



LOS ANGELES FIRE DEPARTMENT

RALPH M. TERRAZAS
FIRE CHIEF

January 30, 2017

BOARD OF FIRE COMMISSIONERS FILE NO. 17-014
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TO: Board of Fire Commissioners

FROM:  Ralph M. Terrazas, Fire Chief

SUBJECT: FIRST AMENDED AND RESTATED AGREEMENT WITH LYNDEN J. AND ASSOCIATES, INC. FOR COURT REPORTING SERVICES (C-128006)

FINAL ACTION:	<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Corrections	<input type="checkbox"/> Withdrawn
	<input type="checkbox"/> Denied	<input type="checkbox"/> Received & Filed	<input type="checkbox"/> Other

SUMMARY

On October 23, 2015 City Council authorized the Los Angeles Fire Department (LAFD) to enter into an Agreement with Lynden J. and Associates, Inc. for court reporting services (C.F. 09-2398-S1). This Agreement (C-128006) was a piggy back on an existing Los Angeles Police Department (LAPD) Agreement (C-123049) executed on October 2, 2013 providing for a three year term through October 1, 2016, with two one-year options. Abiding by these original terms and conditions, the LAFD Agreement provided for a one year term through October 1, 2016 with two one year options. The maximum annual compensation is not to exceed \$50,000.

On October 14, 2016, the LAPD executed an Amendment to exercise the first option to extend the contract term through October 1, 2017. Because the LAFD has an on-going need for court reporting services, the LAPD's contract extension enables the Fire Department to, also, extend the term through October 1, 2017.

RECOMMENDATIONS

That the Board:

Approve, and transmit to the Mayor in accordance with Executive Directive 3, the First Amended and Restated Agreement with Lynden J. and Associates, Inc. for court reporting services.

FISCAL IMPACT

The Los Angeles Fire Department has identified funds in its FY 2016-17 Contractual Services Account to cover expenses related to this Agreement.

Board of Fire Commissioners
Page 2

Board report prepared by Stewart Young, Management Analyst II, Administrative Services Bureau.

Attachment

**FIRST AMENDMENT AND RESTATED AGREEMENT FOR C-128006
BETWEEN
THE LOS ANGELES FIRE DEPARTMENT
AND
LYNDEN J. AND ASSOCIATES, INC.
FOR
COURT REPORTER SERVICES**

This First Amendment and Restated Agreement is made and entered into by and between the City of Los Angeles, a municipal corporation, hereinafter called "City", acting by and through the Los Angeles Fire Department, hereinafter called "Department" or "LAFD", and Lynden J. and Associates, Inc., a California corporation, hereinafter called "Contractor".

WHEREAS, on July 5, 2012, the City, by and through its Police Department, hereinafter called "LAPD", issued a Request for Proposals (RFP No. 11-830-005) seeking qualified firms to perform court reporting services; and

WHEREAS, the Contractor submitted a proposal in response to said RFP, the City reviewed the Contractor's proposal and determined that the Contractor had the experience and qualifications to provide the type and level of service required; and

WHEREAS, the Board of Police Commissioners approved, on October 23, 2012, the selection of Contractor and authorized the LAPD to negotiate Agreement C-123049 with Contractor to provide professional court reporter services as described herein for consideration and upon the terms and conditions as hereinafter provided; and

WHEREAS, the LAFD has an on-going need for court reporting services to record administrative disciplinary proceedings, meetings of the Board of Fire Commissioners, and to transcribe audiotapes of recorded interviews, as well as interviews conducted in person with the court reporter present, and other related duties as are assigned; and

WHEREAS, the services to be provided herein are of a professional, expert, temporary, and occasional nature; and

WHEREAS, on October 23, 2015, the City Council authorized the Fire Chief to enter into Agreement C-128006 with Contractor for a three (3) year term with annual maximum compensation of \$50,000 and authorized the Fire Chief discretion to extend the term of the Agreement for two (2) additional one-year terms under the same original terms and conditions; and

WHEREAS, the Fire Chief on behalf of the City desires in this First Amended and Restated Agreement for C-128006 to exercise the first of two (2) one-year extensions and extend the term of the Agreement to October 1, 2017 for an amount not to exceed \$50,000; and

NOW, THEREFORE, in consideration of the terms, covenants and considerations set forth herein, the parties agree to amend Agreement C-128006 as follows:

1.0 PARTIES TO THE AGREEMENT AND REPRESENTATIVES

1.1 The parties to this Agreement are:

- A. City - The City of Los Angeles, a municipal corporation, acting by and through the Los Angeles Fire Department, having its principal office at 200 North Main Street, Los Angeles, California 90012.
- B. Contractor- Lynden J. and Associates, Inc., having its principal address at 207 West Twentieth Street, Santa Ana, California 92706.

