



Andrea Ford
Agency Director

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November 4, 2022

Honorable Board of Supervisors
County of Alameda
1221 Oak Street, Suite 536
Oakland, CA 94612

Dear Board Members:

SUBJECT: APPROVE STANDARD SERVICES AGREEMENTS FOR SOFTWARE LICENSES AND IMPLEMENTATION SERVICES TO CREATE A CONTRACT LIFECYCLE MANAGEMENT SYSTEM FOR SOCIAL SERVICES AGENCY CONTRACTS OFFICE

RECOMMENDATIONS:

- A. Approve a new Standard Services Agreement (Procurement Contract No. 24618) with Agiloft (Principal Patricia Pritts; Location: Redwood City) for Contract Software, User Licenses and Data processing used in the Agiloft Contract Lifecycle Management System, a platform that will be used to create, route, approve and monitor the progress and completion of contracts and board letters in the Social Services Agency, for the contract term of 11/1/2022-10/31/2025, in the amount of \$482,556; and
- B. Approve a new Standard Services Agreement (Procurement Contract No. 24625) with Koho Consulting, Inc (Principal Marc Doucette; Location Tampa, FL) for platform access, implementation, and support services to configure and implement the Agiloft Contract Lifecycle Management System for the contract term of 11/1/2022-10/31/2023 in the amount of \$115,000; and
- C. Adopt a resolution to waive competitive bidding with respect to these agreements.

SUMMARY/DISCUSSION:

The Social Services Agency's (SSA) Contracts Office processes approximately 300 contracts annually. The majority of these contracts are with Community Based Organizations (CBOs) that serve county residents who are SSA clients. The SSA Contracts Office currently does not have one unified system to create, route, and store contracts and board letters. This lack of a unified system leads to difficulties in monitoring the creation, progress, and completion of contracts and board letters, as well as version control for these same documents. In addition, invoices submitted against these contracts are not integrated into the contract record, and these same invoices are tracked manually on spreadsheets by the Social Services Agency's Accounts Payables team. A Contract Lifecycle

Management (CLM) system would resolve these issues, and lead to more timely execution of CBO and other contracts, resulting in more timely service delivery to SSA clients.

Beginning in 2020, the SSA Contracts Office worked together with staff from the Information Technology Department (ITD) to identify the technical and business requirements for a CLM System for the Contracts Office. In addition, the Contracts Office staff reached out to neighboring counties, including San Mateo and San Francisco Counties, to identify what types of solutions and approaches are being taken by other public agencies. It appears that many agencies are experiencing similar challenges as the SSA Contracts Office.

The SSA Contracts Office and ITD requested demonstrations from multiple software providers to see if there was a CLM tool that would meet the business and technical objectives, while at the same time being user friendly and cost-effective. After viewing demonstrations, examining technical specifications, and receiving quotations from several vendors, the Agiloft CLM tool stood out as uniquely suited to the SSA CLM needs.

Unlike all other CLM solutions, Agiloft is a platform-first, no-code platform. Platform-first means that the Agiloft product was designed as a series of standardized platform capabilities such as secure data management, file management, search, workflows, dashboards, reporting, integrations, and artificial intelligence. These Lego-style building-blocks are then arranged by the implementation partner to address specific CLM and contracting use cases. Being the only CLM solution that is platform-first ensures that these Lego-style building-blocks can be rearranged to meet the needs of the Social Services Agency's specific contracting workflows and processes as they change over time. Further, a platform-first solution enables the Social Services Agency to extend the CLM solution to address unique workflows and processes that are adjacent to CLM, such as Accounts Payables.

Every other CLM software started as a point solution. Some provide a little flexibility on adding fields to a contract record. Some provide more flexibility to add custom data schemas to extend beyond the contract record. None provide the breadth of customization across data schemas, file management, workflows, dashboards, integrations, and artificial intelligence capabilities that Agiloft provides. Furthermore, Agiloft provides its clients full access to the configuration level of the platform, allowing clients to manage and utilize 100% of the configurable no-code platform to make any changes beyond initial Go-live of the system.

Agiloft has identified Koho Consulting, Inc. as an implementation provider to provide responsive deployment of expertise to implement its software solution.

Implementation of the Agiloft CLM will benefit County residents by providing for timely approval and processing of services contracts which benefit Social Services Agency clients.

SELECTION CRITERIA/PROCESS:

The County Administrative Code Section 4.12.010 promotes competition for the purchase of goods and services. There may be instances which require exceptions as noted in the County of Alameda Sole Source Policy: Section VI. Non-Competitive Procurements - Item A. Single Source of Supply. Given the platform first, no code solution, Agiloft Software is uniquely qualified to handle the complex contract and board letter routing required by the Social Services Agency Contracts Office, who works collaboratively with multiple client departments and CBOs in contract creation. On 10/11/22, the General Services Agency Issued Sole Source #8643 for the purchase of Agiloft Software Licenses, and Sole Source #8642 for Koho Consulting, Inc. On 10/13/22, the General Services Agency Issued SLEB Waiver No. 8524 for Koho Consulting, Inc, and SLEB Waiver No. 8521 for Agiloft Software Licenses.

FINANCING:

Financing for these contracts is included in the Social Services Agency FY 2022-23 Approved Budget and will be included in subsequent fiscal year budget requests. There will be no new net County cost.

VISION 2026 GOAL:

The strategic business technology of Agiloft and consulting services provided by Koho Consulting, Inc. meet the 10X goal pathway of **Accessible Infrastructure** in support of the shared visions of a **Thriving and Resilient Population** and **Prosperous and Vibrant Economy**.

Sincerely,

DocuSigned by:
Andrea Ford
CFBDBF387EBC493...

Andrea Ford, Director
Social Services Agency

Attachments:

- 1) One original Standard Services Agreements with Agiloft for Board President signature
- 2) One original Standard Services Agreements with Koho Consulting, Inc. for Board President signature
- 3) Resolution
- 4) Sole Source Finding Memos (2)
- 5) SLEB Waivers (2)

QUESTIONNAIRE FOR DETERMINING THE WITHHOLDING STATUS

INSTRUCTIONS: This questionnaire is to be completed by the County department for services contracts and must be included as part of the contract package. Be sure to answer all of the questions in Sections I and II and to complete the certifications on page 2. Sections III and IV contain supplemental questions to be answered for contractors in certain service categories.

CONTRACTOR NAME: Agiloft, Inc.

DEPT #: 320130

TITLE/SERVICE: Hosted Services for CLM for SSA Contracts Office

DEPT. CONTACT: Sherri Reeves

PHONE: 510-268-5302

I. INFORMATION ABOUT THE CONTRACTOR

YES NO

1. Is the contractor a corporation or partnership? (X) ()

2. Does the contractor have the right per the contract to hire others to do the work agreed to in the contract? (X) ()

3. If the answer to BOTH questions is YES, provide the employer ID number here: _____
71-0907214
No other questions need to be answered. Withholding is not required.

4. If the answer to question 1 is NO and 2 is YES, provide the individual social security number here: _____
No other questions need to be answered. Withholding is not required.

5. If the answer to question 2 is NO, continue to Section II.

II. RELATIONSHIP OF THE PARTIES

YES NO

1. Does the County have the right to control the way in which the work will be done, i.e., will the County be able to specify the sequence of steps or the processes to be followed if it chooses to do so? () ()

2. Is the contractor restricted from performing similar services for other businesses while he is working for the County? () ()

3. Will the contractor be working for more than 50% of the time for the County (50% = 20 hrs/wk; 80 hrs/mo)? () ()

4. Is the relationship between the County and the contractor intended to be ongoing? () ()

III. FOR CONSULTANTS, PROJECT MANAGERS, PROJECT COORDINATORS YES NO

- 1. Is the contractor being hired for a period of time rather than for a specific project? () ()
- 2. Will payment be based on a wage or salary (as opposed to a commission or lump sum)? () ()

IV. FOR PHYSICIANS, PSYCHIATRISTS, DENTISTS, PSYCHOLOGISTS YES NO

- 1. Will the agreement be with an individual who does not have an outside practice? () ()
- 2. Will the contractor work more than an average of ten hours per week?
IF THE ANSWER TO QUESTION 2 IS YES, ANSWER QUESTION 3. () ()
- 3. Will the County provide more than 20% of the contractor’s income? () ()
- 4. If the answer to either question 2, or if required, question 3 is NO, the entire answer is NO.

A “YES” answer to any of the questions in Section II, or, if applicable, Sections III or IV constitutes justification for paying the contractor through the payroll system as an “employee for withholding purposes.”

CERTIFICATIONS:

I hereby certify that the answers to the above questions accurately reflect the anticipated working relationship for this contract.

DocuSigned by:
Patricia Pritts
 86790CBED0CA4FB...
 Contractor Signature

Patricia Pritts, Vice President of Deals Enablement,
 Agiloft
 Printed Name
 11/5/2022
 Date

DocuSigned by:
Sherri Reeves
 6E6C5E1C82944C5...
 Agency/Department Head/Designee Signature

Sherri Reeves
 Printed Name
 11/4/2022
 Date



**COUNTY OF ALAMEDA
STANDARD SERVICES AGREEMENT**

This Agreement, dated as of November 1, 2022, is by and between the County of Alameda, hereinafter referred to as the “County”, and Agiloft, Inc. hereinafter referred to as the “Contractor”.

WITNESSETH

Whereas, County desires to obtain the licenses for hosted Services for Contracts Life Cycle Management Services which are more fully described in Exhibit A hereto (“Agiloft CLM Services”); and

Whereas, Contractor is professionally qualified to provide such services and is willing to provide same to County; and

Now, therefore it is agreed that County does hereby retain Contractor to provide obtain the licenses for hosted Services for Contracts Life Cycle Management Services, and Contractor accepts such engagement, on the General Terms and Conditions hereinafter specified in this Agreement and the following described exhibits, all of which are incorporated into this Agreement by this reference:

Exhibit A Definition of Services

- Exhibit A-1: Agiloft Hosted Service Agreement
- Exhibit A-2: Agiloft Support
- Exhibit A-3: Data Processing Exhibit

Exhibit B Payment Terms

Exhibit C Insurance Requirements

Exhibit D Debarment and Suspension Certification

The term of this Agreement shall be from 11/01/2022 through 10/31/2025.

The County neither warrants nor guarantees any minimum compensation to the Contractor under this Agreement. Payment to Contractor shall be based on actual services performed on behalf of the County. The compensation payable to Contractor hereunder shall be paid from a total contract amount for licenses for hosted Services for Contracts Life Cycle Management. The total amount for this contract shall not exceed *Four Hundred Eight Two Thousand Five hundred and Fifty-Six dollars* (\$482, 556) for the term of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COUNTY OF ALAMEDA

AGILOFT, INC.

By: Keith Carson
Signature

By: Patricia Pritts
Signature

Name: Keith Carson
(Printed)

Name: Patricia Pritts
(Printed)

Title: President of the Board of Supervisors

Title: Vice President, Deals Enablement

Date: 12/5/2022

Date: 11/5/2022

Approved as to Form:
DONNA R. ZIEGLER, County Counsel

By: Samantha Stonework-Hand
Samantha Stonework-
Hand
Senior Deputy
County Counsel

By signing above, the signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement



GENERAL TERMS AND CONDITIONS

1. **INDEPENDENT CONTRACTOR:** No relationship of employer and employee is created by this Agreement; it being understood and agreed that Contractor is an independent contractor. Contractor is not the agent or employee of the County in any capacity whatsoever, and County shall not be liable for any acts or omissions by Contractor nor for any obligations or liabilities incurred by Contractor.

Contractor shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance medical care, hospital care, retirement benefits, social security, disability, Workers' Compensation, or unemployment insurance benefits, civil service protection, or employee benefits of any kind.

Contractor shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees and agrees to indemnify and hold County harmless from any and all liability which County may incur because of Contractor's failure to pay such amounts.

In carrying out the work contemplated herein, Contractor shall comply with all applicable federal and state workers' compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees will be considered as independent contractors and shall not be treated or considered in any way as officers, agents and/or employees of County.

Contractor does, by this Agreement, agree to perform his/her said work and functions at all times in strict accordance with currently approved methods and practices in his/her field and that the sole interest of County is to insure that said service shall be performed and rendered in a competent, efficient, timely and satisfactory manner and in accordance with the standards required by the County agency concerned.

Notwithstanding the foregoing, if the County determines that pursuant to state and federal law Contractor is an employee for purposes of income tax withholding, County may upon two week's notice to Contractor, withhold from payments to Contractor hereunder federal and state income taxes and pay said sums to the federal and state governments.

2. **INDEMNIFICATION:** To the fullest extent permitted by law, Contractor shall hold harmless, defend and indemnify the County of Alameda, its Board of Supervisors, employees and agents from and against any and all claims, losses, damages, liabilities and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance

of services under this Agreement, provided that any such claim, loss, damage, liability or expense is attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, state or municipal law or regulation, which arises out of or is any way connected with the performance of this agreement (collectively "Liabilities") except where such Liabilities are caused solely by the negligence or willful misconduct of any indemnitee. The County may participate in the defense of any such claim without relieving Contractor of any obligation hereunder. The obligations of this indemnity shall be for the full amount of all damage to County, including defense costs, and shall not be limited by any insurance limits.

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the Alameda County Employees' Retirement Association (ACERA) or California Public Employees' Retirement System (PERS) to be eligible for enrollment in ACERA and PERS as an employee of County, Contractor shall indemnify, defend, and hold harmless County for the payment of any employee and/or employer contributions for ACERA and PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of County.

3. **INSURANCE AND BOND:** Contractor shall at all times during the term of the Agreement with the County maintain in force, at minimum, those insurance policies and bonds as designated in the attached Exhibit C, and will comply with all those requirements as stated therein. The County and all parties as set forth on Exhibit C shall be considered an additional insured or loss payee if applicable. All of Contractor's available insurance coverage and proceeds in excess of the specified minimum limits shall be available to satisfy any and all claims of the County, including defense costs and damages. Any insurance limitations are independent of and shall not limit the indemnification terms of this Agreement. Contractor's insurance policies, including excess and umbrella insurance policies, shall include an endorsement and be primary and non-contributory and will not seek contribution from any other insurance (or self-insurance) available to County. Contractor's excess and umbrella insurance shall also apply on a primary and non-contributory basis for the benefit of the County before County's own insurance policy or self-insurance shall be called upon to protect it as a named insured.
4. **PREVAILING WAGES:** Pursuant to Labor Code Sections 1770 et seq., Contractor shall pay to persons performing labor in and about Work provided for in Contract not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work in said locality, which per diem wages shall not be less than the stipulated rates contained in a schedule thereof which has been ascertained and determined by the Director of the State Department of Industrial Relations to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this contract.

5. **WORKERS' COMPENSATION:** Contractor shall provide Workers' Compensation insurance, as applicable, at Contractor's own cost and expense and further, neither the Contractor nor its carrier shall be entitled to recover from County any costs, settlements, or expenses of Workers' Compensation claims arising out of this Agreement.

6. **CONFORMITY WITH LAW AND SAFETY:**
 - a. In performing services under this Agreement, Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services, including all applicable provisions of the California Occupational Safety and Health Act. Contractor shall indemnify and hold County harmless from any and all liability, fines, penalties and consequences from any of Contractor's failures to comply with such laws, ordinances, codes and regulations.

 - b. Accidents: If a death, serious personal injury, or substantial property damage occurs in connection with Contractor's performance of this Agreement, Contractor shall immediately notify the Alameda County Risk Manager's Office by telephone. Contractor shall promptly submit to County a written report, in such form as may be required by County of all accidents which occur in connection with this Agreement. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of Contractor's sub-Contractor, if any; (3) name and address of Contractor's liability insurance carrier; and (4) a detailed description of the accident and whether any of County's equipment, tools, material, or staff were involved.

 - c. Contractor further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the County the opportunity to review and inspect such evidence, including the scene of the accident.

7. **DEBARMENT AND SUSPENSION CERTIFICATION:** (Applicable to all agreements funded in part or whole with federal funds and contracts over \$25,000).
 - a. By signing this agreement and Exhibit D, Debarment and Suspension Certification, Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations, including but not limited to 7 Code of Federal Regulations (CFR) 3016.35, 28 CFR 66.35, 29 CFR 97.35, 34 CFR 80.35, 45 CFR 92.35 and Executive Order 12549.

 - b. By signing this agreement, Contractor certifies to the best of its knowledge and belief, that it and its principals:

- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntary excluded by any federal department or agency;
 - (2) Shall not knowingly enter into any covered transaction with a person who is proposed for debarment under federal regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction.
8. **PAYMENT:** For services performed in accordance with this Agreement, payment shall be made to Contractor as provided in Exhibit B hereto.
9. **TRAVEL EXPENSES:** Contractor shall not be allowed or paid travel expenses unless set forth in this Agreement.
10. **TAXES:** Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the Contractor.
11. **OWNERSHIP OF DOCUMENTS:** Contractor hereby assigns to the County and its assignees all copyright and other use rights in any and all proposals, plans, specification, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by the County, the Contractor, the Contractor's sub-Contractors or third parties at the request of the Contractor (collectively, "Documents and Materials"). This explicitly includes the electronic copies of all above stated documentation.

Contractor also hereby assigns to the County and its assignees all copyright and other use rights in any Documents and Materials including electronic copies stored in Contractor's Information System, respecting in any way the subject matter of this Agreement.

Contractor shall be permitted to retain copies, including reproducible copies and computerized copies, of said Documents and Materials. Contractor agrees to take such further steps as may be reasonably requested by County to implement the aforesaid assignment. If for any reason said assignment is not effective, Contractor hereby grants the County and any assignee of the County an express royalty – free license to retain and use said Documents and Materials. The County's rights under this paragraph shall apply regardless of the degree of completion of the Documents and Materials and whether or not Contractor's services as set forth in Exhibit "A" of this Agreement have been fully performed or paid for.

In Contractor's contracts with other Contractors, Contractor shall expressly obligate its Sub-Contractors to grant the County the aforesaid assignment and license rights as to that Contractor's Documents and Materials. Contractor agrees to defend, indemnify, and hold the County harmless from any damage caused by a failure of the Contractor to obtain such rights from its Contractors and/or Sub-Contractors.

Contractor shall pay all royalties and license fees which may be due for any patented or copyrighted materials, methods or systems selected by the Contractor and incorporated into the work as set forth in Exhibit "A", and shall defend, indemnify and hold the County harmless from any claims for infringement of patent or copyright arising out of such selection. The County's rights under this Paragraph 11 shall not extend to any computer software used to create such Documents and Materials.

12. **CONFLICT OF INTEREST; CONFIDENTIALITY:** The Contractor covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. Without limitation, Contractor represents to and agrees with the County that Contractor has no present, and will have no future, conflict of interest between providing the County services hereunder and any other person or entity (including but not limited to any federal or state wildlife, environmental or regulatory agency) which has any interest adverse or potentially adverse to the County, as determined in the reasonable judgment of the Board of Supervisors of the County.

The Contractor agrees that any information, whether proprietary or not, made known to or discovered by it during the performance of or in connection with this Agreement for the County will be kept confidential and not be disclosed to any other person. The Contractor agrees to immediately notify the County by notices provided in accordance with Paragraph 13 of this Agreement, if it is requested to disclose any information made known to or discovered by it during the performance of or in connection with this Agreement. These conflict of interest and future service provisions and limitations shall remain fully effective five (5) years after termination of services to the County hereunder.

13. **NOTICES:** All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox. Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service. Telex or facsimile transmission: When sent by telex or facsimile to the last telex or facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or facsimile shall be deemed

received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To County: COUNTY OF ALAMEDA
2000 San Pablo Ave
Oakland, CA 94612
ATTN: _Sherri Reeves

To Contractor: Agiloft, Inc.
460 Seaport Court #200
Redwood City, CA 94063
ATTN: Legal Department

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or telex or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

14. **USE OF COUNTY PROPERTY:** Contractor shall not use County property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.
15. **EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS:** Contractor assures that he/she/it will comply with Title VII of the Civil Rights Act of 1964 and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.
 - a. Contractor shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, state that it is an "Equal Opportunity Employer" or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
 - b. Contractor shall, if requested to so do by the County, certify that it has not, in the performance of this Agreement, discriminated against applicants or employees because of their race, creed, color, disability, sex, sexual orientation, national origin,

age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.

