



Staff Report

City of Manhattan Beach

TO: Honorable Mayor Powell and Members of the City Council

THROUGH: David N. Carmany, City Manager

FROM: Bruce Moe, Finance Director
 Leilani Flores Emnace, Information Systems Manager
 Gwen Eng, General Services Manager

DATE: June 19, 2012

SUBJECT: Award of Four-Year Lease Agreement with Xerox Corporation for Eleven Multifunction (Copy, Scan, Fax) Machines and Four-Year Agreement for Managed Print Services for Multiple City Departments (Total Estimated Value of \$129,120 per year)

RECOMMENDATION:

Staff recommends that the City Council: a) waive formal bidding per Municipal Code Section 2.36.150 (cooperative purchasing); b) award a four-year lease for eleven multifunction machines with an estimated annual value of \$80,148 to Xerox Corporation; c) award a four-year agreement for Managed Print Services (MPS) with an estimated annual value of \$48,972 to Xerox Corporation; and d) authorize the City Manager to execute these agreements.

FISCAL IMPLICATION:

For the multifunction machines, the total cost for the lease, copy charges, and sales tax is \$80,148 per year. This amount is \$1,056 less than the current annual expenditure. Sufficient funds are budgeted in each department for these charges, and will be provided for in future budgets.

In addition, the City expends \$65,388 annually on printers for repairs, maintenance and consumables. Xerox Corporation offers Managed Print Services (MPS) whereby the vendor will manage the printer fleet at a cost \$48,972 annually. This results in an annual savings of \$16,416.

DISCUSSION:

Multifunction Machines

The City has a total of eleven Xerox multifunction (copy, scan, fax) machines, installed on the City's network, located throughout City facilities. The City has had excellent results with the Xerox machines, and all maintenance and some consumable materials are included in the lease agreement. Nine of those units have leases that expire at the end of July, which will be replaced with new machines. The other two units located at City Hall will remain and the leases for all units will then be co-terminus.

Historically, the City has participated in cooperative purchasing¹ with other public agencies for multifunction machines. This has resulted in considerable savings over individual solicitations due to the volume. The City's current contracts with Xerox are based on a Fresno Unified School District and County of Los Angeles agreements.

Printers

City staff orders printer consumables (e.g. toner, maintenance kits, imaging units), stocks supplies, requests repairs and manages maintenance. Managed Print Services (MPS) provides an enterprise-wide solution for a more effective and proactive print management system. Through remote monitoring of printers, this allows for automatic replenishment of supplies, proactive repairs, and replacement recommendations of aging and costly devices all managed by the vendor. As a result, costs are reduced and printer down-time diminished.

Contract Award

The contract for multifunction machines was set to expire, so staff researched existing contracts for possible piggybacking² opportunities. There are several contracts available that include both multifunction machines and MPS:

<u>Agency</u>	<u>Estimated Annual Cost</u>
County of Los Angeles (COLA)	\$129,120
Midwestern Higher Education Compact	\$134,630
The Cooperative Purchasing Network	\$140,076

Staff also reviewed the State of California and Western States Contracting Alliance contracts but found that they did not meet the City's needs or were about to expire.

It is important to note that the contract is based on the combined volume from the multifunction machines and printers throughout the City. By leveraging this volume, the City is able to benefit from a standardized black and white and color cost per copy rates for all multifunction devices; and standardized network printers cost per copy rates and flat rates for all local printers.

Based on this comparison, staff recommends awarding to Xerox Corporation, a four-year lease for eleven multifunction machines with an estimated annual value of \$80,148 and a four-year MPS services and solutions agreement with an estimated annual value \$48,972. If approved, the new multifunction machines will arrive in 30 days.

- Attachments: A. Services and Solutions Agreement with Xerox Corporation
B. County of Los Angeles Contract No. MA-IS-1140174-1

1 Cooperative purchasing is an arrangement where various public agencies aggregate their quantities in order to reduce costs of procurement.

2 Piggybacking is the extension of pricing, terms, and conditions to other governmental agencies at the mutual consent of all parties. This is permissible under the City's Municipal Code, section 2.36.150

Services & Solutions Order

under Services Contract # 7125155-001

Customer: MANHATTAN BEACH, CITY OF
Bill To: CITY OF MANHATTAN BEACH
 1400 HIGHLAND AVE
 MANHATTAN BEACH, CA 90266-4728



Services Provided

Service

Analyst Services XSO

Description

Consulting and assessments are provided in order to help design and implement the right document strategy for your business. Specialized technology, benchmarking, and tools like Lean Six Sigma provide a quantitative approach to help you drive business transformation and reduce costs.

Order Summary

Agreement

Term
 7/1/2012 - 6/30/2016 (48 Months)
Issued per Services and Solutions Agreement #
 7125155
Attachments to this Order

- Exhibit A - PRICED SEPARATELY
- Exhibit B
- IP SOW 52547
- SSA 52639
- SSO Addendum (06/2012)
- XPS Addendum 52643
- XPS Description of Services 52552

Pricing

Total for this Order
 Net Monthly Minimum Charge \$6,319.74
 Additional Impression Charges See Meter Pricing Plan
 (Additional to Monthly Minimum Charge)

Payment

Taxing Information
 Tax ID # 95-6000742

Authorized Signatures

Your signature indicates your agreement to the items and pricing in this Order.

Signer: David N. Carmany

Phone: 310-802-5000

Customer Authorized Signature _____

Date: 06-15-2012

Agreement Presented by: Adlie Hood

Phone: 714-565-1153

Xerox Authorized Signature: *Cheryl Sorenson*

Date: 6/14/12



Services & Solutions Order

under Services Contract # 7125155-001

Item	Description	Meter Pricing Plan				Plan Features	Modification to Prior Pricing	Install Location	Owner
		Meter	Monthly Impressions in Plan	Pool Identifier	Additional Impression Charge				
1.	MOBLPRNT (MOBILE PRNT SW&1 MFP) - Analyst Services	N/A	N/A	N/A	N/A	- Fixed Price	N	CITY OF MANHATTAN BEACH COM DEV 1400 HIGHLAND AVE MANHATTAN BEACH, CA 90266-4728	XRX
2.	VDR0039353: W7655PD (SOT WC7665-USED)	1: BW 2: Color	16,120 9,800	N/A N/A	\$0.0060 \$0.0590	- Monthly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	CITY OF MANHATTAN BEACH 1400 HIGHLAND AVE MANHATTAN BEACH, CA 90266-3459	XRX
3.	WTM784031: W5675PT (SOT-W5675 PRINTER/4T)	1: Total	9,900	N/A	\$0.0060	- Monthly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	CITY OF MANHATTAN BEACH 1400 HIGHLAND AVE MANHATTAN BEACH, CA 90266-3459	XRX
4.	WC7775P (WORKCENTRE 7775 MFD) - Customer Ed - Analyst Services	1: BW 2: COLOR	14,620 100	N/A N/A	\$0.0060 \$0.0590	- Monthly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	CITY OF MANHATTAN BEACH COM DEV 1400 HIGHLAND AVE MANHATTAN BEACH, CA 90266-4728	XRX

Services & Solutions Order

under Services Contract # 7125155-001



Item	Description	Meter Pricing Plan			Plan Features	Modification to Prior Pricing	Install Location	Owner
		Meter	Monthly Impressions In Plan	Pool Identifier				
5. WC7775P (WORKCENTRE 7775 MFD)		1: BW	9,230	N/A	\$0.0060	N	CITY OF MANHATTAN BEACH POLICE RECORDS 420 15TH ST MANHATTAN BEACH, CA 90266-4607	XRX
		2: COLOR	100	N/A	\$0.0590			
6. WC7775P (WORKCENTRE 7775 MFD)		1: BW	10,640	N/A	\$0.0060	N	CITY OF MANHATTAN BEACH POLICE DEPT.FRNT DSK 420 15TH ST MANHATTAN BEACH, CA 90266-4607	XRX
		2: COLOR	100	N/A	\$0.0590			
7. WC7775P (WORKCENTRE 7775 MFD)		1: BW	12,930	N/A	\$0.0060	N	CITY OF MANHATTAN BEACH FINANCE 1400 HIGHLAND AVE MANHATTAN BEACH, CA 90266-4728	XRX
		2: COLOR	100	N/A	\$0.0590			
8. WC7775P (WORKCENTRE 7775 MFD)		1: BW	9,860	N/A	\$0.0060	N	CITY OF MANHATTAN BEACH HR DEPT 1400 HIGHLAND AVE MANHATTAN BEACH, CA 90266-4728	XRX
		2: COLOR	100	N/A	\$0.0590			

Services & Solutions Order

under Services Contract # 7125155-001



Item	Description	Meter Pricing Plan				Plan Features	Modification to Prior Pricing	Install Location	Owner
		Meter	Monthly Impressions In Plan	Pool Identifier	Additional Impression Charge				
9. W7545P (WC7545P PRINTER) - Customer Ed - Analyst Services	1: BW	2,650	N/A	\$0.0060	- Monthly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	CITY OF MANHATTAN BEACH DETECTIVES 420 15TH ST MANHATTAN BEACH, CA 90266-4607	XRX	
	2: COLOR	1,860	N/A	\$0.0590					
10. W7545P (WC7545P PRINTER)	1: BW	4,050	N/A	\$0.0060	- Monthly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	CITY OF MANHATTAN BEACH POLICE ADMIN 420 15TH ST MANHATTAN BEACH, CA 90266-4607	XRX	
	2: COLOR	3,190	N/A	\$0.0590					
11. W7545P (WC7545P PRINTER)	1: BW	4,450	N/A	\$0.0060	- Monthly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	CITY OF MANHATTAN BEACH FIRE DEPT 400 15TH ST MANHATTAN BEACH, CA 90266-4607	XRX	
	2: COLOR	1,600	N/A	\$0.0590					
12. W7545P (WC7545P PRINTER)	1: BW	5,550	N/A	\$0.0060	- Monthly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	CITY OF MANHATTAN BEACH PW ADMIN 3621 BELL AVE MANHATTAN BEACH, CA 90266-3459	XRX	
	2: COLOR	3,050	N/A	\$0.0590					

Services & Solutions Order

under Services Contract # 7125155-001



Additional Value-Added Products or Services			
Item	Description	Type	Modification to Prior Pricing
1.	XPS Services Base Fees	Professional Services	- Fixed Price
			N

Services & Solutions Order

under Services Contract # 7125155-001



Services Contract Terms & Conditions

The following terms and conditions are in addition to those in the SSA. In the event of a conflict between terms and conditions, the order of precedence will be the SSA, this SSO and the applicable SOW, except where expressly stated otherwise in the SSA.

EARLY TERMINATION: As per the Early Termination provision in the SSA, for every Order under this Services Contract number 7125155-001, you shall pay early termination charges as noted herein. If, prior to the end of the term of an Order hereunder, you terminate Equipment, require Equipment be removed or replaced or Xerox terminates an Order due to your default, you shall pay all amounts due Xerox as of that date, together with the Xerox-calculated monthly equipment component ("MEC"), which is available upon request and includes a disengagement charge, for all affected Equipment multiplied by the number of months remaining in said Order. In addition, you shall either make the subject Equipment (in the same condition as when delivered, reasonable wear and tear excepted) and its Software available for removal by Xerox when requested to do so or purchase the subject Equipment "AS IS, WHERE IS" and WITHOUT ANY WARRANTY AS TO CONDITION OR VALUE by paying Xerox the Fair Market Value ("FMV") of the Equipment at the conclusion of its term.

Xerox Equipment Removed from Previous Agreement(s)



*** The following is provided for informational purposes only ***

Xerox Equipment Removed from Previous Agreement(s):

The Equipment listed below, covered under other agreement(s) between MANHATTAN BEACH, CITY OF and Xerox Corporation, will either be physically removed from your site (removed or traded units), or transferred (retained units) to Services Contract # 7125155-001 effective 7/1/2012. The last invoice you will pay, under the Equipment's previous agreement is for the prior month's charges. As of the date above, you will be billed under Services Contract # 7125155-001 for lease buyout funds Xerox has provided to you to retire the debt for traded units, or the refinanced amount for retained units, and such billing will be in advance, rather than in arrears.

Xerox Equipment	Previous Agreement	Transaction Type	Final Payment #
1. FKA634098: WC7345P	952237543	Trade Removal	47
2. FKA634127: WC7345P	952238251	Trade Removal	47
3. FKA634128: WC7345P	952237857	Trade Removal	47
4. FKA634148: WC7345P	952237576	Trade Removal	47
5. VDR009353: W7655PD	952170850	Refinanced	30
6. WTM767085: WC5665P	952239812	Trade Removal	47
7. WTM767273: WC5665P	952237386	Trade Removal	47
8. WTM767348: WC5665P	952237899	Trade Removal	47
9. WTM767357: WC5665P	952237436	Trade Removal	48
10. WTM767390: WC5665P	952237345	Trade Removal	47
11. WTM784031: W5675PT	952170744	Refinanced	30

SERVICES AND SOLUTIONS AGREEMENT

THIS SERVICES AND SOLUTIONS AGREEMENT No. 7125155 ("SSA") is between City of Manhattan Beach ("Customer") and Xerox Corporation ("Xerox").

1. **SCOPE AND STRUCTURE.** This SSA sets forth the terms and conditions under which Customer may establish one or more Services Contracts for the acquisition in the U.S. of Services, Maintenance Services and Deliverables from Xerox. Each Services Contract under this SSA constitutes a separate contract and will be assigned its own Services Contract Number consisting of the above SSA number followed by a three digit extension. Each Services Contract will be established when Customer submits and Xerox accepts the first SSO with a new Services Contract Number. Customer may add Services, Maintenance Services or Deliverables to an existing Services Contract by issuing additional Orders referencing the applicable Services Contract Number. Each Services Contract will consist of the applicable terms and conditions of this SSA, the first SSO and each additional SSO or SOW with the same Services Contract Number. Xerox may provide Services and/or Products through its U.S. affiliates. Capitalized terms are defined in Section 25 unless defined where first used.
2. **ORDERS.**
 - a. Orders may consist of SSOs, SOWs, and/or POs. Each Order must reference an applicable Services Contract Number. Unless otherwise provided in an SSO, terms and conditions of such SSO are applicable to all Orders constituting the applicable Services Contract. Customer POs are for order entry purposes only and will be subject solely to the terms and conditions of the applicable Services Contract, notwithstanding anything contained in any such PO at variance with or in addition to the applicable Services Contract.
 - b. Xerox may accept an Order either by its signature or by commencing performance. Xerox reserves the right to review and approve Customer's credit prior to acceptance of each Order. Customer authorizes Xerox (or its agent) to obtain credit reports from commercial credit reporting agencies.
 - c. Orders may be submitted by hard copy or, in the case of SSOs or POs, by electronic means, and those submitted electronically will be considered (i) a "writing" or "in writing"; (ii) "signed"; (iii) an "original" when printed from electronic records established and maintained in the ordinary course of business; and (iv) a valid and enforceable Order.
3. **TERM.**
 - a. This SSA is effective when signed by Xerox and, unless terminated by either party upon 90 days written notice, continues for 48 months. If this SSA expires or is terminated, each Services Contract will (i) remain in effect until the expiration or termination of all Orders constituting such Services Contract, and (ii) be governed by the terms and conditions of this SSA as if it were still in effect.
 - b. The term of each Order will be set forth in such Order. If an Order is terminated, the term of remaining Orders will continue unaltered.
 - c. Except as otherwise provided in an SOW or unless either party provides notice of termination at least 30 days before the end of its term, an Order will automatically renew on a month-to-month basis.
4. **PERSONNEL.** Xerox personnel engaged hereunder will comply with Customer's internal security and safety policies that (a) are provided to Xerox in writing, (b) are reasonable and customary, and (c) do not conflict with the applicable Services Contract. Customer will provide Xerox with reasonable prior written notice of such policies and any changes thereto. During the term of this SSA and for a period of 1 year thereafter, neither party will, directly or indirectly, actively solicit the employment of the other party's personnel (including their supervisors) and agents engaged under a Services Contract. Employment arising from inquiries received via advertisements in newspapers, job fairs, unsolicited resumes or applications for employment will not be considered active solicitation. The sole remedy for breach of this restriction is to receive payment, as liquidated damages and not as a penalty, from the breaching party equal to the individual's then current annual salary (or the fees paid to an agent in the previous 12 months), within 30 days of the start date of the individual. Xerox is an independent contractor hereunder.
5. **ELIGIBLE AFFILIATES.** Customer's Eligible Affiliates may acquire Services, Maintenance Services and Deliverables under this SSA. If an Eligible Affiliate establishes a Services Contract, it will be the "Customer" for the purposes of such Services Contract. If Customer divests an Eligible Affiliate, such divested entity is no longer eligible to establish any new Services Contracts or to submit any additional Orders under an existing Services Contract.
6. **PRICING, PAYMENT, AND TAXES.**
 - a. **PRICING.** Pricing will be as shown in an Order. Services requested and performed outside Customer's standard working hours will be at Xerox's then-current overtime rate.
 - b. **PAYMENT.** Invoices are payable upon receipt and payment must be received within 30 days after the invoice date. For any payment not received within 10 days of its due date, Customer will pay a late charge equal to the greater of 5% of the amount due or \$25. Restrictive covenants will not reduce Customer's obligations. If the provision of Services, Products and/or Maintenance Services begins partially and/or early, Xerox will bill Customer on a pro rata basis, based on a 30-day billing month.
 - c. **TAXES.** Customer will be responsible for all Taxes. Taxes will be included in Xerox's invoice unless Customer provides proof of Customer's tax exempt status.
7. **DEFAULT AND REMEDIES.** Customer will be in default if Xerox does not receive any payment within 15 days after the date it is due, or if Customer breaches any other obligation under this SSA, any Services Contract, or any other agreement with Xerox. If Customer defaults, Xerox, in addition to its other remedies (including the cessation of Services), may require immediate payment of (a) all amounts then due, plus interest on all amounts due from the due date until paid

at the rate of 1.5% per month, and (b) any applicable ETCs. Customer will pay all reasonable costs, including attorneys' fees, incurred by Xerox to enforce any Services Contract.

8. **CONFIDENTIAL INFORMATION.** Each party will make reasonable efforts not to disclose the other party's Confidential Information to any third party, except as may be required by law, unless such Confidential Information: (a) was in the public domain before, at the time of, or after the date of disclosure through no fault of the non-disclosing party; (b) was rightfully in the non-disclosing party's possession or the possession of any third party free of any obligation of confidentiality; or (c) was developed by the non-disclosing party's employees or agents independently of and without reference to any of the other party's Confidential Information. Confidentiality obligations set forth herein will expire 1 year after expiration or termination of this SSA or the last effective Services Contract hereunder, whichever is later; provided however, confidentiality obligations with respect to Xerox Work, Xerox Tools and Xerox Client Tools will not expire unless (a), (b) or (c) above become applicable thereto. The parties do not intend for Customer to disclose confidential technical information hereunder, including, but not limited to, computer programs, source code, and algorithms. Customer will only disclose the same pursuant to a separate written agreement. Upon expiration or termination of this SSA or the last effective Services Contract hereunder, whichever is later, each party will return to the other or, if requested, destroy, all Confidential Information of the other in its possession or control, except such Confidential Information as may be reasonably necessary to exercise rights that survive termination of this SSA.
9. **INTELLECTUAL PROPERTY.** Customer represents and warrants that (a) it owns the Customer Content and Customer Assets or otherwise has the right to authorize Xerox to use same to perform Services, and (b) Customer Content will not contain content that (i) is libelous, defamatory or obscene, (ii) violates any applicable laws, regulations, or (iii) infringes any third party rights. Customer acknowledges and agrees that Xerox does not undertake any obligation or duty whatsoever to determine whether Customer Content may be duplicated without violating a third party's copyright. Xerox, its employees, agents and/or licensors will at all times retain all rights to Xerox Work, Xerox Client Tools and Xerox Tools and, except as expressly set forth herein, no rights to Xerox Work, Xerox Client Tools or Xerox Tools are granted to Customer. If required for royalty reporting purposes, Xerox may disclose Customer's name and address to the third party licensor of certain Xerox Tools. Xerox Tools will be installed and operated only by Xerox. Customer will have access to data and reports generated by the Xerox Tools and stored in a provided database as set forth in the applicable SOW, but Customer will have no rights to use, access or operate the Xerox Tools. Xerox may remove Xerox Tools at any time in Xerox's sole discretion, provided that the removal of Xerox Tools will not affect Xerox's obligations to perform Services. If Xerox Client Tools are included as part of the Services, they may be used by Customer only in conjunction with such Services. Customer agrees not to decompile or reverse engineer any Xerox Work, Xerox Client Tools or Xerox Tools. Xerox grants Customer a non-exclusive, perpetual fully paid-up, worldwide right to use, display and reproduce Xerox Work and Documentation only as required for use of the Services and Deliverables for Customer's customary business purposes, and not for resale, license and/or distribution outside of Customer's organization. Customer may not sublicense any rights granted to Customer hereunder, but may authorize a third party ("Designee") to use such rights, solely for Customer's benefit and Customer's internal business purposes. Any Designee operating or maintaining the delivered solution must be subject to written confidentiality obligations with respect to Confidential Information that are no less restrictive than those set forth in this SSA. Output of Services is Customer's sole and exclusive property and Xerox will have no rights therein, except as may be required for Xerox to perform Services. Assessments are provided for Customer's internal business use only, and not for resale, license and/or distribution outside of Customer's organization and the implementation of Assessments may not be performed by any third party. Except as expressly set forth in this Section, no other rights or licenses are granted to Customer. Any rights or licenses that are granted to Customer will immediately terminate if Customer defaults with respect to any of Customer's obligations related to such rights or licenses. Xerox reserves the right to terminate such rights or licenses if Customer defaults under any other obligation under a Services Contract.
10. **CUSTOMER RESPONSIBILITIES.**
 - a. Customer will (i) provide the Customer Assets that Xerox needs to perform the Services and (ii) grant sufficient rights to enable Xerox and its agents to use all Customer Assets and Customer Content.
 - b. During the term of an Order, Customer will permit access to Customer personnel that Xerox needs to perform the Services.
 - c. Equipment prices include standard delivery charges for all Equipment and, for Equipment for which Xerox retains ownership, standard removal charges. Non-standard delivery or removal charges will be at Customer's expense.
 - d. Customer will legally dispose of all hazardous wastes generated from use of Third Party Hardware and associated supplies.
11. **EARLY TERMINATION.**
 - a. **Equipment.** Equipment included in an Order is being provided for the entire term of the Order. If, prior to the expiration of an Order, Customer terminates Equipment or requires Equipment to be removed or replaced, or Xerox terminates the applicable Order due to Customer's default, Customer will pay all amounts due as of the termination date and the ETCs set forth in the applicable Services Contract.
 - b. **Services.** Unless otherwise set forth in an SOW, Customer may terminate or reduce any Services upon 90 days prior written notice without incurring ETCs. Notwithstanding the foregoing, if any Services are terminated (i) by Xerox due to Customer's default, or (ii) by Customer and Customer acquires Services from another supplier within 6 months of the termination of such Services, Customer will pay all amounts due as of the termination date and ETCs equal to the then current MMC for the terminated or reduced Services, multiplied by the number of months remaining in the term of the applicable Order, not to exceed 6 months.

- c. Amortized Services and Third Party Funds. The cost of certain Services, such as consulting and training, may be amortized over the term of an Order ("Amortized Services"); or Xerox may provide funds to acquire Third Party Hardware, license Third Party Software or retire debt on existing Third Party Hardware ("Third Party Funds"). Amortized Services and Third Party Funds are collectively referred to as "Funds." The Funds amount is included in the MMC. Notwithstanding Section 11.b above, if an Order is terminated prior to expiration for any reason, or if a unit of Third Party Hardware or any Third Party Software for which Third Party Funds have been provided is removed or replaced prior to expiration, Customer agrees to pay to Xerox (i) all amounts due as of the termination date, and (ii) ETCs equal to the remaining principal balance of the Funds, plus a 15% disengagement fee. Customer will maintain the manufacturer's maintenance agreement for any Third Party Hardware and Third Party Software.

12. INDEMNIFICATION.

- a. Each party, at its expense, if promptly notified by the other and given the right to control the defense, will defend the other from, and pay any settlement agreed to by the indemnifying party or any ultimate judgment for, all claims by third parties for personal injury (including death) or damage to tangible property to the extent proximately caused by the willful misconduct or negligent acts or omissions of the indemnifying party, its employees or agents in connection with this SSA.
 - b. Xerox, at its expense, if promptly notified by Customer and given the right to control the defense, will defend Customer from, and pay any settlement agreed to by Xerox or any ultimate judgment for, any claim not identified in (i)-(vi) below or subject to 12.c. below that any Services or Deliverables (excluding Third Party Products) infringe a third party's U.S. intellectual property rights. Xerox is not responsible for any non-Xerox litigation expenses or settlements unless Xerox pre-approves them in writing. Excluded herein are claims arising from or relating to: (i) Services performed using Customer Assets, Customer Content or other materials provided to Xerox by Customer for which Customer failed to provide sufficient rights to Xerox; (ii) Services performed, or Deliverables provided, to Customer's direction, specification or design, (iii) infringement resulting from or caused by Customer's misuse or unauthorized modification of systems or products; (iv) use of Services or Deliverables in combination with other products, services or data streams not provided by Xerox if such combination forms the basis of such claim; (v) Customer's failure to use corrections or enhancements to the Services or Deliverables provided by Xerox; and (vi) breach of Customer's representations and warranties in Section 9(b). If the use of the Services or Deliverables (excluding Third Party Products) are enjoined as a result of a claim under this Section, or in the reasonable opinion of Xerox are likely to be the subject of such a claim, Xerox will, at its option and sole expense, exercise any or all of following remedies: (w) obtain for Customer the right to continue to use such Services or Deliverables; (x) modify such Services or Deliverables so they are non-infringing; (y) replace such Services or Deliverables with non-infringing ones; or (z) terminate and/or accept the return of such Deliverables and refund to Customer any amount paid, less the reasonable rental value for the period such Deliverable was available to Customer.
 - c. Customer, at its expense, if promptly notified by Xerox and given the right to control the defense, will defend Xerox from, and pay any settlement agreed to by Customer or any ultimate judgment for, all third party claims arising out of or related to Section 12.b(i)-(vi).
 - d. The indemnifying party is not responsible for any litigation expenses of the indemnified party or any settlements unless it pre-approves them in writing.
13. **LIMITATION OF LIABILITY.** Xerox will not be liable to Customer, in the aggregate, for any direct damages in excess of the amounts paid by Customer to Xerox during the 12 months prior to the claim or \$50,000, whichever is greater; and neither party will be liable to the other for any special, indirect, incidental, consequential or punitive damages arising out of or relating to this SSA or any Order hereunder, whether the claim alleges tortious conduct (including negligence) or any other legal theory. This limitation of liability is not applicable to: (a) any specific indemnification obligations set forth in this SSA; (b) where either party has (i) exceeded the rights to the other party's intellectual property granted to it under this SSA, or (ii) misappropriated or infringed the other party's intellectual property under this SSA.
14. **ASSIGNMENT.** Customer may not assign any of its rights or obligations hereunder. Xerox may assign this SSA and any Orders hereunder, in whole or in part, without prior notice to Customer and may release information Xerox has about Customer to an assignee. Each successive assignee of Xerox will have all of the rights but none of the obligations of Xerox pursuant to this SSA. Customer will continue to look to Xerox for performance of Xerox's obligations hereunder and Customer hereby waives and releases any assignees of Xerox from any such claim. Customer will not assert any defense, counterclaim or setoff that Customer may have or claim against Xerox against any assignee of Xerox.
15. **FORCE MAJEURE.** Except for payment obligations, neither party will be liable to the other for its failure to perform any of its obligations hereunder during any period in which such performance is delayed by circumstances beyond its reasonable control. The affected party will notify the other party of each such circumstance.
16. **MAINTENANCE SERVICES.**
- a. Except for Equipment identified as "No Svc," Maintenance Services will be provided for the Equipment during Xerox's standard working hours in areas open for repair service. Maintenance Services excludes repairs due to: (i) misuse, neglect or abuse; (ii) failure of the installation site or the PC or workstation used with the Equipment to comply with Xerox's published specifications; (iii) use of options, accessories or products not serviced by Xerox; (iv) non-Xerox alterations, relocation, service or supplies; or (v) failure to perform operator maintenance procedures identified in operator manuals. Replacement parts may be new, reprocessed or recovered and all replaced parts become Xerox's property. Xerox will, as Customer's exclusive remedy for Xerox's failure to provide Maintenance Services, replace the Equipment with an identical model or, at Xerox's option, another model with comparable features and capabilities. Notwithstanding anything to the contrary herein, Xerox will have no obligation to replace Equipment beyond its end of service date. There will be no additional charge for the replacement Equipment during the initial Term. Unless the

applicable Order requires Xerox to provide meter readings, Customer will provide them using the method and frequency identified by Xerox. If Customer does not provide a meter reading, Xerox may reasonably estimate the reading and bill Customer accordingly.

- b. **CARTRIDGES.** If Xerox is providing Maintenance Services for Equipment that uses Cartridges, Customer will use only unmodified Cartridges purchased directly from Xerox or its authorized resellers in the U.S. Failure to use such Cartridges will void any warranty applicable to such Equipment. Cartridges packed with Equipment and/or furnished by Xerox as Consumable Supplies will meet Xerox's new Cartridge performance standards and may be new, remanufactured or reprocessed and contain new and/or reprocessed components. To enhance print quality, Cartridge(s) for many models of Equipment have been designed to cease functioning at a predetermined point. Many Equipment models are designed to function only with Cartridges that are newly manufactured, original Xerox Cartridges or with Cartridges intended for use in the U.S. Equipment configuration that permits use of non-newly manufactured original Xerox Cartridges may be available from Xerox at an additional charge.
 - c. **PC/WORKSTATION REQUIREMENTS.** For Equipment requiring connection to a PC or workstation, Customer must use a PC or workstation that either (i) has been provided by Xerox, or (ii) meets Xerox's published specifications.
17. **CONSUMABLE SUPPLIES INCLUDED.** If specified in an Order, Xerox will provide Consumable Supplies for Equipment. Consumable Supplies are Xerox's property until used by Customer, and Customer will (a) use them only with the Equipment included in the applicable Order, (b) return all Cartridges to Xerox as provided herein, and (c) at the end of the term of the applicable Order, return any unused Consumable Supplies to Xerox at Xerox's expense using Xerox-supplied shipping labels or destroy them in a manner permitted by applicable law. Should Customer's use of Consumable Supplies exceed Xerox's published yields by more than 10%, Xerox will notify Customer of such excess usage. If such excess usage does not cease within 30 days after such notice, Xerox may charge Customer for such excess usage. If Xerox provides paper under a Services Contract, upon 30 days notice, Xerox may adjust paper pricing or either party may terminate the provision of paper.
18. **EQUIPMENT STATUS.** Unless Customer is acquiring Previously Installed Equipment, Equipment will be either: (a) "Newly Manufactured", which may contain some recycled components that are reconditioned; (b) "Factory Produced New Model", which is manufactured and newly serialized at a Xerox factory, adds functions and features to a product previously disassembled to a Xerox predetermined standard, and contains both new components and recycled components that are reconditioned; or (c) "Remanufactured", which has been factory produced following disassembly to a Xerox predetermined standard and contains both new components and recycled components that are reconditioned. Xerox makes no representations as to the manufactured status of Third Party Hardware.
19. **TITLE, RISK OF LOSS AND PROTECTION OF XEROX'S RIGHTS.** Title to Equipment and Third Party Hardware will remain with Xerox unless purchased by Customer. Risk of loss for the Products will pass to Customer upon delivery. Customer will keep the Products insured against loss and the policy will name Xerox as Loss Payee. Customer hereby authorizes Xerox or its agents to file financing statements necessary to protect Xerox's rights to Equipment and Third Party Hardware.
20. **WARRANTIES AND DISCLAIMERS.**
- a. **SERVICES WARRANTY.** Xerox warrants to Customer that the Services will be performed in a skillful and workmanlike manner. If the Services do not comply with the service levels in an applicable SOW, Customer will notify Xerox in writing detailing its concerns. Within 10 days following Xerox's receipt of such notice, Xerox and Customer will meet, clarify the Customer's concern(s) and begin to develop a corrective action plan ("Plan"). As Customer's exclusive remedy for such non-compliance, Xerox will either modify the Services to comply with the applicable service levels or re-do the work at no additional charge within 60 days of finalizing the Plan or another time period agreed to, in writing, by the parties.
 - b. **THIRD PARTY PRODUCT WARRANTY.** For Third Party Products selected solely by Xerox for an Order, Xerox warrants they will operate substantially in conformance with applicable service levels in the SOW. If, within a reasonable time after provision of such Third Party Products, they cannot be brought into substantial conformance with the services levels in the SOW, and such non-conformance is a result of Xerox's use of such Third Party Products, Customer's exclusive remedy is to receive a refund of any fees paid for the non-conforming Third Party Products upon their return to Xerox. Xerox will pass through to Customer any warranties provided to it by the manufacturer or licensor of Third Party Products to the extent permissible.
 - c. **WARRANTY DISCLAIMER AND UCC WAIVER.** EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION, XEROX MAKES NO OTHER WARRANTIES, WHETHER EXPRESSED OR IMPLIED; AND XEROX DISCLAIMS ALL OTHER WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY, AND ANY WARRANTIES RELATING TO DESIGN, PERFORMANCE, FUNCTIONALITY, OR COMPATIBILITY WITH CUSTOMER'S SYSTEMS. EXCEPT AS EXPRESSLY PROVIDED HEREIN AND AS PERMITTED BY APPLICABLE LAW, CUSTOMER WAIVES ALL RIGHTS AND REMEDIES CONFERRED UPON A LESSEE BY ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE.
 - d. The warranties set forth in this SSA are expressly conditioned upon the use of the Services and Deliverables for the purposes for which they were intended or designed, and do not apply to Services or Deliverables subjected to misuse, accident, alteration or modification by Customer or any third party (except as specifically authorized in writing by Xerox). In no event will Xerox be responsible for any failure to perform Services caused by: (i) Customer Assets, Customer Content, or services, maintenance, design implementation, supplies or data streams provided by Customer, Customer's agent or service provider to Xerox for use hereunder, (ii) Customer's failure to contract for the

minimum types and quantities of Products required by Xerox to perform the Services, or (iii) Customer's failure to perform its obligations under Section 10.a. or b.

21. SOFTWARE TERMS.

- a. **SOFTWARE LICENSE.** Xerox grants Customer a non-exclusive, non-transferable license to use in the U.S.: (i) Base Software only with the Equipment with which it was delivered; and (ii) Application Software only on any single unit of Equipment for as long as Customer is current in the payment of all applicable software license fees. Customer has no other rights to Software. The Base Software license will terminate; (y) if Customer no longer uses or possesses the Equipment; or (z) upon the expiration of any Order under which Customer has rented or leased the Equipment (unless Customer has exercised an option to purchase the Equipment). Neither Xerox nor its licensors warrant that Software will be free from errors or that its operation will be uninterrupted. The foregoing terms do not apply to Diagnostic Software or to software/documentation accompanied by a clickwrap or shrinkwrap license agreement or otherwise made subject to a separate license agreement. Third Party Software is subject to license and support terms provided by the vendor thereof.
 - b. **SOFTWARE SUPPORT.** For Base Software, Software Support will be provided during the initial term of the applicable Order and any renewal period, but not longer than 5 years after Xerox stops taking customer orders for the subject Equipment model. For Application Software, Software Support will be provided as long as Customer is current in the payment of all applicable software license and support fees. Xerox will maintain a web-based or toll-free hotline during Xerox's standard working hours to report Software problems and answer Software-related questions. Xerox, either directly or with its vendors, will make reasonable efforts to: (i) assure that Software performs in material conformity with its user documentation; (ii) provide available workarounds or patches to resolve Software performance problems; and (iii) resolve coding errors for the current Release and the previous Release for a period of 6 months after the current Release is made available to Customer. Xerox will not be required to provide Software Support if Customer has modified the Software. Maintenance Releases or Updates that Xerox may make available will be provided at no charge and must be implemented within 6 months. Feature Releases will be subject to additional license fees at Xerox's then-current pricing. Each Release will be considered Software governed by the provisions of this Section 21 (unless otherwise noted). Implementation of a Release may require Customer to procure, at Customer's expense, additional hardware and/or software from Xerox or another entity. Upon installation of a Release, Customer will return or destroy all prior Releases. Xerox may annually increase Software license and support fees for Application Software. For State and Local Government Customers, this adjustment will take place at the commencement of each of Customer's annual contract cycles.
 - c. **DISABLING CODE.** Software may contain code capable of automatically disabling the Equipment. Disabling code may be activated if: (i) Xerox is denied access to periodically reset such code; (ii) Customer is notified of a default under a Services Contract; or (iii) Customer's license is terminated or expires.
 - d. **DIAGNOSTIC SOFTWARE.** Diagnostic Software is a valuable trade secret of Xerox. Xerox does not grant Customer any right to use Diagnostic Software. Customer will allow Xerox reasonable access to the Equipment during Customer's normal business hours to remove or disable Diagnostic Software if Customer is no longer receiving Maintenance Services from Xerox.
 - e. **TITLE AND RIGHTS.** Title and all intellectual property rights to Software and Diagnostic Software will reside solely with Xerox and/or its licensors (who will be considered third-party beneficiaries of Section 21.a). Customer will not, and will not allow its employees, agents, contractors or vendors to: (i) distribute, copy, modify, create derivatives of, decompile or reverse engineer Software or Diagnostic Software; (ii) activate Software delivered with the Equipment in an inactivated state; or (iii) access or disclose Diagnostic Software for any purpose.
22. **REMOTE SERVICES.** Certain models of Equipment are supported and serviced using data that is automatically collected by Xerox from the Equipment via electronic transmission from the Equipment to a secure off-site location. Examples of automatically transmitted data include product registration, meter read, supply level, Equipment configuration and settings, software version, and problem/fault code data. All such data will be transmitted in a secure manner specified by Xerox. The automatic data transmission capability will not allow Xerox to read, view or download any Customer data, documents or other information residing on or passing through the Equipment or Customer's information management systems.
23. **DATA SECURITY.** Certain models of Equipment can be configured to include a variety of data security features. There may be an additional cost associated with certain data security features. The selection, suitability and use of data security features are solely Customer's responsibility. Upon request, Xerox will provide additional information to Customer regarding the security features available for particular Equipment models.
24. **MISCELLANEOUS.** This SSA and the Services Contract(s) hereunder constitute the entire agreement of the parties as to its subject matter, supersede all prior and contemporaneous oral and written agreements, and will be construed under the laws of the State of New York (without regard to conflict-of-law principles). In the event of any conflict between terms and conditions, the order of precedence will be this SSA, the SSO and the SOW, except where expressly stated otherwise in this SSA. Customer authorizes Xerox or its agents to communicate with Customer by any electronic means (including cellular phone, email, automatic dialing and recorded messages) using any phone number (including cellular) or electronic address that Customer provides to Xerox. In any action to enforce this SSA or any Services Contract hereunder, the parties agree to the jurisdiction and venue of the federal or state courts in Monroe County, New York and to waive their right to a jury trial. If a court finds any term of this SSA or any Services Contract to be unenforceable, the remaining terms of this SSA and the Services Contract will remain in effect. The delay or failure by either Party to enforce any right or remedy under this SSA or any Services Contract will not constitute a waiver or forgiveness of such right or remedy. Xerox may retain a reproduction (e.g., electronic image, photocopy, facsimile) of this SSA or any Order, which will be admissible

in any action to enforce it, but only SSA or Order held by Xerox will be considered an original. Except for documentation of Equipment replaced by Xerox for reasons other than trade-in, all changes to this SSA or any Order will be made in an amendment signed by both parties. Customer represents that: (a) it has the lawful power and authority to enter into this SSA, (b) the person signing this SSA or any Order is duly authorized to do so, (c) entering into this SSA will not violate any law or other agreement to which it is a party, (d) it is not aware of anything that will have a material negative effect on its ability to satisfy its payment obligations under this SSA or any Services Contract, and (e) all financial information it has provided, or will provide, to Xerox is true and accurate and provides a good representation of Customer's financial condition. Each party will promptly notify the other, in writing, of any change in ownership, or if it relocates its principal place of business or changes the name of its business. The following four clauses will control over every other provision in a Services Contract: (w) Customer and Xerox will comply with all laws applicable to the performance of its obligations hereunder, (x) in no event will Xerox charge or collect any amounts in excess of those allowed by applicable law, (y) any part of a Services Contract that would, but for this Section, be construed to allow for a charge higher than that allowed under any applicable law, is limited and modified by this Section to limit the amounts chargeable under such Services Contract to the maximum amount allowed by law, and (z) if in any circumstances, an amount in excess of that allowed by law is charged or received, such charge will be deemed limited to the amount legally allowed and the amount received by Xerox in excess of that legally allowed will be applied to the payment of amounts owed or refunded to Customer.

