated, the Contractor may be required to process them. If the integration is not working properly and Maintenance Management is not deleting processed files off the SFTP, Contractor may need to manage the files on the SFTP and manually delete files until Maintenance Management fixes the integration point.
  - c. User– this may include adding new users, updating roles at the project and account level, and managing permissions by roles.
  - d. Liaison between County and Maintenance Management - Contractor will be expected to serve as the County representative when the need for direct coordination is required with Maintenance Management staff to resolve or implement system account settings and configurations. If the integration is not working properly, the County may request the Contractor to work with Maintenance Management on behalf of the County to expedite the integration fix.
  - e. eB Administration Requests – Contractor in coordination with County Project Manager will be responsible for managing and clearing requests submitted by County eB users through the PWEAR – Maintenance Management Admin Requests Process or similar process. These requests will vary depending on the user’s needs and the volume of request will fluctuate. The Contractor shall leave a brief summary of what changes were made in the comments tab of the process.
2. Configuration updates to system and modules, including but not limited to:
  - a. Refine existing processes
  - b. Refine existing modules
  - c. Dashboard & Reporting Configurations
  - d. Integration w/County Systems
    - i. CAPS+
    - ii. Maintenance Management Enterprise Data Warehouse
    - iii. Other third-party Business Intelligence (BI)
    - iv. CRM dashboards
3. Implementing new integration points:
  - a. For any new integration point, the transfer interval, data mapping, file formats, and reporting requirements will be defined during the kick-off and discovery phase.
  - b. SFTP Testing & Configuration – Contractor will test the connection and transfer of files to and from the SFTP site provided by County to Maintenance Management.
  - c. Integration Development Documentation – Contractor will provide a document that describes the integration, identifies the specific integration data, file transfer templates, integration requirements, custom development needs, notifications, and reporting.
  - d. Integration Configuration & Development – Contractor will provide the configuration and development services to implement integration points as requested by the County. Standard templates will be used when possible, but additional custom development may be required in support of this methodology.
  - e. Integration Testing & Training – Contractor will provide the testing and QA services

- to ensure the integration satisfies the identified requirements and provide integration training to County.
- f. Integration Deployment & Support – Contractor will deploy the integration points into the production account environment when feasible and coordinate with Maintenance Management on behalf of the County when Maintenance Management support is required.
4. Generating data for CRM
    - a. Maintenance Management Data Creation for Export - County will select the data it would like to export from Maintenance Management to CRM and Contractor will develop the report.
    - b. SFTP Automated Batched File Transfer – Data from Maintenance Management system will be transferred from Maintenance Management to CRM via a SFTP site. Contractor will be responsible for the automation subscription to generate the csv file.
    - c. SFTP Testing & Configuration – Contractor will test the connection and transfer of files to the SFTP site provided by County.
    - d. Integration Development & Testing – County will configure the CRM system to upload and publish the Maintenance Management data.
    - e. Integration Testing – Contractor and County will test all integration points; Maintenance Management data creation and transfer to CRM and upload to CRM system.
  5. Configuration Auditing:
    - a. If requested by the County, Contractor may be requested to create a document to provide a detailed description of the integration with CAPS+ and CRM.
    - b. Audit how processes and/or reports are working and how they can be improved to increase efficiencies.
  6. Training: Contractor shall provide County staff with comprehensive onsite or virtual, hands-on training and instruction material to end users, system administrators and “train-the-trainer” users. Training will be on how to administer and use Maintenance Management. Training methods and curriculum for various roles of County staff include:
    - a. Administrator Training- This training is for those users County has assigned accountability to administer and maintain Maintenance Management post-implementation. These “super-users” will be trained on the detailed aspects of Maintenance Management setup and configuration. Administrators will learn how to perform such key tasks as; create new projects, users, reports, and workflows. They will have the ability to manage the Maintenance Management Enterprise configuration as County processes evolve over time.
      - i. End-User Training- User training is provided in a series of sessions. This training is process/role based and all users may not need to attend every session. The Contractor will provide a training agenda detailing the sessions and users who need to attend each session.
      - ii. Train-the-Trainer- This training will be provided to those persons County has identified as its ongoing trainers in a series of sessions. This training covers the process/role-based user training, operation of key Maintenance Management Enterprise functionality and detail on recommended training materials and methods.
      - iii. External Users- This training will be provided to external users such as Contractors, Architect-Engineers, Contractors, County Departments, Other Key Stakeholders, etc.

- b. If requested by the County, the Contractor shall create and maintain complete training and user guides, video recordings of training sessions, Administrator guides, and quick reference guides. All documents are provided in electronic format. New system enhancements and features will be added to each guide.
  - c. New user packet – Contractor shall develop a new user packet that will provide all the essential information need to understand Maintenance Management and its function within the County. This document is a “living” document that shall evolve with system changes and be updated on a periodic basis as determined by the County Project Manager. The update shall include new processes, features, new training material and recordings, and any other information that is useful to new users.
7. Development of new Processes - County is continuously developing new processes and Contractor shall be required to assist the County in developing new processes based on County provided direction.
- a. Process Development – County will develop the framework of the process which will include workflow diagram (may be electronic or hand sketched), roles, and general page layouts (can be existing forms with notes) with field permissions.
  - b. Increase Efficiencies – If Contractor identifies potential efficiencies, they shall notify the County Project Manager and provide documentation on how the efficiencies will be gained and what are the impacts
  - c. Building Process – Contractor shall be responsible for building out all elements of the process which include:
    - i. Process Properties
    - ii. Data fields – Contractor shall select appropriate data types and permissions.
    - iii. Page layouts – Contractor shall develop all elements of the page layout including field properties.
    - iv. Workflow – Contractor shall design workflow with corresponding logic, role assignments, data field assignments, and any other necessary features
  - d. Testing Process – Contractor shall follow the guidelines under Acceptance Testing
  - e. Implementation – Upon approval from the County, Contractor shall update the projects using the process and filter by applicable departments.
  - f. Process Documentation
    - i. Administrator Guide(s) - Contractor shall create an admin guide that clearly shows the workflow, actors, logic, page layouts, data field assignment, escalation rules, and other useful information. This shall be a Word Document with a combination of text and screen shots.
    - ii. User Guide(s) – Contractor shall create a user guide that will show how and who can start the process, a general workflow which clearly shows the action and roles at each step. This is intended as a reference guide for users who do not frequently start the process.
    - iii. Quick Reference Guide(s) – Contractor shall create a quick reference guide mainly used for users who start a process. This should include the initiator page layout and a description of the data fields and what needs to be completed to successfully submit the process. These quick reference guides can be expanded to include other features within Maintenance Management.
8. System readiness for use by external users – It is the County’s wish to expand Maintenance Management to include external users such as Contractors, Architectural Engineers, Stakeholders etc.
- a. System Configuration – Contractor shall be responsible for system configuration to ensure the framework of Maintenance Management is ready for external users
  - b. Permissions – Contractor is responsible for establishing permissions by roles(s)

- and/or users to ensure external users see information that is related to the County's needs
- c. Testing – Prior to implementation, Contractor shall thoroughly test the role(s), membership, and permissions under a testing user account.
  - d. Documents – Contractor shall coordinate and provide an outline to the County Project Manager before developing the follow external user packets:
    - i. New external user packet – Similar to the new user packet, this packet shall focus on elements that are important to external users. This will include but not limited to how to log-in, how to view project(s) and modules, how to navigate Maintenance Management, and more importantly what processes the user can start along with quick reference guides. The external packet shall include the following three separate packets that shall be updated on a periodic bases as determined by the County Project Manager:
      1. Architectural Engineers
      2. External Government Agency
      3. Construction Contractors
9. Status Reports
- a. If requested by the County, Contractor shall attend a periodic (minimum occurrence on a weekly basis) status update conference call or in person meeting where Contractor shall provide an update on work completed since last meeting and work to be completed in the following week(s). The Contractor shall run and present four process reports: (1) open (PWEBR) OCPW – Maintenance Management Requests processes (2) closed (PWEBR) OCPW – Maintenance Management Requests processes (3) open (PWEAR) OCPW – Maintenance Management Admin Requests processes (4) closed (PWEAR) OCPW – Maintenance Management Admin Requests processes. The Contractor shall write a meeting summary to be distributed within three (3) business days of meeting and attached the four reports presented.
  - b. Contractor shall submit a Status Report to the County Project Manager summarizing the progress of the services provided during the preceding month. This report shall include problems that have occurred and that could delay Contractor's performance of anticipated activities and expected problems during the upcoming month. At a minimum, each Status Report shall include: (a) the current status and progress compared to the baseline for each task; (b) any actual delays; (c) any reasonably anticipated delays; (d) any failures, or correction of any failures; and (e) such other information as County may reasonably request from time to time.