1.2 Representatives of the Parties and Service of Notices

- A. The representatives of the respective parties who are authorized to administer this Agreement and to whom formal notices, demands and communications shall be given are as follows:

The representative of the LAFD shall be:

Ralph M. Terrazas, Fire Chief
Los Angeles Fire Department
200 North Main Street, 18th Floor
Los Angeles, California 90012

With copies to:

Los Angeles Fire Department
Commanding Officer
Professional Standards Division
200 North Main Street, 18th Floor
Los Angeles, California 90012
Phone Number: (213) 978-2107
Facsimile Number: (213) 978-3004

The representatives of Contractor shall be:

Lowell W. Glover, President
Lynden J. and Associates, Inc.
207 West Twentieth Street
Santa Ana, California 92706
Phone Number: (800) 972-3376
Facsimile Number: (714) 542-8025

- B. Formal notices, demands and communications to be given hereunder by either party must be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and shall be deemed communicated as of the date of mailing.
- C. If the name of the person designated to receive the notices, demands or communications or the address of such person is changed, written notice must be given, in accord with this section, within five (5) working days of said change.

2.0 TERM OF AGREEMENT AND SERVICES TO BE PROVIDED

2.1 Term of Agreement

The term of this Agreement shall commence on the date the parties to the Agreement execute the contract and end on October 1, 2017, subject to the termination provisions herein. Subject to the approval of the City Council, and at the discretion of the LAFD, the Fire Chief may extend the term of this Agreement for one (1) additional one-year option and for any additional period of time as is required to complete any necessary closeout activities, subject to LAFD needs, availability of funds, and satisfactory performance by the Contractor.

Due to the need for Contractor's services to be provided continuously on an ongoing basis, Contractor may have provided services prior to the execution of this Agreement. To the extent that Contractor's services were performed in accordance with the terms and conditions of this Agreement, those services are hereby ratified.

This Agreement is non-exclusive, and the City retains the right to utilize other contractors for the same or similar services as provided by Contractor under this Agreement.

2.2 Statement of Work to be Performed

- A. Contractor shall provide court reporter services to the Department's Professional Standards Division on an as-needed basis; and will provide court reporter, and transcribing services when needed. Contractor may also be assigned work for other entities within the Department on an as-needed basis.
- B. Contractor shall provide a court reporter, with appropriate equipment, upon request by the Department with as little as twenty-four (24) hour notice, to perform court reporter services, including, but not limited to, creating a video or audio recording of the proceeding, meeting, or hearing and providing a translation and/or transcription of those audiotapes and videotapes upon request. Audiotapes shall be in the form of

analog or Digitalized Satellite System (DSS), Waveform Audio Format (WAV), Windows Media Audio (WMA) and Audio Interchange File Format (AIFF) digital audio files, or other media format utilized by the Department.