- c. If requested to do so by the County, Contractor shall provide the County with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under state or federal law.
 - d. Contractor shall recruit vigorously and encourage minority - and women-owned businesses to bid its subcontracts.
 - e. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act, which is prohibited by law.
 - f. The Contractor shall include the provisions set forth in paragraphs A through E (above) in each of its subcontracts.
16. **DRUG-FREE WORKPLACE:** Contractor and Contractor's employees shall comply with the County's policy of maintaining a drug-free workplace. Neither Contractor nor Contractor's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code § 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any County facility or work site. If Contractor or any employee of Contractor is convicted or pleads nolo contendere to a criminal drug statute violation occurring at a County facility or work site, the Contractor within five days thereafter shall notify the head of the County department/agency for which the contract services are performed. Violation of this provision shall constitute a material breach of this Agreement.
17. **AUDITS; ACCESS TO RECORDS:** The Contractor shall make available to the County, its authorized agents, officers, or employees, for examination any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to the expenditures and disbursements charged to the County, and shall furnish to the County, its authorized agents, officers or employees such other evidence or information as the County may require with regard to any such expenditure or disbursement charged by the Contractor.

The Contractor shall maintain full and adequate records in accordance with County requirements to show the actual costs incurred by the Contractor in the performance of this Agreement. If such books and records are not kept and maintained by Contractor within the County of Alameda, California, Contractor shall, upon request of the County, make such books and records available to the County for inspection at a location within County or Contractor shall pay to the County the reasonable, and necessary costs incurred by the County in inspecting Contractor's books and records, including, but not limited to, travel, lodging and subsistence costs. Contractor shall provide such assistance as may be reasonably required in the course of such inspection. The County further reserves the right

to examine and reexamine said books, records and data during the three (3) year period following termination of this Agreement or completion of all work hereunder, as evidenced in writing by the County, and the Contractor shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatsoever for three (3) years after the County makes the final or last payment or within three (3) years after any pending issues between the County and Contractor with respect to this Agreement are closed, whichever is later.

18. **DOCUMENTS AND MATERIALS:** Contractor shall maintain and make available to County for its inspection and use during the term of this Agreement, all Documents and Materials, as defined in Paragraph 11 of this Agreement. Contractor's obligations under the preceding sentence shall continue for three (3) years following termination or expiration of this Agreement or the completion of all work hereunder (as evidenced in writing by County), and Contractor shall in no event dispose of, destroy, alter or mutilate said Documents and Materials, for three (3) years following the County's last payment to Contractor under this Agreement.
19. **TIME OF ESSENCE:** Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.
20. **TERMINATION:** The County has and reserves the right to suspend, terminate, or abandon the execution of any work by the Contractor without cause at any time upon giving to the Contractor prior written notice. In the event that the County should abandon, terminate, or suspend the Contractor's work, the Contractor shall be entitled to payment for services provided hereunder prior to the effective date of said suspension, termination, or abandonment. Said payment shall be computed in accordance with Exhibit B hereto, provided that the maximum amount payable to Contractor for its hosted services for Contracts Life Cycle Management Services shall not exceed \$482,556.00 payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment.
21. **SMALL LOCAL AND EMERGING BUSINESS (SLEB) PARTICIPATION:**

SMALL, LOCAL AND EMERGING BUSINESS (SLEB) PARTICIPATION: Contractor has been approved by County to participate in contract without SLEB participation (GSA approved SLEB waiver #8521, Expiration 10/31/2025). As a result, there is no requirement to subcontract with another business in order to satisfy the County's Small and Emerging Locally owned Business provision.

However, if circumstances or the terms of the contract should change, Contractor may be required to immediately comply with the County's Small and Emerging Local Business provisions, including but not limited to:

- a. Contractor must be a certified small or emerging local business(es) or subcontract a minimum 20% with a certified small or emerging local business(es).
- b. SLEB subcontractor(s) is independently owned and operated (i.e., is not owned or operated in any way by Prime), nor do any employees of either entity work for the other.
- c. Small and/or Emerging Local Business participation and current SLEB certification status must be maintained for the term of the contract. Contractor shall ensure that their own certification status and/or that of participating subcontractors (as is applicable) are maintained in compliance with the SLEB Program.
- d. Contractor shall not substitute or add any small and/or emerging local business(s) listed in this agreement without prior written approval from the County. Said requests to substitute or add a small and/or emerging local business shall be submitted in writing to the County department contract representative identified under Item #13 above. Contractor will not be able to substitute the subcontractor without prior written approval from the Alameda County Auditor Controller Agency, Office of Contract Compliance & Reporting (OCCR).
- e. All SLEB participation, except for SLEB prime contractor, must be tracked and monitored utilizing the Elation compliance System.

County will be under no obligation to pay contractor for the percent committed to a SLEB (whether SLEB is a prime or subcontractor) if the work is not performed by the listed small and/or emerging local business.

For further information regarding the Small Local Emerging Business participation requirements and utilization of the Alameda County Contract Compliance System contact OCCR via e-mail at ACSLEBcompliance@acgov.org.

22. **FIRST SOURCE PROGRAM:** For contracts over \$100,000, Contractor shall provide County ten (10) working days to refer to Contractor, potential candidates to be considered by Contractor to fill any new or vacant positions that are necessary to fulfill their contractual obligations to the County that Contractor has available during the contract term before advertising to the general public.
23. **CHOICE OF LAW:** This Agreement shall be governed by the laws of the State of California.
24. **WAIVER:** No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

25. **ENTIRE AGREEMENT:** This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between County and Contractor relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. The Agreement may not be modified except by a written document signed by both parties.
26. HEADINGS herein are for convenience of reference only and shall in no way affect interpretation of the Agreement.
27. **ADVERTISING OR PUBLICITY:** Contractor shall not use the name of County, its officers, directors, employees or agents, in advertising or publicity releases or otherwise without securing the prior written consent of County in each instance.
28. **MODIFICATION OF AGREEMENT:** This Agreement may be supplemented, amended, or modified only by the mutual agreement of the parties. No supplement, amendment, or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both parties.
29. **ASSURANCE OF PERFORMANCE:** If at any time County believes Contractor may not be adequately performing its obligations under this Agreement or that Contractor may fail to complete the Services as required by this Agreement, County may request from Contractor prompt written assurances of performance and a written plan acceptable to County, to correct the observed deficiencies in Contractor's performance. Contractor shall provide such written assurances and written plan within ten (10) calendar days of its receipt of County's request and shall thereafter diligently commence and fully perform such written plan. Contractor acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this Agreement.
30. **SUBCONTRACTING/ASSIGNMENT:** Contractor shall not subcontract, assign, or delegate any portion of this Agreement or any duties or obligations hereunder without the County's prior written approval.
 - a. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Paragraph shall confer no rights on any party and shall be null and void.
 - b. Contractor shall use the subcontractors identified in Exhibit A and shall not substitute subcontractors without County's prior written approval.

- c. Contractor shall require all subcontractors to comply with all indemnification and insurance requirements of this agreement, including, without limitation, Exhibit C. Contractor shall verify subcontractor's compliance.
 - d. Contractor shall remain fully responsible for compliance by its subcontractors with all the terms of this Agreement, regardless of the terms of any agreement between Contractor and its subcontractors.
31. **SURVIVAL:** The obligations of this Agreement, which by their nature would continue beyond the termination on expiration of the Agreement, including without limitation, the obligations regarding Indemnification (Paragraph 2), Ownership of Documents (Paragraph 11), and Conflict of Interest (Paragraph 12), shall survive termination or expiration.
32. **SEVERABILITY:** If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.
33. **PATENT AND COPYRIGHT INDEMNITY:** Contractor represents that it knows of no allegations, claims, or threatened claims that the materials, services, hardware or software ("Contractor Products") provided to County under this Agreement infringe any patent, copyright or other proprietary right. Contractor shall defend, indemnify and hold harmless County of, from and against all losses, claims, damages, liabilities, costs expenses and amounts (collectively, "Losses") arising out of or in connection with an assertion that any Contractor Products or the use thereof, infringe any patent, copyright or other proprietary right of any third party. County will: (1) notify Contractor promptly of such claim, suit, or assertion; (2) permit Contractor to defend, compromise, or settle the claim; and, (3) provide, on a reasonable basis, information to enable Contractor to do so. Contractor shall not agree without County's prior written consent, to any settlement, which would require County to pay money or perform some affirmative act in order to continue using the Contractor Products.
- a. If Contractor is obligated to defend County pursuant to this Paragraph 33 and fails to do so after reasonable notice from County, County may defend itself and/or settle such proceeding, and Contractor shall pay to County any and all losses, damages and expenses (including attorney's fees and costs) incurred in relationship with County's defense and/or settlement of such proceeding.
 - b. In the case of any such claim of infringement, Contractor shall either, at its option, (1) procure for County the right to continue using the Contractor Products; or (2) replace or modify the Contractor Products so that that they become non-infringing, but equivalent in functionality and performance.

- c. Notwithstanding this Paragraph 33, County retains the right and ability to defend itself, at its own expense, against any claims that Contractor Products infringe any patent, copyright, or other intellectual property right.
- 34. **OTHER AGENCIES:** Other tax supported agencies within the State of California who have not contracted for their own requirements may desire to participate in this contract. The Contractor is requested to service these agencies and will be given the opportunity to accept or reject the additional requirements. If the Contractor elects to supply other agencies, orders will be placed directly by the agency and payments made directly by the agency.
- 35. **EXTENSION:** This agreement may be extended for two additional years by mutual agreement of the County and the Contractor.
- 36. **SIGNATORY:** By signing this agreement, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

[END OF GENERAL TERMS AND CONDITIONS]

ADDITIONAL PROVISIONS

The Standard Services Agreement between County and Contractor is modified with the Additional Terms as follows:

1. **Introductory Paragraph.** The introductory paragraph of the Standard Services Agreement, on page 1, is replaced with the following:

This Agreement, dated as of November 1, 2022, is by and between the County of Alameda, hereinafter referred to as the “County,” “Company,” or “Customer,” and Agiloft, Inc. hereinafter referred to as the “Contractor,” “Vendor” or “Agiloft.”
2. **General Terms and Conditions No. 2 Indemnification** is amended as follows:
The last two sentences in the first paragraph are deleted and replaced with the following: “The County may, at its own expense, participate in the defense of any such claim without relieving Contractor of any obligation hereunder. For the avoidance of doubt, Contractor's indemnification obligation is subject to Paragraph 37 (Limitation of Liability).” The remainder of GT&C #2 is unchanged.
3. **General Terms and Conditions No. 3 Insurance and Bond** is amended as follows:
Delete the following sentence: “All of Contractor’s available insurance coverage and proceeds in excess of the specified minimum limits shall be available to satisfy any and all claims of the County, including defense costs and damages.” The remainder of GT&C #3 is unchanged.
4. **General Terms and Conditions No. 12 Conflict of Interest; Confidentiality** is amended to add the following paragraph as the third paragraph in GT&C #12:
“The County agrees that any information, whether proprietary or not, made known to or discovered by it during the performance of or in connection with this Agreement for the Contractor will be kept confidential and not be disclosed to any other person. The County agrees to immediately notify the Contractor by notices provided in accordance with Paragraph 13 of this Agreement, if it is requested to disclose any information made known to or discovered by it during the performance of or in connection with this Agreement.” The remainder of GT&C #12 is unchanged.
5. **General Terms and Conditions No. 17 Audits; Access to Records** is amended as follows:
The first paragraph is deleted and replaced with the following:
“Upon five (5) business days’ prior written notice, the Contractor shall make available to the County, its authorized agents, officers, or employees, for examination any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to the expenditures and disbursements charged to the County, and shall furnish to the County, its authorized agents, officers or employees such other evidence or

information as the County may require with regard to any such expenditure or disbursement charged by the Contractor.” The remainder of GT&C #17 is unchanged.

6. **General Terms and Conditions No. 20 Termination** is deleted and replaced with the following:

“20. TERMINATION.

- a. **Termination for Cause.** A party may suspend or terminate this Agreement for cause (a) upon 30 (thirty) days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (b) if the other party becomes the subject of a bankruptcy petition or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors.
- b. **Termination for Non-Appropriation.** If expected or actual funding is either not appropriated or withdrawn prior to County’s payment to Contractor of the fees due for the second or third years of the three-year term set forth in Exhibit B, the County may, upon written notice to the Contractor, terminate the Agreement for lack of appropriation. In the event of suspension or termination under this Subsection b, the following will apply: (i) subject to Subsection (ii), the County will be liable only for payment for fees paid or payable to Contractor for the then-current year of the term for the Hosted Service and for Consulting Services provided prior to the date of termination; (ii) outstanding payments will be calculated in accordance with this Agreement and the maximum amount payable to Contractor will not exceed \$482,556.00 for Hosted Services; and (iii) the Contractor will be released from any obligation to provide further Services under this Agreement.”

7. **General Terms and Conditions No. 29 Assurance of Performance** is amended as follows: The second sentence is deleted and replaced with the following:

“Contractor shall provide such written assurances and written plan within thirty (30) calendar days of its receipt of County’s request and shall thereafter diligently commence and fully perform such written plan.” The remainder of GT&C #29 is unchanged.

8. **General Terms and Conditions No. 33 Patent and Copyright** is amended as follows:

Subpart c. is deleted and replaced with the following:

“Notwithstanding the right of Contractor to assume control of the defense of County under this Paragraph 33, should a dispute arise between County and Contractor as to the Contractor’s defense of County that cannot be resolved by each party appointing a knowledgeable, responsible representative to promptly meet and attempt in good faith to resolve the dispute, County retains the right and ability to defend itself, at its own expense, against any claims that Contractor Products infringe any patent, copyright, or other intellectual property right of a third party. County will still be responsible for providing reasonable assistance to Contractor and County will not, without Contractor’s prior written consent: (1) agree to any settlement that would obligate: (i) County to pay money which it would then seek to recover from Contractor, (ii) County to perform an affirmative act that could have a material adverse impact on

Contractor including, but not limited to, Contractor's financial interest or reputation; (iii) County to make any admission with respect to Contractor Products or Contractor intellectual property rights; or (2) make any admissions or statements on behalf of Contractor in carrying out its own defense under this Subsection 33.c." The remainder of GT&C #33 is unchanged.

9. Add as new General Terms and Condition No. 37 Limitation of Liability:

"37. LIMITATION OF LIABILITY.

- a. EXCEPT FOR EITHER PARTY'S LIABILITY FOR (i) INFRINGEMENT OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, (ii) GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD, OR (iii) CLAIMS FOR PERSONAL INJURY, WRONGFUL DEATH, OR PROPERTY DAMAGE, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EACH PARTY TOGETHER WITH ALL OF ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE GREATER OF (i) THREE TIMES (3X) THE TOTAL AMOUNT PAID OR PAYABLE BY CUSTOMER UNDER THIS AGREEMENT (INCLUDING ANY RENEWAL, PREDECESSOR OR SUCCESSOR AGREEMENTS, FOR THE SERVICES GIVING RISE TO THE LIABILITY) IN THE TWELVE (12) MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE, OR (ii) \$750,000 USD, NOT TO EXCEED \$1 MILLION USD. THE ABOVE LIMITATIONS WILL (i) APPLY WHETHER AN ACTION IS CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY AND (ii) AMOUNTS PAYABLE BY CONTRACTOR ARE TO BE RECOVERED FROM CONTRACTOR'S INSURANCE COVERAGE. HOWEVER, THE ABOVE LIMITATIONS WILL NOT LIMIT COUNTY'S PAYMENT OBLIGATIONS HEREUNDER.
- b. Exclusion of Consequential and Related Damages. IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS, REVENUES, OR INDIRECT, SPECIAL, INCIDENTAL, COVER, PUNITIVE OR CONSEQUENTIAL DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF A PARTY'S OR ITS AFFILIATES' REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW."



EXHIBIT A

DEFINITION OF SERVICES

1. Contractor shall provide software, development, hosting, and support for the hosted services to manage the Contract Life Cycle Management tool for the Contracts Office of the Alameda County Social Services Agency and shall also meet specific requirements and deliverables as set forth in the following.

Exhibit A-1: Agiloft Hosted Service Agreement

Exhibit A-2: Agiloft Support

Exhibit A-3: Data Processing Exhibit

2. Contractor project team will consist of the following Key Personnel and subcontractors, as applicable during the contract term:

Lee Sandwina, Enterprise Account Executive	707-322-4579	lee.sandwina@agiloft.com
Jason Edwards, RVP of Sales	678-850-8509	jason.edwards@agiloft.com

Contractor agrees that it shall not transfer or reassign the individuals identified above as Key Personnel or substitute subcontractors without the express written agreement of County, which agreement shall not be unreasonably withheld. Should such individual or individuals in the employ of Contractor no longer be employed by Contractor during the term of this Agreement, Contractor shall make a good faith effort to present to County an individual with greater or equal qualifications as a replacement subject to County's approval, which approval shall not be unreasonably withheld.

3. The approval of County to a requested change shall not release Contractor from its obligations under this Agreement.



EXHIBIT A-1

AGILOFT HOSTED SERVICE AGREEMENT

Agiloft shall provide software, development, hosting, and support for the hosted services to manage the Contract Lifecycle Management (CLM) tool for the Social Services Contracts Office in Alameda County and shall also meet specific requirements and deliverables specified below:

1. DEFINITIONS

“Add-on Module” – optional Agiloft application to extend Edition functionality, such as Sourcing and Supplier Information Management.

“Agreement” - this Hosted Service Agreement.

“Affiliate” – means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity; and "control" for the purposes of this definition means direct or indirect ownership or control of more than 50% of the voting interest of the subject entity, provided that any such Affiliate shall be deemed an Affiliate only for so long as such control lasts. Affiliates may purchase subscriptions to the Hosted Service that are subject to the terms and conditions of this Agreement by executing an Order Form hereunder.

“Annual Subscription Fee” – The fee for one year of hosted service as described in Exhibit B.

“Corrections” - any corrections, changes, or workarounds Agiloft may provide Customer for any defects, errors, or malfunctions in Agiloft’s Software Product or systems.

“Consulting Service” – consulting, implementation, or other professional services as described in Exhibit B or Statement of Work.

“Customer Data” - any electronic data or information supplied by or for Customer and not part of Agiloft’s Software Product or Hosted Service, that is submitted, collected, processed or managed by or for Customer in conjunction with Customer’s use of the Hosted Service, Software Product, or Standard or Extended Enterprise Support.

“Customer KnowledgeBase” – Customer Data and the configuration of business rules, workflows and other database attributes created or modified for Customer.

“Documentation” - Agiloft’s online user guides, documentation, and help and training materials, including courses, quizzes and videos.

“Edition” - the specific package of the Agiloft product licensed, which determines the available license types and features.

“Extended Enterprise Support” - Standard Support plus round the clock support for critical issues, priority queue and case routing, and an annual system health check, as documented in Exhibit A.

“Force Majeure” - events beyond Agiloft’s control, such as an act of God or act of government, including but not limited to flood, fire, earthquake, civil unrest, act of terror, provider strike or other labor problem, internet service provider failure or delay, or denial of service attack.

“Hosted Service” - the hosting infrastructure, access and services related to the online delivery of the Software Product, or any part thereof.

“Malevolent Code” - code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

“On-Premise License” - the provision of licenses, support, and upgrades for the Software Product installed on Customer’s servers.

“Other Applications” - any on or offline software application created or provided by Customer or any party other than Agiloft, that interoperates with Agiloft’s Software Product or Hosted Service (e.g., an e-signature application).

“Quote” - the ordering documents (e.g., Statement of Work, license quote, renewal quote, Exhibit B) specifying the terms for the Software Product, Hosted Service, Support Service, Consulting Service, and other services as applicable provided by us to Customer, including any addenda and supplements thereto.

“Software Product” - any computer programs or software, applications, or scripts created by us and licensed for use by Customer, directly or indirectly, including functionality described in the Documentation, or any part thereof.

“Standard Support” - the support services provided to all Hosted Service customers as documented in Exhibit A.

“Support Service” – Standard, Extended Enterprise, or other support as specified in a Quote.

“User” - an individual authorized to use Agiloft’s Hosted Service, Software Product or Support Service.

AGILOFT’S OBLIGATIONS

2.1 Hosted Service Availability and Credits. Agiloft will make the Hosted Service available to Customer pursuant to this Agreement, at the rates set out in the applicable Quote in Exhibit B

As part of the Hosted Service, Agiloft will take all reasonable measures to keep uptime at or above 99.7%. If, due to Agiloft’s error, Agiloft’s hosted service is unavailable for less than 99.7% in a given month, the Customer will receive credit upon request within 30 days from the month end according to the following schedule:

If less than 99.7%, the credit is 5% of the Annual Subscription Fee prorated for the month

If less than 95%, the credit is the Annual Subscription Fee prorated for the month times the unavailability percentage for the month, subject to a maximum of 50% of the prorated monthly fee

In no event will Customer be entitled to a refund for downtime caused by maintenance (normally conducted during the hours of 10pm-4am, PST, and most often during a weekend), security or other critical patches, or a Force Majeure event.