## **VII. ACCEPTANCE TESTING**

All deliverables are subject to review and approval by County Project Manager and shall conform with the requirements within this Scope of Work and contract. Contractor shall always perform a thorough Quality Assurance/Quality Control (QA/QC) on all deliverables. The following provisions apply to the Deliverables:

1. QA/QC Plan: If requested by the County Project Manager, Contractor shall provide a written QA/QC plan within five (5) business days of notification that outlines the steps that are taken to ensure the accuracy and completeness of all deliverables. If the QA/QC plan is deemed inadequate, the County Project Manager will request a revised QA/QC plan that the Contractor will resubmit for approval. If Contractors submits deliverables with errors or mistakes, the County Project Manager may request the Contractor to provide a Performance Action Plan within five (5) business days which will address the following: (a) clearly identified the error; (b) how the error occurred; (c) how the error will be fixed in the future; and (d) an updated QA/QC plan that will include the Performance Action Plan as an amendment.

2. Clarification: If Contractor needs any clarification and/or additional directive on configuration deliverables, the Contractor shall route the PWEBR process to Initiator Revise where County Project Manager will provide a response in the comments of the process. At this time, Contractor can request for a time extension on the subject deliverable which may or may not be granted by the County Project Manager. Contractor shall not proceed with the deliverable until a response is given by the County Project Manager.
3. Testing: Prior to submitting any configuration deliverable such as process development, it is the Contractor's responsibility to provide an adequate QA/QC "stress test" to ensure all logic, data fields, actors are properly defined and assigned. At the discretion of the County Project Manager, configuration deliverables may be reviewed or immediately implemented. If the process is immediately implemented and errors are discovered, the County may elect to fix any errors or request the Contractor to fix errors within two (2) business days of notification. If the County Project Manager does not deem the configuration deliverable acceptable, the Contractor will receive comments through the PWEBR process and revisions shall be implemented within five (5) business days.
4. Testing Documentation – Contractor shall create a testing matrix that clearly displays all the information and process routing to demonstrate completeness of task involving process development. If requested by County Project Manager, Contractor shall submit a testing report that shows the testing methodology for that deliverable and any other relevant information.

## **VIII. CONTRACT TASK ORDERS**

Contract Task Orders (CTO) shall be approved in writing by the County Project Manager prior to the Contractor proceeding with the services. Individual CTO's will be issued for specific deliverables.

Contractor shall provide the County Project Manager with a written proposal for each CTO. County and Contractor shall provide a detailed breakdown of the labor and material costs that are the basis of the Contractor's proposal. The breakdown shall be in accordance with the Cost/Compensation listed in Attachment B.

Payments shall be made for each deliverable milestone reached and progress payments made on a percent- completion basis not to exceed that amount agreed to for each deliverable milestone. If prior written approval is made by the County Project Manager, Contractor may submit invoices monthly.

Contractor shall submit all invoices through the PWINV – Invoice Approval Process under the OCPW – e- Builder Requests Project or another similar project. Contractor must include an invoice per Attachment B and attach a Maintenance Management PWEBR process report for the work completed during that pay period. Within that process report, the labor rate shall be multiplied by the actual hours to complete the task and a total shall be presented in the report which shall match the invoice. Any invoice billings that exceed the original budget will be rejected unless prior written approval by the County Project Manager was obtained.

## **IX. ASSUMPTIONS**

1. Admin Support
  - a. Requests to be submitted through the PWEAR or PWEBR process
2. Configuration updates to system
  - a. Performed remotely by Contractor; County to provide detailed instructions and/or



- screenshots with markups, when requesting changes through the PWEBR process.
- b. Contractor to track and record all changes (for historical archiving purposes), impacts and potential risks to other processes, forms or configurations.
3. End-User Training
    - a. May be performed onsite or remotely depending on the needs of the County.
    - b. User training guide(s) will be complete three (3) business days before the training date.
  4. County to update and embed within these training guides additional OCPW job specific and/or real- world narrative, as necessary.
  5. Process Development
    - a. Performed onsite or remotely.
    - b. County to provide:
      - i. For onsite development, a single reserved meeting space for the entire duration.
      - ii. County may provide subject matter experts for part or the whole duration of onsite meetings.
  6. Contractor to be assigned as a temporary eB Administrator to carry out requested tasks. Contractor shall be responsible to remedy, at their cost, any system changes that negatively affect the functionality of the system on either OCPWs or other County Department's setup, caused by Contractor action(s) or inaction(s) not directed by the County.
  7. County approval is required prior to adding/deleting new Administrative Users.
  8. Contractor will be appointed to serve as County's representative during collaborations and negotiations with Maintenance Management support staff.

**X. ADDITIONAL WORK**

- A. Upon County request, Contractor shall submit supplemental proposals for Additional Work not called for under the Scope of Work of this Contract. Contractor must obtain County Project Manager's written approval prior to commencing any additional work.
- B. County reserves the right to obtain supplemental proposals from, and use, alternate sources for completion of the additional work and to utilize the data provided under this Contract to obtain necessary services.
- C. If County authorizes work by an alternate source, Contractor may be relieved of responsibilities pertaining to the equipment affected by the project while work is being performed and during the subsequent warranty period.
- D. Contractor shall continue to provide services to all areas not affected by work provided by alternate sources.
- E. Upon completion of any additional work, whether by Contractor or an alternative source, County's Project Manager or designee and Contractor will inspect the finished product at no additional cost to County. Upon mutual acceptance of the additional work, Contractor shall again be responsible for all services originally covered under this Contract and the work performed under this section.

**ATTACHMENT B  
PAYMENT/COMPENSATION**

1. **COMPENSATION:** Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration 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 Respondent of all its duties and obligations hereunder. The County shall have no obligation to pay any sum, should the Contract never be utilized.
2. **FEES AND CHARGES:** County will pay the following fees in accordance with the provisions of this Contract. Payment shall be as follows:

**A. Classification/Titles and Hourly Rates:**

Line	Classification/Titles	Hourly Rate
1	Senior PM	\$275.00
2	Product Manager	\$220.00
3	UX designer	\$165.00
4	Technical/DevOps	\$220.00
5	Developer	\$165.00
6	UI assembler	\$165.00
7	QA Specialist	\$85.00
8	Support agent	\$85.00

**B. Additional Work:** Any additional services not listed in the Contract must be approved by County’s Project Manager or designee in accordance with Attachment A, Section X.

**C. AGGREGATE CONTRACT AMOUNT NOT TO EXCEED:.....\$1,050,000.00\***

\*This is shared between AirDev, Inc. and Efficient BPM LLC.

3. **PRICE INCREASE/DECREASES:** No price increases will be permitted during the first term of the Contract. The County requires documented proof of cost increases on Contracts prior to any price adjustment. A minimum of 180-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 user agency/department to the ship-to address, unless otherwise directed in this Contract. Contractor shall reference Contract number on invoice. 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:** The Contractor will provide an invoice on the Contractor's letterhead for goods delivered and/or services rendered. In the case of goods, the Contractor will leave an invoice with each delivery. Each invoice will have a number and will include the following information:
- A. Contractor's name and address
  - B. Contractor's remittance address, if different from "A" above
  - C. Contractor's Taxpayer ID Number
  - D. Name of County Agency/Department
  - E. Delivery/Service address
  - F. Master Agreement (MA) or Purchase Order (PO) number
  - G. Agency/Department's Account Number
  - H. Date of invoice
  - I. Product/Service description, quantity, and prices
  - J. Sales tax, if applicable
  - K. Freight/Delivery charges, if applicable
  - L. Total

Invoices and support documentation are to be forwarded to:

OC Public Works/Procurement Services  
Attn: Accounts Payable  
PO Box 4048  
Santa Ana, CA 92702-4048  
Email: [accountspayable@ocpw.ocgov.com](mailto:accountspayable@ocpw.ocgov.com)

Contractor has the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT will also receive Electronic Remittance Advice with the payment details via email. An email address will need to be provided to the County via an EFT Authorization Form. To request a form, please contact the DPA.