- C. Contractor shall ensure that only California Certified Shorthand Reporters (CSR) are provided for the contracted court reporting services during disciplinary proceedings and meetings, unless a qualified hearing reporter is specifically requested by the Department. Contractor shall ensure that at minimum, only qualified transcribers, interpreters, and translators are provided for other contract related work. Contractor must receive Department approval prior to using a sub-contractor with non-California certification (certification from other states) to transcribe tapes or perform other related contracted work. Contractor may subcontract for interpretation services and for translation services to transcribe transcripts or audiotapes if necessary and with prior Department approval. Contractor shall only utilize Court Certified Interpreters (CCI) for the subcontracted interpretation services. Translation services for transcription work may be performed by a non CCI translator, unless a qualified interpreter is specifically requested by the Department. Contractor agrees that translators may be required to pass a language proficiency examination if the Department so requests. The Department may submit requests for foreign language interpretation and translation of transcripts when necessary and on pre-approved cost estimates. If a translator is required for less commonly spoken languages, Contractor shall submit a cost estimate for consideration and approval by the Department before retaining a subcontractor to perform such services.
- D. Contractor shall ensure that the CSR licensing standards are regarded as a minimum level of professional competence. The CSR must be able to keep pace with normal conversation level.
- E. Contractor shall ensure that reporters arrive on time for all scheduled appointments. Contractor shall be responsible for any expenses incurred by the LAFD as a result of cancelled or rescheduled hearings and meetings if its reporters fail to appear for confirmed scheduled appointments. In case of an extreme emergency, Contractor will be given two (2) hours for a replacement reporter to arrive. Contractor shall also be responsible for any expenses incurred by the Department as a result of cancelled or rescheduled hearings or meetings if Contractor cancels a confirmed scheduled appointment within forty-eight (48) hours of when the hearing or meeting is to commence.
- F. Contractor shall provide reporter service as needed during normal business hours (8:00 a.m. to 5:00 p.m.) and on weekends and holidays, if needed. The assigned reporters may be required to work through a lunch period or after 5:00 p.m. Should the Department need reporter service after normal business hours, the Contractor is

entitled to receive premium payment based on the Fee Schedule, attached hereto as Attachment B and incorporated herein, for time after 5:00 p.m.

A full day's per diem compensation rate is to be based on a total of eight (8) hours of work. A half-day's per diem compensation rate is to be based on a total of four (4) hours of work. There will be no additional hourly charge unless the total number of work hours in a day exceeds eight (8) hours. Thereupon, excess time will be paid based on the Fee Schedule, rounded to the nearest hour.

- G. Contractor shall confirm all scheduled work no less than twenty-four (24) hours before the work is to be performed. If the scheduled work date is to be on a Sunday or Monday, Contractor shall confirm the service is still required on the preceding Friday.
- H. Contractor shall verify with the Department all requests for transcripts prior to transcription. Department requests shall be in writing.
- I. Contractor shall provide a completed transcript within fifteen (15) calendar days from the date of the request for said transcript. If an expedited transcript is requested, Contractor shall provide a rough transcript, both in print and as a PDF file, within twenty-four (24) hours of the request. A completed expedited transcript is to be provided within seven (7) calendar days from the date requested, as defined by the requesting Department entity. If contractor is unable to fulfill a job request due to scheduling or other unforeseen circumstances, Contractor may decline the job within forty-eight (48) hours, subject to approval by the Department. If Contractor defaults on the delivery of the transcripts as provided above, the City may give Contractor a written notice of such default and may require Contractor to pay One Hundred Dollars (\$100.00) for each day the completion of the work assignment is delayed.

A completed transcript includes the following services:

- 1. Certification of transcript
- 2. Condensed transcript and concordance
- 3. Copy of final transcript document on computer disk or CD-ROM in a format approved by the Department
- 4. Preparation of all transcripts according to the requirements of Division 24 of Title 16 of the California Code of Regulations, Professional and Vocational Regulations, Section 2473
- 5. Submission of all transcripts with the original and one (1) copy suitably bound using a professional binding machine
- 6. Proofreading of all transcripts prior to submission, and ensuring that all transcripts are accurate and free of spelling errors

7. Correction of all errors noted by the Department

J. Contractor shall provide the following services at no additional charge to the City:

1. Mileage to and from the work site
2. Court reporter waiting time
3. Certifying or notarizing of transcript

K. If required by the LAFD, the Contractor shall prepare the Board of Rights (BOR) Decision Form at the conclusion of administrative disciplinary hearings, for the signature of Board members while they are still present at no additional charge.

L. If required by the LAFD, the Contractor shall prepare the transcript of BOR rationale on findings and penalty at the conclusion of each administrative disciplinary hearing and ensure delivery of the rationale to the Department within twenty-four (24) hours from the conclusion of the hearing. Contractor will receive compensation as listed on the attached fee schedule.

M. If required by the LAFD, the Contractor shall deliver any and all completed transcripts requested by the Department's Professional Standards Division to the Department by courier at no charge to the Department. The Department will only reimburse Contractor for courier fees of no more than Forty-Five Dollars (\$45.00) for all BOR Rationales.

Charges for Transcription from CD – per CD Hour refers to the time spent listening to tapes including dead air and shall be billed in addition to audio and video transcriptions rate per page of the Fee Schedule.