2.2 Software Product and Upgrades. Agiloft will grant Customer licenses to use Agiloft’s Software Product pursuant to this Agreement, at the rates set out in the applicable Quote (Exhibit B) for

the licensed Editions and Add-on Modules. Agiloft is constantly improving Agiloft's Software Product and wants its Customer to benefit from such improvements. To that end, Agiloft will:

- a) Provide Customer with corrections, changes, or workarounds ("Corrections") for any significant defects, errors, or malfunctions in Agiloft's Software Product or systems, on a timely basis, given the nature and scope of the defect.
- b) Install upgrades of Agiloft's Software Product to the hosted servers as soon as practical, after they become available. Agiloft will promptly notify Customer of any upgrades that will significantly affect Customer program functionality.
- c) Make release notes available and identify any significant impact upgrades may have on existing customizations.
- d) Make available to Customer any revisions to the system Documentation developed to reflect upgrades and improvements to the Software Product.
- e) Make all commercially reasonable efforts to introduce updates in a manner that can be disabled where applicable. Agiloft reserves the right to immediately upgrade and incorporate enhancements directly related to security or patching of supporting systems.

2.3. Technical Support. Agiloft will provide Agiloft's Standard Support to Customer at no additional charge or Agiloft's Extended Enterprise Support at the rates set out in the applicable Quote (Exhibit B). As part of the Standard Support, Agiloft will:

- a) Provide Customer with support for the most recent release of Agiloft's Software Product. Following any new release, Agiloft will also provide Customer with support for the immediately prior version of Agiloft's Software Product for a period not to exceed four (4) months.
- b) Agiloft's Standard Support covers support on standard functionality and Software Product defects. It does not include the provision of customization advice or consulting services. Neither does it cover problems caused by Customer's system administrator, such as Customer's accidental or inadvertent destruction of Customer's own data or a Force Majeure.
- c) Further details of Agiloft's Standard and Extended Enterprise support services are incorporated and attached as Exhibit A-2.

2.4 Consulting Services. Agiloft will provide Consulting Services as specified in an applicable Quote (Exhibit B) or Statement of Work.

2.5 Protection of Customer Data. Agiloft will take organizational, physical, and technical precautions to protect the security of Customer Data, as described in the Documentation and exhibits and amendments. Those precautions will include measures for preventing access, use, modification or disclosure of Customer Data by Agiloft's employees and contractors except (a) to provide the Hosted Service and prevent or address service or technical problems, (b) as compelled by law in accordance with §7.4 (Compelled Disclosure) below, or (c) as Customer expressly permits in writing or by contracting with Agiloft for consulting services for Customer Data processing and import.

3. RESTRICTIONS ON USE

- 3.1 Usage Limits.** Agiloft's Software Product is subject to usage limits, including those based on the Edition, Add-on Modules, and on the number and type of licenses purchased. The applicable Quote (Exhibit B) will specify the Edition, Add-on Modules, and the permitted number of licenses of each type and their appropriate usage, and Customer agrees to stay within the license restrictions. If Customer exceeds a contractual usage limit, Agiloft may work with Customer to seek to reduce Customer's usage so that it conforms to that limit. If, notwithstanding Agiloft's efforts, Customer is unable or unwilling to abide by a contractual usage limit, Customer agrees to pay for the additional necessary licenses or services promptly upon Agiloft's providing Customer with a new Quote (Exhibit B) and/or pay any invoice for excess usage in accordance with Exhibit B, Payment Terms.
- 3.2 Usage Control.** Customer will be responsible for user compliance with this Agreement, as it applies to the accuracy, quality and legality of Customer's KnowledgeBase, including the means by which Customer acquires Customer Data. Customer agrees to use commercially reasonable efforts to prevent unauthorized access to or use of Agiloft's Hosted Service or Software Product, and to notify Agiloft promptly of any such unauthorized access or use. Customer agrees to use Agiloft's Hosted Service and Software Product only in accordance with the Quote (Exhibit B), the Documentation and applicable laws and government regulations. It is Customer's responsibility to comply with any terms of service for Other Applications which Customer uses in conjunction with Agiloft's Hosted Service or Software Product.
- 3.3 Usage Restrictions.** Customer will not (a) make any Hosted Service or Software Product available to, or use any Hosted Service or Software Product for the benefit of anyone other than Customer or Users, or (b) sell, resell, license, sublicense, distribute, rent or lease the Hosted Service or Software Product. Customer will not use Customer's KnowledgeBase or the Hosted Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or material in violation of third-party privacy rights, to store or transmit Malevolent Code, to interfere with or disrupt the integrity or performance of any Hosted Service or data not belonging to Customer, or attempt to gain unauthorized access to any Hosted Service or Software Product or its related systems or networks and Agiloft shall have the right to suspend Customer's use of the Hosted Service or Software Product until such violation of 3.3(a) and 3.3(b) are resolved. Customer will not use Customer's KnowledgeBase or the Hosted Service to circumvent a contractual usage limit, or to copy the Hosted Service or any part thereof, including a feature, function or user interface, except as permitted in writing by us. Customer will not frame or mirror any part of any Agiloft's Hosted Service or Software Product, other than framing on Customer's own intranets or otherwise for Customer's own internal business purposes or as permitted in the Documentation. Customer may not access any Hosted Service or Software Product in order to build a competitive product or service, or reverse engineer any Hosted Service, KnowledgeBase or Software Product (to the extent such restriction is permitted by law).
- 3.4 Test Licenses.** Customer may wish to purchase test licenses for use in development and testing. Any additional fees associated with such licenses will be set forth in the Quote (Exhibit B).

3.5 External-Facing Hosted Service Behavior. Customer and its Users are solely responsible for complying with applicable law in any use of cookies or other tracking technologies, as well as the U.S. Digital Millennium Copyright Act. In addition, if Customer or its Users engage in any of the following activities, Customer may be deemed in material breach of this Agreement:

- a) Customer may not use or allow the use of the Hosted Service to display, store, process or transmit: corrupted files, hoaxes, frauds such as pyramid schemes or any other items of a destructive or deceptive nature; material that infringes or misappropriates a third party's intellectual property or proprietary rights; that violates a third-party's privacy rights; that violates applicable law; that is excessively profane; that is hateful or violent; that advocates racial or ethnic intolerance; that is intended to advocate or advance computer hacking or cracking; illegal software; Malevolent Code; or any other material that violates or encourages conduct that would violate any criminal laws, any other applicable laws, or any other third party rights.
- b) Customer may not use, or allow anyone else to use the Hosted Service to: generate or facilitate unsolicited commercial email (spam). Spam activity includes, but is not limited to: sending email in violation of the CAN-SPAM Act or any other applicable anti-spam law; imitating or impersonating another person or email address, creating false accounts for the purpose of sending spam; mining or harvesting any web property (including any data not belonging to Customer) to find email addresses or other user account information; sending unauthorized mail via open, third-party servers; and sending email to users who have requested removal from a mailing list.
- c) Customer may not use, or allow anyone else to use, the Hosted Service in connection with illegal peer-to-peer file sharing; to engage in or promote gambling, to run a gambling operation; to sell, distribute or export prescription drugs or other controlled substances; to sell, distribute or promote drug paraphernalia; to corrupt minors; or to access any other service or website, directly or indirectly, in a manner that violates the terms for use of or access to such service or website.

3.6. Removal of Software Product and Other Applications. If a third party contends that any content in Agiloft's Hosted Service or Software Product violates applicable law or third-party rights, and if Agiloft is directed to remove such content in Agiloft's Software Product or Hosted Service, Agiloft will remove such content as soon as practical in an upgrade to Agiloft's Software Product. If Agiloft receives information that integration with any Other Application in a Customer Knowledgebase may violate the terms set out in this §3 or applicable law or third-party rights, and if Agiloft so notifies Customer, Customer will promptly disable or modify such integration with the Other Application to resolve the potential violation. If Customer does not take the actions described in this subsection, Agiloft may disable Customer's use of the applicable Software Product, Hosted Service or Other Application, or any part of any of these, until the potential violation is resolved.

3.7 Export Compliance.

Each party hereby certifies that it has not been designated as a person who or that is prohibited from receiving certain technical data by any foreign or U.S. governmental agency, including the U.S. Treasury Department (under its List of Specially Designated Nationals) or the U.S. Commerce Department (under its Denied Persons or Entity List). Customer also

covenants (i) not to export or re-export, directly or indirectly, any regulated technical data, alone or embodied in any product, in violation of any U.S. or foreign export control laws or regulations and (ii) not to use any regulated technical data, alone or embodied in a product, for purposes prohibited by any U.S. or foreign export control laws or regulations, including for nuclear, chemical or biological weapons proliferation purposes.

3.8 Anti-Corruption. Neither party has received, been offered, solicited, or accepted any illegal (in accordance with applicable State and Federal law) or improper bribe, kickback, payment, gift, or thing of value from any of either party's employees or agents in connection with this Agreement.

3.9 Anti-Terrorism. Neither Party is in violation of any U.S. Anti-Terrorism (including applicable Executive Orders) or engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

4. OTHER APPLICATIONS; ESCROW

4.1 Acquisition of Other Applications and Hosted Service. Any rights or obligations associated with the acquisition by Customer of other applications, products or services, and any exchange of data between Customer and any third party provider, are held between Customer and that provider. Agiloft does not warrant or support Other Applications.

4.2 Other Applications and Customer KnowledgeBase. If Customer installs or enables any Other Application for use with the Hosted Service or Software Product, Customer may be required to grant permission to the provider of that Other Application to access the Customer KnowledgeBase as required for the interoperation of that Other Application with the Hosted Service or Software Product. Agiloft is not responsible for any disclosure, modification or deletion of Customer Data resulting from access by any Other Application.

4.3 Integration with Other Applications. The Hosted Service or Software Product may contain features designed to interoperate with Other Applications. To use such features, Customer may be required to obtain access to Other Applications from their providers and may be required to grant Agiloft access to Customer account(s) for the Other Applications. If the provider of the Other Application ceases to make the Other Application available for interoperation with the corresponding Hosted Service or Software Product on reasonable terms, or changes the API (application programming interface) in a manner which breaks the integration with the Software Product or Hosted Service, Customer will not be entitled to any refund, credit, or other compensation.

4.4 Escrow. During the term of this Agreement, Agiloft may, at Customer's expense, agree to maintain a copy of the source code for the Hosted Service along with other necessary documentation associated with such software, in escrow on the basis of a separately executed escrow agreement. Agiloft will assist the Customer in establishing the escrow agreement.

5. License by Customer to use Customer's Feedback. Subject to the restrictions on Confidential Data, Customer grants to Agiloft a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the Hosted Service any suggestion, enhancement request,

recommendation, or other feedback provided by Customer or its Users relating to the operation of the Hosted Service.



EXHIBIT A-2

AGILOFT SUPPORT

1. SUPPORT

A. STANDARD SUPPORT

- 1) Agiloft provides a web-based Support Portal and online documentation at the Help Wiki. Customers are provided with customer logins to Agiloft's Support Portal and may self-register. The Support Portal is used to submit requests for support or questions, to request new implementation work, to submit ideas for enhancements, and to search for answers to FAQs. Customers are notified as support tickets move through the process to resolution. The Support Portal is available 24/7 for submitting and updating tickets and for accessing FAQs and is staffed during Standard Support hours.
- 2) Agiloft provides telephone support with a technical support telephone number in Redwood City, California, US, during Standard Support hours.
- 3) Standard Support hours are Monday-Friday, 7:30 am to 8:00 pm EST except holidays in the US, and during business hours in other countries.
- 4) Telephone calls may be logged in Agiloft's Web-based customer Support Portal, depending upon the content of the call and whether or not an immediate resolution is provided.
- 5) Customer personnel view only their own support tickets by default; upon request, they may be permitted to view all support tickets from Customer's employees. Agiloft support services are not provided to Customer's customers, vendors, or other external users.
- 6) Agiloft provides a Security Information Packet consisting of our CAIQ and SIG security documents, our SOC2 report, an external audit penetration report, and our IT Disaster & Recovery document. Completion of Customer security questionnaires and documents is available as a Consulting Service and is quoted based on the requirements.

B. EXTENDED ENTERPRISE SUPPORT

The Enterprise Extended Edition with CLM includes full Enterprise Extended support as part of the base yearly subscription license fee. Extended Enterprise Support includes all Standard Support services as well as:

- 24x5 general issues support, including the Support Portal and telephone
- 24x7 support for critical issues, including the Support Portal and telephone
- Priority status for resolving support tickets
- Annual System Health Check for system performance review and analysis

C. CUSTOM SUPPORT PACKAGE

Custom Support for additional coverage is provided as specified in Quote in Exhibit B.

2. PROBLEM CLASSIFICATION

Support tickets are placed into three general categories as follows:

- Support Issue - a question about standard Agiloft functionality that does not involve changes to the core Software Product, although it may involve changes to the configuration made by the administrator using their browser. Support Issues can generally be resolved by Customer's administrator within a few hours of submission based on advice provided by support staff.
- Enhancement Request - request to add functionality to the core Software Product. Enhancement requests may be scheduled at Agiloft's discretion, based on the perceived usefulness of the request for other customers. Note that enhancement requests may also be performed as paid custom development at Customer's request, should Agiloft choose not to incorporate them as a general enhancement.
- Bug - a defect in the core Software Product. Agiloft shall respond to and use reasonable commercial efforts to resolve issues deemed to be Bugs in accordance with Section 3 below, which priority shall be determined in good faith by Customer. Because it is usually possible to accomplish the same task in more than one way in Agiloft, Agiloft is often able to provide reasonable workarounds to any functional bugs.

3. PRIORITY RESPONSE TIMES FOR PROBLEMS

The following Investigation Response Times and Target Resolution times are for handling issues that have been classified as Bugs. The hours during which Agiloft is obligated to work on problem

resolution are restricted to Standard Support hours, which are from 7:30 am to 8:00 pm EST, Monday through Friday, except on federal holidays unless Customer has an extended or custom support plan.

If a priority 1 issue is submitted during standard business hours, Agiloft will continue working on it outside of those hours until resolved, provided the resolution is within Agiloft’s control (i.e., Agiloft staff have necessary access to the hosted server and Customer personnel are available as needed). Agiloft will use Agiloft’s best commercially reasonable efforts to meet the response times and resolution targets set forth in this Section.

Severity	Description	Initial Response Time	Target Resolution/ Workaround Time
1 - System Down	The production system is rendered inoperable due to a system software failure	30 minutes	30-60 minutes – Agiloft will assign as many engineers and/or support staff as needed 24/7 until the problem is resolved, providing regular status updates.
2 – Critical	A major program function is affected by a software failure, so that customers are adversely affected	90 minutes	2-4 hours – Agiloft will assign appropriate engineering and/or support staff to reach resolution and/or determine a workaround, providing regular status updates.
3 - High	A minor program function is affected by a software error, resulting in diminished productivity, or a problem occurs infrequently, or a workaround has been provided.	6 hours	If a workaround can be provided, the correction will be scheduled for the next regular upgrade. If not, a correction will typically be provided within a week.
4 - Medium	A desired new functionality is not working as expected, or a problem occurs that is not readily reproducible, or a workaround has been provided.	8 hours	If a workaround can be provided, any correction will be scheduled for the next regular upgrade. If not, a correction will typically be provided within a month.

Severity	Description	Initial Response Time	Target Resolution/ Workaround Time
5 - Low	An issue with negligible impact or a documentation or how-to question	24 hours	If a workaround or answer can be provided, the correction may be made at discretion of Provider, based on its relevance to other customers.

For timely resolution, particularly of priority Level 1 or 2 issues, you may be requested to provide admin login access.

4. EXCLUSIONS

Standard Support is intended to cover standard functionality and software defects. It does not include the provision of customization advice and consulting services. If the issue is specific to the particular configuration of the customer KnowledgeBase or requires that Agiloft access and review the customer KnowledgeBase in order to provide a solution, it is classified as Consulting and is not covered under the support contract. Consulting may be purchased separately as set forth the applicable Quote or Statement of Work.

Problems caused by or arising from the following will not be considered "problems" for the purposes hereof and will not be subject to Agiloft’s obligation to provide Support Services:

- a) failure of server hardware or equipment not owned or directly controlled by Agiloft or its subcontractors;
- b) failure of telecommunications or internet hardware or equipment not owned or directly controlled by Agiloft or its subcontractors;
- c) failure directly resulting from errors made by the customer’s system administrator;
- d) irreversible destruction of data directly caused by direct actions taken by customer.

EXHIBIT A-3

DATA PROCESSING EXHIBIT

This Data Protection Exhibit forms part of Standard Services Agreement between: County of Alameda and Agiloft is effective as of 11/01/2022.

The terms used in this Exhibit shall have the meanings set forth in this exhibit.

1. DEFINITIONS

The following terms shall have the meanings set out below and cognate terms shall be construed accordingly:

- A. "**Agreement**", "**Principal Agreement**" means the Agiloft licensing agreement or other written or electronic agreement between Vendor and the County;
- B. "**Applicable Laws**" means applicable law with respect to any Company Personal Data in respect of which any Company Group Member is subject to any other Data Protection Laws.
- C. "**CCPA**" means the California Consumer Privacy Act as promulgated.
- D. "**Company Affiliate**" means an entity that owns or controls, is owned or controlled by or is or under common control or ownership with Company, where control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract or otherwise;
- E. "**Company Group Member**" means Company or any Company Affiliate;
- F. "**Company Personal Data**" means any Personal Data Processed by a Contracted Processor on behalf of a Company Group Member pursuant to or in connection with the Principal Agreement;
- G. "**Contracted Processor**" means Vendor or a Sub-processor;

- H. " **Processor Affiliate**" or "**Contracted Processor Affiliate**" means an entity that owns or controls, is owned or controlled by or is under common control or ownership with Vendor, where control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract or otherwise;
- I. "**Restricted Transfer**" means:
- i. a transfer of Company Personal Data from any Company Group Member to a Contracted Processor;
 - ii. an onward transfer of Company Personal Data from a Contracted Processor to a Contracted Processor, or between two establishments of a Contracted Processor, in each case, where such transfer would be prohibited by Data Protection Laws (or by the terms of data transfer agreements put in place to address the data transfer restrictions of Data Protection Laws) in the absence of the Standard Contractual Clauses to be established under Section 7.D.iii or 13.D.i below;
- J. "**Services**" means the services and other activities to be supplied to or carried out by or on behalf of Vendor for Company Group Members pursuant to the Principal Agreement;
- K. "**Sub-processor**" means any person (including any third party and any Vendor Affiliate, but excluding an employee of Vendor or any of its sub-contractors) appointed by or on behalf of Vendor or any Vendor Affiliate to Process Personal Data on behalf of any Company Group Member in connection with the Principal Agreement;
- L. "**Vendor Affiliate**" means an entity that owns or controls, is owned or controlled by or is under common control or ownership with Vendor, where control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract or otherwise;
- M. The terms "Commission," "Controller," "Data Subject," "Member State," "Personal Data," "Personal Data Breach," "Processor" "Processing" and "Supervisory Authority" shall have the same meaning as in the Applicable Laws, and their cognate terms shall be construed accordingly; and
- N. The word "include" shall be construed to mean include without limitation, and cognate terms shall be construed accordingly.

2. TERM AND TERMINATION

This Data Processing Exhibit will take effect upon commencement of the Standard Services Agreement signed by the County and Processor, and, notwithstanding expiry of the Agreement, remain in effect until, and automatically expire upon, deletion of all County Personal Data by Processor(s) and each Processor Affiliate as described in this Data Processing Exhibit.

3. AUTHORITY

Vendor warrants and represents that, before any Vendor Affiliate Processes any Company Personal Data on behalf of any Company Group Member, Vendor's entry into this agreement as agent for and on behalf of that Affiliate will have been duly and effectively authorized (or will be subsequently ratified) by that Affiliate.

4. PROCESSING OF PERSONAL DATA

A. Vendor and each Vendor Affiliate shall not sell any Company Personal Data as the term "selling" is defined in the CCPA or other privacy laws and agrees to refrain from any transfers of Company Personal Data to or from a Sub-processor or any other third party that qualifies as "selling" under the CCPA or other privacy laws. Except as strictly necessary to provide the Services to Company: (i) the Processor must not collect, share or use any Personal Data; and (ii) shall not have, derive or exercise any rights or benefits from Personal Data.

B. Furthermore:

i. Vendor and each Vendor Affiliate shall:

1. comply with all applicable Data Protection Laws in the Processing of Company Personal Data;
2. not Process Company Personal Data other than on the relevant Company Group Member's documented instructions unless Processing is required by Applicable Laws to which the relevant Contracted Processor is subject, in which case Vendor or the relevant Vendor Affiliate shall, to the extent permitted by Applicable Laws inform, the relevant Company Group Member of that legal requirement before the relevant Processing of that Personal Data.

ii. Each Company Group Member:

1. instructs Vendor and each Vendor Affiliate (and authorizes Vendor and each Vendor Affiliate to instruct each Sub-processor) to:

- a. Process Company Personal Data; and
 - b. in particular, transfer Company Personal Data to any country or territory, as reasonably necessary for the provision of the Services and consistent with the Principal Agreement; and
2. warrants and represents that it is and will at all relevant times remain duly and effectively authorized to give the instruction set forth in this Exhibit on behalf of each relevant Company Affiliate.