**CONTRACT MA-080-23010821**

**FOR**

**MAINTENANCE MANAGEMENT INTEGRATION SERVICES**

**BETWEEN**

**OC PUBLIC WORKS**

**AND**

**EFFICIENT BPM LLC**



**CONTRACT MA-080-23010821  
FOR  
MAINTENANCE MANAGEMENT INTEGRATION SERVICES  
WITH  
EFFICIENT BPM LLC**

THIS Contract MA-080-23010821 for Maintenance Management Integration Services (“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”), Orange County Flood Control District, a body corporate and politic (“District”), and Efficient BPM LLC, with a place of business at 3321 E 1<sup>st</sup> Street, Long Beach CA, 90803 (“Contractor”), with County and Contractor sometimes referred to as “Party” or collectively as “Parties.”

**ATTACHMENTS**

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

Attachment A – Scope of Work

Attachment B – Payment/Compensation

**RECITALS**

WHEREAS, Contractor, District, and County are entering into this Contract for Maintenance Management Integration Services under a firm fixed fee Contract; and,

WHEREAS, the District relies on County staff to carry out its duties pursuant to the Orange County Flood Control District Act, Water Code App. §§ 36-1 et seq., and County staff may request Contractor to perform services under this Contract on behalf of District; and,

WHEREAS, County solicited Contract for Maintenance Management Integration Services as set forth herein, and Contractor represented that it is qualified to provide Maintenance Management Integration Services to the County as further set forth here; and,

WHEREAS, Contractor agrees to provide Maintenance Management Integration Services to the 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 Procurement Officer or designee to enter into a Contract for Maintenance Management Integration Services with the Contractor; and,

NOW, THEREFORE, the Parties mutually agree as follows:

**ARTICLES**

**General Terms and Conditions:**

- A. **Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and 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 Contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County's Procurement Officer 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 state sales or use tax. Out-of-state Contractors shall indicate California Board of Equalization permit number and sales permit number on invoices, if California sales tax is added and collectable. If no permit numbers are shown, sales tax will be deducted from payment. The Auditor-Controller will then pay use tax directly to the State of California in lieu of payment of sales tax to the Contractor.
- E. **Delivery:** Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments nor deprive it of the right to return goods already accepted at Contractor's expense. Over shipments and under shipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by County.
- 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, District, and County Indemnities as identified in **article "Z,"** and as more fully described in **article "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 **article “Z”** below, it shall indemnify, defend and hold County, District, 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.

In the event of change of control, to the extent necessary, Contractor shall provide reasonably requested assistance in the transferring of services.

- 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 Requirements:** Prior to the provision of services under this Contract, the Contractor agrees to carry 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 current, provide Certificates of Insurance, and endorsements to the County during the entire term of this Contract.

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 (SIR)'s shall be clearly stated on the Certificate of Insurance. Any SIR in excess of Fifty Thousand Dollars \$50,000 shall specifically be approved by the County's Risk Manager, or designee. The County reserves the right to require current audited financial reports from Contractor. If Contractor is self-insured, Contractor will indemnify the County and District for any and all claims resulting or arising from Contractor's services in accordance with the indemnity provision stated in this Contract.

Upon notice of any actual or alleged claim or loss arising out of subcontractor's work hereunder, subcontractor shall immediately satisfy in full the SIR provisions of the policy in order to trigger coverage for the Contractor and Additional Insureds.

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**).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, CEO/ 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:

### **Coverage**

### **Minimum Limits**

Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned or scheduled, non-owned, and hired vehicles	\$1,000,000 combined single limit each accident
Workers Compensation	Statutory
Employers Liability Insurance	\$1,000,000 per accident or disease
Network Security & Privacy	\$1,000,000 per claims-made



## Liability

Technology Errors & Omissions	\$1,000,000 per claims-made \$1,000,000 aggregate
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Increased insurance limits may be satisfied with Excess/Umbrella policies. Excess/Umbrella policies when required must provide Follow Form coverage.

**Required Coverage Forms**

The Commercial General Liability coverage shall be written on occurrence basis utilizing 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, Orange County Flood Control District, and their 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-contributory 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 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, Orange County Flood Control District, and their 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, Orange County Flood Control District, and their elected and appointed officials, officers, employees, and agents*** as Additional Insureds for its vicarious liability.
- 2) A primary and non-contributory endorsement evidencing that the Contractor's insurance is primary, and any insurance or self-insurance maintained by the County shall be excess and non-contributing.

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

Contractor shall provide thirty (30) days prior written notice to the County of any policy cancellation or non-renewal and ten (10) days prior written notice where cancellation is due to 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 Network Security & Privacy Liability are "Claims-Made" policy(ies), Contractor shall agree to the following:

- 1) The retroactive date must be shown and must be before the date of the Contract or the beginning of the Contract services.
- 2) Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after expiration or earlier termination of Contract services.
- 3) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the contract services, Contractor must purchase an extended reporting period for a minimum of three (3) years after expiration of earlier termination 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 emailed to [OCPWCompliance@ocpw.ocgov.com](mailto:OCPWCompliance@ocpw.ocgov.com)

If email is not possible, then Insurance certificates should specifically be forwarded to:

OC Public Works  
Attn: OCPW Procurement  
601 N. Ross Street, 4<sup>th</sup> Floor  
Santa Ana, CA 92701

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 of Ownership/Name, Litigation Status, Conflicts with County Interests:**

Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new

owner(s) shall be required under the terms of sale or other instruments of transfer to assume Contractor's duties and obligations contained in this Contract, and complete them to the satisfaction of the County.

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

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

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

- 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, District, and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a 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 their 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:** The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain from all employees performing work hereunder all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, District, and their agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.
- Z. **Indemnification:** Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County of Orange, Orange County Flood Control District, and their elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County or District by a court of competent jurisdiction because of the concurrent active negligence of County, District, 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's 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 of Orange 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.
- DD. Levine Act Requirements:** Contractor agrees to comply with Government Code Section 84308. Contractor further agrees to disclose to the County any contribution made to any members of the Board of Supervisors or County Agency Officers by Contractor, Contractor's agent or lobbyist, or, if applicable, any subcontractor(s) for the twelve (12) months prior to and twelve (12) months following the approval, renewal, or extension of this Contract.

### **Additional Terms and Conditions:**

1. **Scope of Contract:** This Contract specifies the contractual terms and conditions by which the County will procure Maintenance Management Integration 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:** This Contract shall commence upon execution of all necessary signatures and continue for three (3) years from that date, unless otherwise terminated by County.
3. **Renewal:** This Contract may be renewed by mutual written agreement of both Parties for a two-year renewable term. The County does not have to give reason if it elects not to renew. Renewal periods may be subject to approval by the County of Orange Board of Supervisors.
4. **Aggregate Contract:** This is an Aggregate Contract with Efficient BPM LLC and AirDev, Inc. with a Total Aggregate Contract Amount not to exceed \$1,050,000.00.
5. **Adjustments – Scope of Work:** No adjustments made to the Scope of Work will be authorized without prior written approval of the County assigned DPA.
6. **Breach of Contract:** The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the County

may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:

- a) Terminate the Contract immediately, pursuant to Section K herein;
  - b) Afford the Contractor written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
  - c) Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and
  - d) Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.
7. **Civil Rights:** Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.
8. **Conflict of Interest – Contractor’s Personnel:** The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Contractor; the Contractor’s employees, agents, and subcontractors associated with accomplishing work and services hereunder. The 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.
9. **Conflict of Interest – County Personnel:** The County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The Contractor shall not, during the period of this Contract, employ any County employee for any purpose.
10. **Contractor’s Project Manager and Key Personnel:** Contractor shall appoint a Project Manager to direct the Contractor’s efforts in fulfilling Contractor’s obligations under this Contract. This Project Manager shall be subject to approval by the County and shall not be changed without the written consent of the County’s Project Manager, which consent shall not be unreasonably withheld.
- The Contractor’s 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 time lines. The County’s Project Manager shall have the right to require the removal and replacement of the Contractor’s Project Manager from providing services to the County under this Contract. The County’s Project Manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within five (5) business days after written notice by the County’s Project Manager. The County’s Project Manager shall review and approve the appointment of the replacement for the Contractor’s Project Manager. The County is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor’s Project Manager from providing further services under the Contract.
11. **Contractor Personnel – Reference Checks:** The Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to adequately perform the work under this Contract. Contractor’s employees assigned to this project

must meet character standards as demonstrated by background investigation and reference checks, coordinated by the agency/department issuing this Contract.