25. DEFINITIONS.

- a. "Application Software" means software and accompanying documentation identified in an Order as "Application Software."
- b. "Assessments" means assessment and recommendation reports created by Xerox in the performance of assessment Services.
- c. "Base Software" means software and accompanying documentation provided with Equipment.
- d. "Cartridges" means Equipment components designated by Xerox as customer replaceable units, including copy/print cartridges and xerographic modules or fuser modules.
- e. "Confidential Information" means this SSA, Orders and certain business information identified as confidential that each party may disclose to the other. Customer Content is considered Customer Confidential Information. Xerox Work, Xerox Tools and Xerox Client Tools are considered Xerox Confidential Information.
- f. "Consumable Supplies" means black toner (excluding highlight color toner), black developer, Cartridges and, if applicable, fuser agent. For full-color Equipment Orders that include Consumable Supplies, Consumable Supplies also includes, as applicable, color toner and developer. For Equipment identified as "Phaser", Consumable Supplies may also include, if applicable, black solid ink, color solid ink, imaging units, waste cartridges, transfer rolls, transfer belts, transfer units, belt cleaner, maintenance kits, print Cartridges, drum Cartridges, waste trays and cleaning kits.
- g. "Customer Assets" means all hardware, software and or workspace owned, leased, rented, licensed and/or controlled by Customer, and any services used by Customer that Xerox needs to use or access to enable Xerox to perform the Services.
- h. "Customer Content" means documents, materials and data provided in hard copy or electronic format by Customer to Xerox containing information about Customer and/or Customer's clients.
- i. "Deliverables" means Products, Output of Services, Assessments and Documentation.
- j. "Developments" means items created by Xerox and its employees, agents, and/or licensors, including, but not limited to, computer programs, code, reports, operations and procedures manuals, forms, design or other works of authorship or materials, in the course of performing Services.
- k. "Diagnostic Software" means software used by Xerox to evaluate or maintain the Equipment.
- l. "Documentation" means all manuals, brochures, specifications, information and software descriptions, in electronic, printed, and/or camera-ready form, and related materials customarily provided by Xerox for Customer's use as part of the Services.
- m. "Eligible Affiliate" means any domestic entity which controls, is controlled by, or is under common control with Customer. Control (including the terms controls, controlled by and under common control with) means direct or indirect power to direct the management and policies of an entity.
- n. "Equipment" means Xerox-brand equipment.
- o. "ETCs" means early termination charges paid by Customer in the event of early termination, for loss of bargain and not as a penalty, as more fully defined in this SSA or the applicable Services Contract.
- p. "Feature Releases" means new releases of Software that include new content or functionality.
- q. "Maintenance Releases" or "Updates" means new releases of Software that primarily incorporate compliance updates and coding error fixes.
- r. "Maintenance Services" means the services provided by Xerox (or a designated servicer) to keep the Equipment in good working order.
- s. "MMC" means the Monthly Minimum Charge identified in an Order which, along with any Additional Impression Charges, covers the cost for the Services, Products and Maintenance Services. The MMC may also include lease buyout funds, Third Party Funds, supplemental funds, monthly equipment component amounts, remaining Customer obligations from previous contracts, amounts being financed or refinanced, and Amortized Services. One-time items are billed separately from the MMC.
- t. "Order" means any (i) SSO, (ii) SOW which references an applicable Services Contract Number and is signed by Customer and Xerox, or (iii) PO.

- u. "Output of Services" means electronic images created by scanning tangible documents containing Customer Content, or the content of any reports and other materials, created by Xerox specific to and for Customer per the applicable Order, but does not include software.
- v. "PO" means a Customer-issued purchase order accepted by Xerox that references an applicable Services Contract Number.
- w. "Pre-existing Work" means items used or incorporated into the Services or Deliverables, or developed or acquired by Xerox independent of performing the Services.
- x. "Products" means, collectively, Consumable Supplies, Equipment, Software and Third Party Products.
- y. "Releases" means, collectively, Maintenance Releases, Updates and Feature Releases.
- z. "Services" means managed services (e.g. copy center and mailroom services), consultative services, and/or professional services, including, but not limited to, assessment, document management, imaging and language translation services.
- aa. "Services Contract" means this SSA together with one or more Orders designated by the same Services Contract Number.
- bb. "Services Contract Number" means a 10 digit number assigned by Xerox to each Services Contract.
- cc. "Software" means Application Software and Base Software.
- dd. "Software Support" means the support and maintenance of software provided by Xerox (or a designated servicer).
- ee. "SSO" means a Services and Solutions Order issued by Xerox pursuant to this SSA.
- ff. "SOW" means a statement of work describing Services and Deliverables which (i) is incorporated by reference into an SSO, or (ii) references an applicable Services Contract Number and is signed by Customer and Xerox.
- gg. "Taxes" means all taxes, fees or charges of any kind (including interest and penalties) assessed by any governmental entity on this SSA or any Order hereunder or the amounts payable to Xerox under this SSA or any Order. Taxes do not include personal property taxes in jurisdictions where Xerox is required to pay personal property taxes, or taxes on Xerox's income.
- hh. "Third Party Funds" is defined in Section 11.c.
- ii. "Third Party Hardware" means non-Xerox brand equipment.
- jj. "Third Party Products" means, collectively, Third Party Hardware and Third Party Software.
- kk. "Third Party Software" means non-Xerox brand software.
- ll. "U.S." means the United States and its territories and possessions.
- mm. "Xerox Client Tools" means certain Xerox proprietary tools (including any modifications, enhancements, improvements and derivative works) that are owned by Xerox and are licensed to Customer for its use under an accompanying click wrap license agreement.
- nn. "Xerox Tools" means certain Xerox proprietary tools (including any modifications, enhancements, improvements and derivative works) used by Xerox to provide certain Services.
- oo. "Xerox Work" means, collectively, Developments and Pre-Existing Work.

CITY OF MANHATTAN BEACH

XEROX CORPORATION

 Signature
DAVID N. CARMANY
 Name (please print)
CITY MANAGER
 Title
Manhattan Beach City Hall
1400 Highland Avenue
 Address **Manhattan Beach, CA 90266**
June 15, 2012

Cheryl Sorenson
 Signature
Cheryl Sorenson
 Name
Contract Specialist
 Title
1851 E. 1st Street, Santa Ana CA
 Address
6/14/12

Date
APPROVED AS TO FORM:
 By: *Quinn M. Barrow*
Quinn M. Barrow, City Attorney

Date

**XEROX ADDENDUM TO
CITY OF MANHATTAN BEACH
SERVICES AND SOLUTIONS ORDER #7125155-001**



This Addendum ("Addendum") amends the above Services and Solutions Order between the City of Manhattan Beach ("Customer") and Xerox Corporation ("Xerox").

The parties agree that the following statement is added as an additional provision to the above Services and Solutions Order.

1. Services and Solutions Order # 7125155-001 includes this cover sheet and all of the attachments listed under "Attachments to this Order" including the agreement between Xerox and the County of Los Angeles County titled "COLA Contract # MA-IS-1140174," all of which are hereby incorporated into the Services and Solutions Order by this reference. Notwithstanding any other provision related to the Services and Solutions Order, if there is any material discrepancy between: (1) the COLA Contract # MA-IS-1140174, including but not limited to its provisions relating to non-appropriation of funds, risk of loss, insurance, indemnification, service guarantees, limitations on liability, and the ability of the City to cancel the Agreement as described in the COLA Agreement and the Specific Terms for Services and Solutions Orders, and (2) the Service and Solutions Order and its attachments, the provisions of COLA Contract # 1140174, and the Specific Terms for Services and Solutions Orders shall control.

Except as specified in this Addendum, the Services and Solutions Order shall remain as stated. In the event of a conflict between the terms and conditions of the Services and Solutions Order and this Addendum, this Addendum will control.

City of Manhattan Beach

Xerox Corporation

DAVID N. CARMANY

Name (Please Print)

Signature

CITY MANAGER

Title

June 15, 2012

Date

Cheryl Sorenson

Name (Please Print)

Cheryl Sorenson

Signature

Contract Specialist

Title

6/14/12

Date

APPROVED AS TO FORM:

By: *Quinn M. Barrow*

Quinn M. Barrow, City Attorney

Xerox Print Services Addendum



THIS XEROX PRINT SERVICES ADDENDUM ("XPS Addendum") amends Services Contract No. 7125155-001 ("XPS Services Contract") under Services and Solutions Agreement No. 7125155 ("SSA") between City of Manhattan Beach ("Client") and Xerox Corporation ("Xerox") to add the printers identified in Exhibit B of this XPS Addendum ("Managed Devices") to the XPS Services Contract.

1. **BREAK FIX SERVICES.** Except for Other Devices identified as "Supplies Only" in Exhibit A of this XPS Addendum, Xerox will provide Break Fix Services for the Managed Devices. Break Fix Services may be initiated by the Tools for Networked Laser Devices, or by Client calling the Xerox Help Desk. If a Managed Device failure cannot be resolved remotely, Xerox will dispatch a service technician to perform on-site Break Fix Services during the hours identified in the SOW or DOS, as applicable. Break-Fix Services exclude repairs due to: (i) misuse, neglect, abuse or operation of a Managed Device outside of original equipment manufacturer ("OEM") specifications; (ii) failure of the Client PC to comply with the OEM's published specifications; (iii) act of God or other force majeure event; (iv) relocation, alterations, or use of options, accessories, service or supplies not provided by Xerox; (v) failure to perform any Client responsibilities identified in the SOW or DOS, as applicable; or (vi) acts or omissions of Client or any party not affiliated with Xerox. Technicians are not dispatched for preventative maintenance or cleaning. Replacement parts may be new or used and all removed, replaced parts become Xerox's property. If a maintenance kit or drum is required to repair a Managed Device, the Xerox authorized service representative will order and install the drum or maintenance kit component(s). Maintenance kits and drums may be included in pricing for certain device types as identified in Exhibit A.
2. **SUPPLIES.** Xerox will furnish toner and ink ("Supplies"), as applicable, for the Managed Devices as identified in Exhibit A. Supplies may be new, remanufactured or reprocessed. Supplies are Xerox's property until used by Client, and Client will use them only with the Managed Devices. Upon request, Client will provide an inventory of Supplies in its possession. Upon expiration or termination of this XPS Addendum Client will, at Xerox's option and expense, return any unused Supplies to Xerox, permit access to its facilities to permit collection, or dispose of them as directed in writing by Xerox.
3. **XPS SERVICES.** In addition to Break Fix Services and Supplies, Xerox will perform the Xerox Print Services ("XPS Services") described in the Xerox Print Services Statement of Work ("SOW") or in the Xerox Print Services Description of Services ("DOS") attached to the Services Contract, as applicable, for the Managed Devices.
4. **CLIENT RESPONSIBILITIES.** Client will perform the Client responsibilities identified in the SOW or DOS, as applicable.
5. **PRICING.** The pricing for XPS Services for the Managed Devices is identified in Exhibit A. Xerox may adjust pricing annually, or as identified in Exhibit A.
6. **TERMINATION.** Either party may terminate the XPS Services, without penalty, upon not less than 90 days written notice.
7. **INVOICE TIMING.** Client will be invoiced for XPS Services for the Managed Devices as follows.
 - a. Networked Laser Devices: Except for the partial month following the Services Commencement Date, the Monthly Minimum Charge ("MMC") identified in Exhibit A is billed monthly in advance, beginning with the first full month following the Services Commencement Date and continuing through the end of the month in which any termination effective date occurs. The table below shows how the MMC is billed for the partial month following the Services Commencement Date.

Services Commencement Date:	MMC billed for the partial month:
On or before the 15th of the month	50% of MMC
After the 15th of the month	No MMC

- b. Networked Laser Devices: The Excess Charge per Impression ("ECI") identified in Exhibit A is billed in arrears on a quarterly basis for all impressions in excess of three times the Monthly Minimum Print Volume ("MMPV") identified in Exhibit A. Color and mono impressions are billed based on color and mono meter data collected. The table below shows how the ECI is billed based on the Services Commencement Date.

Services Commencement Date occurs during:	ECI is billed for impressions in excess of:
First month of a Quarter	Three times the MMPV
Second month of a Quarter	Two times the MMPV
Third month of a Quarter	The MMPV

- c. Non-Networked Laser and Other Devices: The MMC identified in Exhibit A is billed monthly in advance, beginning the first month following the Services Commencement Date and through the end of the month in which any termination effective date occurs.
8. **REMOTE SERVICES.** Certain Networked Laser Devices are supported and serviced using data that is automatically collected by Xerox from such devices via electronic transmission to a secure off-site location. Examples of automatically transmitted data include product registration, meter read, supply level, device configuration and settings, software version, and problem/fault code data. All such data will be transmitted in a secure manner specified by Xerox. The automatic data transmission capability will not allow Xerox to read, view or download any Client data, documents or other information residing on or passing through such devices or Client's information management systems.
9. **MISCELLANEOUS.** The terms and conditions in this XPS Addendum are applicable only to the Managed Devices covered under this XPS Addendum and are not applicable to any other Products under the XPS Services Contract or any other Services Contract under the SSA. Capitalized terms that are not defined in this XPS Addendum have the meaning assigned to them in the SSA, the XPS Services Contract or, as applicable, the SOW or DOS. Except as set forth above, the XPS Services Contract will continue in full force and effect. In the event of a conflict between the terms of the XPS Services Contract and this XPS Addendum, this XPS Addendum will control.

IN WITNESS WHEREOF, duly authorized representatives of Client and Xerox have executed this XPS Addendum.

City of Manhattan Beach
 By: _____
 Name: DAVID N. CARMANY
 Title: CITY MANAGER
 Date: June 15, 2012

XEROX CORPORATION
 By: Cheryl Sorenson
 Name: Cheryl Sorenson
 Title: Contract Specialist
 Date: 6/14/12

APPROVED AS TO FORM:
 By: Quinn M. Barrow

Quinn M. Barrow, City Attorney

Form # 52643 - XPS 2.0 SSA (4-1-12)

XEROX CONFIDENTIAL

TERM CONTRACT AWARD		CONTRACT NO: MA-IS-1140174-4	VERSION DATE
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INTERNAL SERVICES DEPARTMENT	PROCUREMENT FOLDER: 199922
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XEROX CORPORATION
700 S. FLOWER ST., STE. 700

LOS ANGELES CA 90017-4109

BUYER: Zheng Huang
PHONE: 323-267-2200
EMAIL: ZHuang@isd.lacounty.gov

VENDOR NO: 039310
CONTACT: JON ALBERT
PHONE: 213-614-0214

FISCAL YEAR:
EFFECTIVE DATE: 01/01/11
EXPIRATION 12/31/13

PHOTOCOPY EQUIPMENT

LINE NO.	COMMODITY/SERVICE DESCRIPTION	QUANTITY	UOM	PRICE TYPE	VALUE
1	COMMODITY CODE: 985-26-00-037062 PHOTOCOPIER TERM LEASE/RENTAL INCLUDES ALL MODELS AND MULTIFUNCTIONAL DEVICES	0.000		DISCOUNT	0.0000 %
2	COMMODITY CODE: 985-26-00-041621 PHOTOCOPIER LEASE PURCHASE INCLUDES ALL MODELS AND MULTIFUNCTIONAL DEVICES	0.000		DISCOUNT	0.0000 %
3	COMMODITY CODE: 939-27-00-041622 PHOTOCOPIER FULL SERVICE MAINTENANCE SERVICE INCLUDES REPLENISHMENT OF BLACK TONER/COPY CARTRIDGE/DEVELOPER AND FUSER LUBRICANTS (NOT INCLUDED ARE COLOR TONER TONERS, STAPLERS, PAPER, SPECIALTY APPLICATION SUPPLY PRODUCTS	0.000		DISCOUNT	0.0000 %

COUNTY OF LOS ANGELES

VENDOR SIGNATURE/DATE

PRICE SHEET

TERM CONTRACT AWARD

CONTRACT NO: MA-IS-1140174-4

PAGE
2

LINE NO	COMMODITY/SERVICE DESCRIPTION	QUANTITY	UOM	PRICE TYPE	VALUE
4	COMMODITY CODE: 015-15-00-041623 PHOTOCOPIER CHEMICALS & SUPPLIES FOR BOND PAPER TYPE COPY MACHINES	0.000		DISCOUNT	0.0000 %
5	COMMODITY CODE: 600-38-00-041624 PHOTOCOPIER PURCHASE ALL MODELS AND MULTIFUNCTIONAL DEVICES INCLUDES PARTS AND ACCESSORIES	0.000		DISCOUNT	0.0000 %
6	COMMODITY CODE: 600-61-00-041625 FAX MACHINE PURCHASE ALL MODELS INCLUDES PARTS AND ACCESSORIES	0.000		DISCOUNT	0.0000 %
7	COMMODITY CODE: 962-46-00-041626 DELIVERY AND SETUP FOR PHOTOCOPIER & FAX MACHINES - NO CHARGE NOTE: PRICE OF EQUIPMENT INCLUDES NORMAL DELIVERY, INSTALLATION AND SET UP. TERMS AND CONDITIONS ARE ACCORDANCE WITH RFQ-IS-11260168	0.000		DISCOUNT	0.0000 %

DISTRIBUTORS

TERM CONTRACT AWARD

CONTRACT NO: MA-IS-1140174-4

PAGE

3

VENDOR NO: 105294

VENDOR: INSIGHT INVESTMENTS CORP.

ADDRESS: 600 CITY PKWY. W., STE. 500

ORANGE CA 92868-2946

CONTACT: MICHELLE RAUSO

PHONE: 714-939-2314

SPECIAL TERMS & CONDITIONS

TERM CONTRACT AWARD

CONTRACT NO: MA-IS-1140174-4

PAGE

4

RETAILER'S PERMIT #SRZ OHB 98040852 00093AB

FURNISHED AS NEEDED THROUGH DECEMBER 31 2013, RENEWABLE FOR TWO ADDITIONAL 12-MONTH PERIODS BY MUTUAL CONSENT. PRICES TO BECOME EFFECTIVE AS OF JANUARY 1, 2011.

F.O.B. DELIVERED.

FREIGHT PREPAID AND ALLOWED

VENDOR: PAYS FREIGHT COST, OWN TITLE IN TRANSIT, FILE CLAIM(S)

COUNTY: TAKES OWNERSHIP AT DESTINATION

IF MANUFACTURER'S PRICE LIST OR DISCOUNT STRUCTURE CHANGES, VENDOR SHALL NOTIFY THE COUNTY OF LOS ANGELES PURCHASING DEPARTMENT IN WRITING IMMEDIATELY, IDENTIFYING AGREEMENT BY NUMBER, FURNISHING 2 COPIES OF NEW LIST AND/OR ACCEPTABLE EVIDENCE OF CHANGE IN MANUFACTURER'S DISCOUNT STRUCTURE. IT SHALL BE VENDORS RESPONSIBILITY TO KEEP THE COUNTY OF LOS ANGELES INFORMED OF CHANGES.

PARTICIPATING PUBLIC AGENCIES

COUNTY AND AWARDED VENDOR MAY ALLOW OTHER GOVERNMENTAL ENTITIES, INCLUDING BUT NOT LIMITED TO: STATES, COUNTIES, CITIES, SPECIAL DISTRICTS, POLITICAL SUBDIVISIONS, SCHOOL DISTRICTS, HIGHER EDUCATION, AND OTHER MUNICIPALITIES (PARTICIPATING PUBLIC AGENCIES) TO PURCHASE PRODUCTS OR SERVICES FROM THIS AGREEMENT ON THE SAME TERMS, CONDITIONS AND PRICING AS THE COUNTY, SUBJECT TO ANY APPLICABLE LOCAL PURCHASING ORDINANCES AND THE LAWS OF THE STATE OF PURCHASE.

THE COUNTY SHALL NOT BE CONSTRUED AS A DEALER, RE-MARKETER, REPRESENTATIVE, PARTNER OR AGENT OF ANY TYPE OF VENDOR AWARDED THIS AGREEMENT. PARTICIPATING PUBLIC AGENCIES SHALL BE RESPONSIBLE FOR THE ORDERING OF PRODUCTS UNDER THIS AGREEMENT. PAYMENT FOR PRODUCTS OR SERVICES AND INSPECTIONS AND ACCEPTANCE OF PRODUCTS OR SERVICES ORDERED BY A PARTICIPATING PUBLIC AGENCY SHALL BE THE EXCLUSIVE OBLIGATION OF SUCH PROCURING PARTY.

THE COUNTY SHALL NOT BE OBLIGATED, LIABLE OR RESPONSIBLE FOR ANY ORDER MADE BY ANY PARTICIPATING PUBLIC AGENCY OR ANY EMPLOYEE THEREOF FOR ANY PAYMENT REQUIRED TO BE MADE WITH RESPECT TO SUCH ORDER; AND THAT ANY DISPUTES BETWEEN A PARTICIPATING PUBLIC AGENCY AND VENDOR AWARDED THIS AGREEMENT ARE NOT THE RESPONSIBILITY OF THE COUNTY. THE EXERCISE OF ANY RIGHTS OR REMEDIES BY THE PARTICIPATING PUBLIC AGENCY OR AWARDED VENDOR SHALL BE THE EXCLUSIVE OBLIGATION OF SUCH PARTY.

THE COUNTY MAKES NO REPRESENTATION OR GUARANTY WITH RESPECT TO ANY MINIMUM PURCHASES BY THE COUNTY OR ANY PARTICIPATING PUBLIC AGENCY OR ANY EMPLOYEE THEREOF UNDER THIS AGREEMENT.

UTILIZATION RECAPITULATION REPORT:

120 DAYS PRIOR TO TERMINATION OF THIS AGREEMENT, VENDOR SHALL FURNISH THE COUNTY OF LOS ANGELES WITH A LIST SHOWING THE AMOUNT OF EACH ITEM DELIVERED. THIS LIST SHALL BE BY INDIVIDUAL ITEM AND SHALL SHOW THE TOTAL DELIVERED TO COUNTY OF LOS ANGELES DURING THE PRIOR YEAR OR PORTION THEREOF. IN ADDITION, A TOTAL DOLLAR VALUE SOLD TO ALL PARTICIPATING AGENCIES DURING THE SAME PERIOD SHALL BE FURNISHED.

RETURN OF GOODS RECEIVED:

VENDOR AGREES TO ACCEPT FOR CREDIT ANY MERCHANDISE RETURNED IN GOOD CONDITION WITHIN FIVE DAYS AFTER RECEIPT OF GOODS WITHOUT ANY HANDLING CHARGES; HOWEVER, NO RETURN SHALL BE MADE OF ANY MATERIAL WHICH HAS BEEN PUT INTO OPERATION OTHER THAN FOR TEST. WHEN PRODUCTS DELIVERED FAIL TO MEET SPECIFICATION, COST OF INSPECTION SHALL BE FOR ACCOUNT OF VENDOR.

THE COUNTY OF LOS ANGELES RESERVES THE RIGHT TO CANCEL THIS AGREEMENT IF DELIVERY OR SERVICES PROVE UNSATISFACTORY (DEFAULT) AND MAY PROCURE THE ARTICLES OR SERVICES FROM OTHER SOURCES AND MAY DEDUCT FROM UNPAID BALANCE DUE THE VENDOR FOR EXCESS COSTS SO PAID. THE PRICES PAID BY THE COUNTY OF LOS ANGELES SHALL BE CONSIDERED THE PREVAILING MARKET PRICE AT THE TIME SUCH PURCHASE IS MADE. THE COUNTY OF LOS ANGELES SHALL BE SOLE JUDGE AS TO SATISFACTORY PERFORMANCE.

INSURANCE COVERAGE REQUIREMENTS;

GENERAL LIABILITY: INSURANCE (WRITTEN ON ISO POLICY FORM CG 00 01 OR ITS EQUIVALENT) WITH LIMITS OF NOT LESS THAN THE FOLLOWING:

GENERAL AGGREGATE: \$2 MILLION

PRODUCTS/COMPLETED OPERATIONS AGGREGATE: \$1 MILLION

PERSONAL AND ADVERTISING INJURY: \$1 MILLION

EACH OCCURENCE: \$1 MILLION

AUTOMOBILE LIABILITY: INSURANCE (WRITTEN ON ISO POLICY FORM CA 00 01 OR ITS EQUIVALENT) WITH A LIMIT OF LIABILITY OF NOT LESS THAN \$1 MILLION FOR EACH ACCIDENT. SUCH INSURANCE SHALL INCLUDE COVERAGE FOR ALL 'OWNED' 'HIRED' AND 'NON-OWNED' VEHICLES, OR COVERAGE FOR 'ANY AUTO'.

PAYMENT TERMS: PAYMENT TERMS ARE NET 30 DAYS FROM COUNTY'S RECEIPT OF A CORRECT AND PROPER INVOICE, AS PREPARED IN ACCORDANCE WITH THE TERMS HEREIN. IN NO EVENT SHALL COUNTY BE LIABLE FOR ANY LATE CHARGES. INVOICES SHALL ONLY BE ISSUED AFTER COUNTY'S ACCEPTANCE OF THE GOODS AND/OR PRODUCTS. DISCOUNTS SHALL BE AS SET FORTH HEREIN.

SPECIAL TERMS & CONDITIONS

TERM CONTRACT AWARD

CONTRACT NO: MA-IS-1140174-4

PAGE

6

PRODUCTS PURCHASED AS A RESULT OF THIS CONTRACT ARE TO BE SUPPLIED AS OFFERED AND ACCEPTED WITHOUT SUBSTITUTION OF MATERIAL OR STYLE. COSTS INCURRED BY THE COUNTY OF LOS ANGELES FOR INTERNAL ACTIVITIES REQUIRED TO RECALL AND REPLACE AN UNAUTHORIZED SUBSTITUTE WILL BE DOCUMENTED AND APPLIED TO THE ACCOUNT OF THE SUPPLIER.

UNLESS OTHERWISE QUALIFIED, VENDOR AGREES, FOR THE PERIOD OF THIS AGREEMENT, THAT PRICES QUOTED ARE MAXIMUM.

IF PRICES DECLINE, OR SHOULD VENDOR AT ANY TIME DURING THE LIFE OF THIS AGREEMENT SELL THE SAME MATERIALS OR SERVICE UNDER SIMILAR QUANTITY AND DELIVERY CONDITIONS TO THE STATE OF CALIFORNIA, OR ANY COUNTY, MUNICIPALITY OR LEGAL DISTRICT OF THE STATE OF CALIFORNIA AT PRICES BELOW THOSE QUOTED HEREIN, SUCH LOWER PRICES SHALL BE IMMEDIATELY EXTENDED TO THE COUNTY OF LOS ANGELES.

EQUIPMENT OFFERED MUST BE NEW, UNUSED, CURRENT MODELS.

SPECIFICATIONS OF EQUIPMENT DESCRIBED HAVE BEEN DEEMED ADEQUATE TO SATISFY THE PERFORMANCE REQUIREMENTS OF THE REQUISITIONING DEPARTMENT. THE COUNTY OF LOS ANGELES RESERVES THE RIGHT TO MAKE AN AWARD ON EQUIPMENT WHICH MEETS FUNCTIONAL NEEDS AND IS SUITABLE FOR THE SERVICE REQUIRED.

DAMAGE TO BUILDINGS, APPURTENANCES AND FURNISHINGS MUST BE AVOIDED. DAMAGE CAUSED BY CONTRACTOR'S OPERATIONS SHALL BE REPAIRED, AS DIRECTED, AT NO COST TO THE COUNTY OF LOS ANGELES.

ALL PACKAGES OF HAZARDOUS MATERIALS MUST BE CLEARLY MARKED WITH THE PROPER SHIPPING NAME AND IDENTIFICATION NUMBER AS REQUIRED BY DEPARTMENT OF TRANSPORTATION TITLE 49, SECTION 172.30L.

VENDOR IS REQUIRED TO MAIL MATERIAL SAFETY DATA SHEETS (MSDS) TO THE ATTENTION OF THE SAFETY OFFICER AT THE DELIVERY ADDRESS SHOWN HEREIN WHEN DELIVERY IS TO BE MADE DIRECT TO THE USING DEPARTMENT OR TO THE COUNTY OF LOS ANGELES, DEPARTMENT OF PERSONNEL, ENVIRONMENTAL HEALTH SECTION, 5TH FLOOR, 2615 SO. GRAND AVE., LOS ANGELES, CA 90007, WHEN DELIVERY IS TO BE MADE TO THE CENTRAL WAREHOUSE ON ELM STREET.

ALL CHARGES, E.G., TRANSPORTATION, PACKING, INSTALLATION, MUST BE INCLUDED IN THE AGREEMENT.

SPECIAL TERMS & CONDITIONS	TERM CONTRACT AWARD CONTRACT NO: MA-IS-1140174-4
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INDEMNIFICATION: VENDOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS COUNTY, ITS AGENTS, OFFICERS AND EMPLOYEES FROM AND AGAINST ANY AND ALL LIABILITY, EXPENSE, INCLUDING DEFENSE COSTS AND LEGAL FEES, AND CLAIMS FOR DAMAGES OF ANY NATURE WHATSOEVER ARISING FROM OR CONNECTED WITH VENDOR'S OPERATIONS, GOODS AND/OR COMMODITIES OR SERVICES PROVIDED HEREUNDER. THIS INDEMNITY SHALL INCLUDE, BUT NOT BE LIMITED TO CLAIMS FOR OR BY REASON OF ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY UNITED STATES PATENT OR COPYRIGHT OR ANY ACTUAL OR ALLEGED TRADE SECRET DISCLOSURE.

DEFAULT: IN THE EVENT VENDOR FAILS TO PERFORM HEREUNDER AND DOES NOT CURE SUCH FAILURE WITHIN FIFTEEN (15) CALENDAR DAYS OF THE DATE COUNTY'S NOTICE WAS SENT TO VENDOR, COUNTY MAY, AT ITS SOLE DISCRETION, CANCEL OR TERMINATE THIS PURCHASE ORDER. SUCH CANCELLATION OR TERMINATION SHALL BE AT NO COST TO COUNTY. SHOULD COUNTY SO CANCEL OR TERMINATE, COUNTY MAY AT ITS SOLE DISCRETION, PROCURE THE ITEMS OR SERVICES FROM OTHER SOURCES AND VENDOR SHALL BE LIABLE TO COUNTY FOR ANY AND ALL EXCESS COSTS, DETERMINED BY COUNTY, FOR SUCH ITEMS OR SERVICES.

NONEXCLUSIVITY: NOTHING HEREIN IS INTENDED NOR SHALL IT BE CONSTRUED AS CREATING ANY EXCLUSIVE ARRANGEMENT WITH VENDOR.

INDEPENDENT CONTRACTOR STATUS: VENDOR SHALL AT ALL TIMES BE ACTING IN THE CAPACITY OF INDEPENDENT CONTRACTOR. THIS AGREEMENT AND/OR PURCHASE ORDER ARE NOT INTENDED, AND SHALL NOT BE OR CONSTRUED, TO CREATE THE RELATIONSHIP OF AGENT, SERVANT, EMPLOYEE PARTNERSHIP, JOINT VENTURE OR ASSOCIATION, AS BETWEEN COUNTY AND VENDOR. THE EMPLOYEES AND AGENTS OF ONE PARTY SHALL NOT BE OR CONSTRUED TO BE, THE EMPLOYEES OR AGENTS OF THE OTHER PARTY FOR ANY REASON WHATSOEVER.

GRATUITIES
 IT IS IMPROPER FOR ANY COUNTY OFFICER, EMPLOYEE OR AGENT TO SOLICIT CONSIDERATION, IN ANY FORM, FROM A PROPOSER WITH THE IMPLICATION, SUGGESTION OR STATEMENT THAT THE PROPOSER'S PROVISION OF THE CONSIDERATION MAY SECURE MORE FAVORABLE TREATMENT FOR THE PROPOSER IN THE AWARD OF THE CONTRACT OR THAT THE PROPOSER'S FAILURE TO PROVIDE SUCH CONSIDERATION MAY NEGATIVELY AFFECT THE COUNTY'S CONSIDERATION OF THE PROPOSER'S SUBMISSION. A PROPOSER SHALL NOT OFFER OR GIVE, EITHER DIRECTLY OR THROUGH AN INTERMEDIARY, CONSIDERATION, IN ANY FORM TO A COUNTY OFFICER, EMPLOYEE OR AGENT FOR THE PURPOSE OF SECURING FAVORABLE TREATMENT

SPECIAL TERMS & CONDITIONS	TERM CONTRACT AWARD CONTRACT NO: MA-IS-1140174-4
----------------------------	---

PAGE
8

WITH RESPECT TO THE AWARD OF THE CONTRACT.
 A PROPOSER SHALL IMMEDIATELY REPORT ANY ATTEMPT BY A COUNTY OFFICER, EMPLOYEE OR AGENT TO SOLICIT SUCH IMPROPER CONSIDERATION. THE REPORT SHALL BE MADE EITHER TO THE COUNTY MANAGER CHARGED WITH THE SUPERVISION OF THE EMPLOYEE OR TO THE COUNTY AUDITOR-CONTROLLER'S EMPLOYEE FRAUD HOTLINE AT (213) 974-0914 OR (800) 544-6861. FAILURE TO REPORT SUCH A SOLICITATION MAY RESULT IN THE PROPOSER'S SUBMISSION BEING ELIMINATED FROM CONSIDERATION. AMONG OTHER ITEMS, SUCH IMPROPER CONSIDERATION MAY TAKE THE FORM OF CASH, DISCOUNTS, SERVICE, THE PROVISION OF TRAVEL OR ENTERTAINMENT OR TANGIBLE GIFTS.

AUTHORIZATION WARRANTY
 CONTRACTOR REPRESENTS AND WARRANTS THAT THE PERSON EXECUTING THIS AGREEMENT FOR CONTRACTOR IS AN AUTHORIZED AGENT WHO HAS ACTUAL AUTHORITY TO BIND CONTRACTOR TO EACH AND EVERY TERM, CONDITION AND OBLIGATION OF THIS AGREEMENT AND THAT ALL REQUIREMENTS OF CONTRACTOR HAVE BEEN FULFILLED TO PROVIDE SUCH ACTUAL AUTHORITY.

Notice to Bidder: In line with the County policy for the procurement of energy-efficient equipment and products, preference will be given to those products that meet the Federal Energy Management Program (FEMP) standards or possess an Energy Star Label.

PRICE PER UNIT INDICATED ON EACH ITEM F.O.B. DESTINATION.