5. VENDOR PERSONNEL

Vendor shall take reasonable steps to ensure the reliability of any employee, agent or contractor of any Contracted Processor who may have access to the Company Personal Data, ensuring in each case that access is strictly limited to those individuals who need to know / access the relevant Company Personal Data, as strictly necessary for the purposes of the Principal Agreement, and to comply with Applicable Laws in the context of that individual's duties to the Contracted Processor, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

6. SECURITY

Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, Vendor and each Vendor Affiliate shall in relation to the Company Personal Data implement appropriate technical and organizational measures to ensure a level of security appropriate to that risk.

In assessing the appropriate level of security, Vendor and each Vendor Affiliate shall take account of the risks that are presented by Processing, in particular from a Personal Data Breach. Vendor will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Personal Data as described in the security, privacy, and architecture documentation applicable to the specific services purchased by data exporter, and accessible via [Agiloft Security](#), [Agiloft Privacy](#), and [Agiloft Architecture](#). Vendor will not materially decrease the overall security of the services during a subscription term.

7. SUB-PROCESSORS

- A. Each Company Group Member authorizes Vendor and each Vendor Affiliate to appoint (and permit each Sub-processor appointed in accordance with this Section 7 to appoint) Sub-processors in accordance with this Section 7 and any restrictions in the Principal Agreement;
- B. Vendor and each Vendor Affiliate may continue to use those Sub-processors already engaged by Vendor or any Vendor Affiliate as of the Effective Date, subject to Vendor and each Vendor

Affiliate in each case as soon as practicable meeting the obligations set out in Section 7.D;

- C. Vendor shall give Company prior written notice of the appointment of any new Sub-processor, including full details of the Processing to be undertaken by the Sub-processor. If, within 30 (thirty) days of receipt of that notice, Company notifies Vendor in writing of any objections (on reasonable grounds) to the proposed appointment:
 - i. Vendor shall work with Company in good faith to make available a commercially reasonable change in the provision of the Services that avoids the use of that proposed Sub-processor; and
 - ii. where such a change cannot be made within 30 (thirty) days from Vendor's receipt of Company's notice, notwithstanding anything in the Principal Agreement, Company may by written notice to Vendor and with immediate effect terminate the Principal Agreement to the extent that it relates to the Services that require the use of the proposed Sub-processor.

- D. With respect to each Sub-processor, Vendor or the relevant Vendor Affiliate shall:
 - i. before the Sub-processor first processes Company Personal Data (or, where relevant, in accordance with Section 7.B), carry out adequate due diligence to ensure that the Sub-processor is capable of providing the level of protection for Company Personal Data required by the Principal Agreement;
 - ii. provide to Company for review such copies of the Contracted Processor's agreements with Sub-processors (which may be redacted to remove confidential commercial information not relevant to the requirements of this Exhibit) as Company may request from time to time.

- E. Vendor and each Vendor Affiliate shall ensure that each Sub-processor performs the obligations under Sections 4.A, 5, 6, 8, 9, and 10, as they apply to Processing of Company Personal Data carried out by that Sub-processor, as if it were party to this Exhibit in place of Vendor.

8. RIGHTS OF DATA SUBJECTS

- A. Taking into account the nature of the Processing, Vendor and each Vendor Affiliate shall assist each Company Group Member by implementing appropriate technical and organizational measures, insofar as this is possible, for the fulfilment of the Company Group Members'

obligations, as reasonably understood by Company, to respond to requests to exercise Data Subject rights under the Data Protection Laws;

B. Vendor shall:

- i. promptly notify Company if any Contracted Processor receives a request from a Data Subject under any Data Protection Law in respect of Company Personal Data; and
- ii. ensure that the Contracted Processor does not respond to that request except on the documented instructions of Company or the relevant Company Affiliate or as required by Applicable Laws to which the Contracted Processor is subject, in which case Vendor shall to the extent permitted by Applicable Laws inform Company of that legal requirement before the Contracted Processor responds to the request.

9. DATA INCIDENT MANAGEMENT AND NOTIFICATION

- A. Vendor shall notify Company without undue delay upon Vendor or any Sub-processor becoming aware of a Personal Data Breach affecting Company Personal Data, providing Company with sufficient information to allow each Company Group Member to meet any obligations to report or inform Data Subjects of the Personal Data Breach under the Data Protection Laws.
- B. Vendor shall cooperate with Company and each Company Group Member and take such reasonable commercial steps as are directed by Company to assist in the investigation, mitigation and remediation of each such Personal Data Breach.

10. DATA PROTECTION IMPACT ASSESSMENT AND PRIOR CONSULTATION

Vendor and each Vendor Affiliate shall provide reasonable assistance to each Company Group Member with any data protection impact assessments, and prior consultations with Supervising Authorities or other competent data privacy authorities, which Company reasonably considers to be required of any Company Group Member by the provisions of any other Data Protection Law, in each case solely in relation to Processing of Company Personal Data by, and taking into account the nature of the Processing and information available to, the Contracted Processors.

11. RETURN AND DELETION OF DATA

- A. Subject to Sections 11.B and 11.C, Vendor and each Vendor Affiliate shall promptly, and in any event within 30 (thirty) days of the date of cessation of any Services involving the

Processing of Company Personal Data (the "Cessation Date"), delete and procure the deletion of all copies of those Company Personal Data;

- B. Subject to Section 11.C, Company may in its absolute discretion by written notice to Vendor within 30 (thirty) days of the Cessation Date require Vendor and each Vendor Affiliate to (a) return a complete copy of all Company Personal Data to Company by secure file transfer in such format as is reasonably notified by Company to Vendor; and (b) delete and procure the deletion of all other copies of Company Personal Data Processed by any Contracted Processor. Vendor and each Vendor Affiliate shall comply with any such written request within 30 (thirty) days of the Cessation Date;
- C. Each Contracted Processor may retain Company Personal Data to the extent required by Applicable Laws and only to the extent and for such period as required by Applicable Laws and always provided that Vendor and each Vendor Affiliate shall ensure the confidentiality of all such Company Personal Data and shall ensure that such Company Personal Data is only Processed as necessary for the purpose(s) specified in the Applicable Laws requiring its storage and for no other purpose; and

12. GENERAL TERMS

Governing law and jurisdiction

- A. The parties to this Exhibit hereby submit to the choice of jurisdiction stipulated in the Standard Services Agreement General Terms and Conditions No. 23 with respect to any disputes or claims howsoever arising under this Exhibit, including disputes regarding its existence, validity or termination or the consequences of its nullity.
 - i. this Exhibit and all non-contractual or other obligations arising out of or in connection with it are governed by the laws as stated in General Terms and Condition No. 23.

Order of precedence

- B. In the event of a conflict between this Data Processing Exhibit and the County of Alameda Standard Services Agreement, the Standard Services Agreement General Terms and Conditions shall prevail.
- C. Nothing in this Exhibit reduces Vendor's or any Vendor Affiliate's obligations under the Standard Services Agreement in relation to the protection of Personal Data or permits Vendor or any Vendor Affiliate to Process (or permit the Processing of) Personal Data in a manner which is prohibited by the Principal Agreement. In the event of any conflict or inconsistency between

this Exhibit and the Standard Services Agreement, the Standard Services Agreement shall prevail;

Changes in Data Protection Laws, etc.

D. Company may:

- i. by at least 30 (thirty) calendar days' written notice to Vendor, from time to time make any variations to the Standard Services Agreement, as they apply to Restricted Transfers which are subject to a particular Data Protection Law, which are required, as a result of any change in, or decision of a competent authority under, that Data Protection Law, to allow those Restricted Transfers to be made (or continue to be made) without breach of that Data Protection Law; and
- ii. propose any other variations to this Exhibit which Company reasonably considers to be necessary to address the requirements of any Data Protection Law.

E. If Company gives notice under Section 13.C.i:

- i. Vendor and each Vendor Affiliate shall promptly cooperate (and ensure that any affected Sub-processors promptly cooperate) to ensure that equivalent variations are made to any agreement put in place under Section 7.D.iii and
- ii. Company shall not unreasonably withhold or delay agreement to any consequential variations to this Exhibit proposed by Vendor to protect the Contracted Processors against additional risks associated with the variations made under Section 13.C.i and/or 13.E.i.

F. If Company gives notice under Section 13.D.ii, the parties shall promptly discuss the proposed variations and negotiate in good faith with a view to agreeing and implementing those or alternative variations designed to address the requirements identified in Company's notice as soon as is reasonably practicable;

G. Neither Company nor Vendor shall require the consent or approval of any Company Affiliate or Vendor Affiliate to amend this Exhibit pursuant to this Section 13.G or otherwise;

EXHIBIT B

PAYMENT TERMS

1. For Services rendered by Contractor under this Agreement, County shall pay Contractor the following fees:

Enterprise with CLM Edition License Includes Standard Support and Upgrades	Cost
<i>Three-Year Term</i>	
60 Enterprise CLM Assigned Power User Subscription Licenses	\$104,400
<i>Alameda County – Government Discount*</i>	<i>-\$10,440</i>
50 Internal Portal Users – 50% Alameda County Discount*	\$6,000
300 External Portal Users – 50% Alameda County Discount*	\$36,000
Dedicated Server Add-On (Includes 5 Assigned Test Environment / Licenses)	\$9,500
SSIM - Sourcing and Supplier Information Management Module Base Fee	\$8,000
10 SSIM Assigned Power User Subscription Licenses	\$8,400
<i>Alameda County – Government Discount*</i>	<i>-\$840</i>
<i>Total Yearly Subscription License Fees</i>	<i><u>\$160,852</u></i>
<i>TOTAL 3-YEAR SUBSCRIPTION LICENSE FEES</i>	<i><u>\$482,556</u></i>

Additional Power Licenses must be purchased in batches of 5 licenses to be eligible for discount.
 *Alameda County discount is provided in-kind for Alameda County’s agreement to reference their experience with other Agiloft prospective customers, Agiloft being able to promote their use of the software and their agreeing to participate in a marketing case study immediately following their successful go-live.

- 2. County will use its reasonable efforts to make payment to Contractor within thirty (30) days upon receipt and approval of invoice.
- 3. Payment of the annual recurring costs shall be made at the beginning of the annual period within the three year term of service and within thirty (30) days following receipt of a properly completed invoice.

4. Invoicing Procedures:

Social Services Agency (SSA) Finance Department has established a centralized Payments Unit. Please send all invoices and all payment questions to SSAinvoices@acgov.org.

This unit will be your point of contact for all payment and invoicing matters. If you need additional assistance, please contact Financial Services Officer, Beverly Warren at brwarren@acgov.org.

Invoices must contain the following elements:

- Must be on company letterhead that includes name, address, and contact information.
 - For Community Based Organizations, must be signed by the head of the organization, i.e., Executive Director, CEO, etc.
 - Document must contain the title Invoice.
 - The date of the invoice.
 - A description of services.
 - The date range for services provided.
 - If needed, itemization of any sales tax and delivery/postage charges.
 - The Purchase Order (PO) number provided by the County.
 - The total amount owed.
 - Remittance instructions/address.
 - All data/reports as required by your contract.
5. Total payment under the terms of this Agreement will not exceed the total contract amount of \$482,556. This cost includes all taxes and all other charges.
 6. Upon award of this Agreement by County, County and Contractor shall forthwith jointly create a schedule governing the timely performance of Contractor's services hereunder. The agreed upon schedule shall be incorporated into this Agreement upon its adoption by the parties and thereafter Contractor shall perform all services under this Agreement in conformance with the schedule.
 7. Upon notice to proceed from County, Contractor shall perform in accordance with the established schedule, the terms of the standard agreement, and all exhibits thereof.

EXHIBIT C

COUNTY OF ALAMEDA MINIMUM INSURANCE REQUIREMENTS

Without limiting any other obligation or liability under this Agreement, the Contractor, at its sole cost and expense, shall secure and keep in force during the entire term of the Agreement or longer, as may be specified below, the following minimum insurance coverage, limits and endorsements. The County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances. If the contractor maintains broader coverage and/or higher limits than the minimums shown below, the County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

TYPE OF INSURANCE COVERAGES		MINIMUM LIMITS
A	Commercial General Liability Premises Liability; Products and Completed Operations; Contractual Liability; Personal Injury and Advertising Liability	\$1,000,000 per occurrence (CSL) Bodily Injury and Property Damage
B	Commercial or Business Automobile Liability All owned vehicles hired or leased vehicles, non-owned, borrowed and permissive uses. Personal Automobile Liability when extended to cover your business is acceptable for individual contractors with no transportation or hauling related activities	\$1,000,000 per occurrence (CSL) Any Auto or Hired and Non-Owned Autos Bodily Injury and Property Damage
C	Workers' Compensation (WC) and Employers Liability (EL) As required by State of California	WC: Statutory Limits EL: No less than \$1,000,000 per accident for bodily injury or disease

<p>D</p>	<p>Professional Liability including Technology Professional Liability (Errors and Omissions) Insurance appropriate to the Consultant's profession. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Consultant in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.</p> <p>a. The Policy shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the County in the care, custody, or control of the Consultant. If not covered under the Consultant's liability policy, such "property" coverage of the Consultant may be endorsed onto the Consultant's Cyber Liability Policy as covered property as follows:</p> <p>b. Cyber Liability coverage in an amount sufficient to cover the full replacement value of damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the County that will be in the care, custody, or control of Consultant.</p> <p>The Insurance obligations under this agreement shall be the greater of 1—all the Insurance coverage and limits carried by or available to the Vendor; or 2—the minimum Insurance requirements shown in this agreement. Any insurance proceeds in excess of the specified limits and coverage required, which are applicable to a given loss, shall be available to Agency. No representation is made that the minimum Insurance requirements of this agreement are sufficient to cover the indemnity or other obligations of the Vendor under this agreement.</p>	<p>\$2,000,000 per occurrence \$2,000,000 project aggregate</p>
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D Endorsements and Conditions:

1. **ADDITIONAL INSURED:** County of Alameda, its Board of Supervisors, the individual members thereof, and all County officers, agents, employees, volunteers, and representatives are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement page to the Contractor’s insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used). Auto policy shall contain or be endorsed to contain additional insured coverage for the County.
2. **DURATION OF COVERAGE:** All required insurance shall be maintained during the entire term of the Agreement. In addition, Insurance policies and coverage(s) written on a claims-made basis shall be maintained and evidence of insurance must be provided during the entire term of the Agreement and for at least five (5) years following the later of termination of the Agreement and acceptance of all work provided under the Agreement, with the retroactive date of said insurance (as may be applicable) concurrent with the commencement of activities pursuant to this Agreement. If coverage is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase “extended reporting” coverage for a minimum of five (5) years after completion of work. Proof of workers’ compensation insurance coverage is not required if contractor provides a signed Workers Compensation Written Declaration of Compliance.
3. **REDUCTION OR LIMIT OF OBLIGATION:** All insurance policies, including excess and umbrella insurance policies, shall be primary and non-contributory coverage at least as broad as ISO CG 20 10 04 13 as respects the County, its officers, officials, employees, or volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor’ insurance and shall not contribute with it. Pursuant to the provisions of this Agreement insurance effected or procured by the Contractor shall not reduce or limit Contractor’s contractual obligation to indemnify and defend the Indemnified Parties.
4. **INSURER FINANCIAL RATING:** Insurance shall be maintained through an insurer with an A.M. Best Rating of no less than A:VII or equivalent, shall be admitted to the State of California unless otherwise acceptable by Risk Management, and with deductible amounts acceptable to the County. Acceptance of Contractor’s insurance by County shall not relieve or decrease the liability of Contractor hereunder. Self-insured retentions must be declared and approved. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor. The policy language shall provide or be endorsed to provide, that the self –insured retention may be satisfied by either the named insured or County.
5. **SUBCONTRACTORS:** Contractor shall include all subcontractors as an insured (covered party) under its policies or shall verify that the subcontractor, under its own policies and endorsements, has complied with the insurance requirements in this Agreement, including this Exhibit.
6. **JOINT VENTURES:** If Contractor is an association, partnership or other joint business venture, required insurance shall be provided by one of the following methods:
 - Separate insurance policies issued for each individual entity, with each entity included as a “Named Insured” (covered party), or at minimum named as an “Additional Insured” on the other’s policies. Coverage shall be at least as broad as in the ISO Forms named above.
 - Joint insurance program with the association, partnership or other joint business venture included as a “Named Insured”.
7. **CANCELLATION OF INSURANCE:** Each insurance policy required above shall provide that coverage shall not be cancelled, except with notice of cancellation provided to the County in accordance with policy terms and conditions.
8. **CERTIFICATE OF INSURANCE:** Before commencing operations under this Agreement, Contractor shall provide Certificate(s) of insurance and applicable insurance endorsements as set forth in the provisions of this Agreement and this Exhibit C, in forms satisfactory to County, evidencing that all required insurance coverage is in effect. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor’s obligation to provide them. The County reserves the right to require the Contractor to provide complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.



EXHIBIT D

DEBARMENT AND SUSPENSION CERTIFICATION

COUNTY OF ALAMEDA

For Procurements Over \$25,000

The contractor, under penalty of perjury, certifies that, except as noted below, contractor, its principals, and any named and unnamed subcontractor:

- Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;
- Does not have a proposed debarment pending; and
- Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Certification.

BIDDER: Agiloft, Inc.

PRINCIPAL: Patricia Pritts TITLE: VP, Sales Operations

SIGNATURE: *Patricia Pritts* DATE: Aug 10, 2022
Patricia Pritts (Aug 10, 2022 10:45 PDT)



QUESTIONNAIRE FOR DETERMINING THE WITHHOLDING STATUS

INSTRUCTIONS: This questionnaire is to be completed by the County department for services contracts and must be included as part of the contract package. Be sure to answer all of the questions in Sections I and II and to complete the certifications on page 2. Sections III and IV contain supplemental questions to be answered for contractors in certain service categories.

CONTRACTOR NAME: Koho Consulting, Inc.

DEPT #: 320130

TITLE/SERVICE: Professional Services to configure and implement the Agiloft Hosted Services

DEPT. CONTACT: Sherri Reeves _____ PHONE: 510-268-5302 _____

I. INFORMATION ABOUT THE CONTRACTOR

YES NO

1. Is the contractor a corporation or partnership? (X) ()

2. Does the contractor have the right per the contract to hire others to do the work agreed to in the contract? (X) ()

3. If the answer to BOTH questions is YES, provide the employer ID number here: _____
88-0749605
No other questions need to be answered. Withholding is not required.

4. If the answer to question 1 is NO and 2 is YES, provide the individual social security number here: _____
No other questions need to be answered. Withholding is not required.

5. If the answer to question 2 is NO, continue to Section II.

II. RELATIONSHIP OF THE PARTIES

YES NO

1. Does the County have the right to control the way in which the work will be done, i.e., will the County be able to specify the sequence of steps or the processes to be followed if it chooses to do so? () ()

2. Is the contractor restricted from performing similar services for other businesses while he is working for the County? () ()

3. Will the contractor be working for more than 50% of the time for the County (50% = 20 hrs/wk; 80 hrs/mo)? () ()

4. Is the relationship between the County and the contractor intended to be ongoing? () ()

III. FOR CONSULTANTS, PROJECT MANAGERS, PROJECT COORDINATORS YES NO

1. Is the contractor being hired for a period of time rather than for a specific project? () ()

2. Will payment be based on a wage or salary (as opposed to a commission or lump sum)? () ()

IV. FOR PHYSICIANS, PSYCHIATRISTS, DENTISTS, PSYCHOLOGISTS YES NO

1. Will the agreement be with an individual who does not have an outside practice? () ()

2. Will the contractor work more than an average of ten hours per week? IF THE ANSWER TO QUESTION 2 IS YES, ANSWER QUESTION 3. () ()

3. Will the County provide more than 20% of the contractor’s income? () ()

4. If the answer to either question 2, or if required, question 3 is NO, the entire answer is NO.

A “YES” answer to any of the questions in Section II, or, if applicable, Sections III or IV constitutes justification for paying the contractor through the payroll system as an “employee for withholding purposes.”

CERTIFICATIONS:

I hereby certify that the answers to the above questions accurately reflect the anticipated working relationship for this contract.

DocuSigned by: Marc Doucette E8593BB3B10C4F8... Contractor Signature

Marc Doucette Printed Name

11/4/2022 Date

DocuSigned by: Sherri Reeves 6E6C5E1C82944C5... Agency/Department Head/Designee Signature

Sherri Reeves Printed Name

11/7/2022 Date



**COUNTY OF ALAMEDA
STANDARD SERVICES AGREEMENT**

This Agreement, dated as of November 1, 2022, is by and between the County of Alameda, hereinafter referred to as the “County”, and Koho Consulting, Inc. hereinafter referred to as the “Contractor”.