Pricing for additional copies refers to per page cost to duplicate a transcript that the Department, after exercising due diligence, consider lost or misplaced. This copy will be produced by the Contractor upon the request of the Department and will be assessed based on the Fee Schedule.

N. All materials provided to Contractor for transcription (including, but not limited to, audiotapes and videotapes) must be returned to the Department at the time the completed transcript is delivered.

O. All work products performed and prepared by Contractor for each work assignment shall not be released by Contractor to anyone other than the requestor who issued the work assignment. Contractor shall refer all requests for work product to the initiating entity.

- P. Contractor shall provide for its own parking, clerical, telephone, and reproduction services.
- Q. Contractor must maintain its own bookkeeping ensuring that all bills submitted to the City are accurate.
- R. Contractor must be able to scale along technological changes in the industry and must be able to provide services in various media formats including transcribing services from any medium.
- S. Contractor will cooperate fully with any and all audits conducted by the Department.

3.0 COMPENSATION AND METHOD OF PAYMENT

3.1 Compensation

- A. Contractor shall provide the deliverables described in this Article. Contractor must provide all deliverables to the City in various media formats including digital and analog as required by the Department.
- B. Contractor understands and agrees that it may not make any financial commitment on behalf of the City, incur any cost or expense on behalf of the City, or obligate the City to make payments for any cost or expenses, unless authorized in the approved work plans.
- C. The City makes no guarantee of work or minimum amount of payment to Contractor. Payment for satisfactory services shall not exceed Fifty Thousand Dollars (\$50,000) in any one (1) fiscal year period of this Agreement, based on the rates specified in the Fee Schedule. This maximum amount of compensation per fiscal year may be adjusted by the City's representative based on the funds allocated in the Department's budget for any particular fiscal year.
- D. Contractor's services are being performed as an independent contractor and not as an agent or employee of the City; therefore, Contractor is not entitled to any vacation, sick leave, Workers' Compensation, pension or any other City benefits.

3.2 Invoices

- A. For services provided under this Agreement, Contractor shall be paid by the City in accordance with Attachment B, Fee Schedule, and the other conditions and provisions of this Section after receipt and approval of Contractor's invoices by the Department. Contractor must include the following information on each invoice:

1. Date of invoice
2. Invoice number
3. Agreement number
4. Description of services, including, but not limited to:
 - a) Date of Assignment
 - b) Name of Court Reporter or Transcriptionist
 - c) Name of Accused (BOR only) or Case Name
 - d) Box File (BF) Number (BOR only)
 - e) Complaint Form (CF) Number (BOR only)
5. Number of Pages and Rate for Transcript
6. Number of Pages and Rate for Rationale
7. Amount of invoice
8. Total amount payable
9. For Tape Transcription Requests, indicate:
 - a) Requester
 - b) Complaint Form (CF) Number
 - c) Number of Pages and Rate for Transcript
 - d) Tape Number
 - e) Job Number
10. For Translation / Interpretation Request, indicate:
 - a) Requester
 - b) Complaint Form (CF) Number
 - c) Number of Pages and Rate for Translation
 - d) Foreign Language
 - e) Job Number

- B. All invoices shall be submitted on Contractor's letterhead, contain Contractor's official logo, or other unique and identifying information such as the name and address of Contractor. Evidence that tasks have been completed shall be attached to all invoices.
- C. Invoices and supporting documentation shall be prepared at the expense and responsibility of Contractor. The City will not compensate Contractor for costs incurred in invoice preparation. The City may request, in writing, changes to the content and format of the invoice and supporting documentation at any time. The City reserves the right to request additional supporting documentation or request a self-audit to substantiate cost at any time.

Tasks that are completed by subcontractors shall be supported by subcontractor's invoices, copies of pages from reports or other unique documentation that substantiates their charges.

D. Failure to adhere to City policies outlined in Section 3.2 may result in nonpayment pursuant to Charter Section 262(a), which requires the Controller to inspect the quality, quantity and condition of services, labor, materials, supplies, or equipment received by any City office or department, and to approve demands before they are drawn on the Treasury.