WORKERS COMPENSATION AND EMPLOYERS' LIABILITY: INSURANCE
 PROVIDING WORKERS COMPENSATION BENEFITS, AS REQUIRED BY THE LABOR CODE OF THE STATE OF CALIFORNIA OR BY ANY OTHER STATE, AND FOR WHICH CONTRACTOR IS RESPONSIBLE. IF CONTRACTOR'S EMPLOYEES WILL BE ENGAGED IN MARITIME EMPLOYMENT, COVERAGE SHALL PROVIDE WORKERS COMPENSATION BENEFITS AS REQUIRED BY THE U.S. LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT, JONES ACT OR ANY OTHER FEDERAL LAW FOR WHICH CONTRACTOR IS RESPONSIBLE.
 IN ALL CASES, THE ABOVE INSURANCE ALSO SHALL INCLUDE EMPLOYERS' LIABILITY COVERAGE WITH LIMITS OF NOT LESS THAN THE FOLLOWING:
 EACH ACCIDENT: \$1 MILLION
 DISEASE - POLICY LIMIT: \$1 MILLION
 DISEASE - EACH EMPLOYEE: \$1 MILLION

CAL/OSHA - STATEMENT OF COMPLIANCE
 THE ITEMS SHOWN HEREIN MUST MEET ALL APPLICABLE LOCAL, STATE AND FEDERAL STATUTES, REGULATIONS, CODES, ETC., INCLUDING BUT NOT LIMITED TO CAL/OSHA REQUIREMENTS AS SET FORTH IN THE CALIFORNIA ADMINISTRATIVE CODE, TITLE 8, CHAPTER 4. SUBMISSION OF A BID

SPECIAL TERMS & CONDITIONS

TERM CONTRACT AWARD

CONTRACT NO: MA-IS-1140174-4

PAGE

9

CONSTITUTES THE REPRESENTATION OF THE VENDOR THAT ALL ITEMS MEET OR EXCEED ALL SUCH APPLICABLE LAWS, STATUTES, CODES, ETC., AND THAT THE DETERMINATION THAT ANY ITEM DOES NOT DO SO SHALL BE GROUNDS, AT THE OPTION OF THE PURCHASING AGENT, TO TERMINATE OR RESCIND THE AGREEMENT, PURCHASE OR LEASE, AND ENTITLE THE COUNTY TO ANY DAMAGES SUFFERED BY REASON THEREOF.

THE USE OF BRAND NAMES IN THIS INVITATION FOR BID IS FOR VENDOR INFORMATION ONLY AND DOES NOT SIGNIFY COMPLIANCE WITH THE ABOVE CODES AND REGULATIONS.

Agreement amendment #1: Accept attached additional terms and conditions negotiated by the County and Xerox effective on June 23, 2011

STANDARD TERMS & CONDITIONS	TERM CONTRACT AWARD CONTRACT NO: MA-IS-1140174-4
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The County of Los Angeles accepts your offer to furnish our requirements (and such requirements as may be ordered by cities and /or districts indicated herein) of the listed commodity, or service, as needed, subject to conditions of the stated quotation and as provided herein. All Purchase Agreements, Purchase Orders and Contracts will be deemed to be made and entered into the State of California under the constitution and laws of this state and are to be so construed.

PRICE GUARANTEE: Unless otherwise provided herein, prices are maximum for the period of this agreement. In the event of a price decline, or, should you at any time during the life of this agreement sell the same material or service under similar quantity and deliver conditions to the State of California, or legal district thereof, or to any county or Municipality within the State of California at prices below those stated herein, you will immediately extend such lower prices to the County of Los Angeles.

ATTENTION: VENDOR/DEPARTMENT - SPECIAL NOTE: County departments are not authorized to use this agreement as a purchasing source for products not specifically covered herein. Changes of items, equipment, or modifications to prices, specifications, or conditions, etc., of this agreement can be made only by the Purchasing Agent by issuance of official amendment and in accordance with properly authorized changes agreed upon prior to consummation.

Los Angeles County will not pay for items not listed below that have not been processed in accordance with the above paragraph. Vendor will incur payment problems.

County's Quality Assurance Plan. The County or its agent will evaluate Contractor's performance under this agreement on not less than annual basis. Such evaluation will include assessing Contractor's compliance with all contract terms and performance standards. Contractor deficiencies which County's determines are severe or continuing and that may place performance of the agreement in jeopardy if not corrected will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by the County and Contractor. If improvement does not occur consistent with the corrective action measures, County may terminate this agreement or impose other penalties as specified in this agreement.

CONTRACTOR RESPONSIBILITY AND DEBARMENT

1. A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is the County's policy to conduct business only with responsible contractors.
2. The Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the performance of the contractor on this or other contracts which indicates that the Contractor is not responsible, the County may, in addition to other remedies provided in the contract, debar the Contractor from bidding on County contracts for a specified period of time not to exceed 5 years, and terminate any or all existing contracts the Contractor may have with the County.
3. The County may debar a contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated any term of a contract with the County, (2) committed any act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a contract with the County or any other public entity, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.
4. If there is evidence that the Contractor may be subject to debarment, the Department will notify the Contractor in writing of the evidence which is, the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.

STANDARD TERMS & CONDITIONS	TERM CONTRACT AWARD CONTRACT NO: MA-IS-1140174-4
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	PAGE 11
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5. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a proposed decision, which shall contain a recommendation regarding whether the contractor should be debarred, and, if so, the appropriate length of time of the debarment. If the Contractor fails to avail itself of the opportunity to submit evidence to the Contractor Hearing Board, the Contractor may be deemed to have waived all rights of appeal.

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

7. These terms shall also apply to (subcontractors/subconsultants) of County Contractors.

PROHIBITION AGAINST USE OF CHILD LABOR

VENDOR shall:

1. Not knowingly sell or supply to COUNTY any products, goods, supplies or other personal property produced or manufactured in violation of child labor standards set by the International Labor Organizations through its 1973 Convention concerning Minimum Age for Employment.
2. Upon request by COUNTY, identify the country/countries of origin of any products, goods, supplies or other personal property bidder sells or supplies to COUNTY, and
3. Upon request by COUNTY, provide to COUNTY the manufacturer's certification of compliance with all international child labor conventions.

Should COUNTY discover that any products, goods, supplies or other personal property sold or supplied by VENDOR to COUNTY are produced in violation of any international child labor conventions, VENDOR shall immediately provide an alternative, compliant source of supply.

Failure by VENDOR to comply with the provisions of this clause will be grounds for immediate cancellation of this Purchase Order or termination of this Agreement and award to an alternative vendor.

A. Jury Service Program.

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

B. Written Employee Jury Service policy.

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

2. For purposes of this Section, "Contractor" means a person, partnership, corporation or other entity which has a contract with the County or a subcontract with a County contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full time employee of Contractor. "Full time" means 40 hours or more worked per week, or a lesser number of hours if the lesser number is a recognized industry standard and is approved as such by the County. If Contractor uses any subcontractor to perform services for the County under the Contract, the subcontractor shall also be subject to the provisions of this Section. The provisions of this Section shall be inserted into any such subcontract agreement and a Copy of the Jury Service Program shall be attached to the agreement.

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

4. Contractor's violation of this Section of the contract may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract and/or bar Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach.

PRICE SPECIFIC CONTRACTS AND PURCHASE ORDERS

Vendors are entitled to receive payment for goods received by, or services provided to the county specific to the Contract or Purchase Order price amount. Under no circumstances will those Suppliers, Contractors or Vendors who supply goods or otherwise contract services with the County of Los Angeles be entitled to or paid for expenditures beyond the Contract or Purchase Order amounts. Vendors are prohibited from accepting prepayment for goods or services without the express written approval of the County Purchasing Agent.

ASSIGNMENT BY CONTRACTOR

A. Contractor shall not assign its rights or delegate its duties under the Agreement, or both whether in whole or in part, without the prior written consent of County, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this paragraph, County consent shall require a written amendment to the Agreement, which is formally approved and executed by the parties. Any payments by county to any approved delegate or assignee on any claim under the Agreement shall be deductible, at County's sole discretion, against the claims which Contractor, may have against county.

B. Shareholders, partners, members, or other equity holders of Contractor may transfer, sell exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Agreement, such disposition is an assignment requiring the prior written consent of County in accordance with applicable provisions of this Agreement.

C. Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without county's express prior written approval, shall be a material breach of the Agreement which may result in the termination of the Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

Xerox Print Services Description of Services

Client: City of Manhattan Beach

Business Agreement Number: 7125155 001

Date: June 20, 2012

1. **Services Commencement Date.** Xerox will notify Client in writing when Xerox reasonably determines that Break Fix Service and Supplies, as applicable, are available for the Managed Devices ("Services Commencement Date"). Xerox Devices may be installed prior to the Services Commencement Date. Regardless of the Services Commencement Date for Managed Devices, Break Fix Services and Supplies are provided for Xerox Devices as of the installation date per the terms of the Business Agreement.
2. **Device Management Services.** Xerox will use the Xerox Tools and Xerox Client Tools (collectively "Tools") to monitor networked Devices. The Tools provide automatic service and supplies alerts to the Xerox Help Desk (e.g. low toner), automated meter collection, new device discovery, and device data collection for reporting. The Tools periodically scan the Client's network for devices which may be eligible to be Managed Devices. Devices identified through this process may be added as Managed Devices and billed at the rates identified in Exhibit A to the XPS Addendum.
3. **Break Fix Services.** Except for Other Devices identified as "Supplies Only" in Exhibit A to the XPS Addendum, Xerox will keep the Devices in good working order ("Break Fix Services").
 - a) Break Fix Services may be initiated by the Tools for networked Devices, or by Client calling the Xerox Help Desk.
 - b) If a Device failure cannot be resolved remotely, Xerox will dispatch a service technician to perform on-site Break Fix Services, which will usually be the next business day. On-site Break Fix Services are provided Monday through Friday (excluding New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day) from 8:00AM to 5:00PM local time ("XPS Service Hours"). Technicians are not dispatched for preventative maintenance or cleaning.
 - c) If Xerox determines that a Managed Device is beyond repair, or is classified by the OEM as service discontinued, or parts or Supplies are no longer commercially available, Xerox will discontinue Break Fix Service and Client may: (i) replace such device at its own expense with a device that is then supported by Xerox; or (ii) notify Xerox to delete such device from the XPS Services Contract.
 - d) For Xerox Devices, Break-Fix Services also include the Basic Services or Maintenance Services identified in the Business Agreement.
4. **Supplies.**
 - a) For Managed Devices, Xerox will furnish the Supplies identified in the XPS Addendum. Xerox will provide OEM compatible Supplies when available. If Client requires OEM Supplies other than Xerox, Client will be billed for such OEM Supplies. Xerox is not liable for constrained or discontinued Supplies. The Monthly Supplies Shipping Charge identified in Exhibit A to the XPS Addendum covers standard ground shipping. The cost of second day, overnight, or other non-standard shipping will be billed to Client.
 - b) For Xerox Devices, Xerox will provide Consumable Supplies in accordance with the Business Agreement.
 - c) Requests for Supplies and Consumable Supplies may be placed by the Tools or by Client calling the Xerox Help Desk. To prevent excessive shipment of Supplies or Consumable Supplies, Xerox may: (i) check the current toner level to validate a low toner condition; and (ii) check the metered impression volume since the last shipment to determine if impression volume exceeds the expected yield. If these conditions are not satisfied, Supplies or Consumable Supplies will be billed to Client. Cleaning kits and print media (e.g. paper) may be ordered from the Xerox Help Desk and will be billed to Client. Xerox may not provide Supplies or Consumable Supplies if a current meter read is not received for a networked Device.
5. **Xerox Help Desk.** The Xerox Help Desk is available during the XPS Service Hours to receive, track, escalate, process and close service issues, remotely resolve certain issues, and process Client requests for Break Fix Services, Supplies and Consumable Supplies.
6. **Move, Add, Change, Dispose Process.** The Move, Add, Change and Dispose (MACD) process is used to track and revise the Managed Devices. Under the MACD process, "Adds", "Changes" and "Disposals" may modify the amount billed. For transactions that involve adding or removing Xerox Devices to the XPS Services Contract, Client will also sign an order document containing revised pricing for the Xerox Devices being added or removed. If a Xerox Device is terminated, Client must sign an order document that contains revised pricing and terminates the Xerox Device. Early termination or other charges, if any, for a terminated Xerox Device will be billed according to the terms of the XPS Services Contract.
7. **Reporting:** Xerox standard monthly reports will be provided for the Devices.
8. **Client Responsibilities.** Client will:
 - a) Provide a Client Asset Coordinator ("CAC") as its primary point of contact with Xerox during the start-up, implementation and ongoing delivery of XPS Services. The CAC is authorized to process and approve MACD transactions.
 - b) Provide a Client IT Contact as its primary contact to Xerox to facilitate IT related activities and processes.
 - c) Provide or validate MACD information and approve changes in Device status as they occur, through the MACD process.
 - d) Notify the Xerox Help Desk if Client wishes to relocate a Device, and Xerox will advise Client if XPS Services are available at the new location.

- e) Assure that networked Devices are Simple Network Management Protocol ("SNMP") enabled and can route SNMP over the network.
- f) Provide a dedicated PC or server, as required, that is connected to Client's network at all times ("Client PC"), and allow Xerox to install, use, access, update and maintain the Tools on the Client PC. The Tools cannot be installed on a PC or server where other SNMP-based applications or other Xerox Tools are installed, because they may interfere with the Tools.
- g) Ensure that proper virus protection is installed, maintained, and enabled on the Client PC and any servers, desktop workstations, laptop computers and other hardware attached to or hosting any data on Client's network or output environment. Xerox is not responsible for the disruption of XPS Services or loss of functionality of the Tools caused by any of the foregoing. If the Tools become inoperable due to Client implemented changes to its network, Xerox will work with Client to re-install Tools.
- h) Assist in implementation of the Tools by providing relevant network information such as the IP address ranges or subnets on which Devices reside.
- i) Distribute Supplies and Consumable Supplies within Client's site (or facilitate Xerox contracted on-site resource to perform this task) and install them in Devices and clear paper jams.
- j) Resolve any Client network, Client PC or Managed Device software issues.
- k) Replace Device cartridges and CRUs (or facilitate Xerox contracted on-site resource to perform this task).
- l) Provide reasonable access to Client's facilities and personnel as required for the performance of XPS Services.
- m) Ensure that Devices are installed and operating within the OEM's specifications and are readily accessible to the Xerox authorized service representative.
- n) Submit meter data for networked Devices when such data cannot be provided by the Tools.
- o) Request Break Fix Services, Supplies and Consumable Supplies from the Xerox Help Desk for Devices that are not compatible with the Tools.
- p) Grant or transfer to Xerox sufficient rights to use software owned, licensed or otherwise controlled by Client, as required, solely for the purpose of providing XPS Services.
- q) Legally dispose of all hazardous wastes generated from use of Devices and associated Supplies and CRUs.

Xerox will not be liable for delays or services failures, including but not limited to implementation delays, if Client does not perform or facilitate completion of its designated responsibilities.

9. **Definitions.** Capitalized terms that are not defined below or elsewhere in this Description of Services have the meaning assigned to them in the Business Agreement, the XPS Services Contract or the XPS Addendum.

- a) **Asset Management Database:** A database that is hosted and maintained by Xerox to record and provide reporting on Device activities.
- b) **Business Agreement:** The contract terms and conditions between Client and Xerox including any Orders, amendments or addenda thereto, which sets forth the terms and conditions governing this Description of Services.
- c) **CRU:** Client replaceable units or items that an operator can install without service assistance.
- d) **Device(s):** The Xerox Devices and Managed Devices included as in-scope under XPS as recorded in the Asset Management Database.
- e) **Managed Device(s):** Printers identified in Exhibit B of the XPS Addendum.
- f) **Xerox Device(s):** A Xerox provided device identified in or added to the XPS Services Contract, provided under a Business Agreement for which Xerox retains title that must be returned to Xerox when that agreement expires.
- g) **XPS Addendum:** The XPS Addendum to the XPS Services Contract between Client and Xerox. If there are no Managed Devices included in the XPS Services Contract, all references to XPS Addendum and Managed Devices are hereby deleted from this Description of Service.
- h) **XPS Services:** The services described in this Description of Services.
- i) **XPS Services Contract:** Collectively the Business Agreement and the XPS Addendum (if applicable).



Exhibit A: Pricing for Customer Owned Managed Devices

Date: 6/12/2012

Customer: Manhattan Beach, City of
 Agreement Number: 7125155-001

Networked Laser Devices

	Monthly Minimum Print Volume	Charge Per Impression	Monthly Minimum Charge
Black & White Impressions	62,540	\$0.0150	\$938.10
Color Impressions	19,367	\$0.1300	\$2,517.71

	Excess Charge Per Impression (billed quarterly)
Black & White Impressions	\$0.0150
Color Impressions	\$0.1300

Device Count Variability Parameters:

	Black & White	Color
Device Count	21	9
Allowed Device Count Variability	10%	10%

Xerox may adjust pricing if the Device Count changes by more than the Allowed Device Count Variability shown here.
 Break Fix Services, Supplies, maintenance kits and drums are included. MICR toner is not included.

Non-Networked Laser Devices

	Monthly Fee Per Device	Number of Devices	Monthly Minimum Charge
Black and White Devices	\$25	11	\$275.00
Color Devices	\$45	5	\$225.00

Break Fix Services, Supplies, maintenance kits and drums are included.

Monthly Supplies Shipping Charge:

\$65.00

Total Monthly Minimum Charge:

\$4,020.81

Excludes all applicable sales taxes



Exhibit B: Customer Owned Managed Device Listing

Date: 6/12/2012

Customer: Manhattan Beach, City of
 Agreement Number: 7125155-001

Networked Laser Devices

Manufacturer	Model Name	Serial	IP Address	MAC ID	Device Type
HEWLETT-PACKARD	COLOR LASERJET 4600	JPKDB40365	172.20.10.19	00-01-E6-A6-DD-4B	Color
HEWLETT-PACKARD	LASERJET 2300	CNBDC94785	172.20.10.49	00-01-E6-A3-B6-97	Black & White
HEWLETT-PACKARD	LASERJET 2430	CNGJD48195	172.20.10.70	00-14-38-E3-9E-02	Black & White
HEWLETT-PACKARD	LASERJET 4000	USEF227352	172.20.10.20	00-60-80-C2-C7-D1	Black & White
HEWLETT-PACKARD	LASERJET 4000	USQA025499	172.20.10.27	00-10-83-27-4C-34	Black & White
HEWLETT-PACKARD	LASERJET 4000	USNC061503	172.20.10.11	00-60-B0-97-7E-A5	Black & White
HEWLETT-PACKARD	LASERJET 4000	USQC029285	172.20.10.48	00-60-B0-E5-34-A9	Black & White
HEWLETT-PACKARD	LASERJET 4000	USNC113430	172.20.10.88	00-60-B0-AE-8D-51	Black & White
XEROX	PHASER 3300MFP	VBY000575	172.20.10.30	00-00-AA-C0-82-4F	Black & White
XEROX	PHASER 3600	MHB896982	172.20.10.17	00-00-AA-8E-70-C9	Black & White
XEROX	PHASER 3600	MHB845291	172.20.10.93	00-00-AA-BC-32-1B	Black & White
XEROX	PHASER 3635MFP-S	LBP243864	172.20.10.90	00-00-AA-B9-3C-65	Black & White
XEROX	PHASER 4510DT	ART301701	172.20.10.23	00-00-AA-A0-80-63	Black & White
XEROX	PHASER 4510DT	ART340954	172.20.10.32	00-00-AA-C2-7F-69	Black & White
XEROX	PHASER 4510DT	ART366997	172.20.10.99	00-00-AA-C5-CF-89	Black & White
XEROX	PHASER 4510N	ART388712	172.20.10.10	00-00-AA-F4-62-52	Black & White
XEROX	PHASER 4600DN	XL270548	172.20.10.15	00-00-AA-D8-18-DF	Black & White
XEROX	PHASER 4600DN	XL268642	172.20.10.2	00-00-AA-D8-01-0B	Black & White
XEROX	PHASER 6180MFP-D	GNX152022	172.20.10.89	00-00-AA-A2-63-26	Color
XEROX	PHASER 6360DT	DBY161586	172.20.10.54	00-00-AA-A1-A0-8C	Color
XEROX	PHASER 6360DT	DBY130577	172.20.10.73	00-00-AA-A1-99-4A	Color
XEROX	PHASER 6360DT	DBY163995	172.20.10.102	00-00-AA-A1-B9-E0	Color
XEROX	PHASER 8560DN	CXF338933	172.20.10.86	00-00-AA-AD-CF-48	Color
XEROX	PHASER 8560DN	CXF037831	172.20.10.52	00-00-AA-9B-30-00	Color
XEROX	WORKCENTRE 4150S	L99360787	172.20.10.83	00-00-AA-87-A8-48	Black & White
XEROX	WORKCENTRE 4150S	L99360785	172.20.10.37	00-00-AA-87-A8-49	Black & White
XEROX	WORKCENTRE 4150S	L99046497	172.20.10.36	00-00-AA-97-0C-2A	Black & White
XEROX	WORKCENTRE C2424 SERIES	VYK011665	172.20.10.65	00-00-AA-93-61-6A	Color
XEROX	WORKCENTRE M201	RYU280826	172.20.10.66	00-00-AA-98-01-18	Black & White
XEROX	WORKCENTRE 6505DN	YTB111020	172.20.10.84	00-00-AA-D6-E6-C4	Color

Non-Networked Laser Devices

Manufacturer	Model Name	Serial	Device Type
DELL	5110CN COLOR LASER PRINTER	926931548	Color
HEWLETT-PACKARD	LASERJET 4000	USQA022946	Black & White
HEWLETT-PACKARD	LASERJET 4000	USEF225326	Black & White
HEWLETT-PACKARD	LASERJET 4L	MY7AR58092	Black & White
HEWLETT-PACKARD	LASERJET 4000	USCC186602	Black & White
HEWLETT-PACKARD	LASERJET 4000	USSC034602	Black & White
XEROX	PHASER 3300MFP	CRUM21020860097	Black & White
XEROX	PHASER 3600	CRUM1012045975	Black & White
XEROX	PHASER 6140N	VUX110474	Color
Xerox	Phaser 6250	PWG679119	Color
XEROX	PHASER 6280DN	NKA175373	Color
XEROX	PHASER 6280DN	NKA165902	Color
XEROX	WORKCENTRE 4150S	L99046037	Black & White
Xerox	WorkCentre PE 120	VKCS11418	Black & White
Xerox	WorkCentre PE 120	VKC272844	Black & White
Xerox	WorkCentre PE 120	L1H396024	Black & White

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

Please note that the following clarifications and comments are incorporated into the County of Los Angeles Term Contract for PHOTOCOPY EQUIPMENT, County Award Number MA-IS-1140174-1, and the County's Request for Quote, Solicitation Number RFQ-IS-11260168-1. Should there be a conflict between the various documents the order of precedence shall be:

1. The County's Contract MA-IS-1140174
2. The County's RFQ-IS-11260168-1
3. Xerox Clarifications and Additional Terms plus appropriate acquisition offering terms

Xerox's Clarifications to the County's Award # MA-IS-1140174-1

Award Section

F.O.B Delivered. Please note that title to purchased equipment will pass to the County upon the equipment's installation and title to the equipment acquired under a Lease or Service Order will remain with Xerox until the County exercises the equipment purchase option.

Return of Goods Received. Xerox agrees to repair or replace any equipment that does not perform to its published specification, provided the equipment is covered by a Xerox maintenance plan. Any equipment that needs to be replaced will be replaced with an identical model, or at Xerox's option a unit with similar capabilities, and comparable usage. Please note that equipment cannot be returned to Xerox unless equipment's performance capabilities was misrepresented.

Right to Cancel the Agreement. Xerox agrees that it will be responsible for any additional costs incurred by the County if Xerox fails to deliver the requested product(s) or service(s), providing the County notifies Xerox in writing of the performance failure and provides Xerox 30 days to correct a performance failure for a Lease or Installment Purchase Order and 60 days for a Service Order. Pending correction of the failure, the County is expected to pay all undisputed amounts, including the Monthly Minimum Charge, which is not subject to dispute. Xerox agrees that an individual lease, installment purchase or services equipment agreement can be terminated if Xerox fails to correct the identified performance failure within 30 days for Lease Orders and 60 days for Service Orders.

Xerox agrees that the County can terminate the Master Agreement and stop placing additional equipment orders with 30 days prior written notice. However, this cancellation provision does not pertain to any in-place equipment installed under a Lease, Installment Purchase, or Service Agreement prior to the County's termination notice. In the event the Master Agreement is terminated, individual lease, installment purchase, and service equipment placements will continue until their scheduled expiration date, and continue to be governed by, and be subject to, the terms and conditions of the Agreement and the individual Lease Agreement.

Payment Terms. Please note that Xerox will not invoice the County until Xerox has received a signed order or purchase order from the County, and the equipment has been delivered, installed, and is available for the County's use. Any equipment that does not perform to its published standard will be repaired or replaced at Xerox's expense provided the equipment is covered under the Xerox Total Satisfaction Guarantee and Services Guarantee provisions.

Future Price Decreases: Please note that Xerox's price offering provided under this Contract represent the maximum prices that the County will be charged during the Contract term. Order time promotions, and other discounts based on the type(s) and number of products ordered, and the equipment installation term are also available. Xerox cannot guarantee the price relationship of this offer compared to any other Xerox contract offering, as this contract has been customized based on the specific equipment quantities, impression volumes, agreement term, and service/support requirements included in the County's RFP. Additionally, Xerox does not have the means to compare an individual County equipment order with any other customer order. However, Xerox agrees to review the County's contract price offering every 24-months and to adjust, as appropriate, the mutually agreed go forward price for future order activity only.

Equipment Offered. In order to meet the County's new equipment requirement, Xerox will provide either newly manufactured or factory produced new model equipment both of which are currently manufactured by Xerox and defined as new. None of the equipment provided will be remanufactured, reconditioned, recycled, refurbished, or used, although the equipment may contain some recycled components that meet newly manufactured standards. Regardless of the equipment type provided, the County will be the first user of the newly manufactured and factory produced new model equipment.

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

Delivery / Transportation Charges: The Xerox offer includes all expenses associated with the equipment's freight, its shipment to and removal from the County's delivery dock, and its inside delivery/removal, excluding any unique delivery or removal expenses. The County will be responsible for any non-standard inside delivery or removal expenses, such as the additional time or resources required to disassemble the equipment due to the lack of adequate facility access or the movement of the equipment up/down stairways using stair creepers. If any excess rigging is required, Xerox will include the details and associated rigging costs with the individual equipment proposal prior to performing the actual service.

Indemnification / Infringement. Xerox agrees to defend the County from and pay any ultimate judgment for, infringement in the United States for any Xerox-branded Equipment or Software of any patent, trademark, trade secret, protected semiconductor chip mask work, or copyright if County promptly notifies Xerox in writing of any alleged infringement, allows Xerox to defend, and cooperates with Xerox. Xerox is not responsible for any non-Xerox litigation expenses or settlements unless Xerox agrees to them in writing. Xerox is not liable for any infringement due to Equipment or Software being made or modified by the County requested specifications or designs, or being used or sold in combination with equipment, software, or supplies not provided by Xerox. Xerox makes no other express or implied warranty of non-infringement and has no other liability for infringement or any damages. To avoid an infringement (even if not alleged) Xerox may, at its option, at no charge to Customer, obtain a license to use, modify, or substitute an equivalent item for the infringing equipment or software.

Default. Xerox agrees that it will be responsible for any additional costs incurred by the County if Xerox fails to deliver the requested product(s) or service(s), providing the County notifies Xerox in writing of the performance failure and provides Xerox 30 days to correct the performance for a Lease or Installment Purchase Order, or 60 days for a Services Order. Pending correction of the failure, the County is expected to pay all undisputed amounts, including the Monthly Minimum Charge, which is not subject to dispute. Xerox agrees that an individual lease, installment purchase or services equipment agreement can be terminated if Xerox fails to correct the identified performance failure within 30 days for Lease Orders and 60 days for Service Orders.

Price Guarantee. Please note that Xerox's price offering provided under this Contract represent the maximum prices that the County will be charged during the Contract term. Order time promotions, and other discounts based on the type(s) and number of products ordered, and the equipment installation term are also available. Xerox cannot guarantee the price relationship of this offer compared to other Xerox contract offerings, as this contract has been customized based on the specific equipment quantities, impression volumes, agreement term, and service/support requirements included in the County's RFP. Additionally, Xerox does not have the means to compare an individual County equipment order with any other customer order. However, Xerox agrees to review the County's contract price offering every 24-months and adjust the mutually agreed go-forward price for future order activity only.

County's Quality Assurance Plan. Xerox agrees that the County can terminate the order taking provision of the Agreement based on Xerox's performance during the annual contract review. However, this cancellation provision does not pertain to any equipment installed under the Agreement prior to the County's termination of the Lease or Services Order. In the event the Agreement is terminated, individual Lease and Service equipment placements will continue until their scheduled expiration date, and continue to be governed by, and be subject to, the terms and conditions of the Agreement and individual Lease, Purchase, or Services Order.

Assignment by Contractor. Please note that Xerox routinely assigns its leases to a wholly owned subsidiary or affiliate of Xerox, or to securitize the equipment under the Agreement. Such assignment will be transparent to the County. Although the assignee will have all of the Agreement rights, Xerox will continue to be responsible for the provision of maintenance services and all other contractual obligations, with all payments continuing to be made to Xerox. Xerox will not assign the contract to any external third party financing organization without the County's prior written consent. Any assignment of the maintenance services will require the County's prior written consent. Selected services such as the equipment delivery and removal, supply deliveries, and customer training may be performed by authorized Xerox contractors:

Xerox's Clarifications to the County's RFQ 3 RFQ-IS-11260168-1

Section

9 – Delivery Charges: The Xerox offer includes all expenses associated with the equipment's freight, its shipment to and removal from the County's delivery dock, and its inside delivery/removal, excluding any unique delivery or removal expenses. The County will be responsible for any non-standard inside delivery or removal expenses, such

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

as the additional time or resources required to disassemble the equipment due to the lack of adequate facility access or the movement of the equipment up/down stairways using stair creepers. If any excess rigging is required, Xerox will include the details and associated rigging costs with the individual equipment proposal prior to performing the actual service.

36 = County's Quality Assurance Program. Xerox agrees that the County can terminate the order taking provision of the Agreement based on Xerox's performance during the annual contract review. However, this cancellation provision does not pertain to any equipment installed under the Agreement prior to the County's termination of the Agreement. In the event the Agreement is terminated, individual Lease or Service equipment placements will continue until their scheduled expiration date, and continue to be governed by, and be subject to, the terms and conditions of the Agreement and the individual Lease, Purchase, or Services Order.

Terms and Conditions of Purchase

7 = Cancellation. Xerox agrees that the County can cancel an open / uninstalled equipment order based on a change in its business requirements without penalty. However, this cancellation flexibility does not pertain to any equipment installed under a Lease or Services Order. Any installed equipment will continue until their scheduled expiration date, and continue to be governed by, and be subject to, the terms and conditions of the Agreement and the individual Lease, Purchase, or Services Order.

12 = Indemnification. Xerox agrees to defend the County from and pay any ultimate judgment for, infringement in the United States for any Xerox-branded Equipment or Software of any patent, trademark, trade secret, protected semiconductor chip mask work, or copyright if County promptly notifies Xerox in writing of any alleged infringement, allows Xerox to defend, and cooperates with Xerox. Xerox is not responsible for any non-Xerox litigation expenses or settlements unless Xerox agrees to them in writing. Xerox is not liable for any infringement due to Equipment or Software being made or modified by the County requested specifications or designs, or being used or sold in combination with equipment, software, or supplies not provided by Xerox. Xerox makes no other express or implied warranty of non-infringement and has no other liability for infringement or any damages. To avoid an infringement (even if not alleged) Xerox may, at its option, at no charge to Customer, obtain a license to use, modify, or substitute an equivalent item for the infringing equipment or software.

13 = Default. Xerox agrees that it will be responsible for any additional costs incurred by the County if Xerox fails to deliver the requested product(s) or service(s), providing the County notifies Xerox in writing of the performance failure and provides Xerox 30 days to correct the performance for a Lease or Installment Purchase Order, or 60 days for a Services Order. Pending correction of the failure, the County is expected to pay all undisputed amounts, including the Monthly Minimum Charge, which is not subject to dispute. Xerox agrees that an individual lease, installment purchase or services equipment agreement can be terminated if Xerox fails to correct the identified performance failure within 30 days for Lease Orders and 60 days for Service Orders.

17 = Force Majeure. Xerox agrees that neither party will be in breach of their performance obligations if a force majeure event prevents the party from fulfilling its obligations. The County's payment obligation will be suspended with respect to any Equipment that is rendered inoperable during a force majeure event if Xerox is prevented from providing maintenance services. The payment suspension will continue until the end of the force majeure event or until Xerox restores the Equipment to operating condition. If payment is suspended, the term of this Agreement will be extended for a period equal to the County's payment suspension.

19 - Most Favored Customer. Please note that Xerox's price offering provided under this Contract represent the maximum prices that the County will be charged during the Contract term. Order time promotions, and other discounts based on the type(s) and number of products ordered, and the equipment installation term are also available. Xerox cannot guarantee the price relationship of this offer compared to other Xerox contract offerings, as this contract has been customized based on the specific equipment quantities, impression volumes, agreement term, and service/support requirements included in the County's RFP. Additionally, Xerox does not have the means to compare an individual County equipment order with any other customer order. However, Xerox agrees to review the County's contract price offering every 24-months and to adjust, as appropriate, the mutually agreed go-forward price for future order activity only.

21 = Acceptance. Unless the Lease or Service Order is preceded by a Trial order, the equipment will be deemed accepted on the equipment's installation date, which is the date Xerox determines the equipment to be operating satisfactorily, as demonstrated by the successful completion of diagnostic routines, and is available for the County's use. The Installation Date for equipment and software designated as "Customer Installable" will be the equipment delivery date. Any equipment that does not perform to its published specification will be repaired or replaced by

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

Xerox at its expense, provided the equipment is covered by a Xerox warranty or maintenance plan. Any equipment that needs to be replaced will be replaced with an identical model, or at Xerox's option a unit with similar capabilities, and comparable usage.

32 – Payroll Records. Xerox agrees, upon reasonable written request, to make available to the County the financial and other records that are required to substantiate the Services and accurate billings under the Agreement, and excludes any information deemed by Xerox to be confidential or proprietary.

Other Items

Page 17, Assignment by Contractor. Please note that Xerox routinely assigns its leases to a wholly owned subsidiary or affiliate of Xerox, or to securitize the equipment under the Agreement. Such assignment will be transparent to the County. Although the assignee will have all of the Agreement rights, Xerox will continue to be responsible for the provision of maintenance services and all other contractual obligations, with all payments continuing to be made to Xerox. Xerox will not assign the contract to any external third party financing organization without the County's prior written consent. Any assignment of the maintenance services will require the County's prior written consent. Selected services such as the equipment delivery and removal, supply deliveries, and customer training may be performed by authorized Xerox contractors.

Page 21, Off-Peak (Hours) – Delivery of Commodities. Xerox agrees to cooperate with the end-user to schedule equipment deliveries and removals during off-peak hours consistent with the end-user's business requirements.

Xerox agrees that the County can terminate the order taking provision of the Agreement based on Xerox's performance during the annual contract review. However, this cancellation provision does not pertain to any equipment installed under the Agreement prior to the County's termination of the Lease or Services Order. In the event the Agreement is terminated, individual Lease and Service equipment placements will continue until their scheduled expiration date, and continue to be governed by, and be subject to, the terms and conditions of the Agreement and individual Lease, Purchase, or Services Order.

Page 26, Price Decreases. Please note that Xerox's price offering provided under this Contract represent the maximum prices that the County will be charged during the Contract term. Order time promotions, and other discounts based on the type(s) and number of products ordered, and the equipment installation term are also available. Xerox cannot guarantee the price relationship of this offer compared to other Xerox contract offerings, as this contract has been customized based on the specific equipment quantities, impression volumes, agreement term, and service/support requirements included in the County's RFP. Additionally, Xerox does not have the means to compare an individual County equipment order with any other customer order. However, Xerox agrees to review the County's contract price offering every 24-months and to adjust, as appropriate, the mutually agreed go-forward price for future order activity only.

Page 26, Supplied Equipment. In order to meet the County's new equipment requirement, Xerox will provide either newly manufactured or factory produced new model equipment both of which are currently manufactured by Xerox and defined as new. None of the equipment provided will be remanufactured, reconditioned, recycled, refurbished, or used, although the equipment may contain some recycled components that meet newly manufactured standards. Regardless of the equipment type provided, the County will be the first user of the newly manufactured and factory produced new model equipment.

Page 27, Return of Goods Received. Xerox agrees to repair or replace any equipment that does not perform to its published specification, provided the equipment is covered by a Xerox maintenance plan. Any equipment that needs to be replaced will be replaced with an identical model, or at Xerox's option a unit with similar capabilities, and comparable usage. Please note that equipment cannot be returned to Xerox unless equipment's performance capabilities was misrepresented.

Xerox agrees that it will be responsible for any additional costs incurred by the County if Xerox fails to deliver the requested product(s) or service(s), providing the County notifies Xerox in writing of the performance failure and provides Xerox 30 days to correct a performance failure for a Lease or Installment Purchase Order and 60 days for a Service Order. If the performance shortfall is not corrected to the contracted standard within the agreed upon timeframe, Xerox will either issue a check or issue a separate credit invoice to the County. Pending correction of the failure, the County is expected to pay all undisputed amounts, including the Monthly Minimum Charge, which is not subject to dispute. Xerox agrees that an individual lease, installment purchase or services equipment agreement can be terminated if Xerox fails to correct the identified performance failure within 30 days for Lease Orders and 60 days for Service Orders.

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

Xerox agrees that the County can terminate the Master Agreement and stop placing additional equipment orders with 30 days prior written notice. However, this cancellation provision does not pertain to any in-place equipment installed under a Lease, Installment Purchase, or Service Agreement prior to the County's termination notice. In the event the Master Agreement is terminated, individual lease, installment purchase, and service equipment placements will continue until their scheduled expiration date, and continue to be governed by, and be subject to, the terms and conditions of the Agreement and individual Lease Agreement.

Page 27, Right to Audit. Xerox agrees, upon reasonable written request, to make available to the County the financial and other records that are required to substantiate the Services and accurate billings under the Agreement, and excludes any information deemed by Xerox to be confidential or proprietary.

Page 29, Indemnification. Xerox agrees to defend the County from and pay any ultimate judgment for, infringement in the United States for any Xerox-branded Equipment or Software of any patent, trademark, trade secret, protected semiconductor chip mask work, or copyright if County promptly notifies Xerox in writing of any alleged infringement, allows Xerox to defend, and cooperates with Xerox. Xerox is not responsible for any non-Xerox litigation expenses or settlements unless Xerox agrees to them in writing. Xerox is not liable for any infringement due to Equipment or Software being made or modified by the County requested specifications or designs, or being used or sold in combination with equipment, software, or supplies not provided by Xerox. Xerox makes no other express or implied warranty of non-infringement and has no other liability for infringement or any damages. To avoid an infringement (even if not alleged) Xerox may, at its option, at no charge to Customer, obtain a license to use, modify, or substitute an equivalent item for the infringing equipment or software.