WITNESSETH

Whereas, County desires to obtain professional services to configure and implement the Agiloft hosted services which are more fully described in Exhibit A hereto (“Koho Consulting Services”); and

Whereas, Contractor is professionally qualified to provide such services and is willing to provide same to County; and

Now, therefore it is agreed that County does hereby retain Contractor to provide obtain the professional services to implement the Agiloft hosted services, and Contractor accepts such engagement, on the General Terms and Conditions hereinafter specified in this Agreement and the following described exhibits, all of which are incorporated into this Agreement by this reference:

Exhibit A	Definition of Services
Exhibit A-1	Koho Service Agreement
Exhibit A-2	Statement of Work
Exhibit B	Payment Terms
Exhibit C	Insurance Requirements
Exhibit D	Debarment and Suspension Certification

The term of this Agreement shall be from 11/01/2022 through 10/31/2023.

The compensation payable to Contractor hereunder shall not exceed *One Hundred Fifteen Thousand dollars* (\$115,000) for the term of this Agreement. The County neither warrants nor guarantees any minimum compensation to the Contractor under this Agreement. Payment to Contractor shall be based on actual services performed on behalf of the County. The compensation payable to Contractor hereunder shall be paid from a total pool contract amount for the professional services to implement the Agiloft hosted services.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COUNTY OF ALAMEDA

Koho Consulting, Inc.

By: Keith Carson
Signature

By: _____
Signature

Name: Keith Carson _____
(Printed)

Name: Marc Doucette Marc Doucette
(Printed) DocuSigned by: E8593BB3B10C4F9...

Title: President of the Board of Supervisors

Title: CEO _____

Date: 12/5/2022

Date: 11/4/2022

Approved as to Form:
DONNA R. ZIEGLER, County Counsel

By: Victoria Wu
Victoria Wu
Assistant County Counsel DocuSigned by: 0D784CB4CEFC42F...

By signing above, the signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

GENERAL TERMS AND CONDITIONS

1. **INDEPENDENT CONTRACTOR:** No relationship of employer and employee is created by this Agreement; it being understood and agreed that Contractor is an independent contractor. Contractor is not the agent or employee of the County in any capacity whatsoever, and County shall not be liable for any acts or omissions by Contractor nor for any obligations or liabilities incurred by Contractor.

Contractor shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance medical care, hospital care, retirement benefits, social security, disability, Workers' Compensation, or unemployment insurance benefits, civil service protection, or employee benefits of any kind.

Contractor shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees and agrees to indemnify and hold County harmless from any and all liability which County may incur because of Contractor's failure to pay such amounts.

In carrying out the work contemplated herein, Contractor shall comply with all applicable federal and state workers' compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees will be considered as independent contractors and shall not be treated or considered in any way as officers, agents and/or employees of County.

Contractor does, by this Agreement, agree to perform his/her said work and functions at all times in strict accordance with currently approved methods and practices in his/her field and that the sole interest of County is to insure that said service shall be performed and rendered in a competent, efficient, timely and satisfactory manner and in accordance with the standards required by the County agency concerned.

Notwithstanding the foregoing, if the County determines that pursuant to state and federal law Contractor is an employee for purposes of income tax withholding, County may upon two week's notice to Contractor, withhold from payments to Contractor hereunder federal and state income taxes and pay said sums to the federal and state governments.

2. **INDEMNIFICATION:** To the fullest extent permitted by law, Contractor shall hold harmless, defend and indemnify the County of Alameda, its Board of Supervisors, employees and agents from and against any and all claims, losses, damages, liabilities and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of services under this Agreement, provided that any such claim, loss, damage, liability or expense is attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, state or municipal law or regulation, which arises out of or is any way connected with the performance of this agreement (collectively

“Liabilities”) except where such Liabilities are caused solely by the negligence or willful misconduct of any indemnitee. The County may participate in the defense of any such claim without relieving Contractor of any obligation hereunder. The obligations of this indemnity shall be for the full amount of all damage to County, including defense costs, and shall not be limited by any insurance limits.

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the Alameda County Employees’ Retirement Association (ACERA) or California Public Employees’ Retirement System (PERS) to be eligible for enrollment in ACERA and PERS as an employee of County, Contractor shall indemnify, defend, and hold harmless County for the payment of any employee and/or employer contributions for ACERA and PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of County.

3. **INSURANCE AND BOND:** Contractor shall at all times during the term of the Agreement with the County maintain in force, at minimum, those insurance policies and bonds as designated in the attached Exhibit C, and will comply with all those requirements as stated therein. The County and all parties as set forth on Exhibit C shall be considered an additional insured or loss payee if applicable. All of Contractor’s available insurance coverage and proceeds in excess of the specified minimum limits shall be available to satisfy any and all claims of the County, including defense costs and damages. Any insurance limitations are independent of and shall not limit the indemnification terms of this Agreement. Contractor’s insurance policies, including excess and umbrella insurance policies, shall include an endorsement and be primary and non-contributory and will not seek contribution from any other insurance (or self-insurance) available to County. Contractor’s excess and umbrella insurance shall also apply on a primary and non-contributory basis for the benefit of the County before County’s own insurance policy or self-insurance shall be called upon to protect it as a named insured.
4. **PREVAILING WAGES:** Pursuant to Labor Code Sections 1770 et seq., Contractor shall pay to persons performing labor in and about Work provided for in Contract not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work in said locality, which per diem wages shall not be less than the stipulated rates contained in a schedule thereof which has been ascertained and determined by the Director of the State Department of Industrial Relations to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this contract.
5. **WORKERS’ COMPENSATION:** Contractor shall provide Workers’ Compensation insurance, as applicable, at Contractor’s own cost and expense and further, neither the Contractor nor its carrier shall be entitled to recover from County any costs, settlements, or expenses of Workers’ Compensation claims arising out of this Agreement.
6. **CONFORMITY WITH LAW AND SAFETY:**

- a. In performing services under this Agreement, Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services, including all applicable provisions of the California Occupational Safety and Health Act. Contractor shall indemnify and hold County harmless from any and all liability, fines, penalties and consequences from any of Contractor's failures to comply with such laws, ordinances, codes and regulations.
 - b. Accidents: If a death, serious personal injury, or substantial property damage occurs in connection with Contractor's performance of this Agreement, Contractor shall immediately notify the Alameda County Risk Manager's Office by telephone. Contractor shall promptly submit to County a written report, in such form as may be required by County of all accidents which occur in connection with this Agreement. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of Contractor's sub-Contractor, if any; (3) name and address of Contractor's liability insurance carrier; and (4) a detailed description of the accident and whether any of County's equipment, tools, material, or staff were involved.
 - c. Contractor further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the County the opportunity to review and inspect such evidence, including the scene of the accident.
7. **DEBARMENT AND SUSPENSION CERTIFICATION:** (Applicable to all agreements funded in part or whole with federal funds and contracts over \$25,000).
- a. By signing this agreement and Exhibit D, Debarment and Suspension Certification, Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations, including but not limited to 7 Code of Federal Regulations (CFR) 3016.35, 28 CFR 66.35, 29 CFR 97.35, 34 CFR 80.35, 45 CFR 92.35 and Executive Order 12549.
 - b. By signing this agreement, Contractor certifies to the best of its knowledge and belief, that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
 - (2) Shall not knowingly enter into any covered transaction with a person who is proposed for debarment under federal regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction.
8. **PAYMENT:** For services performed in accordance with this Agreement, payment shall be made to Contractor as provided in Exhibit B hereto.

9. **TRAVEL EXPENSES:** Contractor shall not be allowed or paid travel expenses unless set forth in this Agreement.
10. **TAXES:** Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the Contractor.
11. **OWNERSHIP OF DOCUMENTS:** Contractor hereby assigns to the County and its assignees all copyright and other use rights in any and all proposals, plans, specification, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by the County, the Contractor, the Contractor's sub-Contractors or third parties at the request of the Contractor (collectively, "Documents and Materials"). This explicitly includes the electronic copies of all above stated documentation.

Contractor also hereby assigns to the County and its assignees all copyright and other use rights in any Documents and Materials including electronic copies stored in Contractor's Information System, respecting in any way the subject matter of this Agreement.

Contractor shall be permitted to retain copies, including reproducible copies and computerized copies, of said Documents and Materials. Contractor agrees to take such further steps as may be reasonably requested by County to implement the aforesaid assignment. If for any reason said assignment is not effective, Contractor hereby grants the County and any assignee of the County an express royalty – free license to retain and use said Documents and Materials. The County's rights under this paragraph shall apply regardless of the degree of completion of the Documents and Materials and whether or not Contractor's services as set forth in Exhibit "A" of this Agreement have been fully performed or paid for.

In Contractor's contracts with other Contractors, Contractor shall expressly obligate its Sub-Contractors to grant the County the aforesaid assignment and license rights as to that Contractor's Documents and Materials. Contractor agrees to defend, indemnify, and hold the County harmless from any damage caused by a failure of the Contractor to obtain such rights from its Contractors and/or Sub-Contractors.

Contractor shall pay all royalties and license fees which may be due for any patented or copyrighted materials, methods or systems selected by the Contractor and incorporated into the work as set forth in Exhibit "A", and shall defend, indemnify and hold the County harmless from any claims for infringement of patent or copyright arising out of such selection. The County's rights under this Paragraph 11 shall not extend to any computer software used to create such Documents and Materials.

12. **CONFLICT OF INTEREST; CONFIDENTIALITY:** The Contractor covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. Without limitation, Contractor represents to and agrees with the County that Contractor has no present, and will have no future, conflict of interest between providing the County services hereunder and any

other person or entity (including but not limited to any federal or state wildlife, environmental or regulatory agency) which has any interest adverse or potentially adverse to the County, as determined in the reasonable judgment of the Board of Supervisors of the County.

The Contractor agrees that any information, whether proprietary or not, made known to or discovered by it during the performance of or in connection with this Agreement for the County will be kept confidential and not be disclosed to any other person. The Contractor agrees to immediately notify the County by notices provided in accordance with Paragraph 13 of this Agreement, if it is requested to disclose any information made known to or discovered by it during the performance of or in connection with this Agreement. These conflict of interest and future service provisions and limitations shall remain fully effective five (5) years after termination of services to the County hereunder.

13. **NOTICES:** All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox. Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service. Telex or facsimile transmission: When sent by telex or facsimile to the last telex or facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To County: COUNTY OF ALAMEDA
2000 San Pablo Ave
Oakland, CA 94612
Attn: Sherri Reeves

To Contractor: Koho Consulting, Inc.
6030 Printery St, Suite 103,
Tampa, FL 33616
Attn: Bill Doucette

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or telex or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

14. **USE OF COUNTY PROPERTY:** Contractor shall not use County property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.
15. **EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS:** Contractor assures that he/she/it will comply with Title VII of the Civil Rights Act of 1964 and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.
 - a. Contractor shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, state that it is an "Equal Opportunity Employer" or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
 - b. Contractor shall, if requested to so do by the County, certify that it has not, in the performance of this Agreement, discriminated against applicants or employees because of their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
 - c. If requested to do so by the County, Contractor shall provide the County with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under state or federal law.
 - d. Contractor shall recruit vigorously and encourage minority - and women-owned businesses to bid its subcontracts.
 - e. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act, which is prohibited by law.
 - f. The Contractor shall include the provisions set forth in paragraphs A through E (above) in each of its subcontracts.
16. **DRUG-FREE WORKPLACE:** Contractor and Contractor's employees shall comply with the County's policy of maintaining a drug-free workplace. Neither Contractor nor Contractor's

employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code § 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any County facility or work site. If Contractor or any employee of Contractor is convicted or pleads nolo contendere to a criminal drug statute violation occurring at a County facility or work site, the Contractor within five days thereafter shall notify the head of the County department/agency for which the contract services are performed. Violation of this provision shall constitute a material breach of this Agreement.

17. **AUDITS; ACCESS TO RECORDS:** The Contractor shall make available to the County, its authorized agents, officers, or employees, for examination any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to the expenditures and disbursements charged to the County, and shall furnish to the County, its authorized agents, officers or employees such other evidence or information as the County may require with regard to any such expenditure or disbursement charged by the Contractor.

The Contractor shall maintain full and adequate records in accordance with County requirements to show the actual costs incurred by the Contractor in the performance of this Agreement. If such books and records are not kept and maintained by Contractor within the County of Alameda, California, Contractor shall, upon request of the County, make such books and records available to the County for inspection at a location within County or Contractor shall pay to the County the reasonable, and necessary costs incurred by the County in inspecting Contractor's books and records, including, but not limited to, travel, lodging and subsistence costs. Contractor shall provide such assistance as may be reasonably required in the course of such inspection. The County further reserves the right to examine and reexamine said books, records and data during the three (3) year period following termination of this Agreement or completion of all work hereunder, as evidenced in writing by the County, and the Contractor shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatsoever for three (3) years after the County makes the final or last payment or within three (3) years after any pending issues between the County and Contractor with respect to this Agreement are closed, whichever is later.

18. **DOCUMENTS AND MATERIALS:** Contractor shall maintain and make available to County for its inspection and use during the term of this Agreement, all Documents and Materials, as defined in Paragraph 11 of this Agreement. Contractor's obligations under the preceding sentence shall continue for three (3) years following termination or expiration of this Agreement or the completion of all work hereunder (as evidenced in writing by County), and Contractor shall in no event dispose of, destroy, alter or mutilate said Documents and Materials, for three (3) years following the County's last payment to Contractor under this Agreement.

19. **TIME OF ESSENCE:** Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.

20. **TERMINATION:** The County has and reserves the right to suspend, terminate, or abandon the execution of any work by the Contractor without cause at any time upon giving to the Contractor prior written notice. In the event that the County should abandon, terminate, or suspend the Contractor's work, the Contractor shall be entitled to payment for services provided hereunder prior to the effective date of said suspension, termination, or abandonment. Said payment shall be computed in accordance with Exhibit B hereto, provided that the maximum amount payable to Contractor for their professional services to configure and implement the Agiloft Contracts Life Cycle Management Tool (CLM) shall not exceed \$115,000.00 payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment.

21. **SMALL LOCAL AND EMERGING BUSINESS (SLEB) PARTICIPATION:**

SMALL, LOCAL AND EMERGING BUSINESS (SLEB) PARTICIPATION: Contractor has been approved by County to participate in contract without SLEB participation (GSA approved SLEB waiver #8524). As a result, there is no requirement to subcontract with another business in order to satisfy the County's Small and Emerging Locally owned Business provision.

However, if circumstances or the terms of the contract should change, Contractor may be required to immediately comply with the County's Small and Emerging Local Business provisions, including but not limited to:

- a. Contractor must be a certified small or emerging local business(es) or subcontract a minimum 20% with a certified small or emerging local business(es).
- b. SLEB subcontractor(s) is independently owned and operated (i.e., is not owned or operated in any way by Prime), nor do any employees of either entity work for the other.
- c. Small and/or Emerging Local Business participation and current SLEB certification status must be maintained for the term of the contract. Contractor shall ensure that their own certification status and/or that of participating subcontractors (as is applicable) are maintained in compliance with the SLEB Program.
- d. Contractor shall not substitute or add any small and/or emerging local business(s) listed in this agreement without prior written approval from the County. Said requests to substitute or add a small and/or emerging local business shall be submitted in writing to the County department contract representative identified under Item #13 above. Contractor will not be able to substitute the subcontractor without prior written approval from the Alameda County Auditor Controller Agency, Office of Contract Compliance & Reporting (OCCR).
- e. All SLEB participation, except for SLEB prime contractor, must be tracked and monitored utilizing the Elation compliance System.

County will be under no obligation to pay contractor for the percent committed to a SLEB (whether SLEB is a prime or subcontractor) if the work is not performed by the listed small and/or emerging local business.

For further information regarding the Small Local Emerging Business participation requirements and utilization of the Alameda County Contract Compliance System contact OCCR via e-mail at ACSLEBcompliance@acgov.org.

22. **FIRST SOURCE PROGRAM:** For contracts over \$100,000, Contractor shall provide County ten (10) working days to refer to Contractor, potential candidates to be considered by Contractor to fill any new or vacant positions that are necessary to fulfill their contractual obligations to the County that Contractor has available during the contract term before advertising to the general public.
23. **CHOICE OF LAW:** This Agreement shall be governed by the laws of the State of California.
24. **WAIVER:** No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.
25. **ENTIRE AGREEMENT:** This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between County and Contractor relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. The Agreement may not be modified except by a written document signed by both parties.
26. HEADINGS herein are for convenience of reference only and shall in no way affect interpretation of the Agreement.
27. **ADVERTISING OR PUBLICITY:** Contractor shall not use the name of County, its officers, directors, employees or agents, in advertising or publicity releases or otherwise without securing the prior written consent of County in each instance.
28. **MODIFICATION OF AGREEMENT:** This Agreement may be supplemented, amended, or modified only by the mutual agreement of the parties. No supplement, amendment, or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both parties.

29. **ASSURANCE OF PERFORMANCE:** If at any time County believes Contractor may not be adequately performing its obligations under this Agreement or that Contractor may fail to complete the Services as required by this Agreement, County may request from Contractor prompt written assurances of performance and a written plan acceptable to County, to correct the observed deficiencies in Contractor's performance. Contractor shall provide such written assurances and written plan within ten (10) calendar days of its receipt of County's request and shall thereafter diligently commence and fully perform such written plan. Contractor acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this Agreement.
30. **SUBCONTRACTING/ASSIGNMENT:** Contractor shall not subcontract, assign, or delegate any portion of this Agreement or any duties or obligations hereunder without the County's prior written approval.
- a. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Paragraph shall confer no rights on any party and shall be null and void.
 - b. Contractor shall use the subcontractors identified in Exhibit A and shall not substitute subcontractors without County's prior written approval.
 - c. Contractor shall require all subcontractors to comply with all indemnification and insurance requirements of this agreement, including, without limitation, Exhibit C. Contractor shall verify subcontractor's compliance.
 - d. Contractor shall remain fully responsible for compliance by its subcontractors with all the terms of this Agreement, regardless of the terms of any agreement between Contractor and its subcontractors.
31. **SURVIVAL:** The obligations of this Agreement, which by their nature would continue beyond the termination on expiration of the Agreement, including without limitation, the obligations regarding Indemnification (Paragraph 2), Ownership of Documents (Paragraph 11), and Conflict of Interest (Paragraph 12), shall survive termination or expiration.
32. **SEVERABILITY:** If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.
33. **PATENT AND COPYRIGHT INDEMNITY:** Contractor represents that it knows of no allegations, claims, or threatened claims that the materials, services, hardware or software ("Contractor Products") provided to County under this Agreement infringe any patent, copyright or other proprietary right. Contractor shall defend, indemnify and hold harmless County of, from and against all losses, claims, damages, liabilities, costs expenses and amounts (collectively,

“Losses”) arising out of or in connection with an assertion that any Contractor Products or the use thereof, infringe any patent, copyright or other proprietary right of any third party. County will: (1) notify Contractor promptly of such claim, suit, or assertion; (2) permit Contractor to defend, compromise, or settle the claim; and, (3) provide, on a reasonable basis, information to enable Contractor to do so. Contractor shall not agree without County’s prior written consent, to any settlement, which would require County to pay money or perform some affirmative act in order to continue using the Contractor Products.

- a. If Contractor is obligated to defend County pursuant to this Paragraph 33 and fails to do so after reasonable notice from County, County may defend itself and/or settle such proceeding, and Contractor shall pay to County any and all losses, damages and expenses (including attorney’s fees and costs) incurred in relationship with County’s defense and/or settlement of such proceeding.
- b. In the case of any such claim of infringement, Contractor shall either, at its option, (1) procure for County the right to continue using the Contractor Products; or (2) replace or modify the Contractor Products so that that they become non-infringing, but equivalent in functionality and performance.
- c. Notwithstanding this Paragraph 33, County retains the right and ability to defend itself, at its own expense, against any claims that Contractor Products infringe any patent, copyright, or other intellectual property right.

- 34. **OTHER AGENCIES:** Other tax supported agencies within the State of California who have not contracted for their own requirements may desire to participate in this contract. The Contractor is requested to service these agencies and will be given the opportunity to accept or reject the additional requirements. If the Contractor elects to supply other agencies, orders will be placed directly by the agency and payments made directly by the agency.
- 35. **EXTENSION:** This agreement may be extended for three additional years by mutual agreement of the County and the Contractor.
- 36. **SIGNATORY:** By signing this agreement, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

[END OF GENERAL TERMS AND CONDITIONS]



EXHIBIT A

DEFINITION OF SERVICES

1. Contractor shall provide the professional services to configure and implement the Agiloft hosted services for the Contract Life Cycle Management tool for the Social Services Contracts Office of the Alameda County Social Services Agency ("County") and shall also meet specific requirements and deliverables as set forth in the following.