E. General Requirements for Invoices

Fire Commission

Invoices for work performed for Fire Commission and/or the Independent Assessor will be sent to:

Los Angeles Fire Department
Board of Fire Commissioners
Attention: Board Secretary
200 North Main Street, Room 1800
Los Angeles, California 90012

Office of the Fire Chief

Invoices for work performed at the request of the Fire Chief will be sent to:

Los Angeles Fire Department
Attention: Fire Chief
200 North Main Street, Room 1800
Los Angeles, California 90012

Professional Standards Division

Invoices for work performed for Professional Standards Division will be sent to:

Los Angeles Fire Department
Professional Standards Division
Attention: Commanding Officer
200 North Main Street, Room 1880
Los Angeles, California 90012

4.0 RECORD RETENTION

- 4.1 Contractor shall maintain all stenographic recordings, either paper notes or electronic files, prepared under this Agreement until such time as the Department provides Contractor with instructions for the disposition of any particular recording. Said recordings are subject to examination and audit by authorized City personnel or by the City's representative at any time while Contractor is in possession of the recordings. Contractor shall provide any reports requested by the City regarding stenographic recordings.

- 4.2 Contractor shall also maintain records, including records of financial transactions, pertaining to the performance of the Agreement, in their original form, in accordance with requirements prescribed by the City. These records must be retained for a period of no less than thirty-six (36) months following final payment made by the City hereunder or the expiration date of this Agreement, whichever occurs last. Said records are subject to examination and audit by authorized City personnel or by the City's representative at any time during the term of this contract or within the thirty-six (36) months following the final payment made by the City hereunder or the termination date of this Agreement, whichever occurs last. Contractor shall provide any reports requested by the City regarding performance of the Agreement.

5.0 SUSPENSION AND TERMINATION

5.1 Suspension

City may suspend all or part of the project operations for failure by Contractor to comply with the terms and conditions of this Agreement by giving written notice, which shall be effective upon receipt.

- A. Said notice shall set forth the specific conditions of non-compliance and the period provided for corrective action.
- B. Within five (5) working days, Contractor must reply in writing setting forth the corrective actions that shall be undertaken, subject to City approval in writing.
- C. Performance under this Agreement shall be automatically suspended without any notice from City as of the date Contractor is not fully insured in compliance with this Agreement. Performance shall not resume without the prior written approval of City.

5.2 Termination for Convenience

- A. Either party to this Agreement may terminate this Agreement or any part hereof for convenience upon giving the other party at least thirty (30) days written notice prior to the effective date of such termination, which date shall be specified in such notice.
- B. All completed deliverables, or portions thereof, prepared by Contractor under this Agreement shall be delivered to City.

- C. In the event that Contractor ceases to operate (i.e., dissolution of corporate status, declaration of bankruptcy, etc.), Contractor shall provide to City copies of all materials related to completed deliverables specified in this Agreement.
- D. Upon termination, City shall compensate Contractor for any Services performed in accordance with this Agreement for which Contractor did not receive payment prior to termination.

5.3 Termination for Cause

City may terminate this Agreement for cause by giving Contractor a written notice of breach. Contractor shall have ten (10) calendar days from the date of City's notice of breach to cure, or diligently commence to cure, such breach. City's notice of breach must include a time and location for the individuals identified in Section 1.2 of this Agreement to meet and discuss the notice of the breach.

Such meeting must be scheduled within ten (10) calendar days of the date of the notice of breach. If Contractor is unable or unwilling to cure, or diligently commence to cure, such breach or meet within the ten (10) day timeframe, City may terminate this Agreement on two (2) calendar days' notice. If, after City has given notice of termination under the provisions of this Section 5.3, it is determined by City that Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Section 5.2.

5.4 Notices of Suspension or Termination

In the event that this Agreement is suspended or terminated, Contractor shall immediately notify all employees and participants and must notify in writing all other parties contracted with under the terms of Agreement within five (5) working days of such suspension or termination.

6.0 AMENDMENTS

Any change in the terms of this Agreement, including changes in the services to be performed by Contractor, and any increase or decrease in the amount of compensation, which are agreed to by City and Contractor, shall be incorporated into this Agreement by a written amendment properly executed and signed by the person(s) authorized to bind the parties thereto.

7.0 DISPUTES

Both parties shall undertake to reach an amicable settlement in cases of dispute. If an amicable settlement cannot be reached, or in the event of default that could result in termination of this

Agreement, City and Contractor shall schedule a meeting of their representatives in a good faith attempt to resolve the issues in dispute. The meeting shall allow for a detailed presentation of each party's views on the issues and potential solutions to the dispute or default. If possible, the meeting should result in an agreed upon course of action to resolve the dispute or default.