Page 29, Default. Xerox agrees that it will be responsible for any additional costs incurred by the County if Xerox fails to deliver the requested product(s) or service(s), providing the County notifies Xerox in writing of the performance failure and provides Xerox 30 days to correct the performance for a Lease or Installment Purchase Order, or 60 days for a Services Order. Pending correction of the failure, the County is expected to pay all undisputed amounts, including the Monthly Minimum Charge, which is not subject to dispute. Xerox agrees that an individual lease, installment purchase or services equipment agreement can be terminated if Xerox fails to correct the identified performance failure within 30 days for Lease Orders and 60 days for Service Orders

** Last Xerox Clarification **

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

Xerox Additional Terms

General Terms

1. **Products.** "Products" means Xerox-brand equipment ("Equipment"), Software, Consumable Supplies and Maintenance Services ordered under this Agreement.
2. **Total Satisfaction Guarantee.** "SP Equipment" means any iGen3, iGen4, and Xerox Continuous Feed Equipment. Except for SP Equipment identified as "Previously Installed", if, during any 90 day period, the performance of SP Equipment delivered under this Agreement is not at least substantially consistent with the performance expectations outlined in the SP Equipment's Customer Expectations Document ("Expectations Document"), Xerox will, at Customer's request, replace the SP Equipment without charge with identical SP Equipment or, at Xerox's option, with Xerox equipment with comparable features and capabilities. The SP Equipment Guarantee does not apply during the first 180 days after installation and will expire 3 years after the Installation Date, unless the SP Equipment is being financed under this Agreement for more than 3 years, in which event it will expire at the end of the initial Term of the subject Installment Purchase, Lease, or Services IA. This SP Equipment Guarantee applies only to SP Equipment that has been (i) continuously maintained by Xerox under a Xerox maintenance agreement, and (ii) operated at all times in accordance with the Expectations Document.

"Non-SP Equipment" means any Equipment other than SP Equipment. If Customer is not totally satisfied with any Non-SP Equipment delivered under an IA under this Agreement, Xerox will, at Customer's request, replace it without charge with identical Non-SP Equipment or, at the option of Xerox, with Xerox equipment with comparable features and capabilities. The Non-SP Equipment Guarantee applies only to Non-SP Equipment that has been continuously maintained by Xerox under a Xerox maintenance agreement. For "Previously Installed" Non-SP Equipment, the Non-SP Equipment Guarantee is effective for one (1) year after the Installation Date. For all other Non-SP Equipment, the Non-SP Equipment Guarantee is effective for 3 years after the Installation Date, unless the Non-SP Equipment is being acquired under an Installment Purchase, Lease, or Services IA with an initial Term of more than 3 years, in which event it will expire at the end of the initial Term of the subject Installment Purchase, Lease, or Services IA.

The SP Equipment Guarantee and Non-SP Equipment Guarantee replace and supersede any other guarantee from Xerox, whether made orally or in writing, styled a "Total Satisfaction Guarantee", "Satisfaction Guarantee" or otherwise covering the subject matter set forth above.

3. **Order Documents.**
 - A. Xerox may accept this Agreement or any Order under the Agreement either by signature or by a signed purchase order.
 - B. Customer will issue documents that Customer or Xerox require for acquisitions under the Master Agreement, including purchase orders and Xerox's standard form "Order Document(s)" for order entry purposes only, specifying Customer's requested shipment date, installation site, quantities, bill-to address and product description, including any Trade-In Equipment. Regardless of the form, the Order Documents must reference the Master Agreement contract number. Notwithstanding anything contained in any Order Document which is at variance with or additional to the Master Agreement, Order Documents will incorporate and be subject solely to the terms and conditions of the Master Agreement, except for standard Xerox agreement terms and conditions related to options selected by Customer.
 - C. Upon acceptance by Xerox, the Order Document creates an individual agreement ("IA") for the Products identified under this Agreement.
4. **Relocation.** Until Customer has paid in full under a Purchase or Installment Purchase or while Equipment is subject to a Lease or Services Order, all Equipment relocations must be arranged, or approved in advance, by Xerox. The relocation will be at Customer's expense and while the Equipment is being relocated, Customer remains responsible to make all payments under the applicable Order.
5. **Trade-In Equipment.** Customer warrants that Customer has the right to transfer title to the equipment Customer is trading in as part of an Order ("Trade-In Equipment"), and that the Trade-In Equipment is in good working order and has not been modified from its original configuration (other than by Xerox). Title and risk of loss to the Trade-In Equipment will pass to Xerox when Xerox removes it from Customer's premises. Customer will maintain the Trade-In Equipment at its present site and in substantially its present condition until removed by Xerox. Customer will pay all accrued charges for the Trade-In Equipment (up to and including payment of

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

the final principal payment number) and all applicable maintenance, administrative, supply and finance charges until Xerox removes the Trade-In Equipment from Customer's premises.

6. **Funding.** Customer represents and warrants that all payments due and to become due during Customer's current fiscal year are within the fiscal budget of such year and are included within an unrestricted and unencumbered appropriation currently available for the acquisition of the Products, and it is Customer's intent to use the Products for the entire Lease or Services equipment term and to make all payments required under this Agreement or an Order. If (1) through no action initiated by Customer, Customer's governing body does not appropriate funds for the continuation of this Agreement or an Order for any fiscal year after the first fiscal year and has no funds to do so from other sources, and (2) Customer has made a reasonable but unsuccessful effort to find an assignee within Customer's general organization who can continue this Agreement or an Order, the Agreement may be terminated. To effect this termination, Customer must, 30 days prior to the beginning of the fiscal year for which Customer's governing body does not appropriate funds for the upcoming fiscal year, notify Xerox that Customer's governing body failed to appropriate funds and that Customer has made the required effort to find an assignee. Customer's notice must certify that canceled Equipment is not being replaced by equipment performing similar functions during the ensuing fiscal year. Customer agrees to release the Equipment to Xerox and, when returned, the Equipment will be in good condition and free of all liens and encumbrances. Customer will then be released from any further payments obligations beyond those payments due for the current fiscal year.
7. **Maintenance Services:** Except for Equipment identified as "No Svc.", Xerox will keep the Equipment in good working order ("Maintenance Services"). Maintenance Services are provided as a mandatory part of a Lease or Services Order, or under a Maintenance Order.
- A. **Basic Services.** Maintenance Services will be provided during Xerox's standard working hours, 8 A.M. to 5 P.M., Monday through Friday. Maintenance Services excludes repairs due to: (a) misuse, neglect or abuse; (b) failure of the installation site or the PC or workstation used with the Equipment to comply with Xerox's published specifications; (c) use of options, accessories or products not serviced by Xerox; (d) non-Xerox alterations, relocation, service or supplies; or (e) failure to perform operator maintenance procedures identified in operator manuals.
- B. **Replacement Parts.** Replacement parts may be new, reprocessed or recovered and all replaced parts become Xerox's property.
- C. **Installation Site.** Customer is responsible to prepare and maintain the equipment installation site per Xerox's equipment environmental specifications.
- D. **Cartridges.** Cartridges packed with Equipment and replacement Cartridges may be new, remanufactured, or reprocessed. Remanufactured and reprocessed Cartridges meet Xerox's new Cartridge performance standards and contain new and/or reprocessed components. To enhance print quality, Cartridge(s) for many models of Equipment have been designed to cease functioning at a predetermined point.
- E. **Consumable Supplies.** If "Consumable Supplies" is identified in Maintenance Plan Features or specified on a Services Order, Maintenance Services will include black toner and/or solid ink and color toner, and/or solid ink, if applicable ("Consumable Supplies"). Highlight color toner, clear toner, and custom color toner are excluded. Depending on the equipment model ordered, Consumable supplies may also include, developer, fuser agent, imaging units, waste cartridges, transfer rolls, transfer belts, transfer units, belt cleaner, maintenance kits, print cartridges, drum cartridges, waste trays, staples (for Equipment with a stapling feature installed under a Lease, Installment Purchase, or Services Order), and cleaning kits. Consumable Supplies are Xerox's property until used by Customer, and Customer will use them only with the Equipment for which "Consumable Supplies" is identified in Maintenance Plan Features. If Consumables Supplies are furnished with recycling information, Customer will return the used item, at Xerox's expense, for remanufacturing. Shipping information is available at Xerox.com/GWA. Upon expiration of this Agreement, Customer will include any unused Consumable Supplies with the Equipment for return to Xerox at the time of removal. If Customer's use of Consumable Supplies exceeds Xerox's published yield by more than 10%, Xerox will notify Customer of such excess usage. If such excess usage does not cease within 30 days after such notice, Xerox may charge Customer for such excess usage. For the avoidance of doubt, Xerox's yields are based on prints, impressions, linear feet, or copies containing the normal mix of text and graphics to determine the expected yield of Consumable Supplies under normal operating conditions. Upon request, Customer will provide current meter reads and/or an inventory of Consumable Supplies in its possession.

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

- F. **Meter Reads.** Customer will provide meter reads using the method and frequency identified by Xerox. If Customer does not provide a meter reading, Xerox may reasonably estimate the reading and bill Customer accordingly.
- G. **Replacement.** Xerox will, as Customer's exclusive remedy for Xerox's failure to provide Maintenance Services, replace the Equipment with an identical model or, at Xerox's option, another model with comparable features and capabilities. There will be no additional charge for the replacement Equipment during the remainder of the Equipment's initial Term.
- H. **End of Service.** Xerox has no obligation to maintain or replace Equipment beyond the "End of Service" for that particular model of Equipment. End of Service ("EOS") means the date announced by Xerox after which Xerox will no longer offer maintenance services for a particular Equipment model. An EOS Equipment List is available upon request.
8. **Remote Services.** Certain models of Equipment are supported and serviced using data that is automatically collected by Xerox from the Equipment via electronic transmission from the Equipment to a secure off-site location. Examples of automatically transmitted data include product registration, meter read, supply level, Equipment configuration and settings, software version, and problem/fault code data. All such data will be transmitted in a secure manner specified by Xerox. The automatic data transmission capability will not allow Xerox to read, view, or download any Customer data, documents, or other information residing on or passing through the Equipment or Customer's information management systems.
9. **Warranty Disclaimer & Waivers.** XEROX DISCLAIMS THE IMPLIED WARRANTIES OF NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.
10. **Limitation of Liability.** Except for personal injury (including death), property damage, or intellectual property indemnity indemnification obligations set forth in this Agreement, Xerox will not be liable to Customer for any direct damages relating to this Agreement or any Order written hereunder in excess of the sum of the amounts paid and to be paid during the initial Term of the applicable Order. Neither party will be liable to the other for any special, indirect, incidental, consequential or punitive damages arising out of or relating to this Agreement or any Order written hereunder, whether the claim alleges tortious conduct (including negligence) or any other legal theory.
11. **Default.** Customer will be in default under an Order if Xerox does not receive any payment within 15 days after the date it is due (45-days after the invoice date) or Customer breaches any other obligation under this Agreement, any Order, or any other agreement with Xerox.
12. **Amendment.** All changes to this Agreement or any Order must be made in a writing signed by both parties.
13. **Notices.**
- A. Unless provided otherwise in this Agreement, notices under this Agreement or any IA must be sent in writing to the party's address at the end of this Agreement. Notices will be deemed given 5 days after mailing by first class mail, 2 days after sending by nationally recognized overnight courier, or on the date of electronic confirmation of receipt of a facsimile transmission, when followed by mailing of such notice as provided herein.
- B. Invoices are not considered notices under this Agreement. All payment related notices under an Order will be sent: (a) to Customer at the "Bill to" address in the Order, and (b) to Xerox at the inquiry address on the most recent invoice.
14. **Miscellaneous.**
- A. **Communication.** Customer authorizes Xerox or its agents to communicate with Customer by any electronic means (including cellular phone, email, automatic dialing and recorded messages) using any phone number (including cellular) or electronic address Customer provides to Xerox.
- B. **Contract Documents.** Each party may retain a reproduction (e.g., electronic image, photocopy, facsimile) of this Agreement and each Order under the Agreement, which will be admissible in any action to enforce it.
- C. **Data Security.** Certain models of Equipment can be configured to include a variety of data security features. There may be an additional cost associated with certain data security features. The selection, suitability, and use of data security features are solely Customer's responsibility. Upon request, Xerox will provide additional information to Customer regarding the security features available for particular Equipment models.

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

Software

15. **Software License.** Xerox grants Customer a non-exclusive, non-transferable license to use in the U.S.: (a) software and accompanying documentation provided with Xerox-brand Equipment ("Base Software") only with the Xerox-brand Equipment with which it was delivered; and (b) software and accompanying documentation identified in an Order as "Application Software" only on any single unit of equipment for as long as Customer is current in the payment of all applicable software license fees. "Base Software" and "Application Software" are referred to collectively as "Software".
- A. Customer has no other rights and may not: (i) copy, distribute, modify, create derivatives of, decompile, or reverse engineer Software; (ii) activate Software delivered with the Equipment in an inactivated state; or (iii) allow others to engage in same.
 - B. Title to, and all intellectual property rights in, Software will reside solely with Xerox and/or its licensors, who will be considered third-party beneficiaries of this section.
 - C. Software may contain code capable of automatically disabling the Equipment. Disabling code may be activated if: (i) Customer is notified of a default under the Agreement or an Order; (ii) Xerox is denied access to reset periodically the code; or (iii) Customer's license is terminated or expires. Xerox will provide written notification to the County identifying the specific default and 30 days to correct the issue before activating any disabling code.
 - D. The Base Software license will terminate; (i) upon the expiration of any IA under which Customer has rented or leased the Equipment, unless Customer has exercised an option to purchase the Equipment; (ii) if Customer no longer uses or possesses the Equipment; or (iii) Customer is a lessor of the Equipment and its first lessee no longer uses or possesses it.
 - E. Neither Xerox nor its licensors warrant that Software will be free from errors or that its operation will be uninterrupted.
 - F. The foregoing terms do not apply to Diagnostic Software or to software/documentation accompanied by a clickwrap or shrinkwrap license agreement or otherwise made subject to a separate license agreement.
16. **Software Support.** Xerox (or an authorized service provider) will provide the software support set forth below ("Software Support"). For Base Software, Software Support will be provided during the initial Term of the applicable Order and any renewal period but in no event longer than 5 years after Xerox stops taking Customer orders for the subject model of Equipment. For Application Software, Software Support will be provided as long as Customer is current in the payment of all applicable software license and support fees.
- A. Xerox will maintain a web-based or toll-free hotline during Xerox's standard working hours to report Software problems and answer Software-related questions.
 - B. Xerox, either directly or with its vendors, will make reasonable efforts to: (i) assure that Software performs in material conformity with its user documentation; (ii) provide available workarounds or patches to resolve Software performance problems; and (iii) resolve coding errors for (a) the current Release and (b) the previous Release for a period of 6 months after the current Release is made available to Customer. Xerox will not be required to provide Software Support if Customer has modified the Software.
 - C. New releases of Software that primarily incorporate compliance updates and coding error fixes are designated as "Maintenance Releases" or "Updates". Maintenance Releases or Updates that Xerox may make available will be provided at no charge and must be implemented within 6 months. New releases of Software that include new content or functionality ("Feature Releases") will be subject to additional license fees at Xerox's then-current pricing. Maintenance Releases, Updates, and Feature Releases are collectively referred to as "Releases". Each Release will be considered Software governed by the Software License and Software Support provisions of this Agreement, unless otherwise noted. Implementation of a Release may require Customer to procure, at Customer's expense, additional hardware, and/or software from Xerox or another entity. Upon installation of a Release, Customer will return or destroy all prior Releases. Xerox may annually increase the Annual Renewal and Support-Only Fees for Application Software.
17. **Diagnostic Software.** Software used to evaluate or maintain the Equipment ("Diagnostic Software") is included with the Equipment. Diagnostic Software is a valuable trade secret of Xerox. Title to Diagnostic Software will remain with Xerox or its licensors. Xerox does not grant Customer any right to use Diagnostic Software, and Customer will not access, use, reproduce, distribute or disclose Diagnostic Software for any

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

purpose (or allow third parties to do so). Customer will allow Xerox reasonable access to the Equipment to remove or disable Diagnostic Software if Customer is no longer receiving Maintenance Services from Xerox, provided any on-site access to Customer's facility will be during Customer's normal business hours.

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

Specific Terms for Lease Orders

These Lease Terms are in addition to Xerox's Additional Terms

1. **Non-Cancelable Agreement.** LEASE ORDERS CANNOT BE CANCELED OR TERMINATED EXCEPT AS EXPRESSLY PROVIDED HEREIN. Customer's OBLIGATION TO MAKE ALL PAYMENTS, AND TO PAY ANY OTHER AMOUNTS DUE OR TO BECOME DUE, IS ABSOLUTE AND UNCONDITIONAL AND NOT SUBJECT TO DELAY, REDUCTION, SET-OFF, DEFENSE, COUNTERCLAIM OR RECOUPMENT FOR ANY REASON WHATSOEVER, IRRESPECTIVE OF XEROX'S PERFORMANCE OF ITS OBLIGATIONS HEREUNDER. ANY CLAIM AGAINST XEROX MAY BE ASSERTED IN A SEPARATE ACTION AND SOLELY AGAINST XEROX.
2. **Title and Risk of Loss.** Title to the Equipment remains with Xerox until Customer exercises its Purchase Option. Risk of loss or damage to the Products passes to Customer upon delivery. Customer will be responsible to insure Products against loss or damage. Customer agrees that: (i) the equipment will remain personal property; (ii) Customer will not attach the equipment as a fixture to any real estate; (iii) Customer will not pledge, sub-lease, or part with possession of the equipment or file, or permit to be filed, any lien against the equipment; and, (iv) Customer will not make any permanent alterations to the equipment.
3. **Lease Commencement & Term.** The Term for each unit of Equipment will commence upon: delivery of customer-installable Equipment; or the installation of Xerox-installable Equipment, and will expire on the last day of the final full calendar month of the contracted term of the Lease Agreement. Unless either party provides notice of termination at least 30 days before the expiration of the initial Term, it will renew on a month-to-month basis on the same terms and conditions. During this renewal period, either party may terminate the Equipment upon at least 30 days notice. Upon termination, Customer will make the Products available for removal by Xerox. At the time of removal, the Equipment will be in the same condition as when delivered (reasonable wear and tear excepted).
4. **Invoicing.** The Minimum Lease Payment, which may include a guaranteed number of copies (copy allowance), plus any additional Print Charges covers the cost of (1) the use of the equipment; (2) the equipment's maintenance; and (3) consumable supplies, if applicable. The Minimum Lease Payment will commence following Equipment installation and will be billed monthly. Charges for excess prints will be reconciled and billed monthly or quarterly, as applicable, in arrears. Xerox is responsible for paying and reporting personal property taxes on equipment acquired under a lease arrangement.
5. **Refinance Amounts.** Any "Amount Refinanced" is included in the amount financed under this Agreement. If the Amount Refinanced is under an agreement with a third party, Customer acknowledges Customer has the right to terminate the agreement and Customer will provide Xerox with a statement from the third party identifying the equipment at issue, the amount to be paid off and the payee's name and mailing address. If the Amount Refinanced is under an agreement with Xerox, the refinancing will render Customer's prior agreement null and void. If Customer breaches any of Customer's obligations under this Agreement, the full Amount Refinanced will be immediately due and payable.
6. **Maintenance Component Price Increase.** Unless Customer elects a fixed price term option, Xerox may annually increase the maintenance component of the Minimum Payment and Print Charges. This adjustment will take place at the commencement of each of Customer's annual contract cycles.
7. **End of Term Lease Options:**
 - A) **Fair Market Value Lease Purchase Option.** If not in default hereunder, Customer may purchase the Equipment, "AS IS, WHERE-IS" and WITHOUT ANY WARRANTY AS TO CONDITION OR VALUE, at the end of the initial Term of a Lease Order for the equipment's then current fair market value, plus all applicable Taxes.
 - B) **Fixed Purchase Option Purchase Option.** If not in default hereunder, Customer may purchase the Equipment, "AS IS, WHERE-IS" and WITHOUT ANY WARRANTY AS TO CONDITION OR VALUE, at the end of the initial Term of a Lease Order for the purchase option indicated in the Order, plus all applicable Taxes.
 - C) **Lease Renewal Option.** Unless either party provides notice of termination at least 30 days before the end of the initial Term of an Order, it will renew automatically on a month-to-month basis on the same terms and conditions. During this renewal period, either party may terminate the Lease IA upon at least 30 days notice.

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

- D) **Lease Return:** Upon termination, Customer will make the Equipment available for removal by Xerox. At the time of removal, the Equipment will be in the same condition as when delivered (reasonable wear and tear excepted).
8. **Customer Default & Xerox Remedies:** If Customer defaults under the Agreement or any Order, Xerox may, in addition to its other remedies (including cessation of Maintenance Services), remove the Equipment at Customer's expense and require immediate payment, to the extent permitted by law, as liquidated damages for loss of bargain and not as a penalty, of: (a) all amounts then due; (b) the Minimum Payments (less the Maintenance Services and Consumable Supplies components thereof, as reflected on Xerox's books and records) remaining in the initial Term of the Equipment Order discounted at 4% per annum; and (c) the Purchase Option, if applicable. If Customer notifies Xerox and makes the Equipment available for removal by Xerox in the same condition as when delivered (reasonable wear and tear excepted) within 30 days after notice of default, upon recovery of the Equipment Customer will receive a credit for the fair market value of the Equipment (as determined by Xerox), less any costs incurred by Xerox.
9. **Finance Lease.** A MAJOR ACCOUNT LEASE IS A "FINANCE LEASE" UNDER ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE AND, EXCEPT TO THE EXTENT EXPRESSLY PROVIDED UNDER THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY CALIFORNIA LAW, Customer WAIVES ALL RIGHTS AND REMEDIES CONFERRED UPON A LESSEE BY ARTICLE 2A. That is, Xerox shall not be required to sell the equipment on the used market and be obligated to use proceeds of that sale to offset or mitigate the early termination charges resulting from the County's early termination of the agreement.
10. **Fixed Purchase Option Tax Treatment (where applicable).** Xerox has accepted this Fixed Purchase Option Lease Order based on Customer's representation that Xerox may claim any interest paid by Customer as exempt from federal income tax under Section 103(c) of the Internal Revenue Code ("Code"). Customer will comply with the information reporting requirements of Section 149(e) of the Code. Such compliance includes the execution of 8038-G or 8038-GC Information Returns. Customer appoints Xerox as Customer's agent to maintain, and Xerox will maintain, or cause to be maintained, a complete and accurate record of all assignments of this Agreement in form sufficient to comply with the book entry requirements of Section 149(a) of the Code and the regulations there under from time to time. Should Xerox lose the benefit of this exemption as a result of Customer's failure to comply with or be covered by Section 103(c) the Code or the regulations there under, then, subject to the availability of funds and upon demand by Xerox, Customer will pay Xerox an amount equal to its loss in this regard. Customer shall provide Xerox with a properly prepared and executed copy of US Treasury Form 8038 or 8038-GC.

*** End of Lease Offering ***

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

Specific Terms for Purchase and Maintenance Orders

These Purchase and Maintenance Terms are in addition to Xerox's Additional Terms:

1. **Cash Purchase.** The following additional terms and conditions apply to a Cash Purchase Orders:
 - A) **Title and Risk.** Title and risk of loss or damage to Equipment will pass to Customer upon delivery, installation, and activation of the equipment as demonstrated by the successful completion of diagnostic routines and performance confirmation that the equipment is running and is available for the County's use.
 - B) **Payment.** Customer's payment under a Cash Purchase IA shall consist of the Net Price amount for the Equipment purchased there under and all applicable Taxes.
 - C) **Remedies.** If Customer defaults under this Agreement or a Cash Purchase IA, Xerox, in addition to its other remedies (including the cessation of Basic Services if applicable), may require immediate payment of all amounts then due (including all applicable Taxes).
2. **Installment Purchase (where applicable).** The following additional terms and conditions apply to Installment Purchase orders:
 - A) **Title and Risk.** Title and risk of loss or damage to Equipment will pass to Customer upon delivery, installation, and activation of the equipment as demonstrated by the successful completion of diagnostic routines and performance confirmation that the equipment is running and is available for the County's use. Until the Products are paid in full, Customer will insure the Products against loss or damage.
 - B) **Payment.** Customer's payment under an Installment Purchase IA shall consist of the Installment Sale Payments, along with a separate maintenance charge for the provision of Basic Services if applicable, all additional Print Charges and all applicable Taxes.
 - C) **Remedies.** If Customer defaults under this Agreement or an Installment Purchase IA, Xerox, in addition to its other remedies (including the cessation of Maintenance Services, if applicable), may require immediate payment, as liquidated damages for loss of bargain and not as a penalty, of: (1) all amounts then due; (2) the remaining Installment Sale Minimum Payments in the Installment Purchase IA's term less any unearned finance charges (as reflected on Xerox's books and records) and (3) all applicable Taxes. In addition, if an Installment Purchase includes maintenance, Xerox may require immediate payment, as liquidated damages for loss of bargain and not as a penalty, of: (1) the lesser of the remaining Minimum Periodic Base Payments in the IA's term or six (6) such payments for one-year agreements (and twelve (12) such payments for multi-year agreements); and, (2) all applicable Taxes.
 - D) **Prepayment of Balance.** Customer, at any time, may prepay the remaining principal balance on an Installment Purchase IA, thereby eliminating the obligation to pay future finance charges.
3. **Maintenance Terms for Customer Owned Equipment**
 - A) **Individual Agreement Term.** Maintenance IA s will commence at the end of any warranty period and expire on the last day of the 12th, 24th, 36th, 48th or 60th full calendar month thereafter, as applicable.
 - B) **Individual Agreement Pricing:** Except for fixed prices as agreed to by the parties in a Maintenance Order, Xerox may, annually increase the Periodic Base and Print Charges with thirty (30) days prior written notice, and such increases, including Consumable Supplies, if applicable, shall not exceed five percent (5%).
 - C) **Payment:** Each Minimum Periodic Base Charge may include a Periodic Minimum Number of Prints ("Minimum Prints"). The Minimum Periodic Base Charge, along with any additional Print Charges for prints made in excess of the Minimum Prints and all applicable Taxes, cover Customer's cost for the Equipment's maintenance (provided as Maintenance Services) in a Maintenance IA written hereunder. The Minimum Periodic Base Charge may be billed in advance and additional Print Charges are billed in arrears.
 - D) **Remedies.** If Customer defaults under this Agreement or a Maintenance IA, Xerox, in addition to its other remedies (including the cessation of Maintenance Services), may require immediate payment, as liquidated damages for loss of bargain and not as a penalty, of: (a) all amounts then due; (b) the lesser of (i) the remaining Minimum Periodic Base Charge in such Maintenance IA's term or (ii) six (6) such payments for one year agreements or twelve (12) such payments for multi-year agreements; and, (c) all applicable Taxes.

*** End of Purchase and Maintenance Offering ***

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

Specific Terms for Service and Solutions Orders

These Service and Solutions Terms are in addition to Xerox's Additional Terms

1. **Scope.** The acquisition of (i) "Services" (collectively managed services and consultative services), (ii) Xerox-brand equipment ("Equipment"), third party hardware ("Third Party Hardware"), Xerox-brand software ("Software") and/or third party software ("Third Party Software") (collectively "Products") and/or (iii) Maintenance Services by Customer is subject to the prices and terms and conditions set forth in this Services and Solutions Agreement ("SSA"). Third Party Hardware and Third Party Software are, collectively, "Third Party Products". Services, Products, and Maintenance Services are, collectively, "Offerings". "Deliverables" include, but are not limited to, Products, Output of Services, Assessments, and Documentation.
2. **Services Guarantee.** Xerox will provide the Services set forth in each Order and, if the Services do not comply with the service levels set forth in a Statement of work ("SOW") during its term, Customer agrees to notify Xerox in writing detailing its concerns regarding the same. No later than ten (10) days following Xerox's receipt of said notice, Xerox and Customer agree to meet, clarify the Customer's concern(s) and begin to develop a corrective action plan ("Plan") to remedy such alleged non-compliance. As Customer's exclusive remedy for Xerox's non-compliance, Xerox, within sixty (60) days of finalizing the Plan or a time period as otherwise agreed to in writing by the parties, will either modify such Services so they are compliant with such SOW or redo the work at no additional charge. Customer will dispose all hazardous waste generated from use off Third Party Hardware or supplies.
3. **Orders.**
 - A. Services and Deliverables provided by Xerox will be set forth in one or more Services and Solutions Orders ("SSO") which will be mutually agreed upon and signed by the Customer. SSOs assigned the same 10 digit number constitute a "Services Contract". Unless otherwise provided in a SSO, terms and conditions in a SSO that is part of a Services Contract shall be applicable to all SSOs constituting that Services Contract. Customer may also issue purchase orders to Xerox for order entry purposes only, specifying Customer's requested shipment date, installation site, quantities, bill-to address, services description and term, and applicable Trade-In Equipment. Such purchase orders shall incorporate and be subject solely to the terms and conditions of the applicable Services Contract, notwithstanding anything contained in any such purchase order at variance with or in addition to the applicable Services Contract. Any SSO or Customer-issued purchase order shall be an individual order ("Order") hereunder and, irrespective of its form, must reference the contract number of the applicable Services Contract.
 - B. During the term of an Order, Customer shall permit Xerox and its agents to use or access, and shall grant or transfer sufficient rights to enable Xerox and its agents to use or access, all hardware, software and/or work space owned, leased, rented, licensed and/or controlled by Customer, and any services utilized by Customer that Xerox needs to enable Xerox to perform the Services (collectively "Customer Assets").
 - C. Orders may be submitted via hard copy or electronic means and those submitted electronically by Customer shall be considered for all purposes to (i) be a "writing" or "in writing"; (ii) be "signed"; (iii) constitute an "original" when printed from electronic records established and maintained in the ordinary course of business; and, (iv) be valid and enforceable.
4. **Term.**
 - A. This SSA shall commence on the date it is accepted by Xerox, and shall continue for the contracted term as determined by the parties and included in the actual SSA Agreement unless terminated earlier by either party upon not less than ninety (90) days prior written notice to the other party. In the event this SSA expires, or either party elects to terminate this SSA, each Order hereunder shall remain in full force and effect until the end of its term (including any renewals or extensions thereto) or it is terminated, and shall at all times be governed by the terms and conditions of this SSA as if it were still in effect.
 - B. The term of each SSO hereunder shall be set forth under the heading "Term" in the "Order Summary" area on the face of said SSO, and shall continue for the term stated. If an Order is terminated, the term of any remaining Orders shall continue unaltered.
 - C. Unless either party provides notice at least thirty (30) days before the end of the term of any Order hereunder of its intention not to renew same, it will continue on a month-to-month basis at the same price and on the same terms and conditions set forth in said Order. During said continuation, either party may terminate such Order on at least thirty (30) days notice.

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

5. **Pricing.** Pricing shall be as set forth in an Order. The monthly charge ("Monthly Minimum Charge" or "MMC"); along with any Additional Impression Charges, covers Customer's monthly cost for the Services, Products and Maintenance Services hereunder and such MMC will change with each Order. The MMC may also include, but not be limited to, lease buyout funds, Third Party Funds, supplemental funds, monthly equipment component amounts, remaining Customer obligations from previous contracts, amounts being financed or refinanced, analyst services and/or customer training services. One-time items ("One-Time Items") are billed separately from the MMC.
6. **Payment.** If Services begin partially and/or early, Xerox will bill Customer on a pro rata basis, based on a 30-day billing month, and the terms and conditions of this SSA will apply. Services requested and performed outside Customer's standard working hours will be at Xerox's then-current overtime rate. Xerox is responsible for all standard delivery and removal charges for Equipment and Third Party Hardware and Customer is responsible for any non-standard delivery and removal charges. Customer authorizes Xerox (or its agent) to obtain credit reports from commercial credit reporting agencies. Xerox reserves the right to review and approve Customer's credit prior to acceptance of each Order.
7. **Default.** Customer will be in default if Xerox does not receive any payment within thirty (30) days after the date it is due or if Customer breaches any other obligation under this Agreement, or any Order hereunder, or any other Agreement with Xerox. If Customer defaults, Xerox, in addition to its other remedies (including the cessation of Services), may require immediate payment, to the extent permitted by law, liquidated damages for loss of bargain and not as a penalty, of (a) all amounts then due and (b) any applicable machine equipment charges and/or early termination charges. Xerox's decision to waive or forgive a particular default shall not prevent Xerox from declaring any other default. If Customer defaults under the Agreement, Customer shall pay all of the costs Xerox incurs to enforce its rights against Customer, including reasonable attorneys' fees and actual costs.
8. **Early Termination – Services and Personnel.** Except as otherwise set forth in a SOW, upon ninety (90) days prior written notice, Customer may terminate or reduce any Services or personnel without incurring ETCs. Notwithstanding the foregoing, if any Services or personnel are terminated (i) by Xerox due to Customer's default or (ii) by Customer and Customer acquires Services from another supplier within six (6) months of the termination of such Services or personnel, Customer shall pay, to the extent permitted by law, all amounts due as of the termination date, together with ETCs, for loss of bargain and not as a penalty, equal to the then current MMC for said terminated or reduced Services or personnel multiplied by the number of months remaining in their term, not to exceed six (6) months. This provision excludes terminations due to fiscal year funds non-appropriation or an uncured Xerox performance failure.
9. **Early Termination – Xerox Equipment and Software.** Xerox is providing Equipment for the entire term of the Order under which it is installed. If, prior to the end of the term of an Order, Customer terminates any equipment under an Order, require equipment be removed or replaced, or Xerox terminates an Order due to Customer's default, Customer shall pay, to the extent permitted by law, all amounts due Xerox as of that date, together with the Xerox-calculated monthly equipment component ("MEC"), which is available upon request for the affected Equipment multiplied by the number of months remaining in the Order. In addition, Customer shall either make the subject Equipment (in the same condition as when delivered, reasonable wear and tear excepted) and its Software available for removal by Xerox when requested to do so or purchase the subject Equipment "AS IS, WHERE IS" and WITHOUT ANY WARRANTY AS TO CONDITION OR VALUE by paying Xerox the equipment's Fair Market Value ("FMV") at the conclusion of its scheduled term. Customer agrees to return terminated or Traded Equipment in the same condition as when delivered, reasonable wear and tear accepted. This provision excludes terminations due to fiscal year funds non-appropriation or an uncured Xerox performance failure.
10. **Early Termination – Third Party and Amortized Services.** Certain Xerox Services, such as consulting and training, may be amortized over the life of an Order ("Amortized Services"): Xerox may provide funds to acquire Third Party Hardware, to license Third Party Software and/or to retire debt on existing Third Party Hardware ("Third Party Funds"). Collectively, Third Party Funds and Amortized Services are "Funds". The Funds amount will be included in the MMC. Notwithstanding the provision entitled "EARLY TERMINATION – SERVICES AND PERSONNEL", should an Order be terminated prior to expiration for any reason or a unit of Third Party Hardware or any Third Party Software for which Third Party Funds have been provided is removed or replaced prior to expiration, Customer agrees to pay to Xerox, to the extent permitted by law, in addition to any other amounts owed under said Order, an amount equal to the remaining principal balance of the Funds for

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

loss of bargain and not as a penalty. Customer agrees to maintain the manufacturer's maintenance agreement for any Third Party Hardware and applicable Third Party Software licenses. Any express warranties for such Third Party Hardware or Third Party Software shall be available to Customer. This provision excludes terminations due to fiscal year funds non-appropriation or an uncured Xerox performance failure.

11. **Personnel.** Xerox agrees to comply with Customer's internal policies Customer provides to Xerox in writing for security and safety that are reasonable and customary under the circumstances, and that do not conflict with this SSA. Customer will provide Xerox with reasonable prior notice of such policies and any changes thereto. Neither party shall, directly or indirectly, actively solicit the employment of the other party's staff providing Services hereunder, which includes Xerox's agents, and their supervisors during the term of this SSA and for a period of one (1) year thereafter. Employment arising from inquiries received via advertisements in newspapers, job fairs, unsolicited resumes, or applications for employment shall not be considered active solicitation.
12. **Services and Third Party Product Warranty / Warranty Limitations, and Warranty Disclaimer/ Waiver.**
 - A. **Services Warranty.** Xerox represents and warrants to Customer that the Services will be performed in a skillful and workmanlike manner; provided however, in no event will Xerox be responsible for any failure to perform Services if the failure is caused by: (i) Customer Assets, Customer Content, or services, maintenance, design implementation, supplies or data streams provided by Customer, Customer's agent or service provider to Xerox for use hereunder, (ii) Customer's failure to contract for the minimum types and quantities of Products required by Xerox to perform the Services, or (iii) Customer's failure to provide Xerox access to Customer's personnel and systems or to transfer to Xerox sufficient rights to use, access and/or modify Customer Assets constituting hardware and software, including software owned or licensed by Customer, and/or Customer Content as necessary for the provision of Services.
 - B. **Warranty Disclaimer and Waiver for Services.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION FOR SERVICES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, THEREFOR AND XEROX DISCLAIMS ALL OTHER WARRANTIES FOR SERVICES, INCLUDING, BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF NON-INFRINGEMENT.
 - C. **Third Party Product Warranty.** FOR THIRD PARTY PRODUCTS SELECTED SOLELY BY XEROX FOR AN ORDER, XEROX WARRANTS THEY WILL OPERATE SUBSTANTIALLY IN CONFORMANCE WITH APPLICABLE SERVICE LEVELS IN THE SOW. IF, WITHIN A REASONABLE TIME AFTER PROVISION OF SUCH THIRD PARTY PRODUCTS, SUCH SERVICE LEVELS CANNOT BE BROUGHT INTO SUBSTANTIAL CONFORMANCE WITH THOSE IN THE SOW AND SUCH NON-CONFORMANCE IS A RESULT OF XEROX'S USE OF SUCH THIRD PARTY PRODUCTS, Customer's EXCLUSIVE REMEDY FOR THE FOREGOING WARRANTY IS TO RECEIVE A REFUND OF ANY FEES PAID FOR THE NON-CONFORMING THIRD PARTY PRODUCTS UPON THE RETURN THEREOF TO XEROX. XEROX DISCLAIMS ALL OTHER WARRANTIES WITH RESPECT TO SUCH THIRD PARTY PRODUCTS, AS WELL AS FOR MAINTENANCE THEREOF, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY, AS WELL AS ANY OTHER WARRANTY PERTAINING OR RELATING TO DESIGN, PERFORMANCE, FUNCTIONALITY, OR COMPATIBILITY THEREOF WITH Customer's SYSTEMS. XEROX WILL PASS THROUGH TO Customer ANY WARRANTIES PROVIDED TO IT BY THE MANUFACTURER OR LICENSOR OF THIRD PARTY PRODUCTS TO THE EXTENT PERMISSIBLE. XEROX DISCLAIMS, AND Customer WAIVES, ANY AND ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY, FOR THIRD PARTY PRODUCTS NOT SELECTED SOLELY BY XEROX.
 - D. THE WARRANTIES AND GUARANTEES SET FORTH IN THIS SECTION OF THE SSA ARE EXPRESSLY CONDITIONED UPON THE USE OF THE SERVICES AND DELIVERABLES FOR THEIR INTENDED PURPOSE IN THE SYSTEMS ENVIRONMENT FOR WHICH THEY WERE ORIGINALLY DESIGNED AND SHALL NOT APPLY TO SERVICES OR DELIVERABLES WHICH HAVE BEEN SUBJECT TO MISUSE, ACCIDENT, ALTERATION OR MODIFICATION BY Customer OR ANY THIRD PARTY (EXCEPT AS SPECIFICALLY AUTHORIZED IN WRITING BY XEROX.)
13. **Confidential Information.** Each party will disclose to the other certain business information identified as confidential ("Confidential Information").