Exhibit A-1: Koho Service Agreement

Exhibit A-2: Koho Statement of Work

2. Contractor project team will consist of the following Key Personnel and subcontractors, as applicable during the contract term:

Bill Doucette
6030 Printery St, Suite 103,
Tampa, FL
33616

Contractor agrees that it shall not transfer or reassign the individuals identified above as Key Personnel or substitute subcontractors without the express written agreement of County, which agreement shall not be unreasonably withheld. Should such individual or individuals in the employ of Contractor no longer be employed by Contractor during the term of this Agreement, Contractor shall make a good faith effort to present to County an individual with greater or equal qualifications as a replacement subject to County's approval, which approval shall not be unreasonably withheld.

3. The approval of County to a requested change shall not release Contractor from its obligations under this Agreement.

EXHIBIT A-1

KOHO SERVICE AGREEMENT

Koho Consulting will provide the professional services to configure and implement the Agiloft hosted services for the Contract Life Cycle Management tool to use by for the Social Services Contracts Office in Alameda County and shall also meet specific requirements and deliverables specified below:

1. THE SERVICES

Subject to the terms and conditions of this Agreement, Contractor will deliver to the County for the duration of this Agreement, solely for the County's internal business operations the following services set forth in (a) through (c) (the “**Services**”):

a. **Platform Access.** Contractor, shall grant to County the non-transferable right to access the software platform (“**Platform Access**”) specified in any applicable Order Form, provided that County maintains license subscriptions in such Order Form. The specific platform, in this case, being Agiloft’s Hosted Service (“**Hosted Service**”);

b. **Implementation Services.** Contractor shall provide services as described in any SOW as agreed between the parties in writing (“**Implementation Services**”) including to design, implement, and provide all work necessary to create for County a specifically tailored contract management and workflow system using Agiloft’s contract and workflow management platform, according to the SOW agreed by the Parties (the “**Deliverable(s)**”). Such Implementation Services may include configuration, modification, and testing; and

c. **Support Services.** Technical support services in accordance with Contractor’s standard practices (“**Support Services**”) shall include commercially reasonable endeavors to provide technical support in relation to the identification of, and resolution of, errors or bugs in the Hosted Service for supported web browsers and shall not include the provision of training services unless stated otherwise in the applicable SOW or Order Form. These Support Services will be provided in conjunction with the Agiloft Technical Support described in section 17.

Any services requested by the County that fall outside the scope of the Services shall be charged for on a commercially reasonable ‘time and materials’ basis, quoted for separately by Contractor in advance of the delivery of such services and subject to the written agreement of the parties.

2. IMPLEMENTING THE SERVICES

Contractor shall perform for the benefit of the County whatever services are reasonably necessary to allow County access to the Services and Deliverables.

Otherwise, the only implementation services Contractor shall perform are the Implementation Services and Deliverables.

The County agrees to take all reasonable measures to allow Contractor to perform its obligations to deliver the Services. If Contractor’s performance of its obligations under the Agreement is prevented or delayed by any act or omission of the County or its agents, advisors, sub-contractors or employees, Contractor shall not be in breach of this Agreement as a result of such act or omission.

3. TERM AND TERMINATION

This Agreement shall commence on the Effective Date and shall continue for the period specified in the Order Form (the "**Initial Period**").

Either party may terminate this Agreement upon 30 days' written notice, if the other party materially breaches any of the terms or conditions of this Agreement and such breach is not cured within 30 days from the breaching party's receipt of written notice specifying the nature of the breach. Contractor may terminate this Agreement on written notice if the County fails to pay any undisputed amount due under this Agreement on the due date for payment and remains in default not less than 14 days after receiving written notice from Contractor that payment was not received. In the event of termination of this Agreement for any reason the County shall pay in full any undisputed amount for the Services satisfactorily provided up to and including the date of termination.

Effect of Termination – Data Portability and Deletion. On termination or expiry of this Agreement, Contractor may, after providing 30 days written notice, destroy or otherwise dispose of any of the County Data (as defined in section 8) in its possession unless Contractor receives, no later than 60 days after the effective date of the termination of this Agreement, a written request for the delivery to the County of the then most recent back-up of the County's Data. Contractor shall use reasonable commercial endeavors to deliver the back- up to the County within 30 days of its receipt of such a written request, provided that the County has, at that time, paid all reasonable and undisputed fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The County shall pay all reasonable expenses incurred by Contractor in returning or disposing of County Data. After such 90-day period, the County's Data may be deleted from storage and Contractor is not obligated to retrieve any further County Data for the County.

Survival Upon any termination, all rights and duties of the Contractor and County toward each other shall cease except Section 3 (Term and Termination), Section 7 (Intellectual Property), Section 11 (Confidentiality), Section 12 (Indemnities), Section 13 (Limitation of Liability), and Section 14 (Miscellaneous) which will survive termination or expiration of this Agreement in accordance with their terms.

4. COUNTY RESPONSIBILITIES

Usage Restrictions. The County will not, directly, or indirectly:

- i. reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services, or any software developed, trained or owned by or licensed to Contractor and which forms part of, or is used in the provision of the Services, documentation or data related to the Services ("**Software**");
- ii. modify, translate, teach, train or create derivative works based on the Services or any Software (except to the extent expressly permitted by Contractor or authorized within the Services);
- iii. access all or any part of the Services or the Software in order to build a product or service which competes with the Services;
- iv. use the Services to provide services to third parties;
- v. license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party except the employees or agents of the County;

- vi. use the Services in a manner that is illegal or causes damage or injury to any person or property;
- vii. attempt to obtain, or assist third parties in obtaining, access to the Services, other than as provided under this clause; or
- viii. access, store, distribute or use during the course of its use of the Services any malware or any material that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; promotes unlawful violence; is discriminatory based on race, gender, color, religious belief, sexual orientation, disability. Vendor reserves the right, without liability or prejudice to its other rights to the County, to disable the County's access to any material that breaches the provisions of this clause by County.

Usage Control. The County shall:

- i. use commercially reasonable endeavors to prevent any unauthorized access to, or use of, the Services.
- ii. be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including modems, hardware, servers, software, operating systems, networking, web servers and the like.
- iii. provide Contractor with commercially reasonable co-operation in relation to this Agreement (and access to such information as may be reasonably required by Contractor) in order to provide the Services, including to County Data (as defined below), security access information and configuration services;
- iv. comply with all applicable laws and regulations with respect to its activities under this Agreement;
- v. carry out all other County responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in the County's provision of such assistance as agreed by the parties, Contractor may adjust any agreed timetable or delivery schedule as reasonably necessary; and
- vi. obtain and maintain all necessary licenses, consents, and permissions required for County to receive the Services, provided that Contractor shall secure all necessary licenses, consents, and permissions required for Contractor, its contractors and agents to perform their obligations under this agreement, including providing the Services.

5. CONTRACTOR RESPONSIBILITIES

Contractor warrants that:

- a. Contractor, as an authorized value-added re-seller of Agiloft software products, shall secure all necessary licenses as listed on any applicable Order Form.
- b. the Services and Deliverables will conform in all material respects to the specifications set forth in the SOWs, Order Forms, and any specifications, descriptions or documentation provided by Contractor to County in writing, as well as to standards generally observed in the industry for similar Services and Deliverables, and be performed with reasonable skill and care ("**Conforming Services and Deliverables**");
- c. the Services and Deliverables will be provided in compliance with all applicable laws;
- d. no update shall degrade the functionality, capabilities or features of the Services and Deliverables and no update shall require County or any of its users to reconfigure or re-architect any data structures, databases, or system architecture used with the Services and Deliverables;
- e. the Services and Deliverables, and the use thereof by County in accordance with the terms of the Agreement, does not and will not infringe, or constitute an infringement or misappropriation of or breach of, any intellectual property right or other rights of a third party; and

f. Contractor will ensure that no viruses are incorporated into or otherwise introduced into County systems. This undertaking shall not apply to the extent of any non-conformance which is caused by use of the Services or Deliverables contrary to Contractor's instructions, or modification or alteration of the Services or Deliverables by any party other than Contractor or Contractor's duly authorized contractors or agents.

Exclusive Remedy. If the Services are not provided in accordance with the Conforming Services and Deliverables or are not provided with reasonable skill and care, Contractor will, at its expense, use all reasonable commercial endeavors to correct any such non-conformance promptly. This constitutes the County's sole and exclusive remedy for Services not provided in accordance with the Conforming Services and Deliverables or not provided with reasonable skill and care.

To be clear, Contractor:

- i. does not warrant that the County's use of the Hosted Service will be uninterrupted or error-free;
- ii. is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the County acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities;
- iii. shall use reasonable endeavors to maintain the availability of the Hosted Service to the County, but does not guarantee 100% availability;
- iv. does not control the content posted to or via the Hosted Service and, in particular, does not control the County Data and, as such, Contractor does not make or give any representation or warranty as to the accuracy, completeness, currency, correctness, reliability, integrity, usefulness, quality, fitness for purpose or originality of any of the foregoing content or data; and
- v. reserves the right to update or maintain the Hosted Service at any time.

6. INTELLECTUAL PROPERTY

In this clause, "**Intellectual Property Rights**" means patents, patentable rights, copyright, design rights, utility models, trade-marks (whether or not any of the above are registered), trade names, rights in domain names, rights in inventions, rights in data, database rights, rights in know-how and confidential information, and all other intellectual and industrial property and similar or analogous rights existing under the laws of any country and all pending applications for and right to apply for or register the same (present, future and contingent, and including all renewals, extensions, revivals and all accrued rights of action);

Contractor, and/or its licensors shall, as between the Parties, remain the owner of all Intellectual Property Rights in Contractor's brands, software, database, trademarks and logos, the Services and the Software. Except as expressly permitted by this Agreement, the County may not use any of Contractor's Intellectual Property Rights without Contractor's prior written consent.

The County shall promptly bring to the attention of Contractor any improper or wrongful use of any Intellectual Property Rights of Contractor which comes to the County's notice.

County shall remain the owner of all Intellectual Property Rights in County's brands, software, database, trademarks, logos, Proprietary Information and County Data. Except as expressly permitted by this Agreement, the Contractor may not use any of County's Intellectual Property Rights, Proprietary Information, and County's Data without County's prior written consent. The County agrees that Contractor and its contractors are entitled to access and use the County Data for the purposes of providing the Services.

Contractor and/or its licensors shall own and retain all right, title and interest in and to:

- i. the Services and Software, all improvements, enhancements or modifications thereto (except for the Deliverables, which shall be owned by County);
- ii. any software, applications, inventions or other technology of general application (not specifically developed for County) developed in connection with the Services; and
- iii. all Contractor intellectual Property Rights related to any of the foregoing.

Nothing in this Agreement shall operate to assign or transfer any intellectual Property Rights from Contractor to the County or County to Contractor, except as relates to those Deliverables as set forth below. The County warrants to Contractor that any data it supplies to Contractor will not infringe upon the intellectual Property Rights or other legal rights of any person, and will not breach the provisions of any law, statute or regulation, in any jurisdiction and under any applicable law or regulation.

Except to the extent including third party materials, County is and will be the sole and exclusive owner of all right, title, and interest in and to the Deliverables, including all Intellectual Property Rights therein. Contractor shall, and shall cause its employees, agents and personnel to create all Deliverables as work made for hire as defined in Section 101 of the Copyright Act of 1976 and any other applicable intellectual property law. To the extent any work product or Deliverable does not qualify as work made for hire Contractor shall, and hereby does, immediately on its creation, (i) assign, transfer, and otherwise convey to County, irrevocably and in perpetuity, all right, title, and interest in and to such work product, including all Intellectual Property Rights therein, and (ii) irrevocably waives, and shall cause its employees, agents and personnel to irrevocably waive in signed written instruments any and all claims such agents may now or hereafter have in any jurisdiction to so-called "moral rights" or rights of droit moral with respect to the work product and Deliverables. Contractor shall, and shall cause all employees, agents and personnel to, take all appropriate action and execute and deliver all documents, necessary or reasonably requested by County to effectuate any of the foregoing provisions, or otherwise as may be necessary for County to prosecute, register, perfect, or record its rights in or to any work product and Deliverables or any Intellectual Property Right therein. Contractor hereby appoints County as Contractor's attorney-in-fact with full irrevocable power and authority to take any such actions and execute any such documents if Contractor refuses or, within a period deemed reasonable by County, otherwise fails to do so.

7. DATA USE

In this Agreement, "**County Data**" means all data, information, know how, material or input uploaded to any Software or transmitted through the Services by or for the County and/or any authorized user. The County shall own all right, title and interest in the County Data as well as any data that is based on or derived from the County Data and provided to the County as part of the Services for the exclusive purpose of using the Services. The County shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the County Data.

In the event of any loss or damage to County Data, the County's sole and exclusive remedy shall be for Contractor to use reasonable commercial endeavors to restore the lost or damaged County Data from the latest back-up of such County Data maintained by Contractor in accordance with the archiving procedure described in its Data Security Policy in force from time to time (a copy of which is available on request).

Contractor shall not be responsible for any loss, destruction, alteration or disclosure of County Data caused by any third party except those third parties sub-contracted by or acting under the control and/or direction of Contractor to perform services related to County Data maintenance and back-up.

The County shall indemnify Contractor against all loss or damage that Contractor incurs or suffers however arising as a result of or in connection with the County's use of County Data and/or any claim by a third party as a result of the County's use of the County Data and/or the Services except for (a) claims alleging that Contractor's Services or Deliverables prepared by Contractor infringe on third-party's intellectual property rights, and (b) loss or damage resulting from Contractor's negligence or willfull misconduct.

8. DATA PROTECTION

In this clause, "Data Protection Laws" means all privacy laws applicable to any Personal Data processed under or in connection with the Agreement, including, without limitation, the General Data Protection Regulation 2016/679 (the "**GDPR**"), the Privacy and Electronic Communications Directive 2002/58/EC (as the same may be superseded by the Regulation on Privacy and Electronic Communications ("**ePrivacy Regulation**"), and all national legislation implementing or supplementing the foregoing, all as amended, re- enacted and/or replaced and in force from time to time;

To the extent that a party acts a data processor ("**Processor**") acts on behalf the other party acting as a data controller ("**Controller**") in respect of any personal data comprised in the County Data ("**Personal Data**") are defined in the Data Protection Laws , the Processor shall ensure that:

- i. persons authorized by the Processor to process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
- ii. if Data Protection Laws require it, to process Personal Data, it shall notify the Controller of any such requirement before processing the Personal Data (unless applicable law prohibits such information on important grounds of public interest);
- iii. it informs the Controller of any addition, replacement or other changes of Sub-processors and provides the Controller with the opportunity to reasonably object to such changes on legitimate grounds. The Controller acknowledges that these Sub-processors are essential to provide the Services and that objecting to the use of a Sub-processor may prevent the Processor from offering the Services to the Controller. The Processor will enter into a written agreement with the Sub-processor imposing on the Sub-processor obligations comparable to those imposed on the Processor under this Agreement, including appropriate data security measures. In case the Sub-processor fails to fulfil its data protection obligations under such written agreement with the Processor, that Processor will remain liable towards Controller for the performance of the Sub-processor's obligations under such agreement. By way of this Agreement, the Controller provides general written authorization to the Processor to engage Sub-processors as necessary to perform the Services; including those listed in Contractor's privacy policy. "Sub-processor" means another data processor engaged by the Processor for carrying out processing activities in respect of the Personal Data on behalf of the Controller;
- iv. taking into account the nature of the processing, it shall assist the Controller by appropriate technical and organizational measures (at the Controller's sole expense), insofar as this is possible, for the fulfilment of the County's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III of GDPR;
- v. it shall implement and maintain the technical and organizational measures in relation to the processing of Personal Data by the Processor, and taking into account the nature of the processing;

- vi. at the choice of the Controller, it deletes or returns all the Personal Data to the Controller after the end of the provision of Services relating to processing, and deletes existing copies unless Data Protection Laws require storage of the Personal Data;
- vii. it will contribute to audits or inspections by making available to the County upon request audit reports which the Controller must treat confidentially. The Processor will respond to a written security questionnaire submitted to it by the Controller provided that the Controller will not exercise this right more than once per year;
- viii. in respect of any Personal Data Breach involving Personal Data, the Processor shall, without undue delay notify the Controller of the Personal Data Breach; and provide the Controller with details of the Personal Data Breach. "Personal Data Breach" means any actual breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, any Personal Data;
- ix. all transfers by the Processor of Personal Data to countries outside the United Kingdom and European Economic Area shall (to the extent required under Data Protection Laws) be effected by way of such legally enforceable mechanism(s) for transfers of personal data as may be permitted under Data Protection Laws from time to time which may include the standard contractual clauses or an organization which holds a valid privacy shield certification.; and -
- x. maintain complete and up to date records of processing activities carried out on the Controller's behalf as required by the Data Protection Laws.

To the extent that Contractor processes any Personal Data on the County's behalf when performing its obligations under this Agreement, the County shall:

- i. ensure that the County is entitled to lawfully transfer the relevant Personal Data to Contractor so that Contractor may lawfully use, process and transfer the Personal Data in accordance with this Agreement on the County's behalf;
- ii. if necessary, ensure that the relevant third parties have been informed of, and have given their permissions or consent to, such use, processing, and transfer as required under Data Protection Laws or other applicable law;
- iii. take appropriate technical and organizational measures against unauthorized or unlawful processing of the Personal Data or its accidental loss, destruction or damage;
- iv. not instruct or request Contractor (including in the County's use of the Services) to undertake any processing which is not in accordance with Data Protection Laws; and
- v. notwithstanding any other indemnity provided by the County in connection with this Agreement, the County shall indemnify Contractor (and each of their respective officers, employees and agents) against all losses, costs, expenses or liabilities incurred by Contractor as a result of County's breach of this clause.

In the event that each Party acts as independent controllers, each Party agrees that it shall:

- i. at all times during the term of this Agreement, comply with the Data Protection Laws;
- ii. provide reasonable assistance as is necessary to each other to:
 - a. enable each Party to comply with any subject access requests (whether in relation to access to personal data, rectification, restrictions on processing, erasure or portability) and to respond to any other queries or complaints from their data subjects ("**Data Subject Request**") in accordance with the Data Protection Laws;
 - b. facilitate the handling by the other Party of any Personal Data Breach for which the other Party is responsible as soon as reasonably practicable upon becoming aware which shall include the Party responsible for the breach notifying: (i) the Information Commissioner's Office

(ICO) or other applicable supervisory authority and data subjects as required under the Data Protection Laws; and (ii) before such notification, each party agrees not to make any other announcement or otherwise make public any notice or information about a Personal Data Breach without the other party's approval, where applicable; and

c. provide reasonable assistance as is necessary to the other Party to respond within a reasonable time to any enquiries from the ICO or other applicable supervisory authority.

The County shall be responsible for maintaining the security within County's computer systems of accounts, passwords (including but not limited to administrative and user passwords) and files, and for all uses of County accounts with or without the County's knowledge or consent. Contractor shall be responsible for maintaining the security within Contractor's computer systems of accounts, passwords (including but not limited to administrative and user passwords) and files, and for all uses of County accounts with or without the County's knowledge or consent.

The County acknowledges that it is responsible for taking back-up copies of any data and appropriate precautions to protect the County's computer systems against unauthorized access. If the County knowingly and purposefully does anything to or in relation to the Services which is a criminal offence under any law, including but not limited to the Computer Misuse Act 1990, the County's right to use the Services will be withdrawn immediately. Due to the nature of the Internet the Services are not guaranteed to be delivered free of all viruses and technical defects of any description.

9. THIRD PARTY SERVICE PROVIDERS

The County acknowledges that the Services may enable or assist it to access the services or content of or correspond with third-party services (including [Slack®], [Google®], [Salesforce®] and any payment processor such as Stripe® to which the Services may facilitate access) and that it does so solely at its own risk.

Contractor makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or interactions with, any such third-party service.

Contractor recommends that the County refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website in connection with the Services. Contractor does not endorse or approve any third-party service nor the content of any of the third-party service made available via the Services.

10. CONFIDENTIALITY

Definition. In this clause, "**Proprietary Information**" means all information (whether written, oral or in some other form) disclosed to or obtained by one party (whether directly or indirectly) from the other (whether before or after the signing of this agreement), including all information relating to that other's business, operations, systems, processes, products, trade secrets, know how, contracts, finances, plans, strategies or current, former or prospective clients, customers, partners or suppliers (together with copies made of any of the foregoing) and which information is marked as being confidential or might reasonably be assumed to be confidential, but excluding information which:

- a. is available to the public other than because of any breach of this Agreement;
- b. is, when it is supplied, already known to whoever it is disclosed to in circumstances in which they are not prevented from disclosing it to others;
- c. is independently obtained by whoever it is disclosed to in circumstances in which they are not prevented from disclosing it to others; or

- d. is independently developed by the Receiving Party without reference to the Disclosing Party's Proprietary Information, where the Receiving Party is the Party receiving Proprietary Information and the Disclosing Party is the Party disclosing Proprietary Information.