12. **Contractor's Expense:** The 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. The County will not provide free parking for any service in the County Civic Center.
13. **Contractor Personnel – Uniform/Badges/Identification:** The Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to accept the kind of responsibility under this Contract.

All Contractor's employees shall be required to wear uniforms, badges, or other means of identification which are to be furnished by the Contractor and must be worn at all times while working on County property. The assigned DPA must be notified in writing, within seven (7) days of notification of award of Contract of the uniform and/or badges and/or other identification to be worn by employees prior to beginning work and notified in writing seven (7) days prior to any changes in this procedure.

14. **Contractor's Records:** The Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three (3) years after final payment is received from the County. Storage of records in another county will require written approval from the County of Orange assigned DPA.
15. **Conditions Affecting Work:** The Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to the County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.
16. **Cooperative Agreement:** The provisions and pricing of this Contract will be extended to other California local or state governmental entities. Governmental entities wishing to use the pre-negotiated prices and terms in this Contract will be responsible for issuing their own purchase documents/contracts, providing for their own acceptance, and making any subsequent payments. Contractor shall be required to include in any contract entered into with another department or entity that is entered into and incorporates by reference the pre-negotiated prices and terms of this Contract a contractual clause that will hold harmless the County of Orange from all claims, demands, actions or causes of actions of every kind resulting directly or indirectly, arising out of, or in any way connected with the use of this Contract. Failure to do so will be considered a material breach of this Contract by Contractor and grounds for immediate Contract termination. Departments or entities making use of the pre-negotiated prices and terms of this Contract are responsible for obtaining all certificates of insurance and bonds required when entering into their own contract. The Contractor is responsible for providing each cooperative entity a copy of the Contract upon request by the cooperative entity. The County of Orange makes no guarantee of usage by other users of this Contract.

The Contractor shall be required to maintain a list of the cooperative entities using this Contract. The list shall report dollar volumes spent annually and shall be provided on an annual basis to the County, at the County's request.

17. **County of Orange Disabled Veteran Business Enterprise Preference Requirements:** Contractor certifies it is in compliance with County of Orange Disabled Veteran Business Enterprise Preference requirements at the time this Contract is executed.
18. **County of Orange Local Small Business Preference Requirements:** Contractor certifies it is in compliance with County of Orange Local Small Business Preference requirements at the time this Contract is executed.
19. **Data – Title To:** All materials, documents, data or information obtained from the County data files or any County medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Contract.
20. **Default – Reprocurement Costs:** In case of Contract breach by Contractor, resulting in termination by the County, the County may procure the goods and/or services from other sources. If the cost for those goods and/or services is higher than under the terms of the existing Contract, Contractor will be responsible for paying the County the difference between the Contract cost and the price paid, and the County may deduct this cost from any unpaid balance due the Contractor. The price paid by the County shall be the prevailing market price at the time such purchase is made. This is in addition to any other remedies available under this Contract and under law.
21. **Disputes – Contract:** The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor’s Project Manager and the County’s Project Manager, as specified in Article 30 “Notices,” such matter shall be brought to the attention of the County DPA by way of the following process:
- a. The Contractor shall submit to the agency/department assigned DPA 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. The Contractor’s written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which the Contractor believes the County is liable.
- Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. The Contractor’s failure to diligently proceed shall be considered a material breach of this Contract.
- Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County DPA or his designee. If the County fails to render a decision within 90 days after receipt of the Contractor’s demand, it shall be deemed a final decision adverse to the Contractor’s contentions. Nothing in this section shall be construed as affecting the County’s right to terminate the Contract for cause or termination for convenience as stated in Article K herein.
22. **Drug-Free Workplace:** The Contractor hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The Contractor will:



- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a)(1).
- b. Establish a drug-free awareness program as required by Government Code Section 8355(a)(2) to inform employees about all of the following:
  - i. The dangers of drug abuse in the workplace;
  - ii. The organization's policy of maintaining a drug-free workplace;
  - iii. Any available counseling, rehabilitation and employee assistance programs; and
  - iv. Penalties that may be imposed upon employees for drug abuse violations.
- c. Provide as required by Government Code Section 8355(a)(3) that every employee who works under this Contract:
  - i. Will receive a copy of the company's drug-free policy statement; and
  - ii. Will agree to abide by the terms of the company's statement as a condition of employment under this Contract.

Failure to comply with these requirements may result in suspension of payments under the Contract or termination of the Contract or both, and the Contractor may be ineligible for award of any future County contracts if the County determines that any of the following has occurred:

1. The Contractor has made false certification, or
  2. The Contractor violates the certification by failing to carry out the requirements as noted above.
23. **EDD Independent Contractor Reporting Requirements:** Effective January 1, 2001, the County of Orange is required to file in accordance with subdivision (a) of Section 6041A of the Internal Revenue Code for services received from a "service provider" to whom the County pays \$600 or more or with whom the County enters into a contract for \$600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.

The term "service provider" is defined in California Unemployment Insurance Code Section 1088.8, subarticle B.2 as "an individual who is not an employee of the service recipient for California purposes and who received compensation or executes a contract for services performed for that service recipient within or without the state." The term is further defined by the California Employment Development Department to refer specifically to independent Contractors. An independent Contractor is defined as "an individual who is not an employee of the ... government entity for California purposes and who receives compensation or executes a contract for services performed for that ... government entity either in or outside of California."

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

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

24. **Emergency/Declared Disaster Requirements:** In the event of an emergency or if Orange County is declared a disaster area by the County, state or federal government, this Contract may be subjected to unusual usage. The Contractor shall service the County during such an emergency or declared disaster under the same terms and conditions that apply during non-emergency/disaster conditions. The pricing quoted by the Contractor shall apply to serving the County's needs regardless of the circumstances. If the Contractor is unable to supply the goods/services under the terms of the Contract, then the Contractor shall provide proof of such disruption and a copy of the invoice for the goods/services from the Contractor's supplier(s). Additional profit margin as a result of supplying goods/services during an emergency or a declared disaster shall not be permitted. In the event of an emergency or declared disaster, emergency purchase order numbers will be assigned. All applicable invoices from the Contractor shall show both the emergency purchase order number and the Contract number.
25. **Errors and Omissions:** All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as Project Manager and key personnel attached hereto, prior to submission to the County. Contractor agrees that County review is discretionary, and Contractor shall not assume that the County will discover errors and/or omissions. If the County discovers any errors or omissions prior to approving Contractor's reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should the County or others discover errors or omissions in the reports, files or other written documents submitted by the Contractor after County approval thereof, County approval of Contractor's reports, files or documents shall not be used as a defense by Contractor in any action between the County and Contractor, and the reports, files or documents will be returned to Contractor for correction.
26. **Equal Employment Opportunity:** The Contractor shall comply with U.S. Executive Order 11246 entitled, "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable state of California regulations as may now exist or be amended in the future. The Contractor shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

Regarding handicapped persons, the Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.

Regarding Americans with disabilities, Contractor agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.

27. **Follow-On Work – Service Contract:** No person, firm, subsidiary or subcontractor of a firm that has been awarded a consulting services contract or a contract which includes a consulting component may be awarded a Contract for the performance of services, the purchase of goods or

supplies, or the provision of any other related action which arises from or can reasonably be deemed an end-product of work performed under the initial consulting to consulting-related Contract.

28. **Intellectual Property:** The Contractor hereby agrees and acknowledges that all work performed and deliverables furnished by Developer under this Agreement (collectively, the "Work Product"), including, without limitation, all software, methodologies, inventions, discoveries, creations, works, designs, graphics, ideas, concepts, techniques, processes, documentation, data, and any other developments or intellectual property, whether or not they are patentable or registerable under copyright or similar statutes, that are conceived, developed, contributed to, made, or performed by Developer pursuant to this Agreement, shall be the sole and exclusive property of Orange County ("County"). Developer acknowledges that, to the extent possible, all work product is to be considered as "work made for hire" as that term is used in the United States Copyright Act. Developer agrees to develop all software and methodologies for the County in a manner that ensures they can be transferred, adopted, maintained, and managed by the County upon completion of the scope. This will include, but not be limited to, the provision of all source code, programming logic, appropriate software documentation, software licenses, keys, configurations, system requirements, methodologies, and training materials necessary for the County to independently operate, maintain, and modify the software and methodologies without reliance on Developer. Developer agrees to perform adequate knowledge transfer activities, such as training sessions, and will provide ongoing support for a period to be defined by both parties, subject to scope, to ensure a smooth transition.
29. **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 review and written approval of said news releases from the County through the County's Project Manager.
30. **Notices:** Any and 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 assigned DPA, except through the course of the parties' project managers' routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (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.