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

- A. Customer Content consists of documents, materials and data provided in hard copy or electronic format by Customer to Xerox containing information about Customer and/or Customer's clients and is considered Customer's Confidential Information.
- B. Developments and Pre-Existing Work (collectively "Xerox Work"), Xerox Tools as defined herein, Orders and SOWs shall be considered Xerox's Confidential Information. "Developments" are items created by Xerox employees, agents, and/or licensors, including, but not limited to, computer programs, code, reports, operations and procedures manuals, forms, design or other works of authorship, and "Pre-existing Work" are items used or incorporated into a Deliverable or developed or acquired by Xerox independent of performing the Services. "Output of Services" constitutes electronic images created by scanning tangible documents containing Customer Content; or the content of any reports and other materials, created by Xerox specific to and for Customer per the applicable SOW, but shall not include software. "Assessments" are assessment and recommendation reports created as a result of assessment services. "Documentation" means all manuals, brochures, specifications, information, and software descriptions in electronic, printed, and/or camera-ready form, and related materials customarily provided by Xerox for use as part of the Services.
- C. Each party will make reasonable efforts not to disclose the other party's Confidential Information to any third party, except as may be required by law, unless such Confidential Information: (i) was in the public domain prior to, at the time of, or subsequent to the date of disclosure through no fault of the non-disclosing party; (ii) was rightfully in the non-disclosing party's possession or the possession of any third party free of any obligation of confidentiality; or (iii) was developed by the non-disclosing party's employees or agents independently of and without reference to any of the other party's Confidential Information. Confidentiality obligations set forth above shall terminate one (1) year after expiration or termination of this SSA or the last effective Services Contract hereunder, whichever is later; provided however, for Xerox Work and Xerox Tools, confidentiality obligations with respect thereto shall not terminate unless (i), (ii) or (iii) in the preceding sentence of this Section becomes applicable thereto. The parties do not intend for Customer to disclose confidential technical information hereunder, which includes, but is not limited to, computer programs, source code, and algorithms, and Customer will only disclose the same under the auspices of a separate agreement. Upon expiration or termination of this SSA, each party shall return to the other or, if so requested, destroy, all Confidential Information of the other in its possession or control, except such Confidential Information as may be reasonably necessary to exercise rights that survive termination of this SSA.
14. **Intellectual Property.** Customer represents and warrant Customer owns the Customer Content and Customer Assets or otherwise have the right to authorize Xerox to perform Services hereunder and the Customer Content does not, and shall not, contain content that (i) is libelous, defamatory or obscene and/or (ii) infringes on or violates any applicable laws, regulations or rights of a third party of any kind. Xerox, its employees, agents and/or licensors shall at all times retain all rights to Xerox Work and Xerox Tools (with "Xerox Tools" being proprietary tools used by Xerox to provide the Services, and any modifications, enhancements, improvements and derivative works thereof), and except as expressly set forth herein, no rights to Xerox Work and Xerox Tools are granted to Customer. Customer shall have no rights to use, access or operate the Xerox Tools, which will be installed and operated only by Xerox. Customer will have access to data and reports generated by the Xerox Tools and stored in a provided database as set forth in the applicable SOW. All Xerox Tools may be removed at Xerox's sole discretion. Customer acknowledges that Xerox does not license the Xerox Tools separate and apart from the provision of Services associated with their use. Customer agrees not to decompile or reverse engineer any Xerox Work or Xerox Tools. Xerox grants Customer a non-exclusive, perpetual fully paid-up, worldwide right to use, display, and reproduce Xerox Work and Documentation only as required for use of the Services and Deliverables for Customer's customary business purposes, and not for resale, license, and/or distribution outside of Customer's organization. Customer may not sublicense any rights granted to Customer hereunder, but may authorize a third party ("Designee") to use such rights, solely for Customer's benefit and Customer's internal business purposes. Any Designee operating or maintaining the delivered solution shall be subject to written confidentiality obligations with respect to Confidential Information that shall be no less restrictive than those set forth in this SSA. Output of Services is Customer's sole and exclusive property and Xerox shall gain no rights therein, except as may be required for Xerox to perform Services hereunder. Xerox hereby assigns, grants, conveys, and transfers to Customer all rights in and to the Output of Services hereunder. Customer may duplicate and distribute Assessments only for Customer's internal business purposes. Recommendations, assessments, and

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

processes described in Assessments may only be implemented for Customer by Xerox and only for Customer's internal business purposes. Except as set forth expressly in this Section, no other rights or licenses are granted to Customer. Any rights or licenses that are granted to Customer shall immediately terminate if Customer (i) default hereunder with respect to any of Customer's obligations related to such rights or licenses, (ii) fail to pay amounts due, or (iii) otherwise default under this SSA.

15. Indemnification.

- A. Xerox agrees, at its expense, if promptly notified by Customer and given the right to control the defense, will defend Customer from, and pay any settlement agreed to by Customer or any ultimate judgment for, all claims by third parties for personal injury (including death) or tangible property damage to the extent proximately caused by the willful misconduct or negligent acts or omissions of Xerox, its officers, employees, or agents in connection with this SSA. Customer may procure its own representation and participate in the defense at its own expense. Xerox is not responsible for any Customer litigation expenses or settlements unless Xerox pre-approves them in writing.
- B. Xerox, at its expense, if promptly notified by Customer and given the right to control the defense, will defend Customer from, and pay any settlement agreed to by Xerox or any ultimate judgment for, any claim not identified in (i)-(vi) below or subject to c. below that any Services or Deliverables (excluding Third Party Products) infringe a third party's U.S. intellectual property rights. Customer may procure its own representation and participate in the defense at its own expense. Xerox is not responsible for any non-Xerox litigation expenses or settlements unless Xerox pre-approves them in writing. Excluded herein are claims arising from or relating to: (i) Services performed using Customer Assets and/or Customer Content for which Customer failed to provide to Xerox sufficient rights; (ii) Services performed, or Deliverables provided, to Customer's specification or design, (iii) infringement resulting from or caused by Customer's misuse or unauthorized modification of systems or product; (iv) use of Services or Deliverables in combination with other products, services or data streams not provided by Xerox if such combination forms the basis of such claim; (v) Customer's failure to use corrections or enhancements to the Services or Deliverables provided by Xerox, and (vi) Customer's provision to Xerox of material for duplication in violation of the copyright of a third party and it is agreed and understood by the parties that, under this SSA, Xerox is not undertaking, and will not undertake, any obligation or duty of any kind or type to determine or ascertain whether material provided to it for duplication may be duplicated without violating a third party's copyright therein. If the use of the Services or Deliverables (excluding Third Party Products) are enjoined as a result of a claim under this Section, or in the reasonable opinion of Xerox are likely to be the subject of such a claim, Xerox will, at its option and sole expense, exercise any or all of following remedies: obtain for Customer the right to continue to use such Services or Deliverables; modify such Services or Deliverables so they are non-infringing; replace such Services or Deliverables with non-infringing ones or terminate such infringing Services, and/or, accept the return of such infringing Deliverables and refund to Customer any amount paid for the infringing item, less net benefits realized.
- C. Xerox will not pay any settlement agreed to by Customer for any third party claims subject to b(i)-(vi) above or for infringement of any intellectual property rights arising out of or related to performance of Services using Customer Assets, Customer Content or other materials pursuant to Customer's request or direction or for Customer's breach of the first sentence of the Section herein titled "INTELLECTUAL PROPERTY". Customer is not responsible for Xerox litigation expenses or settlements unless Customer pre-approves them in writing.
16. **Limitation of Liability.** Except for personal injury (including death), property damage, or intellectual property damages as defined herein, Xerox shall not be liable to Customer, in the aggregate, for any direct damages in excess of the amounts paid by Customer to Xerox during the twelve (12) months prior to the claim or \$50,000, whichever is greater, and neither party shall be liable to the other for any special, indirect, incidental, consequential or punitive damages arising out of or relating to this SSA or any Order hereunder, whether the claim alleges tortious conduct (including negligence) or any other legal theory. This limitation of liability shall not be applicable to any specific indemnification obligations set forth in this SSA or to Customer's breach of confidentiality obligations regarding the Xerox Tools.
17. **Title and Risk of Loss.** Title to Equipment and Third Party Hardware shall remain with Xerox until Customer purchases same. Risk of loss or damage for the Products shall pass to Customer upon delivery. Customer will be responsible to keep the Products insured against loss.

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

18. **Reports:** Upon Customer's request, Xerox may issue mutually agreed upon reports reflecting information that is accurate at the time the report is issued, including estimates of information based on pending Orders.

***** End of Service and Solutions Offering *****

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

Specific Terms for Managed Services Orders

These Managed Services Terms are in addition to Xerox's Additional Terms

1. **Scope.** The acquisition of (i) "Services" (collectively managed services and consultative services), (ii) Xerox-brand equipment ("Equipment"), third party hardware ("Third Party Hardware"), Xerox-brand software ("Software") and/or third party software ("Third Party Software") (collectively "Products") and/or (iii) Maintenance Services by Customer is subject to the prices and terms and conditions set forth in this Services and Solutions Agreement ("MSA"). Third Party Hardware and Third Party Software are, collectively, "Third Party Products". Services, Products, and Maintenance Services are, collectively, "Offerings". "Deliverables" include, but are not limited to, Products, Output of Services, Assessments, and Documentation.
19. **Services Guarantee.** Xerox will provide the Services set forth in each Order and, if the Services do not comply with the service levels set forth in a Statement of work ("SOW") during its term, Customer agrees to notify Xerox in writing detailing its concerns regarding the same. No later than ten (10) days following Xerox's receipt of said notice, Xerox and Customer agree to meet, clarify the Customer's concern(s) and begin to develop a corrective action plan ("Plan") to remedy such alleged non-compliance. As Customer's exclusive remedy for Xerox's non-compliance, Xerox, within sixty (60) days of finalizing the Plan or a time period as otherwise agreed to in writing by the parties, will either modify such Services so they are compliant with such SOW or re-do the work at no additional charge. Customer will dispose all hazardous waste generated from use off Third Party Hardware or supplies.
2. **Orders.**
 - A. Services and Deliverables provided by Xerox will be set forth in one or more Services and Solutions Orders ("MSO") which will be mutually agreed upon and signed by the Customer. MSOs assigned the same 10 digit number constitute a "Services Contract". Unless otherwise provided in a MSO, terms and conditions in a MSO that is part of a Services Contract shall be applicable to all MSOs constituting that Services Contract. Customer may also issue purchase orders to Xerox for order entry purposes only, specifying Customer's requested shipment date, installation site, quantities, bill-to address, services description and term, and applicable Trade-In Equipment. Such purchase orders shall incorporate and be subject solely to the terms and conditions of the applicable Services Contract, notwithstanding anything contained in any such purchase order at variance with or in addition to the applicable Services Contract. Any MSO or Customer-issued purchase order shall be an individual order ("Order") hereunder and, irrespective of its form, must reference the contract number of the applicable Services Contract.
 - B. During the term of an Order, Customer shall permit Xerox and its agents to use or access, and shall grant or transfer sufficient rights to enable Xerox and its agents to use or access, all hardware, software and/or work space owned, leased, rented, licensed and/or controlled by Customer, and any services utilized by Customer that Xerox needs to enable Xerox to perform the Services (collectively "Customer Assets").
 - C. Orders may be submitted via hard copy or electronic means and those submitted electronically by Customer shall be considered for all purposes to (i) be a "writing" or "in writing"; (ii) be "signed"; (iii) constitute an "original" when printed from electronic records established and maintained in the ordinary course of business; and, (iv) be valid and enforceable.
3. **Term.**
 - A. This MSA shall commence on the date it is accepted by Xerox, and shall continue for a period of months unless terminated earlier by either party upon not less than ninety (90) days prior written notice to the other party. In the event this MSA expires, or either party elects to terminate this MSA, each Order hereunder shall remain in full force and effect until the end of its term (including any renewals or extensions thereto) or it is terminated, and shall at all times be governed by the terms and conditions of this MSA as if it were still in effect.
 - B. The term of each MSO hereunder shall be set forth under the heading "Term" in the "Order Summary" area on the face of said MSO, and shall continue for the term stated. If an Order is terminated, the term of any remaining Orders shall continue unaltered.
 - C. Unless either party provides notice at least thirty (30) days before the end of the term of any Order hereunder of its intention not to renew same, it will continue on a month-to-month basis at the same price and on the same terms and conditions set forth in said Order. During said continuation, either party may terminate such Order on at least thirty (30) days notice.

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

4. **Pricing.** Pricing shall be as set forth in an Order. The monthly charge ("Monthly Minimum Charge" or "MMC"), along with any Additional Impression Charges, covers Customer's monthly cost for the Services, Products and Maintenance Services hereunder and such MMC will change with each Order. The MMC may also include, but not be limited to, lease buyout funds, Third Party Funds, supplemental funds, monthly equipment component amounts, remaining Customer obligations from previous contracts, amounts being financed or refinanced, analyst services and/or customer training services. One-time items ("One-Time Items") are billed separately from the MMC.
5. **Payment.** If Services begin partially and/or early, Xerox will bill Customer on a pro rata basis, based on a 30-day billing month, and the terms and conditions of this MSA will apply. Services requested and performed outside Customer's standard working hours will be at Xerox's then-current overtime rate. Xerox is responsible for all standard delivery and removal charges for Equipment and Third Party Hardware and Customer is responsible for any non-standard delivery and removal charges. Customer authorizes Xerox (or its agent) to obtain credit reports from commercial credit reporting agencies. Xerox reserves the right to review and approve Customer's credit prior to acceptance of each Order.
6. **Default.** Customer will be in default if Xerox does not receive any payment within thirty (30) days after the date it is due or if Customer breaches any other obligation under this Agreement, or any Order hereunder, or any other Agreement with Xerox. If Customer defaults, Xerox, in addition to its other remedies (including the cessation of Services), may require immediate payment, to the extent permitted by law, as liquidated damages for loss of bargain and not as a penalty, of (a) all amounts then due; and (b) any applicable machine equipment charges and/or early termination charges. Xerox's decision to waive or forgive a particular default shall not prevent Xerox from declaring any other default.
7. **Early Termination – Services and Personnel.** Except as otherwise set forth in a SOW, upon ninety (90) days prior written notice, Customer may terminate or reduce any Services or personnel without incurring ETCs. Notwithstanding the foregoing, if any Services or personnel are terminated (i) by Xerox due to Customer's default or (ii) by Customer and Customer acquires Services from another supplier within six (6) months of the termination of such Services or personnel, Customer shall pay, to the extent permitted by law, all amounts due as of the termination date, together with ETCs, for loss of bargain and not as a penalty, equal to the then current MMC for said terminated or reduced Services or personnel multiplied by the number of months remaining in their term, not to exceed six (6) months. This provision excludes terminations due to fiscal year funds non-appropriation or an uncured Xerox performance failure.
8. **Termination -- Xerox and 3rd Party Equipment/Software.** Prior to the expiration of the term of Equipment, Software, and/or Third Party Products in and as proscribed by the applicable Order, if: (i) Customer terminates Equipment, Software, and/or Third Party Products; (ii) Customer requires that a unit of Equipment or Third Party Hardware be replaced (e.g., traded-in); or (iii) Xerox terminates Equipment, Software, and/or Third Party Products due to Customer's default, Xerox, in addition to its other remedies (including the cessation of Basic Services), may require immediate payment, to the extent permitted by law, as liquidated damages for loss of bargain and not as a penalty, of: (a) all amounts then due; and (b) the remaining Monthly Minimum Charges in the term of the Equipment, Software, and/or Third Party Products less any unearned finance, maintenance, and supply charges. In addition to paying the amounts required in the preceding sentence if Customer defaults, Customer shall either make the subject the Equipment, Software, and/or Third Party Products available for removal by Xerox and, at the time of removal, the Equipment, Software, and/or Third Party Products will be in the same condition as when delivered, reasonable wear and tear excepted; or, purchase the subject Equipment or Third Party Hardware "AS IS, WHERE IS" and WITHOUT ANY WARRANTY AS TO CONDITION OR VALUE by paying Xerox the Fair Market Value ("FMV") of the Equipment or Third Party Hardware at the conclusion of its term. This provision excludes terminations due to fiscal year funds non-appropriation or an uncured Xerox performance failure.
9. **Personnel.** Xerox agrees to comply with Customer's internal policies Customer provides to Xerox in writing for security and safety that are reasonable and customary under the circumstances, and that do not conflict with this MSA. Customer will provide Xerox with reasonable prior notice of such policies and any changes thereto. Neither party shall, directly or indirectly, actively solicit the employment of the other party's staff providing Services hereunder, which includes Xerox's agents, and their supervisors during the term of this MSA and for a period of one (1) year thereafter. Employment arising from inquiries received via advertisements in newspapers, job fairs, unsolicited resumes, or applications for employment shall not be considered active solicitation.

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

10. Customer Assets, Equipment, and Software.

- A. During the term of an Order, Customer shall permit Xerox and its agents to use or access, and shall grant or transfer sufficient rights to enable Xerox and its agents to use or access, all hardware, software and/or work space owned, leased, rented, licensed and/or controlled by Customer, any services utilized by Customer (collectively "Customer Assets"), and Customer Content, that Xerox needs to use or access to enable Xerox to perform any of the Services subject to a Order. Customer is solely responsible for backing up Customer's Content and Xerox shall not be responsible for Customer's failure to do so. Customer shall acquire and/or continue, at Customer's expense any maintenance and repair service contracts for all Customer Assets that Customer permits Xerox to use or access.
- B. If Customer revises or removes Products and Xerox advises Customer that the remaining Products are not sufficient to enable Xerox to provide the Services, Xerox shall have no liability for the failure to provide such Services.
- C. Title to Equipment and Third Party Hardware acquired through any Order or Order-related Customer purchase order shall remain with Xerox until Customer purchases the Equipment and Hardware. Until the Equipment or Third Party Hardware is purchased by Customer, Customer agrees that: (i) it shall remain personal property; (ii) Customer will not attach it as a fixture to any real estate; (iii) Customer will not pledge, sub-lease or part with possession of it, or file or permit to be filed any lien against it; (iv) Customer will not make any permanent alterations to it; and, (v) all relocations of it must be arranged (or approved in advance) by Xerox. Customer is not entitled to purchase any Equipment or Third Party Hardware provided under any SOW except as set forth therein. While Equipment and Third Party Hardware is being relocated, Customer remains responsible to make all payments required under the applicable Order. The risk of loss for the Equipment and Third Party Hardware will pass to Customer upon delivery. Unless otherwise agreed to by the parties in a SOW, Customer agrees to use Equipment and Third Party Hardware in accordance with, and to perform all operator maintenance procedures for it as set forth in the applicable product manuals. All parts/materials replaced, including as part of an upgrade, will become Xerox's property.

11. Services and Third Party Product Warranty / Warranty Limitations, and Warranty Disclaimer/ Waiver.

- A. **Services Warranty.** Xerox represents and warrants to Customer that the Services will be performed in a skillful and workmanlike manner; provided however, in no event will Xerox be responsible for any failure to perform Services if the failure is caused by: (i) Customer Assets, Customer Content, or services, maintenance, design implementation, supplies or data streams provided by Customer, Customer's agent or service provider to Xerox for use hereunder, (ii) Customer's failure to contract for the minimum types and quantities of Products required by Xerox to perform the Services, or (iii) Customer's failure to provide Xerox access to Customer's personnel and systems or to transfer to Xerox sufficient rights to use, access and/or modify Customer Assets constituting hardware and software, including software owned or licensed by Customer, and/or Customer Content as necessary for the provision of Services.
- B. **Warranty Disclaimer and Waiver for Services.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION FOR SERVICES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, THEREFOR AND XEROX DISCLAIMS ALL OTHER WARRANTIES FOR SERVICES, INCLUDING, BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF NON-INFRINGEMENT.
- C. **Third Party Product Warranty:** FOR THIRD PARTY PRODUCTS SELECTED SOLELY BY XEROX FOR AN ORDER, XEROX WARRANTS THEY WILL OPERATE SUBSTANTIALLY IN CONFORMANCE WITH APPLICABLE SERVICE LEVELS IN THE SOW. IF, WITHIN A REASONABLE TIME AFTER PROVISION OF SUCH THIRD PARTY PRODUCTS, SUCH SERVICE LEVELS CANNOT BE BROUGHT INTO SUBSTANTIAL CONFORMANCE WITH THOSE IN THE SOW AND SUCH NON-CONFORMANCE IS A RESULT OF XEROX'S USE OF SUCH THIRD PARTY PRODUCTS, CUSTOMER'S EXCLUSIVE REMEDY FOR THE FOREGOING WARRANTY IS TO RECEIVE A REFUND OF ANY FEES PAID FOR THE NON-CONFORMING THIRD PARTY PRODUCTS UPON THE RETURN THEREOF TO XEROX. XEROX DISCLAIMS ALL OTHER WARRANTIES WITH RESPECT TO SUCH THIRD PARTY PRODUCTS, AS WELL AS FOR MAINTENANCE THEREOF, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY, AS WELL AS ANY OTHER WARRANTY PERTAINING OR RELATING TO DESIGN, PERFORMANCE, FUNCTIONALITY, OR COMPATIBILITY THEREOF WITH CUSTOMER'S SYSTEMS. XEROX WILL PASS THROUGH TO CUSTOMER ANY WARRANTIES PROVIDED TO IT BY THE

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

MANUFACTURER OR LICENSOR OF THIRD PARTY PRODUCTS TO THE EXTENT PERMISSIBLE. XEROX DISCLAIMS, AND CUSTOMER WAIVES, ANY AND ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY, FOR THIRD PARTY PRODUCTS NOT SELECTED SOLELY BY XEROX.

D. THE WARRANTIES AND GUARANTEES SET FORTH IN THIS SECTION OF THE MSA ARE EXPRESSLY CONDITIONED UPON THE USE OF THE SERVICES AND DELIVERABLES FOR THEIR INTENDED PURPOSE IN THE SYSTEMS ENVIRONMENT FOR WHICH THEY WERE ORIGINALLY DESIGNED AND SHALL NOT APPLY TO SERVICES OR DELIVERABLES WHICH HAVE BEEN SUBJECT TO MISUSE, ACCIDENT, ALTERATION OR MODIFICATION BY CUSTOMER OR ANY THIRD PARTY (EXCEPT AS SPECIFICALLY AUTHORIZED IN WRITING BY XEROX.)

12. **Confidential Information.** Each party will disclose to the other certain business information identified as confidential ("Confidential Information"):

A. Customer Content consists of documents, materials and data provided in hard copy or electronic format by Customer to Xerox containing information about Customer and/or Customer's clients and is considered Customer's Confidential Information.

B. Developments and Pre-Existing Work (collectively "Xerox Work"), Xerox Tools as defined herein, Orders and SOWs shall be considered Xerox's Confidential Information. "Developments" are items created by Xerox employees, agents, and/or licensors, including, but not limited to, computer programs, code, reports, operations and procedures manuals, forms, design or other works of authorship, and "Pre-existing Work" are items used or incorporated into a Deliverable or developed or acquired by Xerox independent of performing the Services. "Output of Services" constitutes electronic images created by scanning tangible documents containing Customer Content, or the content of any reports and other materials, created by Xerox specific to and for Customer per the applicable SOW, but shall not include software. "Assessments" are assessment and recommendation reports created as a result of assessment services. "Documentation" means all manuals, brochures, specifications, information, and software descriptions in electronic, printed, and/or camera-ready form, and related materials customarily provided by Xerox for use as part of the Services.

C. Each party will make reasonable efforts not to disclose the other party's Confidential Information to any third party, except as may be required by law, unless such Confidential Information: (i) was in the public domain prior to, at the time of, or subsequent to the date of disclosure through no fault of the non-disclosing party; (ii) was rightfully in the non-disclosing party's possession or the possession of any third party free of any obligation of confidentiality; or (iii) was developed by the non-disclosing party's employees or agents independently of and without reference to any of the other party's Confidential Information. Confidentiality obligations set forth above shall terminate one (1) year after expiration or termination of this MSA or the last effective Services Contract hereunder, whichever is later; provided however, for Xerox Work and Xerox Tools, confidentiality obligations with respect thereto shall not terminate unless (i), (ii) or (iii) in the preceding sentence of this Section becomes applicable thereto. The parties do not intend for Customer to disclose confidential technical information hereunder, which includes, but is not limited to, computer programs, source code, and algorithms, and Customer will only disclose the same under the auspices of a separate agreement. Upon expiration or termination of this MSA, each party shall return to the other or, if so requested, destroy, all Confidential Information of the other in its possession or control, except such Confidential Information as may be reasonably necessary to exercise rights that survive termination of this MSA.

13. **Intellectual Property.** Customer represents and warrant Customer owns the Customer Content and Customer Assets or otherwise have the right to authorize Xerox to perform Services hereunder and the Customer Content does not, and shall not, contain content that (i) is libelous, defamatory or obscene and/or (ii) infringes on or violate any applicable laws, regulations or rights of a third party of any kind. Xerox, its employees, agents and/or licensors shall at all times retain all rights to Xerox Work and Xerox Tools (with "Xerox Tools" being proprietary tools used by Xerox to provide the Services, and any modifications, enhancements, improvements and derivative works thereof), and except as expressly set forth herein, no rights to Xerox Work and Xerox Tools are granted to Customer. Customer shall have no rights to use, access or operate the Xerox Tools, which will be installed and operated only by Xerox. Customer will have access to data and reports generated by the Xerox Tools and stored in a provided database as set forth in the applicable

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

SOW. All Xerox Tools may be removed at Xerox's sole discretion. Customer acknowledges that Xerox does not license the Xerox Tools separate and apart from the provision of Services associated with their use. Customer agrees not to decompile or reverse engineer any Xerox Work or Xerox Tools. Xerox grants Customer a non-exclusive, perpetual fully paid-up, worldwide right to use, display, and reproduce Xerox Work and Documentation only as required for use of the Services and Deliverables for Customer's customary business purposes, and not for resale, license, and/or distribution outside of Customer's organization. Customer may not sublicense any rights granted to Customer hereunder, but may authorize a third party ("Designee") to use such rights, solely for Customer's benefit and Customer's internal business purposes. Any Designee operating or maintaining the delivered solution shall be subject to written confidentiality obligations with respect to Confidential Information that shall be no less restrictive than those set forth in this MSA. Output of Services is Customer's sole and exclusive property and Xerox shall gain no rights therein, except as may be required for Xerox to perform Services hereunder. Xerox hereby assigns, grants, conveys, and transfers to Customer all rights in and to the Output of Services hereunder. Customer may duplicate and distribute Assessments only for Customer's internal business purposes. Recommendations, assessments, and processes described in Assessments may only be implemented for Customer by Xerox and only for Customer's internal business purposes. Except as set forth expressly in this Section, no other rights or licenses are granted to Customer. Any rights or licenses that are granted to Customer shall immediately terminate if Customer (i) defaults hereunder with respect to any of Customer's obligations related to such rights or licenses, (ii) fail to pay amounts due, or (iii) otherwise default under this MSA.

14. Indemnification.

- A. Xerox agrees, at its expense, if promptly notified by Customer and given the right to control the defense, will defend Customer from, and pay any settlement agreed to by Customer or any ultimate judgment for, all claims by third parties for personal injury (including death) or tangible property damage to the extent proximately caused by the willful misconduct or negligent acts or omissions of Xerox, its officers, employees, or agents in connection with this MSA. Customer may procure its own representation and participate in the defense at its own expense. Xerox is not responsible for any Customer litigation expenses or settlements unless Xerox pre-approves them in writing.
- B. Xerox, at its expense, if promptly notified by Customer and given the right to control the defense, will defend Customer from, and pay any settlement agreed to by Xerox or any ultimate judgment for, any claim not identified in (i)-(vi) below or subject to c. below that any Services or Deliverables (excluding Third Party Products) infringe a third party's U.S. intellectual property rights. Customer may procure its own representation and participate in the defense at its own expense. Xerox is not responsible for any non-Xerox litigation expenses or settlements unless Xerox pre-approves them in writing. Excluded herein are claims arising from or relating to: (i) Services performed using Customer Assets and/or Customer Content for which Customer failed to provide to Xerox sufficient rights; (ii) Services performed, or Deliverables provided, to Customer's specification or design, (iii) infringement resulting from or caused by Customer's misuse or unauthorized modification of systems or product; (iv) use of Services or Deliverables in combination with other products, services or data streams not provided by Xerox if such combination forms the basis of such claim; (v) Customer's failure to use corrections or enhancements to the Services or Deliverables provided by Xerox, and (vi) Customer's provision to Xerox of material for duplication in violation of the copyright of a third party and it is agreed and understood by the parties that, under this MSA, Xerox is not undertaking, and will not undertake, any obligation or duty of any kind or type to determine or ascertain whether material provided to it for duplication may be duplicated without violating a third party's copyright therein. If the use of the Services or Deliverables (excluding Third Party Products) are enjoined as a result of a claim under this Section, or in the reasonable opinion of Xerox are likely to be the subject of such a claim, Xerox will, at its option and sole expense, exercise any or all of following remedies: obtain for Customer the right to continue to use such Services or Deliverables; modify such Services or Deliverables so they are non-infringing; replace such Services or Deliverables with non-infringing ones or terminate such infringing Services, and/or, accept the return of such infringing Deliverables and refund to Customer any amount paid for the infringing item, less net benefits realized.
- C. Xerox will not pay any settlement agreed to by Customer for any third party claims subject to b(i)-(vi) above or for infringement of any intellectual property rights arising out of or related to performance of Services using Customer Assets, Customer Content or other materials pursuant to Customer's request or direction or for Customer's breach of the first sentence of the Section herein titled "INTELLECTUAL PROPERTY".

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

Customer is not responsible for Xerox litigation expenses or settlements unless Customer pre-approves them in writing.

15. **Limitation of Liability.** Except for personal injury (including death), property damage, or intellectual property damages as defined herein, Xerox shall not be liable to Customer, in the aggregate, for any direct damages in excess of the amounts paid by Customer to Xerox during the twelve (12) months prior to the claim or \$50,000, whichever is greater, and neither party shall be liable to the other for any special, indirect, incidental, consequential or punitive damages arising out of or relating to this MSA or any Order hereunder, whether the claim alleges tortious conduct (including negligence) or any other legal theory. This limitation of liability shall not be applicable to any specific indemnification obligations set forth in this MSA or to Customer's breach of confidentiality obligations regarding the Xerox Tools.
16. **Title and Risk of Loss.** Title to Equipment and Third Party Hardware shall remain with Xerox until Customer purchases same. Risk of loss or damage for the Products shall pass to Customer upon delivery. Customer will be responsible to keep the Products insured against loss.
17. **Reports.** Upon Customer's request, Xerox may issue mutually agreed upon reports reflecting information that is accurate at the time the report is issued, including estimates of information based on pending Orders.
18. **Total Satisfaction Guarantee.** If Customer is not totally satisfied with any Equipment delivered under this Agreement, Xerox will, at Customer's request, replace it without charge with an identical model or, at the option of Xerox, with a machine with comparable features and capabilities. This guarantee will be effective during the initial term (up to a period of sixty (60) months) for the Equipment specified on a Order and applies only to Equipment which has been continuously maintained by Xerox or its authorized representatives under a Xerox express warranty or Xerox Maintenance plan (i.e., contract for Basic Services), and is not applicable to Equipment damaged or destroyed due to an act of God.
19. **Early Termination.**
 - A. **Equipment Replacement.** If Equipment has been replaced by Xerox under the "Equipment Replacement" provision of the Section titled "BASIC SERVICES" herein and Xerox is unable to maintain the replacement Equipment, then Customer may terminate said unit of Equipment and other than payment of the amounts due and owing through the date the terminated Equipment is returned to Xerox, Customer shall have no further financial obligations for said terminated Equipment.
 - B. **Business Closing.** If a significant economic business downturn or a fiscal distressed situation causes the Customer to close / consolidate its operations, Customer may terminate one or more units of Equipment and, other than payment of the amounts due and owing through the date the terminated Equipment is returned to Xerox, Customer shall have no further financial obligations for said terminated Equipment if it is returned to Xerox in the same condition as when delivered, reasonable wear and tear excepted.
20. **Volume Review.** At Customer's request, the parties may meet annually to review the volume of prints for Equipment for the previous twelve (12) months under one or more Orders based on reporting provided by Xerox. Based on the review, the parties may mutually agree to revise the Prints Included in Minimum and the associated Monthly Minimum Charge in the Order(s).
21. **Warranty Waivers & Disclaimer.**
 - A. **Waivers.** Except as expressly provided herein and as permitted by applicable law, Customer waives all rights and remedies conferred upon a lessee by Article 2A of the Uniform Commercial Code That is, Xerox shall not be required to sell the equipment on the used market and be obligated to use proceeds of that sale to offset or mitigate the early termination charges resulting from the County's early termination of the agreement.
 - B. **Disclaimer:** For equipment, software, Xerox-brand supplies and basic services, Xerox disclaims, and Customer waives, implied warranties of non-infringement.

***** End of Managed Services Offering *****



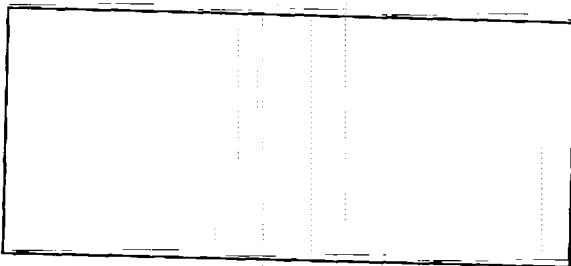
REQUEST FOR QUOTE

SOLICITATION :
RFQ-IS-11260168-1

INTERNAL SERVICES DEPARTMENT

BID DUE:
10/25/10 12:00:00 PM

Vendor No. :



RETURN BID TO ADDRESS BELOW
INTERNAL SERVICES DEPARTMENT
ISD CENTRAL PURCHASING
1100 N EASTERN AVENUE
RM 103 BID ROOM 1ST FLOOR
LOS ANGELES CA 90063

BUYER : Zheng Huang
BUYER PHONE : 323-267-2260
DATE ISSUED : 10/07/10
REQ: DEPARTMENT : IS
AGENCY REQ. NO. : PHOTOCO
REQ. NO. :
FISCAL YEAR :
SCHEDULED BEGIN DATE :
SCHEDULED END DATE :
NUMBER OF COMMODITY LINES : 7
PROCUREMENT FOLDER : 199922

PHOTOCOPY EQUIPMENT

TO BE COMPLETED BY VENDOR

- 1. DELIVERY WILL BE MADE IN 30 THIS NUMBER OF DAYS AFTER RECEIPT OF ORDER.
- 2. CASH DISCOUNT N/A & N/A DAYS. CASH DISCOUNT OF LESS THAN 30 DAYS OR 25TH PROX. WILL BE CONSIDERED AS NET IN EVALUATING THIS BID.
- 3. BID BOND ATTACHED: N/A CERTIFIED CHECK ATTACHED: N/A OTHER ATTACHMENTS: N/A
- 4. BID REFERENCE NUMBER: 11260168-1. (THIS NUMBER WILL APPEAR ON RESULTING ORDER OR CONTRACT).
- 5. PLEASE REMOVE FROM THIS COMMODITY CODE: 985-26-00-037062
- 6. FEIN OR SOCIAL SECURITY# REQUIRED: 16-0468020

** IMPORTANT **

IN ORDER TO RECEIVE AN AWARD, VENDORS ARE REQUIRED TO BE REGISTERED WITH THE COUNTY OF LOS ANGELES. VENDORS MAY REGISTER ONLINE ON THE COUNTY OF LOS ANGELES VENDOR REGISTRATION WEBSITE @ [HTTP://CAMISVR.CO.LA.CA.US/WEBVEN/](http://CAMISVR.CO.LA.CA.US/WEBVEN/)

USE OF A BRAND NAME AS SPECIFICATION IS NOT INTENDED TO RESTRICT COMPETITION. QUOTE IN ACCORDANCE WITH SPECIFICATION OR ON YOUR ALTERNATE. ALTERNATE OFFERS TO MEET FUNCTIONAL REQUIREMENTS, ADEQUATELY SUPPORTED BY LITERATURE AND YOUR STATEMENT WHEREIN SPECIFICATIONS DIFFER, WILL BE CONSIDERED FOR FUTURE PURCHASE, OR WHEN FEASIBLE, FOR THIS PURCHASE.