Proprietary Information of Contractor includes all non-public information regarding features, functionality and performance of the Services.

Proprietary Information of the Customer includes non-public data provided by the Customer to Contractor (for example, the parties to and terms of contracts) to enable the provision of the Services.

Standard of Protection. The Receiving Party agrees:

- i. to take reasonable precautions to protect such Proprietary Information, but in any case no less stringent than they would take in protecting their own Proprietary Information; and
- ii. not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information.

11. INTERPRETATION

Order of Precedence. If there is an inconsistency between any of the provisions in this Agreement and any SOW, the provisions in the General Terms and Conditions shall prevail.

Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

12. SOFTWARE AND PRODUCT UPGRADES

Contractor will grant County licenses to use Agiloft's Software Product, at the rates set out in the applicable Order Form for the licensed Editions and Add-on Modules. While Contractor provides Platform Access to the Hosted Service, software and product upgrades are managed directly by Agiloft. Agiloft is constantly improving Agiloft's Software Product and wants its County to benefit from such improvements. To that end, Contractor represents and warrants that Agiloft will:

- a) Provide County with corrections, changes, or workarounds ("**Corrections**") for any significant defects, errors, or malfunctions in Agiloft's Software Product or systems, on a timely basis, given the nature and scope of the defect.
- b) Install upgrades of Agiloft's Software Product to the hosted servers as soon as practical, after they become available. Agiloft will promptly notify County of any upgrades that will significantly affect County program functionality.
- c) Make release notes available and identify any significant impact upgrades may have on existing customizations.
- d) Make available to County any revisions to the system Documentation developed to reflect upgrades and improvements to the Software Product.
- e) Make all commercially reasonable efforts to introduce updates in a manner that can be disabled where applicable. Agiloft reserves the right to immediately upgrade and incorporate enhancements directly related to security or patching of supporting systems.

13. AGILOFT TECHNICAL SUPPORT

Included in Agiloft license subscriptions acquired through Contractor, Contractor represents and warrants that Agiloft provides their “Standard Support” package to County at no additional charge. As part of the Standard Support, Agiloft will:

- a. Provide County with support for the most recent release of Agiloft’s Software Product. Following any new release, Agiloft will also provide County with support for the immediately prior version of Agiloft’s Software Product for a period not to exceed four (4) months.
- b. Agiloft’s Standard Support covers support on standard functionality and Software Product defects. It does not include the provision of customization advice or consulting services. Neither does it cover problems caused by County’s system administrator, such as County’s accidental or inadvertent destruction of County’s own data or a Force Majeure.

Further details of Agiloft’s Standard Support services are provided in the attached Exhibit A

14. HOSTED SERVICE, AVAILABILITY AND CREDITS

“Hosted Service” refers to the hosting infrastructure, access and services related to the online delivery of the Agiloft software product, or any part thereof.

Agiloft will take all reasonable measures to keep uptime at or above 99.7%. If, due to Agiloft’s error, Agiloft’s Hosted Service is unavailable for less than 99.7% in a given month, the County will receive credit upon request within 30 days from the month end according to the following schedule: If less than 99.7%, the credit is 5% of the Annual Subscription Fee prorated for the month. If less than 95%, the credit is the Annual Subscription Fee prorated for the month times the unavailability percentage for the month, subject to a maximum of 50% of the prorated monthly fee. As County purchases licenses to Agiloft Hosted Service through Contractor, County will communicate with Contractor regarding the credits described herein. In no event will County be entitled to a refund for downtime caused by maintenance (normally conducted during the hours of 10pm-4am, PST, and most often during a weekend), security or other critical patches, or a Force Majeure event.

EXHIBIT A-2

STATEMENT OF WORK

The below provides a proposal for an Agiloft implementation customized to address the requirements of Alameda County.

1. Business Requirements

County will be responsible for gathering and collating the business requirements from its business departments and will provide a decision maker to resolve conflicts in requirements between different business users/departments.

Koho Consulting will provide the following to assist in the requirements gathering process:

- Templates that can assist in effective requirement gathering.
- Demonstration of the Agiloft system in scenarios where Agiloft system understanding is required for effective requirement gathering.

Koho Consulting will:

- Recommend additional or alternative options (based on Koho Consulting's experience with hundreds of projects) of achieving the business results in a more efficient manner -wherever applicable.
- Answer questions posed by the County.
- Review the final requirements and provide feedback on any gaps or red flags.

2. Custom Integration Requirements

County will be responsible for gathering the business and technical requirements for any in-scope custom integration(s).

These requirements (captured by County) should include:

- Detailed workflow/interaction(s) between Koho Consulting and the County system.
- Detailed field mapping for any data that needs to be passed via the custom integration between Agiloft and the County system.
- Detailed data mapping (if applicable) in case field values are inconsistent between Agiloft and the County system.

Koho Consulting will:

- Provide relevant documentation of Agiloft APIs/Web Services/ESAs/scripting capabilities.
- Answer questions posed by the County regarding the integration capabilities of Agiloft.
- Recommend additional or alternative options (based on Koho Consulting's experience with hundreds of County projects) of achieving the business results in a more efficient manner - wherever applicable.
- Review final requirements and provide feedback in case Koho Consulting sees any gaps/red flags with the requirements.

3. Project Management

County will identify one Project Manager who will lead the County Project Management Activities for this SOW, including:

- Communicating all decisions from the County side.
- Proactively tracking/escalating "at risk" action items depending on County personnel/teams.
- Ensuring requirements provided to Koho Consulting have been reviewed and are of reasonable quality.
- Facilitating discussions with multiple internal County teams/business units to capture holistic requirements.
- Overseeing a governance/decision making process at County for scenarios where County teams/business units have conflicting requirements and/or any major decisions need to be made.

Koho Consulting will provide project management for the Agiloft work based on the scope of the project (see below for more details).

High level project milestones, activities and delivery schedule will be tracked/managed jointly by Koho Consulting and County using Accelo (enterprise project management tool used by Koho Consulting). Koho Consulting will create Accelo guest accounts for up to 5 County users.

- Overall RAG (Red/Amber/Green) status of the project (and additional details if the RAG status is non-green).
- Summary of activities completed in the reporting period.
- Major Issues/Decisions/Risks/Escalations.
- Summary of activities planned in the next period.
- Budget status (spent to date/remaining)

4. County Master Data

County will provide clean* master data (for e.g. business units; companies; locations; users etc.) that needs to be imported into Agiloft. For each distinct set of master data, County will provide:

- Initial full set of master data that needs to be imported.
- Delta master data that needs to be revised/added/removed at a periodic frequency defined by the County (e.g., daily; weekly, monthly, etc.).

Koho Consulting will provide template(s) with the field structure of the Full set and Delta master data that needs to be imported in to Agiloft (based on County business use-case).

*Clean data mean that typos, duplicates, logical inconsistencies, or other errors have been resolved.

5. Legacy Contract Metadata

Unless otherwise quoted as a separate line item, County will provide clean* legacy contract metadata (Counterparty Name, Type of Contract, etc.) that needs to be imported into Agiloft.

Koho Consulting will provide template(s) with the field structure for the legacy contract metadata (based on County business use-case).

*Clean data mean that typos, duplicates, logical inconsistencies, or other errors have been resolved.

6. Testing

Beyond Agiloft's functional testing, County will perform their own testing for any interim Milestones/Deliverables (if applicable).

Koho Consulting will provide demos of the build-out (if applicable) to support the interim milestone/deliverable testing. County will develop the User Acceptance Test (UAT) Cases/scripts required for the Go-Live of the Agiloft Solution.

Koho Consulting will offer guidance to the County on the UAT process (template of the format of the UAT Test Cases; high-level guidance on how the process should be structured; user guides/narratives (if budgeted) describing the detailed working of the solution that should be used as an input to create the detailed test cases).

County will perform the User Acceptance Testing (UAT). If an implementation issue found during the UAT, County will provide adequate steps to reproduce for Koho Consulting to troubleshoot and fix this issue.

If UAT results in a list of desired changes to the system, such changes may be performed to the extent that budget has been allocated / reserved for this purpose. If no budget is available, a change order would be required.

7. Training

County will be responsible for organizing the logistics for any on-site or virtual training, including trainee scheduling, adequate training facilities / rooms (if on-site training is included in scope).

Koho Consulting will work with County to determine the most appropriate training methodology for the County.

8. Questions/ Clarifications

Both Koho Consulting and County will address questions/clarifications posed by each organization within a reasonable timeframe - typically within two (2) business days.

9. Project Delivery

Koho Consulting expects to complete the assignment described in this document at the agreed price. Nevertheless we are committed only to the stipulated time, and assume no responsibility for not being able to deliver expected services due to problems with the facilities, client's staff or resources availability, changes to deliverables activities requested by the client either verbally or in writing during the engagement time regardless of the cause, including but not limited to inadequate or insufficient preparation on the part of the client, unknown configuration or compatibility problems, or conflicting client's activities planned or unplanned.

If the project's scope, deliverable dates, or the deliverables themselves change by Client's request, and such changes require additional time and/or resources to be completed, we will submit a new SOW that includes the additional costs for your approval before we start to work on the activities outside of the original scope. All project time extensions will require the approval of Koho's

management and the Client’s signature, including approval of additional costs associated with the engagement’s extension.

10. Project Timeline

Planned project duration is 20 weeks from kickoff.

PROJECT MILESTONES	Project Timeline (Gantt Chart to be Provided at Kickoff)
Sales Process / Resource Assignment	At SOW Signature/Project Approval
Project Kickoff / Background and Initiation/ Configuration	Week 0
Scope & Spec	Review Scope: Weeks 1-4 Scope Sign-Off: Week 5
Business Analysis and Requirement Gathering	Weeks 1 -5
Buildouts / Integrations / System Testing	First Build: Week 6-9 Second Build: Weeks 10-14 Final Configurations: Weeks 15-18
Documentation (User's Guide)	Weeks 16-19
Full Data and Active Contracts Import	Weeks 16 & 17
Admin + User Training	Weeks 18 & 19
UAT Testing (Client) / Fixing Issues (Koho)	Weeks 15-19
Change Freeze	Weeks 18-20
Go Live	Week 20
Project Management	Weeks 0-20

Project kickoff will be planned on a mutually agreed upon date, based on Koho and County resource availability. Adjustments to the project timeline may occur during the project and may require a Change Order.

Timelines can vary based on a number of factors. Anticipated deviations from the project timeline will be brought to the attention of County and jointly agreed with the County. If County expects delays in their ability to complete their side of the work, they will bring such delays to Koho's attention in a timely manner. Any changes in duration or delays to the Go-Live date may require a Change Order.

Any functionality that is mutually agreed to be deferred from the Go-Live that is in scope for this SOW may, upon County approval, be removed from the scope of this SOW, unless extra budget remains to complete it after the Go-Live.

Koho is not responsible for, and County shall not be relieved of, any obligation under this SOW due to delays caused by failure of County to comply with the terms of this SOW or to otherwise reasonably cooperate with Koho in performance of the Consulting Services

11. Assumptions

The pricing given below includes the following key assumptions:

- The general requirements will not change from what has so far been communicated.
- There is some flexibility in how the requirements are implemented to make the most efficient use possible of Agiloft's functionality.
- The County will assign a project team to work with Koho Consulting on the project
- Additional functionality beyond the general scope of work described below is not included in the quote and would be done at additional cost.
- The Consultant must have appropriate access to the required Agiloft system at all times.
- Koho is not responsible in any way for delays or errors resulting from an inadequate response on the part of the client to requests for access, information about processes, or content that may be relevant for the completion of the assignment.

12. Implementation Process

Implementation will begin after the High-Level Scope and Technical Specification document is signed-off by both Koho Consulting and Client. The high-level scope is formulated after and as a result the immersive design workshop and initial requirements gathering discussion sessions. Below are the key aspects of the implementation process:

- Koho Consulting works back from the delivery dates to determine the milestone deadlines and pre-planned activities; and fills in more detailed action items as we make progress.
- Iterative, dynamic process with high advisory component (including demos of the buildout).
- No-code development allows hyper agile implementation process in which the buildout can be demoed on a frequent basis (compared to typical software development agile methodology).
- Focus on usability and maintainability in our design.
- Wherever applicable, client will be expected to complete Agiloft requirement gathering templates to facilitate detailed requirement gathering.
- Typically, we schedule 1-2 design meetings every week (1-1.5 hours each in duration). These meetings are used to finalize the detailed requirements and demonstrate and "fine tune" the buildout. Agenda for the design meetings are sent out in advance so that clients can invite the applicable attendees.
- Buildout starts with structural design and buildout of tables and fields - this provides the first prototype on which to base the next round of decision making.
- Project Milestones and Activities are tracked and managed via Accelo (PM Tool used by Koho Consulting). Koho Consulting will provide access to the Accelo project plan to the required client users.
- A weekly Project Planning/ Status meeting is scheduled between the PMs.
- Project Status Report will be sent out on a monthly basis. The Status Report will contain RAG Status; Issues/Escalations; Decisions Required; Status of Ongoing Activities; Work Planned for next few weeks

13. Professional Services Estimate Detail

Required Items

Title	Quote Item Type	Hours	Value
PM/Design Meetings - 20 weeks, 1 hour per week, 2 person per meeting	PM and Design Meetings	40	10,000.00
Project Management - Activities - 8 hours	Project Management - Activities	8	2,000.00
Business Process Analysis - 16 hours	Business Process Analysis for system	16	4,000.00
Base Architectural Buildout - 16 hours	Base Architectural Buildout	16	4,000.00
Background Data Import without validation or cleanup - 10 hours	Import of background data	10	2,500.00
Changes to Standard Agiloft CLM Setup - 20 hours	Changes to Standard Agiloft	20	5,000.00
Configure existing approval workflows - up to 3	Custom Approval Workflows	12	3,000.00
Configure permissions for up to 6 groups - 15 hours	Roles and Permissions set- up	15	3,750.00
Build Print Templates - 32 hours (8 medium complexity)	Print Templates buildout	32	8,000.00
Configure Outbound and Inbound Email Accounts	Email Setup and Standard	10	2,500.00
User Interface and Usability Customization - 2 hours	User Interface and Usability	2	500.00
Basic User and Admin Training - 6 hours effort/ 3 hours training (1 trainer)	User and Admin Training	9	2,250.00
Additional Admin / User training	Additional User and Admin	9	2,250.00
Custom User Navigation Document - 8 hours	Custom User Navigation Documentation	8	2,000.00
UAT and changes from feedback - 24 hours	Functional Testing	24	6,000.00

Procurement Contract No. 24625

eSignature Integration basic setup (2 signers) - 4 hours	eSignature Integration	4	1,000.00
System Review sessions with project team - 6 hours	System Review sessions with project team	6	1,500.00
Import up to 5,000 Legacy Contracts without Cleanup/validation - 10 hours	Legacy Documents Import	10	2,500.00
Design interface / portal for Vendors to upload supporting Documents, update basic information and view their own Contracts.	Portal Interface Customization	20	5,000.00
Create functionality to manage Company Documents (e.g. Insurance Certifications, Invoices, etc.)	Architectural Buildout	12	3,000.00
Create functionality for a scheduled import of invoices and be able to track invoices against Contracts.	Additional Architectural Buildout.	20	5,000.00
SAML/AD Integration - 8 hours	SAML/AD Integration	8	2,000.00
Prepare 6-8 Custom Reports - 8 hours	Custom reports buildout	8	2,000.00
<p>Hypercare - 40 hours. Koho implementation consultant(s) will provide post go-live support (Hypercare) for a period of two weeks after the go-live date. As part of the implementation, Hypercare will provide support on issues in the functional / technical areas, as well as integration with interfaces included in this SOW. Hypercare is in addition to the standard Agiloft support model included in the licensing subscription. Changes identified during this period, if any, will be managed as per the change control process defined in this document.</p>	Hypercare	40	10,000.00

14. Professional Implementation Services

Consulting Services	Cost
Total for required items	\$89,750.00

Terms:

- Travel and expenses to be charged either on at-actuals basis or on per-diem basis with prior approval from County.
- All taxes, duties, and levies as applicable will be extra.
- Payment Terms: Invoice will be submitted on milestone achievement and is payable in 30 days from submission date.

15. Optional Items

Configure additional custom 4-5 Saved Searches - 2 hours	Custom Searches buildout	2	500.00
Custom User Guides / additional training for 4 Roles in the system - 32 hours	Custom User Guides for every major Role in the system	32	8,000.00
Training in print template creation - 4 hours	Training in print template creation	4	1,000.00
Cutover Planning and Preparation - 12 hours	Cutover Planning and Preparation	12	3,000.00
Configure permissions for up additional group - 3 hours each	Roles and Permissions set-up	3	750.00
Post Go-Live Change Requests/Modifications - 48 hours	Post Go-live Change Requests/Modifications	48	12,000.00

16. Total Cost of Ownership (TCO)

Koho prides itself on a low TCO compared to competitors. The factors below all contribute to a lower Total Cost of Ownership (TCO).

Factor	Details
Post go-live changes to business processes	No-code platform allows clients to adapt to changed business processes (post go-live) at a fraction of the cost and time compared to code-based solutions.
Ongoing Managed Services Fees	Our goal is for the County to be self-sufficient. Our processes are aligned towards this goal (implementation methodology, training etc.). Unless the County wants to implement a new phase, there is minimal (if any) requirement for Managed Services.
Change Management	No-code platform allows enterprise customers to test/validate changes in a non-PROD environment before incorporating these changes in PROD on their own (without the need for patches/upgrades and extensive testing).
Free and Painless Program Upgrades	Program upgrades provide new and enhanced functionality with no impact on existing customer customizations. Upgrades are free for Agiloft hosted customers.
Training	Online Admin training is offered at no additional cost. County Trainers/Administrators are also trained during the implementation to allow customers to be self-sufficient.



EXHIBIT B
PAYMENT TERMS

1. County will use its reasonable efforts to make payment to Contractor upon successful completion and acceptance of the following services listed within thirty (30) days upon receipt and approval of invoice.
2. Payment of the costs shall be made in arrears following the month of service and within thirty (30) days following receipt of a properly completed invoice.

Payment milestones:

- Mobilization Charge: 50%
- Milestone: 30% (invoiced when we reach 60% completion)
- Project Closure: 20%

3. Invoicing Procedures:

Social Services Agency (SSA) Finance Department has established a centralized Payments Unit. Please send all invoices and all payment questions to SSAinvoices@acgov.org.

This unit will be your point of contact for all payment and invoicing matters. If you need additional assistance, please contact Financial Services Officer, Beverly Warren at brwarren@acgov.org.

Invoices must contain the following elements:

- Must be on company letterhead that includes name, address, and contact information.
- For Community Based Organizations, must be signed by the head of the organization, i.e., Executive Director, CEO, etc.
- Document must contain the title Invoice.
- The date of the invoice.
- A description of services.
- The date range for services provided.
- If needed, itemization of any sales tax and delivery/postage charges.
- The Purchase Order (PO) number provided by the County.
- The total amount owed.
- Remittance instructions/address.

- A cc indication at the bottom of the invoice with names of people who received courtesy copies.
- The CEO or Executive Director must be included in the cc.
- All data/reports as required by your contract.

4. Total payment under the terms of this Agreement will not exceed the total amount of \$115,000.00. This cost includes all taxes and all other charges.