Contractor: Efficient BPM LLC  
 Attn: Charles J Hoffman  
 3321 E 1<sup>st</sup> Street  
 Long Beach CA, 90803  
 Phone: 213-536-1720  
 Email: [choffman@efficientbpm.com](mailto:choffman@efficientbpm.com)

County's Project Manager: OC Public Works/Administrative Services  
 Attn: Zac Henson  
 601 North Ross Street  
 Santa Ana, CA 92701  
 Phone: 714-667-1689  
 Email: [Zac.Henson@ocpw.ocgov.com](mailto:Zac.Henson@ocpw.ocgov.com)

cc: OC Public Works/Procurement Services  
Attn: Richard Nguyen, County DPA  
601 North Ross Street  
Santa Ana, CA 92701  
Phone: 714-667-9633  
Email: [Richard.Nguyen@ocpw.ocgov.com](mailto:Richard.Nguyen@ocpw.ocgov.com)

31. **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.
32. **Royalties:** The County will not pay royalties as a result of work performed under this Contract. All written work resulting from this Contract shall be the property of the County of Orange, and any copyrights associated with that work shall belong to the County of Orange and shall be so designated on the written materials.
33. **Termination – Orderly:** After receipt of a termination notice from the County of Orange, the Contractor may submit to the County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than 60 days from the effective date of the termination, unless one or more extensions in writing are granted by the County upon written request of the Contractor. Upon termination County agrees to pay the Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation 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.
34. **Usage:** No guarantee is given by the County to the Contractor regarding usage of this Contract. Usage figures, if provided, are approximations. The Contractor agrees to supply services and/or commodities requested, as needed by the County of Orange, at rates/prices listed in the Contract, regardless of quantity requested.
35. **Usage Reports:** The Contractor shall submit usage reports on an annual basis to the assigned DPA of the County of Orange user agency/department. The usage report shall be in a format specified by the user agency/department and shall be submitted 90 days prior to the expiration date of the contract term, or any subsequent renewal term, if applicable.
36. **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.
37. **Project Manager, County:** The County shall appoint a Project Manager to act as liaison between the County and the Contractor during the term of this Contract. The County's Project Manager shall coordinate the activities of the County staff assigned to work with the Contractor.

The County's Project Manager shall have the right to require the removal and replacement of the Contractor's Project Manager and key personnel. The County's 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 from the County's Project Manager. The County's Project Manager shall review and approve the appointment of the replacement for the Contractor's Project Manager and key personnel. Said approval shall not be unreasonably withheld. The County is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor's Project Manager from providing further services under the Contract.

38. **Mandatory Kick-Off Meeting:** Upon award of this Contract, the awarded Contractor(s) shall attend a mandatory kick-off meeting with County representatives to discuss important information related to the scope of work, the Contract, and the invoice payment process. A quarterly check-in meeting will be required to review any issues with the Contract.

39. **Prevailing Wage:**

a. **Threshold Requirements for Prevailing Wages:** Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

b. **Wage Rates:** Contractor shall post a copy of the wage rates at the job site and shall pay the adopted prevailing wage rates as a minimum. Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the Board of Supervisors has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in this locality for each craft, classification, or type of workman needed to execute this Contract from the Director of the Department of Industrial Relations. These rates are on file with the Clerk of the Board of Supervisors. Copies may be obtained at cost at the office of County's OC Public Works/OC Facilities & Asset Management/A&E Project Management or visit the website of the Department of Industrial Relations, Prevailing Wage Unit at [www.dir.ca.gov/DLSR/PWD](http://www.dir.ca.gov/DLSR/PWD). The Contractor shall comply with the provisions of Sections 1774, 1775, 1776 and 1813 of the Labor Code.

c. **Apprenticeship Requirements: The Contractor shall comply with Section 230.1(A),** California Code of Regulations as required by the Department of Industrial Relations, Division of Apprenticeship Standards by submitting DAS Form to the Joint Apprenticeship Committee of the craft or trade in the area of the site.

d. **Registration of Contractor:** All contractors and subcontractors must comply with the requirements of Labor Code Section 1771.1(a), pertaining to registration of contractors pursuant to Section 1725.5. Bids cannot be accepted from unregistered contractors except as provided in Section 1771.1. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. After award of the contract, Contractor and each Subcontractor shall furnish electronic payroll records directly to the Labor Commissioner in the manner specified in Labor Code Section 1771.4.

**Prevailing Wage and DIR Requirement:** Awarding agencies are not required to submit the notice of contract award through DIR's PWC-100 system on projects that fall within the small project exemption. The small project exemption applies for all public works projects that do not exceed:

- \$25,000 for new construction, alteration, installation, demolition or repair
- \$15,000 for maintenance

If the project meets or exceeds these amounts, the County and the Contractor are required to register the project with the California Department of Industrial Relations.

e. **Payroll Records:** Contractor and any Subcontractor(s) shall comply with the requirements of Labor Code Section 1776. Such compliance includes the obligation to furnish the records specified in Section 1776 directly to the Labor Commissioner in an electronic format, or other format as specified by the Commissioner, in the manner provided by Labor Code Section 1771.4.

The requirements of Labor Code Section 1776 provide, in summary:

- i. Contractor and any Subcontractor(s) performing any portion of the work under this Contract shall keep an accurate record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by Contractor or any Subcontractor(s) in connection with the work.
- ii. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
  1. The information contained in the payroll record is true and correct; and,
  2. The employer has complied with the requirements of Labor Code Sections 1771, 1811, and 1815 for any work performed by his or her employees in connection with the Contract.
- iii. The payroll records shall be certified and shall be available for inspection at the principal office of Contractor on the basis set forth in Labor Code Section 1776.
- iv. Contractor shall inform County of the location of the payroll records, including the street address, city and county, and shall, within five (5) working days, provide a notice of any change of location and address of the records.
- v. Pursuant to Labor Code Section 1776, Contractor and any Subcontractor(s) shall have 10 days in which to provide a certified copy of the payroll records subsequent to receipt of a written notice requesting the records described herein. In the event that Contractor or any Subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to County, forfeit \$100, or a higher amount as provided by Section 1776, for each calendar day, or portion thereof, for each worker to whom the noncompliance pertains, until strict compliance is effectuated. Contractor acknowledges that, without limitation as to other remedies of enforcement available to County, upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement of the California Department of Industrial Relations, such penalties shall be withheld from progress payments then due Contractor. Contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.
- vi. Contractor and any Subcontractor(s) shall comply with the provisions of Labor Code Sections 1771 et seq., and shall pay workers employed on the Contract not less than the general prevailing rates of per diem wages and holiday and overtime wages as determined by the Director of Industrial Relations. Contractor shall post a copy of these wage rates at the job site for each craft, classification, or type of worker needed in the performance of this Contract, as well as any additional job site notices required by Labor Code Section 1771.4(b). Copies of these rates are on file at the principal office of County's representative, or may be obtained from the State Office, Department of Industrial Relations ("DIR") or from the DIR's website at [www.dir.ca.gov](http://www.dir.ca.gov). If the

Contract is federally funded, Contractor and any Subcontractor(s) shall not pay less than the higher of these rates or the rates determined by the United States Department of Labor.

- f. **Work Hour Penalty:** Eight (8) hours of labor constitute a legal day's work, and forty hours constitute a legal week's work. Pursuant to Section 1813 of the Labor Code of the State of California, the Contractor shall forfeit to the County Twenty Five Dollars (\$25) for each worker employed in the execution of this Contract by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than the legal day's or week's work, except that work performed by employees of said Contractor and subcontractors in excess of the legal limit shall be permitted without the foregoing penalty upon the payment of compensation to the workers for all hours worked in excess of eight hours per day of not less than 1-1/2 times the basic rate of pay.
- g. **Apprentices:** The Contractor acknowledges and agrees that, if this Contract involves a dollar amount greater than or a number of working days greater than that specified in Labor Code Section 1777.5, this Contract is governed by the provisions of Labor Code Section 1777.5. It shall be the responsibility of the Contractor to ensure compliance with this Article and with Labor Code Section 1777.5 for all apprenticeable occupations.