VENDORS ARE REQUIRED TO ENTER THEIR COMPANY NAME IN THE SPACE PROVIDED AT THE TOP OF EACH PAGE ON THIS SOLICITATION.

VENDOR PHONE NUMBER:
310-333-4100

TITLE:
Regional Business Manager

DATE:
10/25/10

SIGNATURE OF BIDDER:
(MUST BE SIGNED)

John Charles

STANDARD TERMS & CONDITIONS

REQUEST FOR QUOTE

SO NO : RFQ-IS-11260168-1

COMPANY NAME :

Xerox Corporation

BID DUE: 10/25/10 12:00:00 PM

PAGE

2

1. Invitations for bid are to be delivered to County Purchasing Agent by 12:00 noon on the date shown above; at which time it will be opened and, if requested, publicly read. Requests for Quotations are to be delivered to County Purchasing Agent by date and time shown above. There will be no public opening or reading of these quotations. (See title of quotation in top left-hand corner of this document.)
2. All bids shall be typewritten or in ink. No erasures permitted. Mistakes shall be crossed out and corrections typed/inked adjacent, dated and initialed.
3. State brand name or make on each item. If quoting other than item specified, include the manufacturer's name, a product description and model number.
4. Bid each item separately. Prices must be stated in units specified hereon.
5. Each bid must be in a separate sealed envelope with both the bid number and closing date plainly visible on the envelope. Bid must be received at the place, time and on the date specified. Bidders are responsible to assure each bid is properly marked and timely delivered. County assumes no financial obligations for preparation and submittal of bid. Submit bids as indicated hereon. Bidder shall be solely responsible for understanding the specifications and requirements.
6. Time of delivery is a part of the consideration and must be stated in definite terms and adhered to. If time varies on different items, bidder shall so state in the column provided opposite the item. Unless otherwise noted, "days for delivery" or "days from receipt of order" mean calendar days.
7. An authorized officer or employee must sign with the Firm's name on all bids. Obligations assumed by such signature must be fulfilled.
8. Unless otherwise definitely specified, prices bid shall not include sales or use taxes. Bidder shall provide either the serial number or its retailer's permit to engage in business as a seller (if a CA company). Without one of these numbers, County will not pay sales/use tax direct to any Vendor. If Vendor is outside CA, the County will pay sales tax directly to the State.
9. All charges, e.g., packing and installation, must be included in the bid. No charges will be allowed unless specified in the bid.
10. County reserves the right to waive, at its sole discretion, any formality in the bidding or evaluation in order to expedite the process; accommodate minor error; or respond to unforeseen circumstances, and to reject any or all bids and to reject any items thereon. County may, at its sole discretion, cancel this solicitation at any time prior to award.
11. Section 2873 of the California Government code prohibits County from purchasing goods, wares or merchandise manufactured or produced or mined, in whole or in part, by state prisoners in states other than California, except prisoners on probation or parole. Your signature to your bid will be considered certification of full compliance with the Section.
12. If required, samples of items shall be furnished at no cost. Samples are not returnable; County will dispose of at its discretion. Unless specifically requested, bidders shall not submit samples. Cost of testing will be as stated herein.
13. Bids are subject to acceptance at any time within 30 calendar days of the closing date stated hereon, unless otherwise specifically stipulated.
14. County shall not return bids for change/correction after receipt.
15. Insurance, surety and performance bonds shall be in the amounts set forth hereon.
16. All factors being equal and to the extent authorized by law, County shall prefer products grown, manufactured or produced in the County of Los Angeles; and then in the State of California. To qualify for such preference, bids must definitely and conspicuously state whether the items are wholly or partially grown, manufactured or produced in the County of Los Angeles or the State of California.
17. Bids must include employer's identification number as assigned by the U.S. Treasury Department.
18. If you do not bid, return this solicitation ("Request") and state reason, or if you do not respond or do not submit a bid for 3 consecutive Requests, you may, at County's sole option, be removed from the mailing list.
19. Inspections and examinations or failure to so do is at bidder's sole risk. The specifications set forth herein are controlling and supersede any other information, oral or written, regarding this acquisition.

STANDARD TERMS & CONDITIONS

REQUEST FOR QUOTE

SO NO : RFQ-IS-11260168-1

COMPANY NAME :

Xerox Corporation

BID DUE: 10/25/10 12:00:00 PM

PAGE

3

20. Changes or modifications to specifications or conditions to this Request shall only be made by issuance of a written amendment by County's Purchasing Agent. No other change or modification, regardless of source, shall be binding. Bidders are advised to bid only as set forth in this Request.
21. The purchase, if any, resulting from the Request shall be governed by the County's terms and conditions which are attached hereto. Unless County specifically agrees in writing, any other terms and conditions shall have no force or effect.
22. No County employee whose position in County service enables him/her to influence any award to your offer any competing offer; and no spouse or economic dependent of such employee, shall be employed in any capacity by the bidder herein, or have any other direct or indirect financial interest in any transaction resulting from this Request.
23. County reserves the right to designate the transportation carrier when common carriers are used in delivery, or make pick up by County truck if the point of origin is within the County of Los Angeles or an adjacent county. Failure to adhere to shipping terms as specified on the purchase order or written agreement will result in deduction of additional handling costs from the invoice(s).
24. County may, at its sole option, select other than the low price bidder if, as solely determined by County, another bid is a more responsible and responsive offer.
25. County reserves the right to negotiate price, terms and conditions with the selected vendor.
26. This Request is a solicitation only, and is not intended or to be construed as an offer to enter into any contract or other agreement. No acquisition can be made without a purchase order.
27. County reserves the right to conduct a reasonable inquiry to determine the responsibility of a bidder. The unreasonable failure of bidder to promptly supply information in connection with such inquiry, including, but not limited to, information regarding past performance, financial stability and ability to perform on schedule, may, at County's discretion, be grounds for a determination of non-responsibility.
28. Community based enterprises are encouraged to bid. It is the County's policy that on final analysis and award, the Vendor shall be selected without regard to gender, race, creed or color.
29. All bids must include a complete "Request for Local SBE Preference Program Consideration and CBE Firm/Organization Information Form" and "Attestation of Willingness to Consider Gain/Grow Participants Survey" attached hereto. Bids not including completed forms may, at county's option, be returned or the bidder may be required to provide complete forms prior to consideration.
30. Wherever possible, vendors are encouraged to subcontract portions of the work to responsible and qualified community Business Enterprise owned businesses and/or entities.
31. Bidders are reminded to thoroughly review all solicitation documents.
32. Prior to bid award, County reserves the right to request clarification of any bid.
33. The offering of gifts, excluding token gifts of a promotional/advertising nature, or gratuities by bidder or any other agent or representative of bidder is strictly prohibited.
34. Each person by submitting a response to this solicitation certifies that such bidder/proposer and each County lobbyist and County lobbying firm, as defined by Los Angeles Code Section 2.160.010, retained by bidder/proposer is in full compliance with Chapter 2.160 of the Los Angeles County Code. A copy of Chapter 2.160 can be reviewed and downloaded from the following website:
<http://bos.co.la.ca.us/categories/LobInfo/Ordinance.htm>
35. Subsequent to the County's evaluation, bids/proposals which were required to be submitted in response to the solicitation process become the exclusive property of the County. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code section 6250 et. seq. (Public Records Act) and which are marked "trade secret", "confidential", or "proprietary". The County shall not in any way be liable or responsible for the disclosure of any such records, including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction. In the event the County is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a proposal marked "trade secret", "confidential", or "proprietary" the Vendor agrees to defend and indemnify the County from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the Public Records Act.
36. County's Quality Assurance Plan. The County or its agent will evaluate Contractor's performance under this agreement on not less than an annual basis. Such evaluation will include assessing Contractor's compliance with all contract terms and performance standards. Contractor deficiencies which County determines are severe or continuing and that may place performance of the agreement in jeopardy if not corrected will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by the County and Contractor. If improvement does not occur consistent with the corrective action measures, County may terminate this agreement or impose other penalties as specified in this agreement.
37. Bidder shall not and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of the County without the County's prior written consent.
38. Bidders/Proposers Adherence to County's Child Support Compliance Program. Bidders/proposers shall 1) fully comply with all applicable State and Federal reporting requirements relating to employment reporting for its employees; and 2) comply with all lawfully served Wage and Earnings Assignment Orders and Notice of Assignment and continue to maintain compliance during the term of any contract that may be awarded pursuant to this solicitation. Failure to comply may be cause for termination of a contract or initiation of debarment proceedings against the non-compliant Contractor (County Code Chapter 2.202).

STANDARD TERMS & CONDITIONS	REQUEST FOR QUOTE SO NO : RFQ-IS-11260168-1	
COMPANY NAME : Xerox Corporation	BID DUE: 10/25/10 12:00:00 PM	PAGE 4
<p align="center">ALL AWARDS FROM THIS BID WILL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS OF PURCHASE: TERMS AND CONDITIONS OF PURCHASE</p>		
<p>1. CONDITIONS OF PURCHASE: This order shall be in accordance with these terms and conditions and any attachments hereto. No other conditions or modifications of these terms and conditions will be effective unless specifically agreed to in writing by the County of Los Angeles ("County") Purchasing Agent. Failure of County to object to provisions contained in any acknowledgment, document or other communications from Vendor shall not be construed as a waiver of these terms and conditions or an acceptance of any such provision.</p> <p>2. DELIVERY: Delivery shall be as stated herein. When using common carriers, County reserves the right to designate the transportation carrier. Failure on the part of Vendor to adhere to shipping terms specified hereon or contained in a written agreement for this purchase may, at County's discretion, result in additional handling costs being deducted from Vendor's invoice. Cost of inspection on deliveries or offers for delivery which do not meet specifications will be for the account of Vendor. Unless otherwise set forth herein, all items shall be suitably packed and marked. Purchase Order number must be on all shipping documents and containers.</p> <p>3. INVOICES: Invoices shall include the Purchase Order number, which is located in the upper right hand corner of the Purchase Order. Invoices must state that they cover, as the case may be, complete or partial delivery, and must show units and unit prices. Invoices will not be paid unless and until the requirements have been fully met. When price shown is a delivered price, all transportation and delivery charges must be prepaid in full to destination.</p> <p>4. PRICE/SALES TAX: Unless otherwise specified herein, the prices herein do not include sales or use tax. No charges for transportation, containers, packing, unloading, etc., shall be allowed unless specified herein.</p> <p>5. PAYMENT TERMS: Unless otherwise specified herein, payment terms are net 30 days from the date County receives a correct and proper invoice. In no event shall County be liable for any late charges. Cash discount periods shall be computed either from the date of delivery and County's acceptance or the date of County's receipt of correct and proper invoices, whichever date is later, prepared in accordance with the terms herein.</p> <p>6. WARRANTIES: Vendor shall, at no cost to County, promptly correct any and all defects in the items/services provided hereunder. Vendor shall also reimburse County for any costs incurred as a result of defect(s). The term of this warranty shall be as set forth in the Purchase Order, or if no term is shown, ninety (90) days from the date of County's acceptance of the item/service. Vendor warrants that items may be shipped, sold and used in a customary manner without any violation of any law, ordinance, rule or regulation of any government or administrative body.</p> <p>7. CANCELLATION: Unless otherwise specified herein, County may cancel all or part of this Purchase Order and/or Contract at no cost and for any reason by giving written notice to Vendor at least thirty (30) calendar days prior to scheduled delivery. A cancellation charge not exceeding one percent (1%) of the value of the cancelled portion of the Purchase Order and/or Contract may be charged County for cancellation with less than thirty (30) days prior written notice.</p> <p>8. HAZARDOUS MATERIALS: Vendor warrants that it complies with all Federal, State and local laws, rules, ordinances and regulations concerning hazardous materials and toxic substances.</p> <p>9. COVENANT AGAINST GRATUITIES: Vendor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Vendor, or any agent or representative of Vendor, to any officer or employee of County with a view toward securing this Purchase Order or favorable treatment with respect to any determination concerning the performance of this Purchase Order. In the event of breach of this warranty, County shall be entitled to pursue the same remedies including, but not limited to, termination, against Vendor as it could pursue in the event of Vendor's default.</p> <p>10.0 CONFLICT OF INTEREST: 10.1 No County employee whose position with County enables such employee to influence the award of the Purchase Order or any competing agreement, and no spouse or economic dependent of such employee, shall be employed in any capacity by Vendor, or have any other direct or indirect financial interest in this Purchase Order. No officer or employee of Vendor, who may financially benefit from the award of this Purchase Order shall in any way participate in County's approval or ongoing evaluation of this purchase. 10.2 Vendor shall comply with all conflict of interest laws, ordinances and regulations now in effect or hereafter to be enacted during the term of this Purchase Order. Vendor warrants that it is not aware of any facts which create a conflict of interest. If Vendor hereafter becomes aware of any facts which might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances.</p> <p>11. GOVERNING LAW AND VENUE: This Purchase Order shall be governed by and construed in accordance with the laws of the State of California. Vendor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Purchase Order, and further agrees and consents that venue of any action hereunder shall be exclusively in the County of Los Angeles, California.</p> <p>12. INDEMNIFICATION: Vendor shall indemnify, defend and hold harmless County, its agents, officers and employees from and against any and all liability, expense, including defense costs and legal fees, and claims for damages of any nature whatsoever arising from or connected with Vendor's operations, goods and/or commodities or services provided hereunder. This indemnity shall include, but not be limited to, claims for or by reason of any actual or alleged infringement of any United States patent or copyright or any actual or alleged trade secret disclosure.</p>		

STANDARD TERMS & CONDITIONS

REQUEST FOR QUOTE

SO NO : RFQ-IS-11260168-1

COMPANY NAME :
Xerox Corporation

BID DUE: 10/25/10 12:00:00 PM

PAGE
5

13. **DEFAULT:** The County may, by written notice to the Vendor, terminate the Purchase Order, if, in the judgment of the County:

- a. Vendor has materially breached the Purchase Order; or
- b. Vendor fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required under the Purchase Order or fails to demonstrate a high probability of timely fulfillment of performance requirements; or of any obligations of the Purchase Order and in either case, fails to demonstrate convincing progress toward a cure within ten (10) working days (or such longer period as the County may authorize in writing) after receipt of written notice from the County specifying such failure.

In the event that the County terminates the Purchase Order, the County may procure, upon such terms and in such manner as the County may deem appropriate, goods and services similar to those so terminated. The Vendor shall be liable to the County for any and all excess costs incurred by the County, as determined by the County, for such similar goods and services.

The rights and remedies of the County shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Purchase Order.

14. **INVALIDITY, REMEDIES NOT EXCLUSIVE:** If any provision of this Purchase Order or the application thereof to any person or circumstance is held invalid, the remainder of this Purchase Order and the application of such provision to other persons or circumstances shall not be affected thereby. The rights and remedies provided herein shall not be exclusive and are in addition to any other rights and remedies in law or equity.

15. **COMPLIANCE WITH LAWS:** The Vendor shall comply with all applicable Federal, State, and local laws, rules, regulations, ordinances, and directives, and all provisions required thereby to be included in this Purchase Order are hereby incorporated herein by reference.

The Vendor shall indemnify and hold harmless the County from and against all liability, damages, costs, and expenses, including, but not limited to, defense costs and attorney fees, arising from or related to any violation on the part of the Vendor or its employees, agents, or subcontractors of any such laws, rules, regulations, ordinances, or directives.

16. **NONDISCRIMINATION:** By acceptance of this Purchase Order, Vendor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and will be treated equally by it without regard to or because of race, religion, ancestry, national origin, disability or sex and in compliance with all applicable Federal and State anti-discrimination laws and regulations. Vendor further certifies and agrees that it will deal with its subcontractors, bidders or Vendor without regard to or because of race, religion, ancestry, national origin, disability or sex. Vendor shall allow the County access to its employment records during the regular business hours to verify compliance with these provisions when so requested by the County. If the County finds that any of the above provisions have been violated, the same shall constitute a material breach of contract upon which the County may determine to cancel, terminate, or suspend the Purchase Order. The parties agree that in the event the Vendor violates the anti-discrimination provisions of the Purchase Order, the County shall, at its option and in lieu of termination or suspending this Purchase Order, be entitled to liquidated damages, pursuant to California Civil Code Section 1671, of the greater of ten percent (10%) of the purchase order amount or One Thousand Dollars (\$1,000).

17. **FORCE MAJEURE:** Neither party will be liable for delays in performance beyond its reasonable control including, but not limited to, fire, flood, act of God or restriction of civil or military authority.

18. **NON-EXCLUSIVITY:** Nothing herein is intended nor shall be construed as creating any exclusive arrangement with Vendor. This purchase Order shall not restrict the Purchasing Agent from acquiring similar, equal or like goods and/or services from other entities or sources.

19. **MOST FAVORED CUSTOMER:** Vendor represents that the prices charged County in this Purchase Order do not exceed existing selling prices to other customers for the same or substantially similar items or services for comparable quantities under similar terms and conditions.

20. **WAIVER:** No waiver by the County of any breach of any provision of this Purchase Order shall constitute a waiver of any other breach or of such provision. Failure of the County to enforce at any time, or from time to time, any provision of this Purchase Order shall not be construed as a waiver thereof. The rights and remedies set forth in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Purchase Order.

21. **ACCEPTANCE:** Unless explicitly stated by County as otherwise, County may conduct, at its location or any other County designated location and at its expense, an incoming acceptance test on all items purchased hereunder. The acceptance test period shall not exceed thirty (30) days from receipt of such item by County. County may, at its sole discretion, reject all or any part of items or services not conforming to the requirements/specifications stated in this Purchase Order.

22. **SPARE PARTS:** Unless otherwise set forth herein, Vendor shall make spare parts available to County for a period of two (2) years from the date of delivery of the items to County. If Vendor is unable to so provide spare parts, it shall provide County with the name(s) of Vendor's suppliers so that County may attempt to procure such parts directly. In the event of such unavailability, Vendor shall provide, at no cost, reasonable assistance to County in obtaining spare parts.

23. **ENTIRE AGREEMENT MODIFICATIONS:** This Purchase Order and any attachments hereto, constitutes the complete and exclusive statement of the parties which supersedes all previous agreements, written or oral, and all communications between the parties relating to the subject matter hereof. This Purchase Order shall not be modified, supplemented, qualified or interpreted by any prior course of dealing between the parties or by any usage of trade. Only County's Purchasing Agent can make changes or modifications by issuance of an official change notice.

STANDARD TERMS & CONDITIONS	REQUEST FOR QUOTE SO NO : RFQ-IS-11260168-1	
COMPANY NAME : Xerox Corporation	BID DUE: 10/25/10 12:00:00 PM	PAGE 6

24. **INDEPENDENT CONTRACTOR STATUS:** This Purchase Order is by and between the County and the Vendor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the County and the Vendor. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever. The Vendor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Purchase Order all compensation and benefits. The County shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, Federal, State or Local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of the Vendor.

The Vendor understands and agrees that all persons performing work pursuant to this Purchase Order are, for purposes of Workers' Compensation liability, solely employees of the Vendor and not employees of the County. The Vendor shall be solely liable and responsible for furnishing any and all Workers' Compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of the Vendor pursuant to this Purchase Order.

25. **COUNTY STOCK:** Stock furnished by County to be used in this Purchase Order shall be returned to County free from damage from any cause and in accordance with all other terms and conditions of bid and this Purchase Order.

26. **TAX EXEMPT STATUS:** Tax exempt items shall be clearly listed and identified.

27. **COUNTY LOBBYISTS:** The Vendor, and each County Lobbyist or County Lobbying firm as defined in County Code Section 2.160.010 retained by the Vendor, shall fully comply with the County's Lobbyist Ordinance; County Code Chapter 2.160. Failure on the part of Vendor or any County Lobbyist or County Lobbying firm retained by the Vendor to fully comply with the County's Lobbyist Ordinance shall constitute a material breach of this Purchase Order, upon which the County may in its sole discretion, immediately terminate or suspend this Purchase Order.

28. **CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS:** Should the Vendor require additional or replacement personnel after the effective date of this Purchase Order, the vendor shall give consideration for such employment openings to participants in the County's Department of Public Social Services Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the Vendor's minimum qualifications for the open position. For this purpose, consideration shall mean that the Vendor will interview qualified candidates. The County will refer GAIN/GROW participants by job category to the Vendor. In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, County employees shall be given first priority.

29. **TERMINATION FOR IMPROPER CONSIDERATION:** The County may, by written notice to the Vendor, immediately terminate the right of the Vendor to proceed under this Purchase Order if it is found that consideration, in any form, was offered or given by the Vendor, either directly or through an intermediary, to any County officer, employee, or agent with the intent of securing this Purchase Order or securing favorable treatment with respect to the award, amendment, or extension of this Purchase Order or the making of any determinations with respect to the Vendor's performance pursuant to this Purchase Order. In the event of such termination, the County shall be entitled to pursue the same remedies against the Vendor as it could pursue in the event of default by the Vendor.

The Vendor shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861.

Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts, or the promise of any of these.

30. **SAFELY SURRENDERED BABY LAW:** The Contractor shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is available on the Internet at www.babysafely.org for printing purposes.

31. **CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM**

The Contractor acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through Contracts/Purchase Orders are in compliance, with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting the Contractor's duty under this Contract/Purchase Order to comply with all applicable provisions of law, the Contractor warrants that it is now in compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child, Family or Spousal support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

Failure of Contractor to maintain compliance with the requirements set forth in the paragraphs under "CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM" shall constitute default under this Contract/Purchase Order. Without limiting the rights and remedies available to COUNTY under any other provision of this Contract/Purchase Order, failure of CONTRACTOR to cure such default within ninety (90) calendar days of written notice shall be grounds upon which COUNTY may terminate this Contract/Purchase Order pursuant to "VENDOR'S RESPONSIBILITY AND DEBARMENT" and pursue debarment of CONTRACTOR, pursuant to County Code, Chapter 2.202.

STANDARD TERMS & CONDITIONS

REQUEST FOR QUOTE

SO NO : RFQ-IS-11260168-1

COMPANY NAME :

Xerox Corporation

BID DUE: 10/25/10 12:00:00 PM

PAGE

7

32. PAYROLL RECORDS: Wherever required, the Contractor shall comply with the requirements of Section 1776 of the Labor Code, State of California, including maintaining payroll records as enumerated in Subdivision (a). The Contractor and the Contractor's subcontractors shall be responsible to maintain, and make readily available for inspection purposes, a copy of all certified payroll records for each work project associated with or obtained by the County under this or any future or successive County Agreement, Contract or Purchase Order. All certified payroll records shall indicate that the wage rates are not less than those determined by the State Division, of Industrial Relations, and that the classifications set forth for each laborer or mechanic conform with the work that he/she performed. The Contractor shall be responsible for the submission of copies of payrolls for all subcontractors, upon request by the County, arising from and/or relating to any Agreement formulated as a result of this inquiry.

Certified Payroll shall be submitted upon request and shall include:

- A. Original Document
- B. Company Name & Address
- C. Account Number/Project Number
- D. Project Name and Address
- E. Authorizing County Department and Purchase Order or Contract Number
- F. Period of Time in Which Work is Being Performed
- G. Employee Name, Address and Social Security Number
- H. Work Classification, Including Sub-classification
- I. Hours Paid
- J. Rate of pay
- K. Deductions
- L. Payroll Check Number
- M. Benefits
- N. Signature of Employee Authorized to Certify Payroll

Prevailing Wage Scale

Wherever required:

- A. The Contractor shall comply with all provisions of the Labor Code of the State of California.
- B. Under the provisions of said Labor Code, the State Department of Industrial Relations will ascertain the prevailing hourly rate in dollars and details pertinent thereto for each craft, classification or type of workers or mechanic needed to execute any Contract that may be awarded by the County.
- C. Particulars of the current Prevailing Wage Scale, which are applicable to the work contemplated under these specifications, are to be maintained in the Department, and must be posted at the project site by the Contractor or his/her subcontractor.
- D. Current prevailing wage rates may be obtained at:

or
 Division of Labor Standards Enforcement
 455 Golden Gate Avenue, 9th Floor
 San Francisco, CA 94102 (415) 703-4810

Records Retention and Audit, Federal or State Funded Purchases

The Vendor shall maintain in good and legible condition all books, documents, papers, and records related to its performance under this Purchase Order or Agreement. Such records shall be complete and available to Los Angeles County, the State of California and officials of the Federal Government or its duly authorized representatives, during the term of the Contract and for a period of at least three years following the County's final payment under the Purchase Order or Agreement, unless other matters, such as an audit or litigation, are not closed. All Purchase Order or Agreement-related books, documents, papers, and records related to the Vendor's performance under the Purchase Order or Agreement must be retained in a manner described above until all such other matters are closed, regardless of the duration.

FEDERAL EARNED INCOME CREDIT

The Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice No. 1015.

RECYCLED BOND PAPER

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Contractor agrees to use recycled-content paper (min 30% post-consumer waste) to the maximum extent possible on this Solicitation Response.

PARTICIPATING MUNICIPALITIES

At County's sole discretion and option, County may inform other public agencies that they may acquire items listed in this agreement or purchase order. Such acquisition(s) shall be at the prices stated herein, and shall be subject to Vendor's acceptance. In no event shall County be considered a dealer, remarketer, agent or other representative of Vendor.

Public entity purchase orders complete with terms and conditions shall be submitted by the public entity.

Vendor authorizes County's use of Vendor's name, trademarks and Vendor provided materials in County's presentation and promotions regarding the availability of use for this agreement.

County will not be liable or responsible for any obligations, including but not limited to payment for any item ordered by public entities.

County makes no representation or guarantee as to any minimum to be purchased by County or public entities.

Do you agree to the aforementioned? Yes No

STANDARD TERMS & CONDITIONS

REQUEST FOR QUOTE

SO NO : RFQ-IS-11260168-1

COMPANY NAME :

Xerox Corporation

BID DUE: 10/25/10 12:00:00 PM

PAGE

8

VENDOR'S RESPONSIBILITY AND DEBARMENT

A responsible Vendor is a Vendor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the requirements of the Purchase Order. It is the County's policy to conduct business only with responsible vendors.

The Vendor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the performance of the Vendor on this or other Purchase Orders which indicates that the Vendor is not responsible, the County may, in addition to other remedies provided in the Purchase Order, debar the Vendor from bidding on any County Contracts/Purchase Orders for a specified period of time not to exceed five (5) years, and terminate any or all existing Contracts/Purchase Orders the Vendor may have with the County.

The County may debar a Vendor if the Board of Supervisors finds, in its discretion, that the Vendor has done any of the following: (1) violated any term of Contract/Purchase order with the County, (2) committed any act or omission which negatively reflects on the Vendor's quality, fitness or capacity to perform a Contract/Purchase Order with the County or any other public entity, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

If there is evidence that the Vendor may be subject to debarment, the Purchasing Agent will notify the Vendor in writing of the evidence that is the basis for the proposed debarment and will advise the Vendor of the scheduled date for debarment hearing before the Contractor Hearing Board.

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

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

These terms shall also apply to the subcontractors of County Contractor/Vendor.

LOCAL SMALL BUSINESS ENTERPRISE PREFERENCE PROGRAM

In evaluating bids (proposals), the County will give preference to businesses that are certified by the County as a Local Small Business Enterprise (Local SBE), consistent with Chapter 2.204 of the Los Angeles County Code: A Certified Local SBE is a business 1) certified by the State of California as a small business enterprise; 2) having its principal office currently located in Los Angeles County for a period of at least the past twelve months; and 3) certified by the Office of Affirmative Action Compliance as meeting the requirements set forth in 1 and 2 above.

To apply for certification as a Local SBE, companies may register at the Office of Affirmative Action Compliance's website at:

<http://oaac.co.la.ca.us/Contract/sbeprog.html>

Certified Local SBEs must request the SBE Preference in their solicitation responses and may not request the preference unless the certification process has been completed and certification affirmed. Proposers must attach the Local SBE Certification Letter to the Required Form - Los Angeles County Community Business Enterprise (CBE) Program - Request for Local SBE Preference Program Consideration and CBE Firm/Organization Information Form - with their proposal. County must verify Local SBE certification prior to applying the preference. Sanctions and financial penalties may apply to a business that knowingly, and with intent to defraud, seeks to obtain or maintain certification as a certified Local SBE.

Information about the State's small business enterprise certification regulations is in the California Code of Regulations, Title 2, Subchapter 8, Section 1896 et seq.; and is also available on the California Department of General Services Office of Small Business Certification and Resources Web site at:

<http://www.pd.dgs.ca.gov/smbus/default>

STANDARD TERMS & CONDITIONS

REQUEST FOR QUOTE

SO NO : RFQ-IS-11260168-1

COMPANY NAME :

Xerox Corporation

BID DUE: 10/25/10 12:00:00 PM

PAGE

9

Local Small Business Enterprise Preference Program

Instructions: All proposers/bidders responding to this solicitation must complete and return this form for proper consideration of the proposal/bid.

In evaluating bids (proposals), the County will give preference to businesses that are certified by the County as a Local Small Business Enterprise (Local SBE), consistent with Chapter 2.204 of the Los Angeles County Code.

For County solicitations which are not federally funded, a certified Local SBE is a business: 1) certified by the State of California as a small business enterprise; 2) having its principal office currently located in Los Angeles County for a period of at least twelve months; and 3) certified by the Office of Affirmative Action Compliance as meeting the requirements set forth in 1 and 2 above. Information about the State's small business enterprise certification regulations is in the California Code of Regulations, Title 2, Subchapter 8, Section 1896 et seq., and is also available on the California Department of General Services Office of Small Business Certification and Resources website at: <http://www.pd-dgs.ca.gov/smbus/default>

Pursuant to the adopted Ordinance No. 2007-0090; amending Chapter 2.204 of the Los Angeles County Code:

For County solicitations which are federally funded and subject to the federal restriction on geographical preferences, a certified small business is a business: 1) self-certified as small using the SBA size standards and industry codes (NAICS) and; 2) registered on the federal Central Contractor Registration (CCR) data base. Information about federal small business registration is available on the CCR website at: <http://www.ccr.gov>. Certified small businesses must request the SBE preference in their solicitation response and may not request the preference unless the certification process has been completed and certification affirmed. The County must verify SBE certification prior to applying the preference. Sanctions and financial penalties may apply to a business that knowingly, and with intent to defraud, seeks to obtain or maintain certification as a certified Local SBE.

To determine whether this solicitation is federally funded, please refer to the SPECIAL TERMS AND CONDITIONS in this solicitation document for clarification:

Xerox Corporation

FIRM NAME:

I AM NOT a Local SBE certified with the County of Los Angeles Office of Affirmative Action Compliance or the federal CCR as of the date of this proposal/bid submission

I AM a Local SBE certified with the County of Los Angeles Office of Affirmative Action Compliance as of the date of this proposal/bid submission and I request this proposal be considered for the Local SBE Preference.

I AM a certified small business with the federal CCR as of the date of this proposal/bid submission and I request this proposal be considered for the Local SBE Preference.

My County (WebVen) Vendor Number is:

039310

My Commercial and Government Entity (CAGE) code is: N/A

STANDARD TERMS & CONDITIONS

REQUEST FOR QUOTE

SO NO : RFQ-IS-11260168-1

COMPANY NAME :

Xerox Corporation

BID DUE: 10/25/10 12:00:00 PM

PAGE

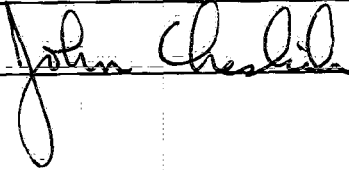
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IV. CERTIFICATION AS MINORITY, WOMEN, DISADVANTAGED, AND DISABLED VETERAN BUSINESS ENTERPRISES:
If your firm is currently certified as a minority, women, disadvantaged or disabled veteran owned business enterprise by a public agency, complete the following and attach a copy of your proof of certification. (Use back of form, if necessary):

N/A

Agency name	Minority	Women	Dis- Advantaged	Disabled Veteran	Expiration Date

V. DECLARATION: I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE ABOVE INFORMATION IS TRUE AND ACCURATE.

Print Authorized Name	Authorized Signature	Title	Date
John Cheslick		Regional Business Manager	10/25/10

STANDARD TERMS & CONDITIONS

REQUEST FOR QUOTE

SO NO : RFQ-IS-11260168-1

COMPANY NAME :

Xerox Corporation

BID DUE: 10/25/10 12:00:00 PM

PAGE

12

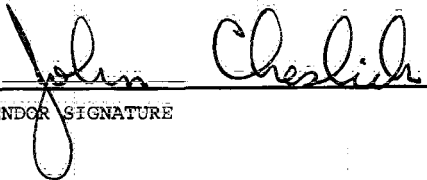
PROHIBITION AGAINST USE OF CHILD LABOR

I hereby certify that, if awarded a Purchase Order or Agreement, bidder shall:

1. Not knowingly sell or supply to COUNTY any products, goods, supplies or other personal property produced or manufactured in violation of child labor standards set by the International Labor Organizations through its 1973 Convention Concerning Minimum Age for Employment.
2. Upon request by COUNTY, identify the country/countries of origin of any products, goods, supplies or other personal property bidder sells or supplies to COUNTY, and
3. Upon request by COUNTY, provide to COUNTY the manufacturer's certification of compliance with all international child labor conventions.

I understand and agree that, if awarded a Purchase Order or Agreement and COUNTY discovers that any products, goods, supplies or other personal property sold or supplied by bidder to COUNTY are produced in violation of any international child labor conventions, bidder shall immediately provide an alternative, compliant source of supply.

I further understand and agree that failure to comply with the foregoing provisions will be grounds for immediate cancellation of the Purchase Order or termination of the Agreement and award to an alternative bidder.



VENDOR SIGNATURE

10/25/10

DATE

STANDARD TERMS & CONDITIONS

REQUEST FOR QUOTE

SO NO : RFQ-IS-11260168-1

COMPANY NAME :

Xerox Corporation

BID DUE: 10/25/10 12:00:00 PM

PAGE

13

LOCKOUT/TAG-OUT PROGRAM FOR MACHINERY OR ELECTRICAL EQUIPMENT

For equipment purchase(s) under this solicitation, Vendor shall be responsible to provide the County with a means to Lockout/Tag-out any machinery or electrical equipment sold to the County in accordance with OSHA regulation, CCR Title 8, Section 3314.

Any Lockout method must utilize a positive means such as 1) a lock, either key or combination type, 2) a hasp or other means of attachment to which, or through which, a lock can be affixed or it has a locking mechanism built into it, in order to hold an energy-isolating device in a safe (locked) position and prevent the energizing, transmission or release of electrical, mechanical, hydraulic, pneumatic, chemical, thermal or other energy from a machine or equipment. Such machinery and equipment includes, but is not limited to: a manually operated electrical switch breaker; a disconnected switch; a manually operated switch by which conductors of a circuit can be disconnected from all underground supply conductors and a line valve. In addition, this would include installing pieces of equipment used in maintenance and service activities, such as pipelines, vessels and/or pressurized tanks to service air, gas, water, steam and/or petrochemical distribution systems.

STANDARD TERMS & CONDITIONS	REQUEST FOR QUOTE SO NO : RFQ-IS-11260168-1	
COMPANY NAME : Xerox Corporation	BID DUE: 10/25/10 12:00:00 PM	PAGE 14

JURY SERVICE PROGRAM

The prospective contract is subject to the requirements of the County's Contractor Employee Jury Service Ordinance ("Jury Service Program") (Los Angeles County Code, Chapter 2.203). Prospective Contractors should carefully read the Jury Service Program which is incorporated by reference into and made a part of this RFP. The Jury Service Program applies to both Contractors and their subcontractors. Proposals that fail to comply with the requirements of the Jury Service Program will be considered non-responsive and excluded from further consideration.

1. The Jury Service Program requires Contractors and their subcontractors to have and adhere to a written policy that provides that its employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service. This policy may provide that employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the employee's regular pay the fees received for jury service. For purposes of the Jury Service program, "employee" means any California resident who is a full-time employee of a Contractor and "full time" means 40 hours or more worked per week, or a lesser number of hours if: 1. the lesser number is a recognized industry standard as determined by the County, or 2. the Contractor has a long-standing practice that defines the lesser number of hours as full time. Therefore, the Jury Service Program applies to all of a Contractor's full-time California employees, even those not working specifically on the County project.
2. There are two ways in which a Contractor might not be subject to the Jury Service Program. The first is if the Contractor does not fall within the Jury Service Program's definition of "Contractor". The Program defines "contractor" to mean a person, partnership, corporation or other entity which has a contract with the County or a subcontract with a County Contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. The second is if the Contractor meets one of the two exceptions to the Jury Service Program. The first exception concerns small businesses and applies to Contractors that have 1) ten or fewer employees; and 2) annual gross revenues in the preceding twelve months which, if added to the annual amount of this contract is less than \$500,000; and 3) is not an "affiliate or subsidiary of a business dominant in its field of operation". The second exception applies to Contractors that possess a collective bargaining agreement that expressly supersedes the provisions of the Jury Service Program. The Contractor is subject to any provision of the Jury Service Program not expressly superseded by the collective bargaining agreement.
3. If a Contractor does not fall within the Jury Service Program's definition of "Contractor" or if it meets any of the exceptions to the Jury Service Program, then the Contractor must so indicate in the Certification Form and Application for Exception and include with its submission all necessary documentation to support the claim such as tax returns or a collective bargaining agreement, if applicable. Upon reviewing the Contractor's application, the County will determine, in its sole discretion, whether the Contractor falls within the definition of Contractor or meets any of the exceptions to the Jury Service Program. The County's decision will be final.

STANDARD TERMS & CONDITIONS	REQUEST FOR QUOTE	
COMPANY NAME : Xerox Corporation	SO NO : RFQ-IS-11260168-1	PAGE 15
BID DUE: 10/25/10 12:00:00 PM		

COUNTY OF LOS ANGELES CONTRACTOR EMPLOYEE JURY SERVICE PROGRAM
APPLICATION FOR EXCEPTION AND CERTIFICATION FORM

The County's solicitation for this Contract/Purchase Order (Request for Proposal or Invitation to Bid) is subject to the County of Los Angeles Contractor Employee Jury Service Program (Program) (Los Angeles County Code, Chapter 2.203). All bidders or proposers whether a contractor or a subcontractor, must complete this form to either 1) request an exception from the Program requirements or 2) certify compliance. Upon review of the submitted form, the County's Department will determine, in its sole discretion, whether the bidder or proposer is excepted from the program.