EXHIBIT C**COUNTY OF ALAMEDA MINIMUM INSURANCE REQUIREMENTS**

Without limiting any other obligation or liability under this Agreement, the Contractor, at its sole cost and expense, shall secure and keep in force during the entire term of the Agreement or longer, as may be specified below, the following minimum insurance coverage, limits and endorsements. The County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances. If the contractor maintains broader coverage and/or higher limits than the minimums shown below, the County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

TYPE OF INSURANCE COVERAGES		MINIMUM LIMITS
A	Commercial General Liability Premises Liability; Products and Completed Operations; Contractual Liability; Personal Injury and Advertising Liability	\$1,000,000 per occurrence (CSL) Bodily Injury and Property Damage
B	Commercial or Business Automobile Liability All owned vehicles hired or leased vehicles, non-owned, borrowed and permissive uses. Personal Automobile Liability when extended to cover your business is acceptable for individual contractors with no transportation or hauling related activities	\$1,000,000 per occurrence (CSL) Any Auto or Hired and Non-Owned Autos Bodily Injury and Property Damage
C	Workers' Compensation (WC) and Employers Liability (EL) As required by State of California	WC: Statutory Limits EL: No less than \$1,000,000 per accident for bodily injury or disease

<p>D Professional Liability including Technology Professional Liability (Errors and Omissions) Insurance appropriate to the Consultant's profession. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Consultant in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.</p> <p>a. The Policy shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the County in the care, custody, or control of the Consultant. If not covered under the Consultant's liability policy, such "property" coverage of the Consultant may be endorsed onto the Consultant's Cyber Liability Policy as covered property as follows:</p> <p>b. Cyber Liability coverage in an amount sufficient to cover the full replacement value of damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the County that will be in the care, custody, or control of Consultant.</p> <p>The Insurance obligations under this agreement shall be the greater of 1—all the Insurance coverage and limits carried by or available to the Vendor; or 2—the minimum Insurance requirements shown in this agreement. Any insurance proceeds in excess of the specified limits and coverage required, which are applicable to a given loss, shall be available to Agency. No representation is made that the minimum Insurance requirements of this agreement are sufficient to cover the indemnity or other obligations of the Vendor under this agreement.</p>	<p>\$2,000,000 per occurrence \$2,000,000 project aggregate</p>
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D Endorsements and Conditions:

1. **ADDITIONAL INSURED:** County of Alameda, its Board of Supervisors, the individual members thereof, and all County officers, agents, employees, volunteers, and representatives are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement page to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used). Auto policy shall contain or be endorsed to contain additional insured coverage for the County.
2. **DURATION OF COVERAGE:** All required insurance shall be maintained during the entire term of the Agreement. In addition, Insurance policies and coverage(s) written on a claims-made basis shall be maintained and evidence of insurance must be provided during the entire term of the Agreement and for at least five (5) years following the later of termination of the Agreement and acceptance of all work provided under the Agreement, with the retroactive date of said insurance (as may be applicable) concurrent with the commencement of activities pursuant to this Agreement. If coverage is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work. Proof of workers' compensation insurance coverage is not required if contractor provides a signed Workers Compensation Written Declaration of Compliance.
3. **REDUCTION OR LIMIT OF OBLIGATION:** All insurance policies, including excess and umbrella insurance policies, shall be primary and non-contributory coverage at least as broad as ISO CG 20 10 04 13 as respects the County, its officers, officials, employees, or volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor' insurance and shall not contribute with it. Pursuant to the provisions of this Agreement insurance effected or procured by the Contractor shall not reduce or limit Contractor's contractual obligation to indemnify and defend the Indemnified Parties.
4. **INSURER FINANCIAL RATING:** Insurance shall be maintained through an insurer with an A.M. Best Rating of no less than A:VII or equivalent, shall be admitted to the State of California unless otherwise acceptable by Risk Management, and with deductible amounts acceptable to the County. Acceptance of Contractor's insurance by County shall not relieve or decrease the liability of Contractor hereunder. Self-insured retentions must be declared and approved. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor. The policy language shall provide or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County.
5. **SUBCONTRACTORS:** Contractor shall include all subcontractors as an insured (covered party) under its policies or shall verify that the subcontractor, under its own policies and endorsements, has complied with the insurance requirements in this Agreement, including this Exhibit.
6. **JOINT VENTURES:** If Contractor is an association, partnership or other joint business venture, required insurance shall be provided by one of the following methods:
 - Separate insurance policies issued for each individual entity, with each entity included as a "Named Insured" (covered party), or at minimum named as an "Additional Insured" on the other's policies. Coverage shall be at least as broad as in the ISO Forms named above.
 - Joint insurance program with the association, partnership or other joint business venture included as a "Named Insured".
7. **CANCELLATION OF INSURANCE:** Each insurance policy required above shall provide that coverage shall not be cancelled, except with notice of cancellation provided to the County in accordance with policy terms and conditions.
8. **CERTIFICATE OF INSURANCE:** Before commencing operations under this Agreement, Contractor shall provide Certificate(s) of insurance and applicable insurance endorsements as set forth in the provisions of this Agreement and this Exhibit C, in forms satisfactory to County, evidencing that all required insurance coverage is in effect. However, failure to obtain the required documents prior to the work beginning shall not waive the Contactor's obligation to provide them. The County reserves the right to require the Contractor to provide complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

D Endorsements and Conditions:

- 9. **ADDITIONAL INSURED:** County of Alameda, its Board of Supervisors, the individual members thereof, and all County officers, agents, employees, volunteers, and representatives are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement page to the Contractor’s insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used). Auto policy shall contain or be endorsed to contain additional insured coverage for the County.
- 10. **DURATION OF COVERAGE:** All required insurance shall be maintained during the entire term of the Agreement. In addition, Insurance policies and coverage(s) written on a claims-made basis shall be maintained and evidence of insurance must be provided during the entire term of the Agreement and for at least five (5) years following the later of termination of the Agreement and acceptance of all work provided under the Agreement, with the retroactive date of said insurance (as may be applicable) concurrent with the commencement of activities pursuant to this Agreement. If coverage is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase “extended reporting” coverage for a minimum of five (5) years after completion of work. Proof of workers’ compensation insurance coverage is not required if contractor provides a signed Workers Compensation Written Declaration of Compliance.
- 11. **REDUCTION OR LIMIT OF OBLIGATION:** All insurance policies, including excess and umbrella insurance policies, shall be primary and non-contributory coverage at least as broad as ISO CG 20 10 04 13 as respects the County, its officers, officials, employees, or volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor’ insurance and shall not contribute with it. Pursuant to the provisions of this Agreement insurance effected or procured by the Contractor shall not reduce or limit Contractor’s contractual obligation to indemnify and defend the Indemnified Parties.
- 12. **INSURER FINANCIAL RATING:** Insurance shall be maintained through an insurer with an A.M. Best Rating of no less than A:VII or equivalent, shall be admitted to the State of California unless otherwise acceptable by Risk Management, and with deductible amounts acceptable to the County. Acceptance of Contractor’s insurance by County shall not relieve or decrease the liability of Contractor hereunder. Self-insured retentions must be declared and approved. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor. The policy language shall provide or be endorsed to provide, that the self –insured retention may be satisfied by either the named insured or County.
- 13. **SUBCONTRACTORS:** Contractor shall include all subcontractors as an insured (covered party) under its policies or shall verify that the subcontractor, under its own policies and endorsements, has complied with the insurance requirements in this Agreement, including this Exhibit.
- 14. **JOINT VENTURES:** If Contractor is an association, partnership or other joint business venture, required insurance shall be provided by one of the following methods:
 - Separate insurance policies issued for each individual entity, with each entity included as a “Named Insured” (covered party), or at minimum named as an “Additional Insured” on the other’s policies. Coverage shall be at least as broad as in the ISO Forms named above.
 - Joint insurance program with the association, partnership or other joint business venture included as a “Named Insured”.
- 15. **CANCELLATION OF INSURANCE:** Each insurance policy required above shall provide that coverage shall not be cancelled, except with notice of cancellation provided to the County in accordance with policy terms and conditions.

16. **CERTIFICATE OF INSURANCE:** Before commencing operations under this Agreement, Contractor shall provide Certificate(s) of insurance and applicable insurance endorsements as set forth in the provisions of this Agreement and this Exhibit C, in forms satisfactory to County, evidencing that all required insurance coverage is in effect. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The County reserves the right to require the Contractor to provide complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.



DEBARMENT AND SUSPENSION CERTIFICATION

COUNTY OF ALAMEDA
For Procurements Over \$25,000

The contractor, under penalty of perjury, certifies that, except as noted below, contractor, its principals, and any named and unnamed subcontractor:

- Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;
- Does not have a proposed debarment pending; and
- Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Certification.

BIDDER: Koho Consulting, Inc.

PRINCIPAL: Marc Doucette TITLE: CEO

SIGNATURE:  DATE: 8/10/22

**A RESOLUTION OF THE BOARD OF SUPERVISORS AUTHORIZING THE
WAIVER OF THE COUNTY'S PURCHASING PROCEDURES FOR THE SOCIAL
SERVICES AGENCY FOR THE COUNTY OF ALAMEDA FOR THE
DEVELOPMENT OF A CONTRACTS LIFECYCLE MANAGEMENT SYTEM**

RESOLUTION NUMBER R-2022-537

WHEREAS, the Contracts Office of the Social Services Agency, County of Alameda is responsible for the creation, routing, and execution of approximately 300 contracts and amendments annually; and

WHEREAS, the Contracts Office of the Social Services Agency does not currently have a unified system for the creation, routing, execution and tracking of its contracts; and

WHEREAS, the Social Services Agency contracts result in the provision of essential services to County residents; and

WHEREAS, Agiloft is a Redwood City, California based company providing a unique Contract Lifecycle Management Software Platform which allows for a breadth of no-code customization well-suited to the complex routing and approval workflows of the Contracts Office of the Social Services Agency; and

WHEREAS, Koho Consulting, Inc. is a Tampa, Florida based company providing implementation services for Agiloft Software; and

WHEREAS, the County wishes to retain Agiloft and Koho Consulting, Inc to provide Software and Implementation Services for a Contracts Lifecycle Management Software System for the Contracts Office of the Social Services Agency; and

WHEREAS, Agiloft and Koho Consulting, Inc. are uniquely qualified to provide software and implementation of the Contracts Lifecycle Management System, and the Board of Supervisors has determined that the public interest would not be served by requiring a bid solicitation process in this situation;

WHEREAS, the County of Alameda Administrative Code Sections 4.12.010 and 4.12.070 require the solicitation of bids except in unusual cases where the Board of Supervisors has, by resolution, found and determined the public interest would not be served by complying with the bid solicitation process; and

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The findings stated in the recitals to this Resolution are restated in full and adopted by reference.
2. The requirements in Administrative Code Sections 4.12.010 to .020 for the solicitation of bids are hereby waived for the selection of Agiloft and Koho Consulting, Inc.

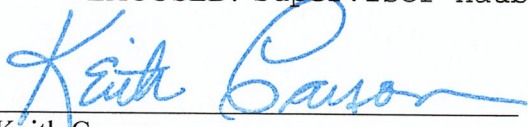
Adopted by the Board of Supervisors of the County of Alameda, State of California, on

November 22, 2022 by the following called vote:

AYES: Supervisors Brown, Miley, Valle, & President Carson - 4

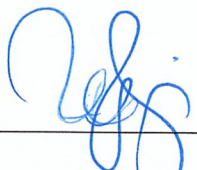
NOES: None

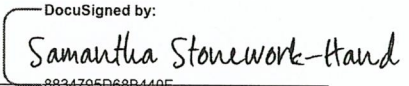
EXCUSED: Supervisor Haubert - 1



Keith Carson
President of the Board of Supervisors
County of Alameda, State of California

APPROVED AS TO FORM:
Donna Ziegler, County Counsel

By:  _____
ATTEST:
Clerk of the Board of Supervisors,
County of Alameda

By: 
Samantha Stonework-Hand
Senior Deputy County Counsel



PRINT FORM



OFFICE OF ACQUISITION POLICY (OAP)
REQUEST FOR AUTHORIZATION TO WAIVE SLEB PROGRAM REQUIREMENTS

For Federal grant funds: Procurements using Federal grant funds which prohibit geographical preferences require the Federal Grant Funds SLEB Waiver Request form to approval to the Auditor-Controller Office of Contract Compliance & Reporting (OCCR) prior to soliciting bids/proposals and awarding contracts.

For ALL REQUESTS over \$3000 and for Non-Federal SLEB Waivers, requests must be completed and submitted online. The automated SLEB waiver requests Work" section. See "Online SLEB Waiver Request". Complete #1-#9 below, complete #10 if over \$100,000 (First Source applies). Attach supporting documentation including Source/Piggybacks (must have both the Questionnaire and Finding Memo).

For questions, or if you are unable to access/log in to the automated system, you can contact OAP at gsa-oapslebwaivers@acgov.org.

SLEB Waivers:

Procurement Policy and Procedures Overview
PO Checklist

SLEB Waiver Numbers will be issued as required to enter a Procurement Contract in ALCOLINK. Processed SLEB waivers will receive an automated email from OAP.

NOTE: All questions require a complete response. Enter "N/A" or "None", etc., as applicable. Do not leave blank lines.

1. Please check appropriate box and complete department/contact information below.

Requesting Department: Social Services
Primary Requestor*: Sherri Reeves
Email: reevesd@acgov.org
Secondary Requestor**: Elizabeth Guzman
Contact Name: Elizabeth Guzman
Email: elizabeth.guzman@acgov.org

2. Recommended Vendor (Name): Koho Consulting, Inc.
PO#: (PC 24625)
REQ#:
Country: United States
Street Address: 6030 Printery Street, Suite 103
City: Tampa
State: Florida
Zip: 33616

3. Procurement Type (check all appropriate boxes below):
New Contract
Renewal Contract
Contract Amendment-Term
Contract Amendment-Value
Other

4. Total PO/Contract Value (including increase, if any) \$ 115000.00
Increase Value (if any) \$ 0.00
Contract Term Start Date 11/01/2022
End Date 10/31/2023
OR One-Time Purchase

5. Goods/Services Procurement Description:
Professional services to implement the Agiloft software to facilitate the Contract Lifecycle Management (CLM) system for SSA
776 characters remaining.

6. Brief explanation of why goods/services are required:
To implement Agiloft software in their hosted services, there is a need for the professional services from an implementation partner.
767 characters remaining.

7. Date Goods/Services Needed: 11/01/2022
a. What are the consequences if the date goods/services needed is not met?
Implementation of the Contract Lifecycle Management Tool will be delayed, and completion of contracts will continue to be late.
773 characters remaining.

8. Explanation of why the non-SLEB contractor/subcontractor (in #2 above) is being recommended and, if procurement over \$25,000, why they are unable to a minimum of 20%:
Agiloft requires their implementation partner, Koho Consulting to gather the requirements, configure and install the new Agiloft software for the Social Services Agency Contract's Office.
429 characters remaining.

9. IF APPLICABLE: New Sole Source submitted to Procurement Department: OR Existing Approved Exception on File: OR Not Applicable:

10. Explain what attempts were made to locate a SLEB prime or, if procurement over \$25,000, SLEB subcontractor(s), including:

Copies of bids received and/or detailed statement of efforts made to contact and negotiate with certified businesses, including list of SLEBs contacted, names of in numbers, dates contacted and bid prices attached. In the section below, list the documents that have been attached:

a. Agiloft recommended to acquire the professional services of Koho Consulting, their implementation partner so the SSA Contracts Office can implement the Contracts Life Cycle Management (CLM) tool.

705 characters remaining.

List of items or selected portions of work proposed to be performed by certified business in order to increase the likelihood of achieving the stated goal:

b. n/a

897 characters remaining.

Description of information provided to certified contractors/subcontractors regarding the plans, specifications and anticipated time schedule for portions of the work to I

c. n/a

897 characters remaining.

Supporting Documents:

[SS 8642 Koho Consulting.pdf](#)

11. If the contract is over \$100,000, is the recommended vendor able to comply with the First Source Program?

Yes: No: If No, explain: n/a

897 characters remaining.

Expedite? (Check this box to expedite processing)

12. Related SLEB Waiver Requests:

13. Department Certification: I certify to the accuracy of the preceding statements,

WOLLEYR
Signature of Agency/Department Head
or Designee or GSA Procurement Manager (if GSA Procurement managed the process)

Robert Woolley
Print Name

10/12/20
Date

OAP to complete below:

A. Request Approved: Waiver Valid Through: 10/31/2023 SLEB Waiver Number: 8524

Reason: Sole Source VI-A.

883 characters remaining.

B. Request Denied:

Reason:

900 characters remaining.

C. Disregard:

Reason:

900 characters remaining.

D. Other:

Reason:

900 characters remaining.

Signed by GSA-Office of Acquisition Policy (Required)

Date

[Go Back](#)

*Primary Requestor - Main Contact **Secondary Requestor - Backup Contact



OFFICE OF AQUISITION POLICY (OAP)

23170

REQUEST FOR AUTHORIZATION TO WAIVE SLEB PROGRAM

For Federal grant funds:

Procurements using Federal grant funds which prohibit geographical preferences require the Federal Grant Funds SLEB Waiver Request form to be completed and submitted for approval to the Auditor-Controller Office of Contract Compliance & Reporting (OCCR) prior to soliciting bids/proposals and awarding contracts. For further information contact OCCR at ACSLEBcompliance@acgov.org.

For ALL Requests over \$3,000 and for Non-Federal SLEB waivers:

Requests must be completed and submitted online. The automated SLEB waiver requests can be found under the "For Work" section. See "Online SLEB Waiver Request". Complete #1-#9 below, complete #10 if over \$100,000 (First Source applies). Attach supporting documentation including 2 quotes or approved Sole Source/Piggybacks (must have both the Questionnaire and Finding Memo).

For questions, or if you are unable to access/log in to the automated system, you can contact OAP at gsa-oapslebwaivers@acgov.org.

SLEB Waivers:

Procurement Policy and Procedures Overview (https://alcoweb.acgov.org/gsaapps/slebwaiver/ppp.htm)

PO Checklist (https://alcoweb.acgov.org/gsaapps/slebwaiver/po.htm)

SLEB Waiver Numbers will be issued as required to enter a Procurement Contract in ALCOLINK. Processed SLEB waivers will receive an automated email from OAP.

NOTE: All questions require a complete response. Enter "N/A" or "None", etc., as applicable. Do not leave blank lines.

1. Please check appropriate box and complete department/contact information below.

Form with checkboxes for 'Requesting Department' and 'GSA Procurement managing the competitive process'. Includes fields for Department (Social Services), Primary Requestor (Sherri Reeves), Secondary Requestor, GSA Procurement/Auditor, Contact Name (Elizabeth Guzman), Email, and Telephone numbers.

2. Recommended Vendor: Agiloft, PO#: (PC 24618), REQ#: []

Country United States

Street: 460 Seaport Court, Suite 200; City: Redwood City; State: CA; Zip: 94063

3. Procurement Type (check all appropriate boxes below):

Form with checkboxes for 'New Contract', 'Renewal Contract', 'Contract Amendment-Term', 'Contract Amendment-Value', and 'Other'.

4. Total PO/Contract Value (including increase, if \$482556.00; Increase Value (if any) \$0.00

5. **Goods/Services Procurement Description:**

Acquire software licenses from Agiloft to develop the SSA Contracts management, and Board letter routing Contracts Lifecycle Management (CLM) tool.

6. **Brief explanation of why goods/services are required:**

These software licenses will enable the development of a contracts Life Cycle Management tool (CLM) for the SSA Contracts Office that will allow for creation of all contract and amendment types, as well as Board letter routing, and an integration of contract and financial data. 

7. **Date Goods/Services Needed:**

a. **What are the consequences if the date goods/services needed is not**

Development of the CLM system will be delayed until too late in the fiscal year for staff to be available to develop the tool. Next fiscal year's contracts will need to be developed manually.

8. **Explanation of why the non-SLEB contractor/subcontractor (in #2 above) is being recommended and, if procurement over \$25,000, why they are unable to subcontract with a SLEB(s) for a minimum of 20%:**

These software licenses will enable the development of a Contracts Life Cycle management (CLM) tool for the SSA Contracts Office that will allow for creation of all contracts and amendment types, as well as Board letter routing, and an integration of contract and financial data. There were no other software demonstrated by 8 other vendors that met the specifications needed. None of the demonstrating softwares were Small, Local and/or Emerging Businesses in the County.

9. **IF APPLICABLE:** **New Sole Source submitted to Procurement** **Existing Approved Exception on** **Not**

10. **Explain what attempts were made to locate a SLEB prime or, if procurement over \$25,000, SLEB subcontractor(s), including:**

Copies of bids received and/or detailed statement of efforts made to contact and negotiate with certified businesses, including list of SLEBs contacted, names of individuals, addresses, phone numbers, dates contacted and bid prices attached. In the section below, list the documents that have been attached:

- a.
- b.
- c.

Supporting Documents:

- Comparisons.PNG
- SS 8643 Agiloft.pdf
- SLEB AGILOFT FOR ITD 22928.pdf

11. **If the contract is over \$100,000, is the recommended vendor able to comply with the First Source**

Yes: No: If No,

Expedit

(Check this box to expedite processing)

12. Department Certification: I certify to the accuracy of the preceding statements,

WOOLLEYR

Signature of Agency/Department Head
or Designee or GSA Procurement Manager (if GSA Procurement managed the

Robert Woolley

Print Name

10/12/2022

Date

OAP to complete below:

A. Request Approved:

Waiver Valid Through:

10/31/2025

SLEB Waiver Number:

8521

Reason:

Sole Source VI-A.

B. Request Denied:

Reason:

C. Disregard:

Reason:

D. Other:

Reason:

RCHUON

Signed by GSA-Office of Acquisition Policy (Required)

10/13/2022

Date

*Primary Requestor - Main Contact **Secondary Requestor - Backup Contact