Pursuant to Labor Code Section 1777.5 if that Section applies to this Contract as indicated above, the Contractor and any subcontractors under him employing workers in any apprenticeable craft or trade in performing any work under this Contract shall apply to the applicable joint apprenticeship committee for a certificate approving the Contractor or subcontractor under the applicable apprenticeship standards and fixing the ratio of apprentices to journeymen employed in performing the work.

Pursuant to Labor Code Section 1777.5 if that Section applies to this Contract as indicated above, the Contractor and any subcontractor under him may be required to make contributions to the apprenticeship program.

The Contractor and all subcontractors under him shall comply with Labor Code Section 1777.6 which Section forbids certain discriminatory practices in the employment of apprentices.

**Signature Page Follows**

Signature Page

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

**EFFICIENT BPM LLC\***

<i>Charles Hoffman</i>	Charles Hoffman	President/CFO	7/3/2023
Signature	Name	Title	Date

<i>Charles Hoffman</i>	Charles Hoffman	CFO	7/5/2023
Signature	Name	Title	Date

**COUNTY OF ORANGE**, A political subdivision of the State of California  
**COUNTY AUTHORIZED SIGNATURE:**

		Deputy Purchasing Agent	
Signature	Name	Title	Date

**ORANGE COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic**  
**DISTRICT AUTHORIZED SIGNATURE:**

		Deputy Purchasing Agent	
Signature	Name	Title	Date

**APPROVED AS TO FORM:**  
**County Counsel**

By                     *William Mink*                      
                    Deputy  
                    7/5/2023  
Date \_\_\_\_\_

\* 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**

### **I. PROJECT BACKGROUND**

Previously, OC Public Works (OCPW) used multiple, non-integrated Microsoft software tools such as Excel, Word, Access, SharePoint and Project to administer all phases of the Capital Improvement Program (CIP) project life cycle. Those phases include, project initiation, planning, design, procurement, construction, and closeout. The use of multiple software caused inefficiencies, inaccurate and inconsistent information, untimely reporting, and miscommunication. The inefficiencies were compounded by the fact that each project has several supporting divisions with each one using its own tools during the life of the project rather than a single, unified software system. To improve project efficiencies, OCPW has multiple needs to manage integrations of its Asset Works system of information, as well as its Project Management, Asset Management, and Inventory Tracking tools.

### **II. PROJECT DESCRIPTION**

OCPW, on behalf of the County of Orange (County), is establishing a list of contract(s) dedicated for Maintenance Management. Task Orders will be issued on an as-needed basis at the discretion of the County. The requested services will include, but are not limited to the creation/development, design, implementation and integration of customized changes to the existing deployment of Maintenance Management. Contractor will assist OCPW with ongoing configuration, maintenance and support of any developed Maintenance Management integrations. Contractor will also be responsible for training OCPW end-user groups as requested.

These contracts may be utilized by other County Departments. Contractor shall provide all labor, material, tools and equipment for the services under the discipline(s).

Contractor will perform work for the County for various undefined task orders related to this Scope of Work.

### **III. TASK DELIVERY PLAN**

For major tasks as designated by the County Project Manager, the Contractor shall follow the delivery plan:

1. Kickoff and Discover
  - a. Kickoff meeting
  - b. Establish goals and objectives
  - c. Create and maintain a task matrix
  - d. Initial project schedule
  - e. Data gathering
2. Project Design & Requirements
  - a. Solution Documents
3. Project Configuration & Testing
4. Training & Adoption
5. Integration Methodology

### **IV. TASK ASSIGNMENT**

County requests will be submitted via email to designated County Project Managers.

The County Project Manager will assign a due date and priority for each task. If Contractor cannot complete the task by the given deadline or anticipates any delays, Contractor must immediately notify the County Project Manager to coordinate a mutually agreed due date.

Upon completion of each deliverable, Contractor shall submit the hours it took to complete the task to the County Project Manager.

**V. INTEGRATION AND CONFIGURATION BACKGROUND**

- A. Configuration Methodology with Assetworks – The following are the County identified configuration methodology with Assetworks:
- a. REST API – Development and maintenance of existing REST Application Programming Interfaces
  - b. The following are a few of the existing integration points with Assetworks:
    - i. Work Order Management
    - ii. Property Management
    - iii. Capital Planning & Project Management
    - iv. Inventory Management
    - v. Asset Management
    - vi. Time Tracking
    - vii. Personnel Management
- B. Configuration Methodology with CAPS+ – The following are the County identified configuration methodology with CAPS+:
- a. Secure File Transfer Program (SFTP) Automated Batched Integration (Standard File Transfer) – Using the Maintenance Management standard Import/Export toolkit, data is transferred from CAPS + to e- Builder, via a SFTP site. County is responsible for configuring, maintaining, and granting Contractor access to the SFTP site for batch file transfer.
  - b. Maintenance of existing integration points – It is Maintenance Management’s responsibility to ensure the functionality of existing integration points.
  - c. The following are existing integration points with CAPS+:
    - i. Commitment Approval
    - ii. Commitment Change
    - iii. Commitment Invoice
    - iv. Funding Source
    - v. General Invoice
    - vi. Internal Encumbrance
    - vii. Vendor Import
  - d. Exception Reports – any integration exception report is stored in the document structure, under the integration point where the exception occurred, on the Automation Files project.
- C. Configuration Methodology with CRM (Customer Relationship Management a.k.a. Salesforce Software)- The following are the County identified configuration methodology with CRM:
- a. Existing Reports – County maintains a schedule and cost report which is saved to OCPW CRM/CAPS+ Dashboard Integration under the report module.
  - b. SFTP Automated Batched File Transfer – An automated subscription transfers the reports to the SFTP as a csv file type on a monthly interval.

- c. County configures the CRM system to upload and publish the Maintenance Management data.

## **VI. MAINTENANCE MANAGEMENT SUPPORT TASKS**

The support services to be provided by Contractor may include, but are not limited to the following items:

1. Administrator support:
  - a. Data Entry – inputting catch-up invoices, setting up new projects, and batch processing of data
  - b. Integration – Currently the County has seven (7) integration points with CAPS+, if an exception report is generated, the Contractor may be required to process them. If the integration is not working properly and Maintenance Management is not deleting processed files off the SFTP, Contractor may need to manage the files on the SFTP and manually delete files until Maintenance Management fixes the integration point.
  - c. User– this may include adding new users, updating roles at the project and account level, and managing permissions by roles.
  - d. Liaison between County and Maintenance Management - Contractor will be expected to serve as the County representative when the need for direct coordination is required with Maintenance Management staff to resolve or implement system account settings and configurations. If the integration is not working properly, the County may request the Contractor to work with Maintenance Management on behalf of the County to expedite the integration fix.
  - e. eB Administration Requests – Contractor in coordination with County Project Manager will be responsible for managing and clearing requests submitted by County eB users through the PWEAR – Maintenance Management Admin Requests Process or similar process. These requests will vary depending on the user’s needs and the volume of request will fluctuate. The Contractor shall leave a brief summary of what changes were made in the comments tab of the process.
2. Configuration updates to system and modules, including but not limited to:
  - a. Refine existing processes
  - b. Refine existing modules
  - c. Dashboard & Reporting Configurations
  - d. Integration w/County Systems
    - i. CAPS+
    - ii. Maintenance Management Enterprise Data Warehouse
    - iii. Other third-party Business Intelligence (BI)
    - iv. CRM dashboards
3. Implementing new integration points:
  - a. For any new integration point, the transfer interval, data mapping, file formats, and reporting requirements will be defined during the kick-off and discovery phase.
  - b. SFTP Testing & Configuration – Contractor will test the connection and transfer of files to and from the SFTP site provided by County to Maintenance Management.
  - c. Integration Development Documentation – Contractor will provide a document that describes the integration, identifies the specific integration data, file transfer templates, integration requirements, custom development needs, notifications, and reporting.
  - d. Integration Configuration & Development – Contractor will provide the configuration and development services to implement integration points as requested by the County. Standard templates will be used when possible, but additional custom development may be required in support of this methodology.
  - e. Integration Testing & Training – Contractor will provide the testing and QA services