Company Name: <u>Xerox Corporation</u>			
Company Address: <u>700 S. Flower Street, Suite 700</u>			
City: <u>Los Angeles</u>	State: <u>CA</u>	Zip: <u>90017</u>	
Telephone Number: <u>(213) 614-0247</u>			
Solicitation for (Type of Goods or Services): <u>Fleet Copiers</u>			

If you believe the Jury Service Program does not apply to your business, check the appropriate box in part I (attach documentation to support your claim); or, complete Part II to certify compliance with the Program. Whether you complete Part I or Part II, please sign and date this form below.

Part I: Jury Service Program is Not Applicable to My Business

My Business does not meet the definition of "Contractor", as defined in the Program as it has not received an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts (this exception is not available if the contract/purchase order itself will exceed \$50,000 in any 12 month period). I understand that the exception will be lost and I must comply with the Program if my revenues from the County exceed an aggregate sum of \$50,000 in any 12-month period.

My business is a small business as defined in the Program. It 1) has ten or fewer employees; and 2) has annual gross revenues in the preceding twelve months which, if added to the annual amount of this contract, are \$500,000 or less; and 3) is not an affiliate or subsidiary of a business dominant in its field of operation, as defined below. I understand that the exemption will be lost and I must comply with the Program if the number of employees in my business and my gross annual revenues exceed the above limits.

"Dominant in its field of operation" means having more than ten employees, including full-time and part-time employees, and annual gross revenues in the preceding twelve months, which, if added to the annual amount of the Contract awarded, exceed \$500,000.

"Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a business dominant in its field of operations, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.

My business is subject to a Collective Bargaining Agreement (attach agreement) that expressly provides that it supersedes all provisions of the Program.

OR

STANDARD TERMS & CONDITIONS

REQUEST FOR QUOTE

SO NO : RFQ-IS-11260168-1

COMPANY NAME :

Xerox Corporation

BID DUE: 10/25/10 12:00:00 PM

PAGE

16

Part II: Certification of Compliance

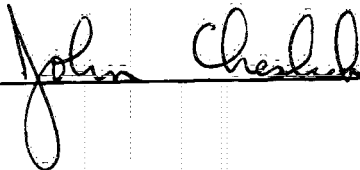
My Business has and adheres to a written policy that provides, on an annual basis, no less than five days of regular pay for actual jury service for full-time employees of the business who are also California residents; or my company will have and adhere to such a policy prior to award of the contract:

I declare under penalty of perjury under the laws of the State of California that the information stated above is true and correct.

Print Name: John Cheslick

Title: Regional Business Manager

Signature :



Date :

~~10/25/10~~ 10/25/10

STANDARD TERMS & CONDITIONS

REQUEST FOR QUOTE

SO NO : RFQ-IS-11260168-1

COMPANY NAME :

Xerox Corporation

BID DUE: 10/25/10 12:00:00 PM

PAGE

17

PRICES SPECIFIC CONTRACTS AND PURCHASE ORDERS

Vendors are entitled to receive payment for goods received by, or services provided to the County specific to the Contract or Purchase Order price amount. Under no circumstances will those Suppliers, Contractors or Vendors who supply goods or otherwise contract services with the County of Los Angeles be entitled to or paid for expenditures beyond the Contract or Purchase Order amounts.

ASSIGNMENTS BY CONTRACTOR

- A. Contractor shall not assign its rights or delegate its duties under the Agreement, or both whether in whole or in part, without the prior written consent of County, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this paragraph, County consent shall require a written amendment to the Agreement, which is formally approved and executed by the parties. Any payments by County to any approved delegate or assignee on any claim under the Agreement shall be deductible, at County's sole discretion, against the claims which Contractor may have against County.
- B. Shareholders, partners, members, or other equity holders of Contractor may transfer, sell exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Agreement, such disposition is an assignment requiring the prior written consent of County in accordance with applicable provisions of this Agreement.
- C. Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without County's express prior written approval, shall be a material breach of the Agreement which may result in the termination of the Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

SAFELY SURRENDERED BABY LAW

The Contractor shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is available on the internet at www.babysafela.org for printing purposes.

CONTRACTOR'S EXCLUSION FROM PARTICIPATION IN A FEDERALLY FUNDED PROGRAM.

Contractor hereby warrants that neither it nor any of its staff members is restricted or excluded from providing services under any health care program funded by the Federal Government, directly or indirectly, in whole or in part, and the Contractor will notify the Buyer within thirty (30) calendar days in writing of: 1) any event that would require Contractor or a staff member's mandatory exclusion from participation in a Federally funded health care program; and 2) any exclusionary action taken by any agency of the Federal Government against Contractor or one or more staff members barring it or the staff members from participation in a Federally funded health care program, whether such bar is direct or indirect, or whether such bar is in whole or in part.

Contractor shall indemnify and hold County harmless against any and all loss or damage Contractor may suffer arising from any Federal exclusion of Contractor or its staff members from such participation in a Federally funded health care program. Failure by Contractor to meet the requirements of this paragraph shall constitute a material breach of contract upon which County may immediately terminate or suspend this Agreement.

Is Contractor/Proposer or any of its staff members currently barred from participation in any Federally funded health care program?

NO, Contractor or any of its staff members is not currently barred from participation in any Federally funded health care program.

YES, Contractor or any of its staff members is currently barred from participation in any Federally funded health care program. Describe the particulars in detail below:

STANDARD TERMS & CONDITIONS

REQUEST FOR QUOTE

SO NO : RFQ-IS-11260168-1

COMPANY NAME :

Xerox Corporation

BID DUE: 10/25/10 12:00:00 PM

PAGE

18

"NOTIFICATION TO COUNTY OF PENDING ACQUISITIONS/MERGERS BY PROPOSING/BIDDING COMPANY"

The vendor shall notify the County of any pending acquisitions/mergers of their company. This information shall be provided by the Vendor on Required Form - Exhibit - Proposer's Organization Questionnaire/Affidavit. Failure of the Vendor to provide the information may eliminate its proposal/bid from any further consideration.

RESPONSIBLE DEPARTMENT

Chief Administrative Office

Chief Information Office

County Counsel

DATE ISSUED / SUNSET DATE

Issue Date: December 13, 2005

Sunset Date: December 13, 2009

STANDARD TERMS & CONDITIONS

REQUEST FOR QUOTE

SO NO : RFQ-IS-11260168-1

COMPANY NAME :
Xerox Corporation

BID DUE: 10/25/10 12:00:00 PM

PAGE
19

REQUIRED FORMS - EXHIBIT

PROPOSER'S ORGANIZATION QUESTIONNAIRE/AFFIDAVIT

Page 1 of 2

Please complete, date and sign this form and place it as the first page of your proposal. The person signing the form must be authorized to sign on behalf of the Proposer and to bind the applicant in a Contract.

1. If your firm is a corporation, state its legal name (as found in your Articles of Incorporation) and State of Incorporation:

Xerox Corporation

Delaware

1961

NAME

STATE

YEAR INC.

2. If your firm is a partnership or a sole proprietorship, state the name of the proprietor or managing partner.

N/A

3. If your firm is doing business under one or more DBA's; please list all DBA's and the County(s) of registration.

Name

County of Registration

Year became DBA

N/A

4. Is your firm wholly or majority owned by, or a subsidiary of, another firm? No If yes,

Name of parent firm: _____

State of incorporation or registration of parent firm: _____

5. Please list any other names your firm has done business as within the last five (5) years:

Name

Year of Name Change

N/A

6. Indicate if your firm is involved in any pending acquisition/merger, including the associated company name. If not applicable, so indicate below:

N/A

STANDARD TERMS & CONDITIONS

REQUEST FOR QUOTE

SO NO : RFQ-IS-11260168-1

COMPANY NAME :

Xerox Corporation

BID DUE: 10/25/10 12:00:00 PM

PAGE

20

Page 2 of 2

Proposer acknowledges and certifies that it meets and will comply with all of the Minimum Mandatory Requirements listed - Minimum Mandatory Requirements of this Request for Proposal, as listed below.

List each minimum requirement

Check the appropriate box below:

YES NO _____ years experience, within the last _____ years

YES NO Willingness to consider hiring GAIN/GROW participant

YES NO Complies with the County's Child Support Compliance

YES NO Certifies intent to comply with County's Jury Service Program

YES NO Declares intent to comply with County's Living Wage Program

Proposer further acknowledges that if any false, misleading, incomplete, or deceptively unresponsive statements in connection with this proposal are made, the proposal may be rejected. The evaluation and determination in this area shall be at the Director's sole judgement and his/her judgment shall be final.

Proposer's Name:

Xerox Corporation

Address:

700 S. Flower Street, Suite 700

Los Angeles, CA 90017

E-mail: john.cheslick@xerox.com Telephone Number: 310-333-4100

Fax number: 213-614-0371

On behalf of Xerox Corporation (Proposer's name), I, John Cheslick (Name of Proposer's authorized representative), certify that the information contain in this Proposer's Organization Questionnaire/Affidavit is true and correct to the best of my information and belief.

Signature

Regional Business Manager

Title

10/25/10

Date

16-0468020

Internal Revenue Service

Employer Identification Number

SRZ OHB 98040852 00093AB

California Business License Number

039310

County Vendor Number

STANDARD TERMS & CONDITIONS

REQUEST FOR QUOTE

SO NO : RFQ-IS-11260168-1

COMPANY NAME :
Xerox Corporation

BID DUE: 10/25/10 12:00:00 PM

PAGE
21

OFF-PEAK (HOURS) - DELIVERY OF COMMODITIES

It is the policy of the Los Angeles County Board of Supervisors that County departments promote off-peak deliveries and pickup of all commodities by County Vendors between the hours of 9:00 a.m. and 3:30 p.m., Monday through Friday, during regularly scheduled County business days. The purpose of this policy is to reduce vehicle trips and vehicle emissions during the morning and afternoon commute periods. For purposes of the Board Policy, the trip shall be deemed to be compliant if the actual time of delivery provides for arrival at the County facility or location on or after 9:00 a.m. and the delivery or pickup is initiated at the County facility or location on or before 3:30 p.m..

Noncompliance with this policy may result in cancellation of a Purchase Order or termination of contract and/or agreement between the County and the awarded Vendor.

Unless otherwise instructed by authorized County department personnel, vendors shall be required to confer with County departments to schedule, as appropriate, regularly planned trips to County facilities for deliveries and/or pickup of commodities within the designated off-peak periods; County departments co-located at facilities that are serviced by the same Vendor shall make every effort to coordinate off-peak deliveries and pickups between the Vendor and other County departments at the facility.

Emergency, special orders, and other non-conforming deliveries and pickups specifically requested by County departments shall not constitute a violation of the Board Policy. In addition, circumstances documented by the Vendor to the satisfaction of the affected County department that are outside of the control of the Vendor that preclude adherence to the Board Policy shall not constitute a violation of the Board Policy.

If circumstances related to department operations preclude regularly scheduled deliveries between the hours of 9:00 a.m. and 3:30 p.m., Monday through Friday, the department shall notify the Vendor of any exception(s) allowable under the Board Policy. If such circumstances are permanent in nature, the department shall notify the Chief Administrative Office and ISD of their intent to exclude the affected contract(s) and/or commodities from the provisions of the Board Policy.

County departments doing business with non-commodity or service-related vendors that schedule regular trips to County facilities shall, to the extent feasible and appropriate, encourage such vendors to schedule such trips to their facilities between the hours of 9:00 a.m. and 3:30 p.m., Monday through Friday, during regularly schedule business days.

By signature below, vendor acknowledges receipt and understanding of this Board Policy, and agrees to adhere to above requirements regarding Off-Peak Delivery of Commodities.

Xerox Corporation

Vendor's Company

700 S Flower Street #700 Los Angeles, CA 90017

Address

City

State & Zip Code

John Cheslick

10/25/10

Printed Name

Signature

Date

PROTEST POLICY FOR GOODS AND SERVICES SOLICITED BY THE COUNTY PURCHASING AGENT

General Authority

The County Purchasing Agent maintains the exclusive authority and responsibility to purchase and rent all materials, supplies and equipment, furnishings, fixtures and all other personal property for use by departments, districts or agencies of Los Angeles County who are governed by the Los Angeles County Board of Supervisors.

STANDARD TERMS & CONDITIONS	REQUEST FOR QUOTE SO NO : RFQ-IS-11260168-1	
COMPANY NAME : Xerox Corporation	BID DUE: 10/25/10 12:00:00 PM	PAGE 22

Acquisition of supplies and equipment are made by the Purchasing Agent pursuant to:

- Government Code 25501, et seq.;
- Codified Ordinance of County of Los Angeles, Title 2, Chapter 2.81; and
- Section 24 of the County Charter.

With limited exceptions, solicitations conducted under the statutory authority of the Purchasing Agent are price-based with the resultant award being made to the lowest, responsible bidder that fully meets and complies with all of the specifications and requirements of the solicitation.

The Purchasing Agent or his/her designee shall be responsible for the review and disposition of any protest of a bid solicitation conducted under the statutory authority of the County Purchasing Agent.

Review of Solicitation Requirements and Specifications

A Vendor may seek a review of the solicitation requirements and/or specifications by written request to the Buyer conducting the solicitation provided that the written request is received prior to the closing date of the solicitation.

This request must itemize, in appropriate detail, each matter contested and a factual reason(s) for the requested review (e.g., specifications were too narrow and limited competition with supporting details, etc.).

The Purchasing Agent will provide a written response to the requesting Vendor(s).

Bid Protests

In accordance with County Purchasing Policy M-1100, Bid/Vendor Protest, participant vendors may request a review of any bid specifications at the time of the bid posting and/or before the closing date. Additionally, participant vendors may protest any award within three (3) business days after the "Notice of Intent to Award" is posted on the County's bid website. These protest procedures are as follows:

Upon a determination of vendor selection from a bid process, the Purchasing Agent will post a "Notice of Intent to Award" on the County's bid website, and notify all solicitation participants of the intended award via email.

1. Non-selected vendors will have three (3) business days, from the date the notice is posted, to file a formal bid protest with the Purchasing and Contracts Analyst (Buyer) that conducted the solicitation.
2. The bid protest, which must be received by the Buyer within the three (3) day period, shall be in writing, and include the specific facts, circumstances, reasons and/or basis for the protest. This written notice may be in the form of a letter, fax or email.
3. Bid protests must be filed prior to the award of contract or purchase order. Upon execution of the contract or purchase order to the selected vendor, the Purchase Agent will not take action on a bid protest; however, a written response will be provided to the protesting vendor.
4. If a vendor bid protest is appropriately filed (i.e., prior to the award), the Purchasing Agent may delay the award of contract or purchase order until the matter is resolved.

There are, however, situations where the delay of an award may not be in the best interest of the County due to emergency and/or time critical acquisitions such as at the end of the County's fiscal year. In these instances, the County has no obligation to delay or otherwise postpone an award of a purchase order or contract based on a vendor protest.

5. In all cases, the County Purchasing Agent reserves the right to make an award when it is determined to be in the best interest of the County of Los Angeles to do so.
6. The Purchasing Agent will respond to all bid protests in a timely manner.
7. The Purchasing Agent may refer a protest of a technical nature to the requisitioning County department for further clarification, and will prepare a letter to the protesting vendor, advising them of the pending action(s), and when a formal response can be expected.

STANDARD TERMS & CONDITIONS

REQUEST FOR QUOTE

SO NO : RFQ-IS-11260168-1

COMPANY NAME :
Xerox Corporation

BID DUE: 10/25/10 12:00:00 PM

PAGE
23

Transitional Job Opportunities Preference Program


In evaluating bids (proposals), the County will give preference to businesses that are certified by the County as Transitional Job Opportunity vendors, consistent with Chapter 2.205 of the Los Angeles County Code. The preference only applies to solicitations where Transitional Job Opportunity participants will be employed for the services solicited. A Certified Transitional Job Opportunity vendor is, and has been such for three (3) years; an entity that is a non-profit organization recognized as tax exempt pursuant to section 501 (c) (3) of the Internal Revenue Services Code; set forth, under penalty of perjury, such information as requested by the County on either electronic or hard copy forms, along with their application form and three most recent annual tax returns to the department with their bid response to the purchasing or contracting solicitation for which they are competing; has been in operation for at least one year providing transitional job and the related supportive services to program participants; and provided a profile of their program a description of their program components designed to assist program participants, number of past program participants, and any other information requested by a contracting department. Transitional Job Opportunities vendors must request the preference in their solicitation responses and may not receive the preference until their certification has been affirmed by the applicable department. County must verify the Transitional Job Opportunity vendor certification prior to applying the preference. Sanctions and financial penalties may apply to a vendor that knowingly and with intent to defraud seeks to obtain or maintain certification as a Transitional Job Opportunity vendor.

If Contractor has obtained County certification as a Transitional Job Opportunity vendor by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this contract to which it would not otherwise have been entitled, shall:

1. Pay to the County any difference between the contract amount and what the County's costs would have been if the contract had been properly awarded;
2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than 10 percent (10%) of the amount of the contract; and
3. Be subject to the provisions of Chapter 2:202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment):

The above penalties shall also apply to any entity that has previously obtained proper certification; however, as a result of a change in their status would no longer be eligible for certification; and fails to notify the certifying department of this information prior to responding to a solicitation or accepting a contract award.

In accordance with the above stated criteria, I certify that I am a Transitional Job Opportunity Vendor and I am claiming the preference on this solicitation. I further certify that Transitional Job Opportunity participants will be used for the services that are being solicited by the County in this solicitation.

STANDARD TERMS & CONDITIONS		REQUEST FOR QUOTE SO NO : RFQ-IS-11260168-1
COMPANY NAME : Xerox Corporation	BID DUE: 10/25/10 12:00:00 PM	
PAGE 24		
<p>DEFAULTED PROPERTY TAX REDUCTION PROGRAM</p> <p>The prospective contract is subject to the requirements of the County's Defaulted Property Tax Reduction Program ("Defaulted Tax Program"): Prospective Bidder/Proposer/Contractor should carefully read the Defaulted Tax Program Ordinance which may be found in Los Angeles County Code, Title 2. Administration, Chapter 2.206 at http://ordlink.com/codes/lacounty/index.htm</p> <p>which is incorporated by reference into and made a part of this solicitation. The Defaulted Tax Program applies to both Contractors and their subcontractors.</p> <p>Each Bidder/Proposer/Contractor shall be required to certify that it is in full compliance with the provisions of the Defaulted Tax Program and shall maintain compliance during the term of any contract that may be awarded pursuant to this solicitation or shall certify that it is exempt from the Defaulted Tax Program. Failure to maintain compliance, or to timely cure defects, may be cause for termination of a contract or initiation of debarment proceedings against the non-compliant contractor (Los Angeles County Code, Chapter 2.202).</p> <p>Bids/Proposals that fail to comply with the certification requirements of the Defaulted Tax Program will be considered non-responsive and excluded from further consideration.</p> <p>The Proposer/Bidder/Contractor certifies that:</p> <p><input checked="" type="checkbox"/> It is familiar with the terms of the County of Los Angeles Defaulted Property Tax Reduction Program, Los Angeles County Code Chapter 2.206;</p> <p><input checked="" type="checkbox"/> To the best of its knowledge, after a reasonable inquiry, the Proposer/Bidder/Contractor is not in default, as that term is defined in Los Angeles County Code Section 2.206.020.E, on any Los Angeles County property tax obligation; and</p> <p><input checked="" type="checkbox"/> The Proposer/Bidder/Contractor agrees to comply with the County's Defaulted Property Tax Reduction Program during the term of any awarded contract.</p> <p style="text-align: center;">- OR -</p> <p><input type="checkbox"/> I am exempt from the County of Los Angeles Defaulted Property Tax Reduction Program, pursuant to Los Angeles County Code Section 2.206.060, for the following reason:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>I declare under penalty of perjury under the laws of the State of California that the information stated above is true and correct.</p>		
COMPANY NAME: Xerox Corporation		
PRINT NAME: John Cheslick	TITLE: Regional Business Manager	
SIGNATURE: 	DATE: 10/25/10	

STANDARD TERMS & CONDITIONS

REQUEST FOR QUOTE

SO NO : RFQ-IS-11260168-1

COMPANY NAME :

Xerox Corporation

BID DUE: 10/25/10 12:00:00 PM

PAGE

25

SUBCONTRACTING

The County of Los Angeles provides Small Business Enterprises an equal opportunity to compete for County Awards for commodities and services. Bidders shall assist the County in providing these opportunities to Small Business Enterprises by making good efforts to reach out to Small Business Enterprises to compete in County Awards.

BID SUBMITTAL

Bidders shall submit with their bid, the **SBE Subcontractor Information Form @ <http://goingbusiness.lacounty.gov/SBESubcontractorInformationForm.PDF>**. Bidder shall complete this form in its entirety. Bidder shall list itself, the names and addresses of all firms to be used with a complete description of work supplies to be completed, provided by each subcontractor and the estimated dollar value.

REPORTING

The **Final Report of Subcontracting Form @ <http://goingbusiness.lacounty.gov/FinalReportofSubcontractingForm.PDF>** a summary report of subcontractors work/supplies, shall be submitted at the completion of the award.

Upon Completion of a Purchase Order, Vendor shall submit the **Final Report of Subcontracting and Purchases Form** within fifteen (15) working days.

If the award is a one year or more agreement, the **Final Report of Subcontracting and Purchases Form** shall be submitted on a quarterly basis.

The form shall be certified correct and accurate by signature of the bidder or its authorized representative.

The **Final Report of Subcontracting and Purchases Form** shall be submitted to the Office of Small Business at:

Debbie Cabreira-Johnson
Office of Small Business
1100 N Eastern Ave Room G115
Los Angeles, CA 90063
DCabreira@isd.lacounty.gov

SPECIAL TERMS & CONDITIONS

REQUEST FOR QUOTE

SO NO : RFQ-IS-11260168-1

COMPANY NAME :

Xerox Corporation

BID DUE: 10/25/10 12:00:00 PM

PAGE

26

ATTENTION: THIS IS A QUICK BID - PLEASE NOTE CLOSING DATE:

NOTE: UNLESS OTHERWISE QUALIFIED, INSTRUCTIONS AND CONDITIONS (LAST PAGE OF INVITATION FOR BID) IS CHANGED TO READ: QUOTATIONS ARE SUBJECT TO ACCEPTANCE AT ANY TIME WITHIN NINETY (90) CALENDAR DAYS AFTER OPENING.

BIDDERS ARE REQUIRED TO FURNISH THE SERIAL NUMBER OF YOUR CALIFORNIA RETAILER'S PERMIT TO ENGAGE IN BUSINESS AS A SELER IN CALIFORNIA OR YOUR RETAILER'S CERTIFICATE OF REGISTRATION-USE TAX. FAILURE TO FURNISH SAME WILL PREVENT THE COUNTY OF LOS ANGELES FROM PAYING SALES/USE TAX TO YOUR COMPANY. DO NOT INCLUDE SALES/USE TAX ON ANY INVOICE IF YOU DO NOT FURNISH ONE OF THE FOLLOWING:
 RETAILER'S PERMIT # **SRZ OHB 98040852 00093AB**
 CERTIFICATE OF REGISTRATION # **N/A**
 IF YOU ARE UNCERTAIN AS TO WHETHER YOU HAVE SUCH A NUMBER OR HAVE ANY QUESTIONS, PLEASE CONTACT THE CALIFORNIA STATE BOARD OF EQUALIZATION.

QUOTATIONS ARE REQUESTED FOR OUR REQUIREMENTS AS LISTED HEREIN, FURNISHED AS NEEDED THROUGH DECEMBER 31, 2013, RENEWABLE FOR ADDITIONAL 24-MONTH PERIODS BY MUTUAL CONSENT. PRICES TO BECOME EFFECTIVE AS OF NOTICE OF AWARD.

QUOTE PRICE PER UNIT INDICATED ON EACH ITEM F.O.B. DESTINATION.

QUOTE F.O.B. DELIVERED.

FREIGHT PREPAID AND ALLOWED

VENDOR: PAYS FREIGHT COST, OWN TITLE IN TRANSIT; FILE CLAIM(S)
 COUNTY: TAKES OWNERSHIP AT DESTINATION

PRODUCTS PURCHASED AS A RESULT OF THIS REQUEST FOR QUOTATION ARE TO BE SUPPLIED AS OFFERED AND ACCEPTED WITHOUT SUBSTITUTION OF MATERIAL OR STYLE.

COSTS INCURRED BY THE COUNTY OF LOS ANGELES FOR INTERNAL ACTIVITIES REQUIRED TO RECALL AND REPLACE AN UNAUTHORIZED SUBSTITUTE WILL BE DOCUMENTED AND APPLIED TO THE ACCOUNT OF THE SUPPLIER.

UNLESS OTHERWISE QUALIFIED, BIDDER AGREES, FOR THE PERIOD OF ANY AGREEMENT FORMULATED FROM THIS INQUIRY, THAT PRICES QUOTED ARE MAXIMUM.

IF MANUFACTURER'S PRICE LIST OR DISCOUNT STRUCTURE CHANGES, VENDOR SHALL NOTIFY THE COUNTY OF LOS ANGELES PURCHASING DEPARTMENT IN WRITING IMMEDIATELY, IDENTIFYING AGREEMENT BY NUMBER, FURNISHING 2 COPIES OF NEW LIST AND/OR ACCEPTABLE EVIDENCE OF CHANGE IN MANUFACTURER'S DISCOUNT STRUCTURE. IT SHALL BE VENDORS RESPONSIBILITY TO KEEP THE COUNTY OF LOS ANGELES INFORMED OF CHANGES:

IF PRICES DECLINE, OR SHOULD VENDOR AT ANY TIME DURING THE LIFE OF SAID AGREEMENT SELL THE SAME MATERIALS OR SERVICE UNDER SIMILAR QUANTITY AND DELIVERY CONDITIONS TO THE STATE OF CALIFORNIA, OR ANY COUNTY, MUNICIPALITY OR LEGAL DISTRICT OF THE STATE OF CALIFORNIA AT PRICES BELOW THOSE QUOTED HEREIN, SUCH LOWER PRICES SHALL BE IMMEDIATELY EXTENDED TO THE COUNTY OF LOS ANGELES.

EQUIPMENT OFFERED MUST BE NEW, UNUSED, CURRENT MODELS.

SPECIFICATIONS OF EQUIPMENT DESCRIBED HAVE BEEN DEEMED ADEQUATE TO SATISFY THE PERFORMANCE REQUIREMENTS OF THE REQUISITIONING DEPARTMENT. THE COUNTY OF LOS ANGELES RESERVES THE RIGHT TO MAKE AN AWARD ON EQUIPMENT WHICH MEETS FUNCTIONAL NEEDS AND IS SUITABLE FOR THE SERVICE REQUIRED:

PRE-PRINTED TERMS AND CONDITIONS/BIDDERS CONTRACT DOCUMENTS BIDDERS PRE-PRINTED TERMS AND CONDITIONS OR RESTRICTIONS COMMONLY APPEARING ON THE REVERSE SIDE OF LETTERS SUBMITTED WITH THE BID AND/OR BIDDERS SPECIFICATIONS MATERIAL AND CONTRACT DOCUMENTS WILL BE DISREGARDED IN THE ABSENCE OF A POSITIVE WRITTEN STATEMENT FROM BIDDER THAT ALL OR A PARTICULAR PORTION OF SUCH WRITINGS ARE IN

SPECIAL TERMS & CONDITIONS

REQUEST FOR QUOTE

SO NO : RFQ-IS-11260168-1

COMPANY NAME :

Xerox Corporation

BID DUE: 10/25/10 12:00:00 PM

PAGE

27

ADDITION TO OR SUPERSEDE THE COUNTY TERMS AND CONDITIONS.

PARTICIPATING PUBLIC AGENCIES

COUNTY AND AWARDED BIDDER/PROPOSER OF THIS SOLICITATION MAY ALLOW OTHER GOVERNMENTAL ENTITIES, INCLUDING BUT NOT LIMITED TO: STATES, COUNTIES, CITIES, SPECIAL DISTRICTS, POLITICAL SUBDIVISIONS, SCHOOL DISTRICTS, HIGHER EDUCATION, AND OTHER MUNICIPALITIES (PARTICIPATING PUBLIC AGENCIES) TO PURCHASE PRODUCTS OR SERVICES FROM ANY AGREEMENT RESULTING FROM THIS SOLICITATION ON THE SAME TERMS, CONDITIONS AND PRICING AS THE COUNTY, SUBJECT TO ANY APPLICABLE LOCAL PURCHASING ORDINANCES AND THE LAWS OF THE STATE OF PURCHASE.

THE COUNTY SHALL NOT BE CONSTRUED AS A DEALER, RE-MARKETER, REPRESENTATIVE, PARTNER OR AGENT OF ANY TYPE OF ANY BIDDER/PROPOSER THAT MAY BE AWARDED ANY AGREEMENT RESULTING FROM THIS SOLICITATION. PARTICIPATING PUBLIC AGENCIES SHALL BE RESPONSIBLE FOR THE ORDERING OF PRODUCTS UNDER ANY AGREEMENT RESULTING FROM THIS SOLICITATION. PAYMENT FOR PRODUCTS OR SERVICES AND INSPECTIONS AND ACCEPTANCE OF PRODUCTS OR SERVICES ORDERED BY A PARTICIPATING PUBLIC AGENCY SHALL BE THE EXCLUSIVE OBLIGATION OF SUCH PROCURING PARTY.

THE COUNTY SHALL NOT BE OBLIGATED, LIABLE OR RESPONSIBLE FOR ANY ORDER MADE BY ANY PARTICIPATING PUBLIC AGENCY OR ANY EMPLOYEE THEREOF FOR ANY PAYMENT REQUIRED TO BE MADE WITH RESPECT TO SUCH ORDER; AND THAT ANY DISPUTES BETWEEN A PARTICIPATING PUBLIC AGENCY AND BIDDER/PROPOSER THAT MAY BE AWARDED ANY AGREEMENT RESULTING FROM THIS SOLICITATION ARE NOT THE RESPONSIBILITY OF THE COUNTY. THE EXERCISE OF ANY RIGHTS OR REMEDIES BY THE PARTICIPATING PUBLIC AGENCY OR AWARDED BIDDER/PROPOSER SHALL BE THE EXCLUSIVE OBLIGATION OF SUCH PARTY.

THE COUNTY MAKES NO REPRESENTATION OR GUARANTY WITH RESPECT TO ANY MINIMUM PURCHASES BY THE COUNTY OR ANY PARTICIPATING PUBLIC AGENCY OR ANY EMPLOYEE THEREOF UNDER ANY AGREEMENT RESULTING FROM THIS SOLICITATION.

DO YOU AGREE TO THE AFOREMENTIONED? YES NO

UTILIZATION RECAPITULATION REPORT:

120 DAYS PRIOR TO TERMINATION OF ANY AGREEMENT FORMULATED AS A RESULT OF THIS INVITATION FOR BID, VENDOR SHALL FURNISH THE COUNTY OF LOS ANGELES WITH A LIST SHOWING THE AMOUNT OF EACH ITEM DELIVERED. THIS LIST SHALL BE BY INDIVIDUAL ITEM AND SHALL SHOW THE TOTAL DELIVERED TO COUNTY OF LOS ANGELES DURING THE PRIOR YEAR OR PORTION THEREOF. IN ADDITION, A TOTAL DOLLAR VALUE SOLD TO ALL PARTICIPATING AGENCIES DURING THE SAME PERIOD SHALL BE FURNISHED.

RETURN OF GOODS RECEIVED:

IN BIDDING, YOU AGREE TO ACCEPT FOR CREDIT ANY MERCHANDISE RETURNED IN GOOD CONDITION WITHIN FIVE DAYS AFTER RECEIPT OF GOODS WITHOUT ANY HANDLING CHARGES; HOWEVER, NO RETURN SHALL BE MADE OF ANY MATERIAL WHICH HAS BEEN PUT INTO OPERATION OTHER THAN FOR TEST. WHEN PRODUCTS DELIVERED FAIL TO MEET SPECIFICATION, COST OF INSPECTION SHALL BE FOR ACCOUNT OF VENDOR.

THE COUNTY OF LOS ANGELES RESERVES THE RIGHT TO CANCEL ANY AGREEMENT FORMULATED FROM THIS INQUIRY IF DELIVERY OR SERVICES PROVE UNSATISFACTORY (DEFAULT) AND MAY PROCURE THE ARTICLES OR SERVICES FROM OTHER SOURCES AND MAY DEDUCT FROM UNPAID BALANCE DUE THE VENDOR AND/OR MAY COLLECT AGAINST THE BOND OR SURETY FOR EXCESS COSTS SO PAID. THE PRICES PAID BY THE COUNTY OF LOS ANGELES SHALL BE CONSIDERED THE PREVAILING MARKET PRICE AT THE TIME SUCH PURCHASE IS MADE. THE COUNTY OF LOS ANGELES SHALL BE SOLE JUDGE AS TO SATISFACTORY PERFORMANCE.

COUNTY RESERVES THE RIGHT TO AUDIT AND EXAMINE VENDOR'S BOOKS AND RECORDS RELATING TO ANY ACTIVITY PERTINENT TO ANY SUBSEQUENT PURCHASE ORDER OR ANY RESULTANT AGREEMENT. VENDOR SHALL, AT ITS EXPENSE, PROVIDE COUNTY REQUESTED MATERIALS AT THE TIME AND LOCATION DESIGNATED BY COUNTY.

THIS PROVISION SHALL SURVIVE TERMINATION OR EXPIRATION OF ANY PURCHASE ORDER OR THE APPLICABLE AGREEMENT FOR A PERIOD OF FOUR (4) YEARS FROM SUCH DATE.

CAL/OSHA - STATEMENT OF COMPLIANCE

SPECIAL TERMS & CONDITIONS	REQUEST FOR QUOTE SO NO : RFQ-IS-11260168-1	
COMPANY NAME : Xerox Corporation	BID DUE: 10/25/10 12:00:00 PM	PAGE 28

THE ITEMS SHOWN HEREIN MUST MEET ALL APPLICABLE LOCAL, STATE AND FEDERAL STATUTES, REGULATIONS, CODES, ETC., INCLUDING BUT NOT LIMITED TO CAL/OSHA REQUIREMENTS AS SET FORTH IN THE CALIFORNIA ADMINISTRATIVE CODE, TITLE 8, CHAPTER 4. SUBMISSION OF A BID CONSTITUTES THE REPRESENTATION OF THE VENDOR THAT ALL ITEMS MEET OR EXCEED ALL SUCH APPLICABLE LAWS, STATUTES, CODES, ETC., AND THAT THE DETERMINATION THAT ANY ITEM DOES NOT DO SO SHALL BE GROUNDS, AT THE OPTION OF THE PURCHASING AGENT, TO TERMINATE OR RESCIND THE AGREEMENT, PURCHASE OR LEASE, AND ENTITLE THE COUNTY TO ANY DAMAGES SUFFERED BY REASON THEREOF. THE USE OF BRAND NAMES IN THIS INVITATION FOR BID IS FOR VENDOR INFORMATION ONLY AND DOES NOT SIGNIFY COMPLIANCE WITH THE ABOVE CODES AND REGULATIONS.

DAMAGE TO BUILDINGS, APPURTENANCES AND FURNISHINGS MUST BE AVOIDED. DAMAGE CAUSED BY CONTRACTOR'S OPERATIONS SHALL BE REPAIRED, AS DIRECTED, AT NO COST TO THE COUNTY OF LOS ANGELES.

INSURANCE COVERAGE REQUIREMENTS;
GENERAL LIABILITY: INSURANCE (WRITTEN ON ISO POLICY FORM CG 00 01 OR ITS EQUIVALENT) WITH LIMITS OF NOT LESS THAN THE FOLLOWING:
GENERAL AGGREGATE: \$2 MILLION
PRODUCTS/COMPLETED OPERATIONS AGGREGATE: \$1 MILLION
PERSONAL AND ADVERTISING INJURY: \$1 MILLION
EACH OCCURENCE: \$1 MILLION

AUTOMOBILE LIABILITY: INSURANCE (WRITTEN ON ISO POLICY FORM CA 00 01 OR ITS EQUIVALENT) WITH A LIMIT OF LIABILITY OF NOT LESS THAN \$1 MILLION FOR EACH ACCIDENT. SUCH INSURANCE SHALL INCLUDE COVERAGE FOR ALL 'OWNED' 'HIRED' AND 'NON-OWNED' VEHICLES, OR COVERAGE FOR 'ANY AUTO'.

WORKERS COMPENSATION AND EMPLOYERS' LIABILITY: INSURANCE PROVIDING WORKERS COMPENSATION BENEFITS, AS REQUIRED BY THE LABOR CODE OF THE STATE OF CALIFORNIA OR BY ANY OTHER STATE, AND FOR WHICH CONTRACTOR IS RESPONSIBLE. IF CONTRACTOR'S EMPLOYEES WILL BE ENGAGED IN MARITIME EMPLOYMENT, COVERAGE SHALL PROVIDE WORKERS COMPENSATION BENEFITS AS REQUIRED BY THE U.S. LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT, JONES ACT OR ANY OTHER FEDERAL LAW FOR WHICH CONTRACTOR IS RESPONSIBLE:
IN ALL CASES, THE ABOVE INSURANCE ALSO SHALL INCLUDE EMPLOYERS' LIABILITY COVERAGE WITH LIMITS OF NOT LESS THAN THE FOLLOWING:
EACH ACCIDENT: \$1 MILLION
DISEASE - POLICY LIMIT: \$1 MILLION
DISEASE - EACH EMPLOYEE: \$1 MILLION

ALL PACKAGES OF HAZARDOUS MATERIALS MUST BE CLEARLY MARKED WITH THE PROPER SHIPPING NAME AND IDENTIFICATION NUMBER AS REQUIRED BY DEPARTMENT OF TRANSPORTATION TITLE 49, SECTION 172.30L.