- to ensure the integration satisfies the identified requirements and provide integration training to County.
- f. Integration Deployment & Support – Contractor will deploy the integration points into the production account environment when feasible and coordinate with Maintenance Management on behalf of the County when Maintenance Management support is required.
4. Generating data for CRM
    - a. Maintenance Management Data Creation for Export - County will select the data it would like to export from Maintenance Management to CRM and Contractor will develop the report.
    - b. SFTP Automated Batched File Transfer – Data from Maintenance Management system will be transferred from Maintenance Management to CRM via a SFTP site. Contractor will be responsible for the automation subscription to generate the csv file.
    - c. SFTP Testing & Configuration – Contractor will test the connection and transfer of files to the SFTP site provided by County.
    - d. Integration Development & Testing – County will configure the CRM system to upload and publish the Maintenance Management data.
    - e. Integration Testing – Contractor and County will test all integration points; Maintenance Management data creation and transfer to CRM and upload to CRM system.
  5. Configuration Auditing:
    - a. If requested by the County, Contractor may be requested to create a document to provide a detailed description of the integration with CAPS+ and CRM.
    - b. Audit how processes and/or reports are working and how they can be improved to increase efficiencies.
  6. Training: Contractor shall provide County staff with comprehensive onsite or virtual, hands-on training and instruction material to end users, system administrators and “train-the-trainer” users. Training will be on how to administer and use Maintenance Management. Training methods and curriculum for various roles of County staff include:
    - a. Administrator Training- This training is for those users County has assigned accountability to administer and maintain Maintenance Management post-implementation. These “super-users” will be trained on the detailed aspects of Maintenance Management setup and configuration. Administrators will learn how to perform such key tasks as; create new projects, users, reports, and workflows. They will have the ability to manage the Maintenance Management Enterprise configuration as County processes evolve over time.
      - i. End-User Training- User training is provided in a series of sessions. This training is process/role based and all users may not need to attend every session. The Contractor will provide a training agenda detailing the sessions and users who need to attend each session.
      - ii. Train-the-Trainer- This training will be provided to those persons County has identified as its ongoing trainers in a series of sessions. This training covers the process/role-based user training, operation of key Maintenance Management Enterprise functionality and detail on recommended training materials and methods.
      - iii. External Users- This training will be provided to external users such as Contractors, Architect-Engineers, Contractors, County Departments, Other Key Stakeholders, etc.

- b. If requested by the County, the Contractor shall create and maintain complete training and user guides, video recordings of training sessions, Administrator guides, and quick reference guides. All documents are provided in electronic format. New system enhancements and features will be added to each guide.
      - c. New user packet – Contractor shall develop a new user packet that will provide all the essential information need to understand Maintenance Management and its function within the County. This document is a “living” document that shall evolve with system changes and be updated on a periodic basis as determined by the County Project Manager. The update shall include new processes, features, new training material and recordings, and any other information that is useful to new users.
7. Development of new Processes - County is continuously developing new processes and Contractor shall be required to assist the County in developing new processes based on County provided direction.
  - a. Process Development – County will develop the framework of the process which will include workflow diagram (may be electronic or hand sketched), roles, and general page layouts (can be existing forms with notes) with field permissions.
  - b. Increase Efficiencies – If Contractor identifies potential efficiencies, they shall notify the County Project Manager and provide documentation on how the efficiencies will be gained and what are the impacts
  - c. Building Process – Contractor shall be responsible for building out all elements of the process which include:
    - i. Process Properties
    - ii. Data fields – Contractor shall select appropriate data types and permissions.
    - iii. Page layouts – Contractor shall develop all elements of the page layout including field properties.
    - iv. Workflow – Contractor shall design workflow with corresponding logic, role assignments, data field assignments, and any other necessary features
  - d. Testing Process – Contractor shall follow the guidelines under Acceptance Testing
  - e. Implementation – Upon approval from the County, Contractor shall update the projects using the process and filter by applicable departments.
  - f. Process Documentation
    - i. Administrator Guide(s) - Contractor shall create an admin guide that clearly shows the workflow, actors, logic, page layouts, data field assignment, escalation rules, and other useful information. This shall be a Word Document with a combination of text and screen shots.
    - ii. User Guide(s) – Contractor shall create a user guide that will show how and who can start the process, a general workflow which clearly shows the action and roles at each step. This is intended as a reference guide for users who do not frequently start the process.
    - iii. Quick Reference Guide(s) – Contractor shall create a quick reference guide mainly used for users who start a process. This should include the initiator page layout and a description of the data fields and what needs to be completed to successfully submit the process. These quick reference guides can be expanded to include other features within Maintenance Management.
8. System readiness for use by external users – It is the County’s wish to expand Maintenance Management to include external users such as Contractors, Architectural Engineers, Stakeholders etc.
  - a. System Configuration – Contractor shall be responsible for system configuration to ensure the framework of Maintenance Management is ready for external users
  - b. Permissions – Contractor is responsible for establishing permissions by roles(s)

- and/or users to ensure external users see information that is related to the County's needs
- c. Testing – Prior to implementation, Contractor shall thoroughly test the role(s), membership, and permissions under a testing user account.
  - d. Documents – Contractor shall coordinate and provide an outline to the County Project Manager before developing the follow external user packets:
    - i. New external user packet – Similar to the new user packet, this packet shall focus on elements that are important to external users. This will include but not limited to how to log-in, how to view project(s) and modules, how to navigate Maintenance Management, and more importantly what processes the user can start along with quick reference guides. The external packet shall include the following three separate packets that shall be updated on a periodic bases as determined by the County Project Manager:
      1. Architectural Engineers
      2. External Government Agency
      3. Construction Contractors
9. Status Reports
- a. If requested by the County, Contractor shall attend a periodic (minimum occurrence on a weekly basis) status update conference call or in person meeting where Contractor shall provide an update on work completed since last meeting and work to be completed in the following week(s). The Contractor shall run and present four process reports: (1) open (PWEBR) OCPW – Maintenance Management Requests processes (2) closed (PWEBR) OCPW – Maintenance Management Requests processes (3) open (PWEAR) OCPW – Maintenance Management Admin Requests processes (4) closed (PWEAR) OCPW – Maintenance Management Admin Requests processes. The Contractor shall write a meeting summary to be distributed within three (3) business days of meeting and attached the four reports presented.
  - b. Contractor shall submit a Status Report to the County Project Manager summarizing the progress of the services provided during the preceding month. This report shall include problems that have occurred and that could delay Contractor's performance of anticipated activities and expected problems during the upcoming month. At a minimum, each Status Report shall include: (a) the current status and progress compared to the baseline for each task; (b) any actual delays; (c) any reasonably anticipated delays; (d) any failures, or correction of any failures; and (e) such other information as County may reasonably request from time to time.

## **VII. ACCEPTANCE TESTING**

All deliverables are subject to review and approval by County Project Manager and shall conform with the requirements within this Scope of Work and contract. Contractor shall always perform a thorough Quality Assurance/Quality Control (QA/QC) on all deliverables. The following provisions apply to the Deliverables:

1. QA/QC Plan: If requested by the County Project Manager, Contractor shall provide a written QA/QC plan within five (5) business days of notification that outlines the steps that are taken to ensure the accuracy and completeness of all deliverables. If the QA/QC plan is deemed inadequate, the County Project Manager will request a revised QA/QC plan that the Contractor will resubmit for approval. If Contractors submits deliverables with errors or mistakes, the County Project Manager may request the Contractor to provide a Performance Action Plan within five (5) business days which will address the following: (a) clearly identified the error; (b) how the error occurred; (c) how the error will be fixed in the future; and (d) an updated QA/QC plan that will include the Performance Action Plan as an amendment.

2. Clarification: If Contractor needs any clarification and/or additional directive on configuration deliverables, the Contractor shall route the PWEBR process to Initiator Revise where County Project Manager will provide a response in the comments of the process. At this time, Contractor can request for a time extension on the subject deliverable which may or may not be granted by the County Project Manager. Contractor shall not proceed with the deliverable until a response is given by the County Project Manager.
3. Testing: Prior to submitting any configuration deliverable such as process development, it is the Contractor's responsibility to provide an adequate QA/QC "stress test" to ensure all logic, data fields, actors are properly defined and assigned. At the discretion of the County Project Manager, configuration deliverables may be reviewed or immediately implemented. If the process is immediately implemented and errors are discovered, the County may elect to fix any errors or request the Contractor to fix errors within two (2) business days of notification. If the County Project Manager does not deem the configuration deliverable acceptable, the Contractor will receive comments through the PWEBR process and revisions shall be implemented within five (5) business days.
4. Testing Documentation – Contractor shall create a testing matrix that clearly displays all the information and process routing to demonstrate completeness of task involving process development. If requested by County Project Manager, Contractor shall submit a testing report that shows the testing methodology for that deliverable and any other relevant information.