SUCCESSFUL BIDDERS WILL BE REQUIRED TO MAIL MATERIAL SAFETY DATA SHEETS (MSDS) TO THE ATTENTION OF THE SAFETY OFFICER AT THE DELIVERY ADDRESS SHOWN HEREIN WHEN DELIVERY IS TO BE MADE DIRECT TO THE USING DEPARTMENT OR TO THE COUNTY OF LOS ANGELES, DEPARTMENT OF PERSONNEL, ENVIRONMENTAL HEALTH SECTION, 5TH FLOOR, 2615 SO. GRAND AVE., LOS ANGELES, CA 90007, WHEN DELIVERY IS TO BE MADE TO THE CENTRAL WAREHOUSE ON ELM STREET.

ALL CHARGES, E.G.; TRANSPORTATION, PACKING, INSTALLATION, MUST BE INCLUDED IN THE BID. NO CHARGES WILL BE ALLOWED UNLESS SPECIFIED IN THE BID:

COUNTY RESERVES THE RIGHT TO REJECT, IN ITS SOLE DISCRETION, ANY OR ALL BIDS, OR TO WAIVE ANY INFORMALITY IN THE BIDS, AND TO REJECT ANY ITEMS THEREON. COUNTY MAY, AT ITS SOLE DISCRETION, CANCEL THIS SOLICITATION AT ANY TIME PRIOR TO AWARD.

COUNTY MAY, AT ITS SOLE OPTION, SELECT OTHER THAN THE LOW PRICED BIDDER IF, AS SOLELY DETERMINED BY COUNTY, ANOTHER BID IS A MORE RESPONSIBLE AND RESPONSIVE OFFER.

COUNTY RESERVES THE RIGHT TO NEGOTIATE WITH THE SELECTED VENDOR.

SPECIAL TERMS & CONDITIONS

REQUEST FOR QUOTE

SO NO : RFQ-IS-11260168-1

COMPANY NAME :

Xerox Corporation

BID DUE: 10/25/10 12:00:00 PM

PAGE

29

PAYMENT TERMS: PAYMENT TERMS ARE NET 30 DAYS FROM COUNTY'S RECEIPT OF A CORRECT AND PROPER INVOICE, AS PREPARED IN ACCORDANCE WITH THE TERMS HEREIN. IN NO EVENT SHALL COUNTY BE LIABLE FOR ANY LATE CHARGES. INVOICES SHALL ONLY BE ISSUED AFTER COUNTY'S ACCEPTANCE OF THE GOODS AND/OR PRODUCTS. DISCOUNTS SHALL BE AS SET FORTH HEREIN.

INDEMNIFICATION: VENDOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS COUNTY, ITS AGENTS, OFFICERS AND EMPLOYEES FROM AND AGAINST ANY AND ALL LIABILITY, EXPENSE, INCLUDING DEFENSE COSTS AND LEGAL FEES, AND CLAIMS FOR DAMAGES OF ANY NATURE WHATSOEVER ARISING FROM OR CONNECTED WITH VENDOR'S OPERATIONS, GOODS AND/OR COMMODITIES OR SERVICES PROVIDED HEREUNDER. THIS INDEMNITY SHALL INCLUDE, BUT NOT BE LIMITED TO CLAIMS FOR OR BY REASON OF ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY UNITED STATES PATENT OR COPYRIGHT OR ANY ACTUAL OR ALLEGED TRADE SECRET DISCLOSURE.

DEFAULT: IN THE EVENT VENDOR FAILS TO PERFORM HEREUNDER AND DOES NOT CURE SUCH FAILURE WITHIN FIFTEEN (15) CALENDAR DAYS OF THE DATE COUNTY'S NOTICE WAS SENT TO VENDOR, COUNTY MAY, AT ITS SOLE DISCRETION, CANCEL OR TERMINATE THIS PURCHASE ORDER. SUCH CANCELLATION OR TERMINATION SHALL BE AT NO COST TO COUNTY. SHOULD COUNTY SO CANCEL OR TERMINATE, COUNTY MAY AT ITS SOLE DISCRETION, PROCURE THE ITEMS OR SERVICES FROM OTHER SOURCES AND VENDOR SHALL BE LIABLE TO COUNTY FOR ANY AND ALL EXCESS COSTS, DETERMINED BY COUNTY, FOR SUCH ITEMS OR SERVICES.

NONEXCLUSIVITY: NOTHING HEREIN IS INTENDED NOR SHALL IT BE CONSTRUED AS CREATING ANY EXCLUSIVE ARRANGEMENT WITH VENDOR.

INDEPENDENT CONTRACTOR STATUS: VENDOR SHALL AT ALL TIMES BE ACTING IN THE CAPACITY OF INDEPENDENT CONTRACTOR. THIS AGREEMENT AND/OR PURCHASE ORDER ARE NOT INTENDED, AND SHALL NOT BE OR CONSTRUED, TO CREATE THE RELATIONSHIP OF AGENT, SERVANT, EMPLOYEE PARTNERSHIP, JOINT VENTURE OR ASSOCIATION, AS BETWEEN COUNTY AND VENDOR. THE EMPLOYEES AND AGENTS OF ONE PARTY SHALL NOT BE OR CONSTRUED TO BE, THE EMPLOYEES OR AGENTS OF THE OTHER PARTY FOR ANY REASON WHATSOEVER.

GRATUITIES

IT IS IMPROPER FOR ANY COUNTY OFFICER, EMPLOYEE OR AGENT TO SOLICIT CONSIDERATION, IN ANY FORM, FROM A PROPOSER WITH THE IMPLICATION, SUGGESTION OR STATEMENT THAT THE PROPOSER'S PROVISION OF THE CONSIDERATION MAY SECURE MORE FAVORABLE TREATMENT FOR THE PROPOSER IN THE AWARD OF THE CONTRACT OR THAT THE PROPOSER'S FAILURE TO PROVIDE SUCH CONSIDERATION MAY NEGATIVELY AFFECT THE COUNTY'S CONSIDERATION OF THE PROPOSER'S SUBMISSION. A PROPOSER SHALL NOT OFFER OR GIVE, EITHER DIRECTLY OR THROUGH AN INTERMEDIARY, CONSIDERATION, IN ANY FORM TO A COUNTY OFFICER, EMPLOYEE OR AGENT FOR THE PURPOSE OF SECURING FAVORABLE TREATMENT WITH RESPECT TO THE AWARD OF THE CONTRACT. A PROPOSER SHALL IMMEDIATELY REPORT ANY ATTEMPT BY A COUNTY OFFICER, EMPLOYEE OR AGENT TO SOLICIT SUCH IMPROPER CONSIDERATION. THE REPORT SHALL BE MADE EITHER TO THE COUNTY MANAGER CHARGED WITH THE SUPERVISION OF THE EMPLOYEE OR TO THE COUNTY AUDITOR-CONTROLLER'S EMPLOYEE FRAUD HOTLINE AT (213) 974-0914 OR (800) 544-6861. FAILURE TO REPORT SUCH A SOLICITATION MAY RESULT IN THE PROPOSER'S SUBMISSION BEING ELIMINATED FROM CONSIDERATION. AMONG OTHER ITEMS, SUCH IMPROPER CONSIDERATION MAY TAKE THE FORM OF CASH, DISCOUNTS, SERVICE, THE PROVISION OF TRAVEL OR ENTERTAINMENT OR TANGIBLE GIFTS.

AUTHORIZATION WARRANTY

CONTRACTOR REPRESENTS AND WARRANTS THAT THE PERSON EXECUTING THIS AGREEMENT FOR CONTRACTOR IS AN AUTHORIZED AGENT WHO HAS ACTUAL AUTHORITY TO BIND CONTRACTOR TO EACH AND EVERY TERM, CONDITION AND OBLIGATION OF THIS AGREEMENT AND THAT ALL REQUIREMENTS OF CONTRACTOR HAVE BEEN FULFILLED TO PROVIDE SUCH ACTUAL AUTHORITY.

PRICE SHEET		REQUEST FOR QUOTE			
COMPANY NAME : Xerox Corporation		SO NO : RFQ-15-11260168-1			PAGE 30
BID DUE: 10/25/10 12:00:00 PM					
LINE NO.	COMMODITY / SERVICE DESCRIPTION	QUANTITY FROM/TO	UNIT	UNIT PRICE	EXT. AMOUNT
1	COMMODITY CODE: 985-26-00-037062 PHOTOCOPIER TERM LEASE/RENTAL INCLUDES ALL MODELS AND MULTIFUNCTIONAL DEVICES	1	MO	DISCOUNT 0%	N/A
2	COMMODITY CODE: 985-26-00-041621 PHOTOCOPIER LEASE PURCHASE INCLUDES ALL MODELS AND MULTIFUNCTIONAL DEVICES	1	MO	DISCOUNT 0%	N/A
3	COMMODITY CODE: 939-27-00-041622 PHOTOCOPIER FULL SERVICE MAINTENANCE SERVICE INCLUDES REPLENISHMENT OF BLACK TONER/COPY CARTRIDGE/DEVELOPER AND FUSER LUBRICANTS (NOT INCLUDED ARE COLOR TONER TONERS, STAPLERS, PAPER, SPECIALTY APPLICATION SUPPLY PRODUCTS	1	MO	DISCOUNT 0%	N/A
4	COMMODITY CODE: 015-15-00-041623 PHOTOCOPIER PURCHASE ALL MODELS AND MULTIFUNCTIONAL DEVICES INCLUDES PARTS AND ACCESSORIES	1	MO	DISCOUNT 0%	N/A
5	COMMODITY CODE: 600-38-00-041624 PHOTOCOPIER PURCHASE ALL MODELS AND MULTIFUNCTIONAL DEVICES INCLUDES PARTS AND ACCESSORIES	1	MO	DISCOUNT 0%	N/A
6	COMMODITY CODE: 600-61-00-041625 FAX MACHINE PURCHASE ALL MODELS INCLUDES PARTS AND ACCESSORIES	1	MO	DISCOUNT 0%	N/A
7	COMMODITY CODE: 962-46-00-041626 DELIVERY AND SETUP FOR PHOTOCOPIER & FAX MACHINES - NO CHARGE NOTE: PRICE OF EQUIPMENT INCLUDES NORMAL DELIVERY, INSTALLATION AND SET UP:	1	MO	DISCOUNT 0%	N/A

TERMS & CONDITIONS

**MASTER AGREEMENT BETWEEN
COUNTY OF LOS ANGELES
AND XEROX CORPORATION
FOR PHOTOCOPY EQUIPMENT / FACSIMILE EQUIPMENT /
MICROGRAPHICS EQUIPMENT / SUPPLIES AND MAINTENANCE**

1.0 This Agreement is made and entered into by and between the County of Los Angeles (hereafter "COUNTY") and Xerox Corporation (hereafter "VENDOR").

2.0 **TERM OF AGREEMENT**

2.1 This Agreement shall be for three (3) years, unless earlier terminated as provided herein, with option to renew for additional two twelve (12) month periods by mutual written consent.

3.0 **ENTIRE AGREEMENT**

3.1 This document, including all Exhibits hereto, constitutes the complete and exclusive statement of understanding between the parties which supersedes all previous agreements, written or oral, and all communications, written or oral, between the parties relating to the subject matter of this Agreement. No change hereto shall be valid unless prepared pursuant to Subparagraph 5.0 (Agreement Modifications, Changes, or Amendments).

4.0 **DEFINITIONS**

4.1 **Day(s)**

The term "day(s)" shall mean calendar day(s) unless otherwise specified.

4.2 **Eligible Vendor**

"Eligible VENDOR" identifies a VENDOR whose evidences of insurance, as required by Paragraph (Indemnification and Insurance), have all been received by Purchasing and Central Services, as set forth in Section (Notices), and are valid and in effect at the time of a given Work Order solicitation under this Master Agreement.

4.3 **Normal Working Hours**

"Normal Working Hours" means one of the following work schedules, according to individual COUNTY department policy, excluding COUNTY holidays:

- A. "5/40, which is normally eight (8) hours per day Monday Through Friday ("Working Days"), with starting and ending times departmentally established.
- B. "9/80", which is a flexibility arranged nine (9) hours on each of eight working Days in a given two-week period, plus 8 hours arranged, per department policy, on the ninth Working Day; or
- C. "4/40", which is a flexibility arranged ten (10) hours on each of four fixed Working Days each week, with starting and ending times departmentally established.

5.0 AGREEMENT MODIFICATION

5.1 This agreement shall only be modified in writing executed by an authorized official of both parties. The terms and conditions of this Agreement together with any specific terms and conditions set forth in the applicable COUNTY purchase orders shall prevail notwithstanding any variations, modifications and/or provisions contained in any document, acknowledgment or other communication from VENDOR.

6.0 AUTHORIZATION

6.1 VENDOR represents and warrants that the person executing this Agreement is an authorized agent who has actual authority to bind VENDOR to each and every term, condition and obligation of this Agreement and that all requirements of VENDOR have been fulfilled to provide such actual authority.

7.0 ASSIGNMENT OF AGREEMENT

7.1 VENDOR shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior express written consent of the COUNTY. Any assignment without the prior express written consent of COUNTY shall be null and void.

7.2 Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the permitted successors, heirs, executors, administrators and assigns.

8.0 METHOD OF PURCHASE, INVOICING AND PAYMENT - COUNTY

8.1 Purchase Order(s)

COUNTY shall purchase the items listed in this agreement by issuance of a formal purchase order. Such purchase order shall contain the terms and conditions applicable for that purchase. Notwithstanding anything herein to the contrary, the purchase order shall, as specifically noted, govern and

control the applicable purchase. All purchase orders are subject to acceptance by VENDOR.

8.2 Unless otherwise set forth in the purchase order, purchase orders issued by COUNTY which are accepted and confirmed by VENDOR may be cancelled by the COUNTY only by giving VENDOR written notice at least twenty (20) days prior to the scheduled delivery date. Purchase orders cancelled by COUNTY in less than twenty (20) days prior to the scheduled delivery date may be subject to a cancellation charge of one-half percent (1/2%) of the invoice value of the cancelled purchase order.

8.3 **Invoices**

Invoices shall be submitted as set forth on the applicable purchase order.

8.4 **Payment Terms**

Unless otherwise set forth on the purchase order, payment terms are net thirty (30) days from COUNTY'S receipt of a properly prepared and submitted invoice. In no event shall COUNTY be liable for any late fees or charges.

8.5 **Vendor Acknowledgement**

The terms and conditions of this Agreement together with any specifically noted terms and conditions set forth in COUNTY'S purchase order(s) shall prevail notwithstanding any variations or additions on VENDOR'S acknowledgement or other documents.

9.0 **NON-EXCLUSIVE AGREEMENT**

9.1 This agreement is non-exclusive and shall not, in any way preclude COUNTY from entering into similar agreements and/or arrangements with other VENDORS, or from acquiring similar, equal or like goods and/or services from other entities or sources.

9.2 COUNTY makes no representation that it will purchase any minimum dollar or quantity amounts.

9.3 COUNTY reserves the right to solicit products through the competitive bid process whenever COUNTY deems it appropriate. However, COUNTY may, at its sole option, negotiate with VENDOR for better pricing.

10.0 **INDEPENDENT CONTRACTOR STATUS**

10.1 VENDOR an independent contractor. This Agreement shall not create the relationship of agent, servant, employee, partnership, joint venturer or

association between COUNTY and VENDOR. The employees and agents of one party are not the employees or agents of the other party for any purpose whatsoever.

10.2 VENDOR is solely responsible for providing all workers' compensation insurance and benefits; liability insurance; employer taxes, compensation, and benefits to, or on behalf of, all persons performing work pursuant to this Agreement. COUNTY shall have no responsibility or liability for the payment of any salaries, wages, unemployment insurance, payroll taxes, disability insurance or benefits, or federal, state, or local compensation, benefits, or taxes for any personnel provided by or on behalf of VENDOR.

11.0 **TERMINATION**

11.1 This Agreement may be terminated for any reason by either party upon sixty (60) days prior written notice.

11.2 VENDOR shall honor purchase orders accepted on or before the effective date of the termination.

12.0 **LIMITATION OF COUNTY'S OBLIGATION DUE TO NON-APPROPRIATION OF FUNDS**

12.1 COUNTY'S obligation is payable only and solely from funds appropriated for the purpose of this Agreement.

12.2 All funds for payment after June 30th of the current fiscal year are subject to COUNTY'S legislative appropriation for this purpose. Payment during subsequent fiscal year periods are dependent upon the same action.

12.3 Notwithstanding any other provision of this Agreement, if this Agreement extends into succeeding fiscal year periods and if the governing body appropriating the funds does not allocate sufficient funds for the next succeeding fiscal year's payments, then this Agreement shall terminate as of June 30th of the last fiscal year for which funds were appropriated. COUNTY shall notify VENDOR in writing of such non-allocation of funds at the earliest possible date.

13.0 **COMPLIANCE WITH APPLICABLE LAW**

13.1 VENDOR shall comply with all applicable federal, state, and local laws, rules, regulations, ordinances and directives, and all provisions required thereby to be included in this Agreement are hereby incorporated herein by reference.

14.0 GOVERNING LAW, JURISDICTION AND VENUE

14.1 This agreement shall be governed by, and construed in accordance with, the laws of the State of California, except where federal law pre-empts. VENDOR consents for all purposes to the jurisdiction and exclusive venue of the courts and other appropriate dispute resolution bodies in Los Angeles COUNTY, or if held prejudicial, in a contiguous COUNTY.

15.0 RESTRICTIONS ON LOBBYING

15.1 Federal Funds Projects

If any Federal funds are to be used to pay for any of VENDOR'S services under this Agreement, VENDOR shall fully comply with all certification and disclosure requirements prescribed by Section 319 of Public Law 101-121 (31 United States Code Section 1352) and any implementing regulations, and shall ensure that each of its subcontractors receiving funds provided under this Agreement also fully complies with all such certification and disclosure requirements.

15.2 County Projects

VENDOR, and each COUNTY lobbyist or COUNTY lobbying firm as defined in COUNTY code Section 2.160.010 retained by VENDOR, shall fully comply with COUNTY'S lobbyist Ordinance, COUNTY Code Chapter 2.160. Failure on the part of VENDOR or any COUNTY lobbyist or COUNTY lobbying firm retained by VENDOR to fully comply with COUNTY'S Lobbyist Ordinance shall constitute a material breach of this Agreement, upon which COUNTY may immediately terminate or suspend this Agreement.

16.0 WAIVER

16.1 Failure of either party to enforce at any time, or from time to time, any right, remedy, or provision of this Agreement shall not be construed as a waiver thereof.

17.0 RECORDS, DOCUMENT AND AUDITS

VENDOR shall maintain accurate and complete financial records of its activities and operations relating to this Agreement in accordance with generally accepted accounting principles. VENDOR shall also maintain accurate and complete employment and other records relating to its performance of this Agreement. VENDOR agrees that COUNTY, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, or records relating to this Agreement. All financial records, timecards and other employment records, and proprietary data and information, shall be kept and

maintained by VENDOR and shall be made available to COUNTY during the term of this AGREEMENT and for a period of four years thereafter unless COUNTY'S written permission is given to dispose of any such material prior to such time. All such material shall be maintained by VENDOR at a location in Los Angeles COUNTY, provided that if any material is located outside Los Angeles COUNTY, then at COUNTY'S option, VENDOR shall pay COUNTY for travel, per diem, and other costs incurred by COUNTY to examine, audit, excerpt, copy or transcribe such material at such other location.

In the event that an audit is conducted of VENDOR specifically regarding this Agreement by any Federal or State auditor, or by any auditor or accountant employed by VENDOR or otherwise, the VENDOR shall file a copy of the audit report with COUNTY'S Auditor-Controller within thirty days (30) of VENDOR'S receipt thereof, unless otherwise provided by applicable Federal or State law or under this Agreement. County shall make a reasonable effort to maintain the confidentiality of such audit reports (s)

Failure on the part of VENDOR to comply with the provision of this Paragraph 17.0 shall constitute a material breach upon which COUNTY may terminate or suspend this Agreement.

17.1 Publicity

VENDOR shall not disclose any details in connection with this Agreement to any person or entity except as may be otherwise provided herein or required by law. However, in recognizing VENDOR'S need to identify its services and related clients to sustain itself, COUNTY shall not inhibit VENDOR from publishing its role under this Agreement, with the following conditions:

- A. VENDOR shall develop all publicity material in a professional manner.
- B. During the term of this Agreement, VENDOR, shall neither, authorize another to, nor publish or disseminate any commercial advertisements, press release, feature articles, or other materials using the name of COUNTY without the prior written consent of COUNTY'S Purchasing Agent. COUNTY shall not unreasonably withhold written consent, and approval by COUNTY may be assumed in the event no adverse comments are received in writing within two weeks after submittal of written request for such consent.
- C. VENDOR may, without the prior written consent of COUNTY, indicate in its proposals and sales materials that it has been awarded this Agreement with the County of Los Angeles, provided that the requirements of this Paragraph 17.1 shall apply.

18.0 CONFLICT OF INTEREST

18.1 No COUNTY employee whose position with COUNTY enables such employee to influence the award of this Agreement or any competing agreement, and no spouse of economic dependent of such employee, shall be employed in any capacity by VENDOR or have any other direct or indirect financial interest in the Agreement. No officer or employee of VENDOR, who may financially benefit from the performance hereunder, shall in any way participate in COUNTY's approval, or ongoing evaluation, of such performance, or in any way attempt to unlawfully influence COUNTY'S approval or ongoing evaluation of such performance.

18.2 VENDOR shall comply with all conflict of interest laws, ordinances and regulations now in effect or hereafter to be enacted during the term of this Agreement. VENDOR warrants that it is not now aware of any facts which create a conflict of interest. If VENDOR hereafter becomes aware of any facts which might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to COUNTY. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances.

19.0 INDEMNIFICATION AND INSURANCE

19.1 Indemnification

VENDOR agrees to indemnify, defend and save harmless the COUNTY, its agents, officers and employees from and against any and all liability, expense, including defense costs and legal fees, and claims for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury, or property damage arising from or connected with VENDOR's operations of its services hereunder, including any Workers Compensation suits, liability, or expense, arising from or connected with services performed on behalf of VENDOR by any person pursuant to this Agreement.

19.2 Insurance

Without limiting VENDOR'S indemnification of COUNTY, VENDOR shall provide and maintain at its own expense during the term of this Agreement the below-described programs of insurance covering VENDOR'S operations hereunder. Certificates or other evidence of such programs satisfactory to COUNTY shall be delivered to:

Louise Valentine
Purchasing/Contracts Division
ISD/Purchasing and Central Services
1100 N. Eastern Avenue
Los Angeles, CA 90063

19.5 Loss and Damage insurance:

The County of Los Angeles, its agents or employees, will not be responsible for loss by fire, flood or Acts of God. After such loss of equipment or parts thereof has been reported to you, replacement is to be made by lessor within time quoted for original delivery. However, if positive proof can be furnished showing that a COUNTY employee is responsible for any act of negligence that affects the operation or condition of the equipment, then repair or replacement will be for the account of the COUNTY.

20.0 CONFORMITY TO LAW

20.1 VENDOR warrants that the Products may be shipped and used in a customary manner without violation of any law, ordinance, rule or regulation of any government or administrative body. These laws, ordinances, rules or regulations include, but are not limited to, CAL/OSHA and COUNTY Code Title 27 and Ordinance No. 4388 (electrical approval) and are incorporated herein by reference.

21.0 LOAN / TRIAL USE OF PRODUCT

21.1 VENDOR shall not deliver products or other items to the COUNTY as loaner equipment or for trial use prior to receipt of an "Equipment Loan Agreement" and "No Charge" Purchase Order from ISD/Purchasing & Central Services.

21.2 The Products or other items shall be returned to the Vendor at the end of the Loan Agreement period.

22.0 ORDERS PRECLUDED

22.1 COUNTY departments shall not use this Agreement as a source to purchase items and/or services not specifically set forth herein.

23.0 SEVERABILITY

23.1 If any provision of this Agreement or the application thereof to any person or circumstance is held invalid, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby.

24.0 NOTICE OF DELAYS

24.1 Except as otherwise provided under this Agreement when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, that party shall, within two days, give notice thereof, including all relevant information with respect thereto, to the other party.

25.0 MOST FAVORED PUBLIC ENTITY

25.1 VENDOR represents that the prices charged to COUNTY in the Agreement do not exceed existing selling prices to other customers for the same or substantial similar items or services for comparable quantities under similar terms and conditions.

25.2 If VENDOR'S prices decline, or should VENDOR, at any time during the term of this Agreement, provide the same goods or services under similar quantity and delivery conditions to the State of California or any COUNTY, municipality or district of the State at prices below those set forth in this Agreement, then such lower prices shall be immediately extended to COUNTY.

26.0 NOTICES

26.1 All notices or demands required or permitted to be given or made under this Agreement shall be in writing and shall be hand delivered with signed receipt or mailed by first-class registered or certified mail, postage prepaid, addressed to the parties at the following addresses:

If to COUNTY:

Louise Valentine
Senior Deputy Purchasing Agent
ISD/Purchasing and Central Services
1100 N. Eastern Ave., Room G115
Los Angeles, CA 90063

If to VENDOR:

Mike Sanduval
Account Sales Manager
Xerox Corporation
700 N. Flower Street, Suite 700
Los Angeles, CA 90012

27.0 BENCHMARKING

27.1 COUNTY reserves the right to benchmark pricing, terms and conditions throughout the term of this Agreement. If deemed necessary, at the sole discretion of the COUNTY, COUNTY will re-negotiate applicable pricing, terms and conditions with VENDOR.

28.0 PRICING, DISCOUNTS, AND TERMS

28.1 Pricing and Discounts

Pricing, discounts, and terms as stated in this Agreement.

28.2 Promotional Pricing

VENDOR shall immediately furnish ISD/PCS with a copy of any promotional pricing offered on this agreement accompanied with a letter stating the agreement number and the period of the promotion. No promotional pricing to be offered to the COUNTY departments until VENDOR has received approval from ISD/PCS.

28.3 Addition / Deletion of Products

Products shall be added/deleted only with thirty (30) days prior written notice to the COUNTY. No products to be offered to the COUNTY departments until VENDOR has received approval from ISD/PCS.

29.0 UTILIZATION REPORTS

29.1 VENDOR shall submit to ISD/PCS written reports on a quarterly basis commencing from the effective date of this Agreement.

29.2 Reports to include COUNTY department name, purchase order number and date, commodity, brand/model, quantity, unit price, extended price, tax, total. If the purchase order was not processed by ISD/PCS but processed by the COUNTY department, submit a copy of their purchase order (order form) and copy of the invoice.

30.0 TERMINATION FOR IMPROPER CONSIDERATION

30.1 COUNTY may, by written notice to CONTRACTOR, immediately terminate the right of CONTRACTOR to proceed under this Agreement if it is found that consideration, in any form, was offered or given by CONTRACTOR, either directly or through an intermediary, to any COUNTY officer, employee or agent with the intent of securing the Agreement or securing favorable treatment with respect to the award, amendment or extension of the Agreement or the making of any determinations with respect to the CONTRACTOR'S performance pursuant to the Agreement. In the event of such termination, COUNTY shall be entitled to pursue the same remedies against CONTRACTOR as it could pursue in the event of default by the CONTRACTOR.

30.2 CONTRACTOR shall immediately report any attempt by a COUNTY officer or employee to solicit such improper consideration. The report shall be made either to the COUNTY manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861.

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

31.0 TERMINATION FOR GRATUITIES:

31.1 COUNTY may, by written notice to VENDOR, terminate the right of VENDOR to proceed under this Agreement upon day's written notice, if it is found that gratuities in the form of entertainment, gifts, or otherwise were offered or given by, or any agent or representative of VENDOR, to any officer or employee of COUNTY with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing, of such contract. In the event of such termination, COUNTY shall be entitled to pursue the same remedies against VENDOR as it could pursue in the event of default by VENDOR.

32.0 TERMINATION FOR INSOLVENCY

32.1 COUNTY may terminate this Agreement forthwith in the event of the occurrence of any of the following:

- A. Insolvency of VENDOR; VENDOR shall be deemed to be insolvent if it has ceased to pay its debts for at least sixty days in the ordinary course of business, whether or not a petition has been filed under the Federal Bankruptcy Code and whether or not VENDOR is insolvent within the meaning of such laws.
- B. The filing of a voluntary or involuntary petition regarding VENDOR under the Federal Bankruptcy Code.
- C. The appointment of a Receiver or Trustee for VENDOR.
- D. The execution by VENDOR of a general assignment for the benefit of creditors. The rights and remedies of COUNTY provided in this Paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

33.0 TERMINATION FOR DEFAULT:

33.1 COUNTY may, by written notice to VENDOR, terminate the whole or any part of the Agreement if, in the judgment of COUNTY'S Purchasing Agent:

- A. VENDOR has materially breached this Agreement as elsewhere provided herein;
or
- B. VENDOR fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required under this Agreement here under;

or

- C. **VENDOR** has assigned or delegated its duties or subcontracted any performance of this Agreement without prior written consent by **COUNTY** as elsewhere provided.

33.2 **VENDOR** shall not be liable for any excess costs if its failure to perform under this Agreement, arises from force majeure, i.e., causes beyond the control and without the fault or negligence of **VENDOR**. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both **VENDOR** and subcontractor, and without the fault or negligence of either, **VENDOR** shall not be liable for any such excess costs for failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit **VENDOR** to meet the requirements. As used in this subparagraph the terms "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.

33.3 If, after **COUNTY** has given notice of termination under the provisions of this Paragraph, it is determined by **COUNTY** that **VENDOR** was not in default under these provisions, or that the default was excusable under these provisions, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to paragraph Termination for Convenience.

The rights and remedies of **COUNTY** provided in this Paragraph are non-exclusive and cumulative.

34.0 TERMINATION FOR CONVENIENCE

34.1 This Agreement, may be terminated, when such action is deemed by **COUNTY** to be in its best interest. Termination shall be effected by delivery to **VENDOR** of a notice of termination specifying the extent to which performance of agreement is terminated and the date upon which such termination becomes effective, which shall be no less than ten (10) days after the notice is sent.

34.2 After receipt of a notice of termination, **VENDOR** shall submit its termination claim and invoice to **COUNTY**, in the form and with any certifications as may be prescribed by **COUNTY**. Such claim and invoice shall be submitted promptly, but not later than three months from the effective date of termination. Upon failure of **VENDOR** to submit its termination claim and invoice without the time allowed, **COUNTY** may determine on the basis of information available to **COUNTY**, the amount, if any, due to **VENDOR** in respect to the termination, and such determination shall be final. When such determination is made, **COUNTY** shall pay **VENDOR** the amount so determined.

34.3 VENDOR shall honor purchase orders accepted on or before the effective date of termination.

35.0 TERMINATION FOR FAILURE TO OPERATE IN ORDINARY COURSE:

35.1 VENDOR'S stability was and/is a primary basis for entering into and continuing with this Agreement, therefore, COUNTY may terminate this Agreement by thirty (30) days written notice should VENDOR fail to continue to do business in the ordinary course.

36.0 NONDISCRIMINATION AND AFFIRMATIVE ACTION:

36.1 VENDOR certifies and agrees that all persons employed by it, its affiliates, subsidiaries or holding companies are and will be treated equally without regard to or because of race, color, religion, ancestry, national origin, sex, age, or physical or mental handicap, in compliance with all applicable federal and State anti-discrimination laws and regulations.

36.2 VENDOR shall, pursuant to County Code Section 4.32, unless employing less than ten persons, certify to and comply with the provisions of Exhibit B (VENDOR'S EEO Certification).

36.3 VENDOR shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, ancestry, national origin, sex, age, or physical or mental handicap, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

36.4 VENDOR certifies and agrees that it will deal with its subcontractors, bidders or VENDORS without regard to or because of race, color, religion, ancestry, national origin, sex, age or physical or mental handicap.

36.5 VENDOR certifies that it is in compliance with all Federal, State and local laws including, but not limited to:

- A. Title VII, Civil Rights Act of 1964;
- B. Section 504, Rehabilitation Act of 1973;
- C. Age Discrimination Act of 1975;
- D. Title IX, Education Amendments of 1973, as applicable; and
- E. Title 43, Part 17, Code of Federal Regulations, Subparts A & B

And that VENDOR shall subject no person, on the grounds of race, creed, color, national origin, political affiliation, marital status, sex, age, or handicap,

to discrimination as to any privileges or uses gained, or under any project, program or activity supported, by this Agreement.

- 36.6 VENDOR shall allow COUNTY representatives access to its employment records during regular business hours to verify compliance with the provisions of this Paragraph 14.0 when so requested by COUNTY.
- 36.7 If COUNTY finds that any of the provision of this Paragraph 14.0 have been violated, such violation shall constitute a material breach of this Agreement upon which COUNTY may terminate or suspend this Agreement. While COUNTY reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that VENDOR has violated State or Federal anti-discrimination laws or regulations shall constitute a finding by COUNTY that VENDOR has violated the anti-discrimination provisions of this Agreement.
- 36.8 The parties agree that in the event VENDOR is held to have violated the anti-discrimination provisions of this Agreement, COUNTY shall, pursuant to County Code Section 4.32.010 (E), be entitled to the sum of Two Thousand Dollars (\$2,000) for each such violation, as liquidated damages extremely difficult to ascertain or calculate precisely, in lieu of termination or suspension hereof.

37.0 CONSIDERATION OF GAIN PROGRAM PARTICIPANTS FOR EMPLOYMENT

- 37.1 Should CONTRACTOR require additional or replacement personnel after the effective date of this Agreement, CONTRACTOR shall give consideration for any such employment openings to participants in the County's Department of Public Social Services' Greater Avenues for Independence (GAIN) Program who meet CONTRACTOR'S minimum qualifications for the open position. For this purpose consideration shall mean that contractor will interview qualified candidates. The COUNTY will refer GAIN participants by job category to the contractor.

38.0 PARAGRAPH HEADINGS

- 38.1 Paragraph headings are for convenience only and are not a part of this Agreement and shall not be use in construing this Agreement.

39.0 PARTICIPATING MUNICIPALITIES

Pursuant to action by COUNTY's Board of Supervisors on February 10, 1998. COUNTY has designated California Statewide Communities Development Authority (Authority) as the public agency to provide administrative services related to purchases by other California

governmental, entities (Entity) under this Agreement. At COUNTY's sole discretion and option, COUNTY's sole discretion and option, COUNTY may inform other Entities that they may acquire items listed in this Agreement. Such acquisition(s) shall be at the prices stated herein, and shall be subject to VENDOR's acceptance. In no event shall COUNTY be considered a dealer, remarketer, agent or other representative of VENDOR.

- 39.1** Vendor and COUNTY recognize that from time to time VENDOR's reasonable assistance may facilitate and expedite a presentation by the County to any entity. Such assistance shall be provided, at no cost, by VENDOR upon the written request of the COUNTY.
- 39.2** Entity purchase orders may, as agreed by county, be submitted by the Entity or by COUNTY. In either event, Authority shall be entitled to an administrative fee (Fee) of one percent (1%) of the purchase price, excluding taxes and shipping, for each Entity purchase order. Payment of the Fee shall be made quarterly by VENDOR to Authority. For purposes of this Agreement, calendar year quarters shall be January 1 through March 31; April 1 through June 30; July 1 through September 30; and October 1 through December 31. Fee payment shall be accompanied by a written report (Report) summarizing all purchases shipped and billed during the applicable quarter made by any entity under this Agreement. VENDOR shall have no claim or right to all or any portion of the fee.

Fee payment shall be made by wire to CSAC Finance Corporation as follows:

CSAC Finance Corporation West America Bank
Capitol Office
300 Capitol Mall
Sacramento, CA 95814 ABA#1211 40218
Account #0527-377915

Vendor shall confirm the date and amount of wire via fax to (510) 933-8457

Reports shall be submitted to:

California Statewide Communities
Development Authority
1100 K Street, Suite 101
Sacramento, CA 94814
Ann: Secretary

with copies to:

California Communities
1470 Maria Lane, Suite 400
Walnut Creek, CA 94596
Attn: Program Manager

County of Los Angeles
ISD/PCS
1100 N. Eastern Ave., Room 102
Los Angeles, CA 90063
Attn: Manager

- 39.3** Purchases by COUNTY departments under this Agreement shall not be included in either the Fee or the Report.
- 39.4** Reports and Fees shall be submitted to Authority no later than thirty (30) days after the end of the applicable quarter. Reports shall, at a minimum, provide total entity purchases for the applicable quarter and year-to-date, sorted by participating Entity, with a grand total of all Entity purchases.
- 39.5** Failure to provide Fees and/or Reports in the manner specified shall be regarded as a material breach of this Agreement and shall be deemed a cause for termination of this Agreement at COUNTY's sole discretion. Fees not paid by the specified deadline shall bear interest at the rate of 1 1/2% per month until paid.
- 39.6** Authority, or its designee may, at Authority's sole discretion, compare records provided by Entities with Reports submitted by VENDOR. Authority will provide written notification to VENDOR of discrepancies, and allow VENDOR thirty (30) days from the date OF Authority's notification to resolve the discrepancy(ies) to Authority's satisfaction. In the event that VENDOR does not resolve the discrepancy to Authority's satisfaction, Authority reserves the right to engage outside services to conduct an independent audit of VENDOR's Reports, and VENDOR shall reimburse Authority for the costs and expenses related to such audit(s).
- 39.7** VENDOR authorizes COUNTY's use of VENDOR's name, trademarks and VENDOR provided materials in COUNTY's presentations and promotions regarding the availability for use of the agreement.
- 39.8** COUNTY WILL NOT BE LIABLE OR RESPONSIBLE FOR ANY OBLIGATIONS, INCLUDING, BUT NOT LIMITED TO PAYMENT, FOR ANY ITEM ORDERED BY ENTITIES.
- 39.9** COUNTY makes no representation or guarantee as to any minimum being purchased by COUNTY or Entities.

The parties hereto have caused this Agreement to be executed this 4th day
Of November 1999

COUNTY OF LOS ANGELES

XEROX CORPORATION
Company Name

Benson Wong
Name (Please Print)
Benson Wong
Signature
Section Mgr. Purchasing
Title
11-4-99
Date

DANIEL McLEAN
Name (Please Print)
Daniel McLean
Signature
CHGO Counselor
Title
10/25/99
Date