## VIII. CONTRACT TASK ORDERS

Contract Task Orders (CTO) shall be approved in writing by the County Project Manager prior to the Contractor proceeding with the services. Individual CTO's will be issued for specific deliverables.

Contractor shall provide the County Project Manager with a written proposal for each CTO. County and Contractor shall provide a detailed breakdown of the labor and material costs that are the basis of the Contractor's proposal. The breakdown shall be in accordance with the Cost/Compensation listed in Attachment B.

Payments shall be made for each deliverable milestone reached and progress payments made on a percent- completion basis not to exceed that amount agreed to for each deliverable milestone. If prior written approval is made by the County Project Manager, Contractor may submit invoices monthly.

Contractor shall submit all invoices through the PWINV – Invoice Approval Process under the OCPW – e- Builder Requests Project or another similar project. Contractor must include an invoice per Attachment B and attach a Maintenance Management PWEBR process report for the work completed during that pay period. Within that process report, the labor rate shall be multiplied by the actual hours to complete the task and a total shall be presented in the report which shall match the invoice. Any invoice billings that exceed the original budget will be rejected unless prior written approval by the County Project Manager was obtained.

## IX. ASSUMPTIONS

1. Admin Support
  - a. Requests to be submitted through the PWEAR or PWEBR process
2. Configuration updates to system
  - a. Performed remotely by Contractor; County to provide detailed instructions and/or

- screenshots with markups, when requesting changes through the PWEBR process.
  - b. Contractor to track and record all changes (for historical archiving purposes), impacts and potential risks to other processes, forms or configurations.
- 3. End-User Training
  - a. May be performed onsite or remotely depending on the needs of the County.
  - b. User training guide(s) will be complete three (3) business days before the training date.
- 4. County to update and embed within these training guides additional OCPW job specific and/or real- world narrative, as necessary.
- 5. Process Development
  - a. Performed onsite or remotely.
  - b. County to provide:
    - i. For onsite development, a single reserved meeting space for the entire duration.
    - ii. County may provide subject matter experts for part or the whole duration of onsite meetings.
- 6. Contractor to be assigned as a temporary eB Administrator to carry out requested tasks. Contractor shall be responsible to remedy, at their cost, any system changes that negatively affect the functionality of the system on either OCPWs or other County Department's setup, caused by Contractor action(s) or inaction(s) not directed by the County.
- 7. County approval is required prior to adding/deleting new Administrative Users.
- 8. Contractor will be appointed to serve as County's representative during collaborations and negotiations with Maintenance Management support staff.

**X. ADDITIONAL WORK**

- A. Upon County request, Contractor shall submit supplemental proposals for Additional Work not called for under the Scope of Work of this Contract. Contractor must obtain County Project Manager's written approval prior to commencing any additional work.
- B. County reserves the right to obtain supplemental proposals from, and use, alternate sources for completion of the additional work and to utilize the data provided under this Contract to obtain necessary services.
- C. If County authorizes work by an alternate source, Contractor may be relieved of responsibilities pertaining to the equipment affected by the project while work is being performed and during the subsequent warranty period.
- D. Contractor shall continue to provide services to all areas not affected by work provided by alternate sources.
- E. Upon completion of any additional work, whether by Contractor or an alternative source, County's Project Manager or designee and Contractor will inspect the finished product at no additional cost to County. Upon mutual acceptance of the additional work, Contractor shall again be responsible for all services originally covered under this Contract and the work performed under this section.



**ATTACHMENT B  
PAYMENT/COMPENSATION**

1. **COMPENSATION:** Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration 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 Respondent of all its duties and obligations hereunder. The County shall have no obligation to pay any sum, should the Contract never be utilized.
2. **FEES AND CHARGES:** County will pay the following fees in accordance with the provisions of this Contract. Payment shall be as follows:

**A. Classification/Titles and Hourly Rates:**

Line	Classification/Titles	Hourly Rate
1	Principal Consultant	\$180.00
2	Sr. Business Consultant	\$150.00

**B. Additional Work:** Any additional services not listed in the Contract must be approved by County’s Project Manager or designee in accordance with Attachment A, Section X.

**C. AGGREGATE CONTRACT AMOUNT NOT TO EXCEED:.....\$1,050,000.00\***

\*This is shared between Efficient BPM LLC and AirDev, Inc.

3. **PRICE INCREASE/DECREASES:** No price increases will be permitted during the first term of the Contract. The County requires documented proof of cost increases on Contracts prior to any price adjustment. A minimum of 180-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 user agency/department to the ship-to address, unless otherwise directed in this Contract. Contractor shall reference Contract number on invoice. 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:** The Contractor will provide an invoice on the Contractor's letterhead for goods delivered and/or services rendered. In the case of goods, the Contractor will leave an invoice with each delivery. Each invoice will have a number and will include the following information:
  - A. Contractor's name and address
  - B. Contractor's remittance address, if different from "A" above
  - C. Contractor's Taxpayer ID Number
  - D. Name of County Agency/Department
  - E. Delivery/Service address
  - F. Master Agreement (MA) or Purchase Order (PO) number
  - G. Agency/Department's Account Number
  - H. Date of invoice
  - I. Product/Service description, quantity, and prices
  - J. Sales tax, if applicable
  - K. Freight/Delivery charges, if applicable
  - L. Total

Invoices and support documentation are to be forwarded to:

OC Public Works/Procurement Services  
 Attn: Accounts Payable  
 PO Box 4048  
 Santa Ana, CA 92702-4048  
 Email: [accountspayable@ocpw.ocgov.com](mailto:accountspayable@ocpw.ocgov.com)

Contractor has the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT will also receive Electronic Remittance Advice with the payment details via email. An email address will need to be provided to the County via an EFT Authorization Form. To request a form, please contact the DPA.

## Contract Summary Form

OC Expediter Requisition #: 1575566

AirDev, Inc.

2261 Market St. #4165

San Francisco, CA 94114

### SUMMARY OF SIGNIFICANT CHANGES

N/A

### SUBCONTRACTORS

**This contract does not include subcontractors or pass through to other providers.**

### CONTRACT OPERATING EXPENSES

Services are provided on an as-needed basis; therefore, expenses are not known at this time.

Contract Monetary Limits:

This is an Aggregate Contract with AirDev, Inc. and Efficient BPM LLC with a Total Aggregate Contract Amount not to exceed \$1,050,000.00.

## Contract Summary Form

OC Expediter Requisition #: 1575566

Efficient BPM LLC

3321 E 1<sup>st</sup> St.

Long Beach CA, 90803

### SUMMARY OF SIGNIFICANT CHANGES

N/A

### SUBCONTRACTORS

**This contract does not include subcontractors or pass through to other providers.**

### CONTRACT OPERATING EXPENSES

Services are provided on an as-needed basis; therefore, expenses are not known at this time.

Contract Monetary Limits:

This is an Aggregate Contract with Efficient BPM LLC and AirDev, Inc. with a Total Aggregate Contract Amount not to exceed \$1,050,000.00.



# ORANGE COUNTY Public Works MEMORANDUM

County Administration South  
601 North Ross Street  
Santa Ana, CA 92701

P.O. Box 4048  
Santa Ana, CA 92702

(714) 667-8800

info@ocpw.ocgov.com

OCPublicWorks.com



**To:** Richard Nguyen, Deputy Purchasing Agent

**From:** Chair of Evaluation Committee

**Date:** June 6, 2023

**Subject:** Memorandum of Recommendation for RFP No. 080-2368201-RN - Maintenance Management Integration Services.

Upon review and evaluate the proposals submitted in response to the referenced Request for Proposal, the rankings are listed below. The Evaluation Committee recommends that OC Public Works proceed negotiations with both proposers.

### Proposal Rankings

Vendor Name	Weighted Score (Written 100%)	Rank
Efficient BPM LLC	93.0	1
AirDev, Inc.	85.0	2

### Evaluation Committee Concurrence

Evaluator Number	Signature
1	[Redacted Signature]
2	[Redacted Signature]
3	[Redacted Signature]