Contractor and City shall continue to perform any obligations under this Agreement during any dispute. The provisions of Sections 5.169 and 5.170 (Div. 5, Ch. 10, Art. 1) of the Los Angeles Administrative Code and Section 350 of the City Charter shall govern the procedure and rights of the parties with regard to claims arising from this Agreement.

8.0 CONFIDENTIALITY

8.1 Confidentiality of Department Information

Information, documents, records, software programs, and data furnished to Contractor by the City and other documents to which Contractor has access during the term of this Agreement are confidential information (hereinafter referred to as "Confidential Information"). Contractor may not disclose Confidential Information in any manner without the prior written consent of the City. Contractor must ensure that each court reporter sent on an assignment under this Agreement will have executed a Confidentiality Agreement prior to commencing any assignment. The LAFD Confidentiality Agreement to be used is attached hereto as Attachment C.

Contractor and its employees or subcontractors may, in the course of the work, gain access to certain confidential City and/or other law enforcement agency information, including "Criminal History Information." Accordingly, Contractor agrees to provide each of its employees and subcontractors who provide services at the LAFD facilities with the provisions of the Crime Control Act of 1973.

Contractor must implement reasonable and prudent measures to keep secure and private all confidential and criminal history information, as defined in the Crime Control Act of 1973, which has been accessed during the performance of the Agreement.

8.2 Crime Control Act of 1973

Contractor shall adhere to the Crime Control Act of 1973. The term "title" means Crime Control Act of 1973, Title 1 - Law Enforcement Assistance. The term "criminal history information" includes records and related data contained in an automated criminal justice informational system, compiled by law enforcement agencies for purposes of identifying criminal offenders and alleged offenders and maintaining as to such persons summaries of arrests, the nature and disposition of criminal charges, sentencing, confinement, rehabilitation and release.

Except as provided by Federal law other than the Crime Control Act of 1973, Title 1 - Law Enforcement Assistance, no officer or employee of any recipient of assistance or Contractor or subcontractor under provisions of this title may use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this title. Copies of such information will be immune from legal process, and will not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

All criminal history information collected, stored, or disseminated through support under this title must contain, to the maximum extent feasible, disposition as well as arrest data where arrest data is included therein. The collection, storage and dissemination of such information will take place under procedures reasonably designed to ensure that all such information is kept current therein; the recipient of assistance and any Contractor or subcontractor must assure that the security and privacy of all information is adequately provided for and that information will only be used for law enforcement and criminal justice and other lawful purposes. In addition, an individual who believes that criminal history information concerning him/her contained in an automated system is inaccurate, incomplete, or maintained in violation of this title, will, upon satisfactory verification of his/her identity, be entitled to review such information and to obtain a copy of it for the purpose of challenge or correction.

Pursuant to Section 524(c) of Title 1 of the Crime Control Act of 1973, any person violating the provisions of this Section, or of any rule, regulation or other issued thereunder, will be fined not to exceed Ten-Thousand Dollars (\$10,000) in addition to any other penalty imposed by law.

Contractor shall ensure that these requirements are provided to and apply to all subcontractors of this Agreement.

9.0 STANDARD PROVISIONS

With the exception of PSCs 27, 28 and 29, CONTRACTOR, by entering into this agreement with the LAFD agrees to abide by the City Standard Provisions (Rev. 03/09), attached hereto and incorporated herein as Attachment A.

10.0 NON-DISCRIMINATION

Notwithstanding any other provision of any ordinance of the CITY to the contrary, every Agreement which is let, awarded or entered into with or on behalf of the CITY, shall contain by insertion therein a provision obligating the CONTRACTOR in the performance of such

Agreement not to discriminate in his or her Employment Practices against any employee or applicant for employment because of the applicant's race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition. All CONTRACTORS who enter into such Agreements with the CITY shall include a like provision in all subcontracts awarded for work to be performed under the Agreement with the CITY. Failure of the CONTRACTOR to comply with this requirement or to obtain the compliance of its Subcontractors with such obligations shall subject the CONTRACTOR to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the CONTRACTOR's Agreement with the CITY. Nothing contained in this AGREEMENT shall be construed in any manner so as to require or permit any act which is prohibited by law.

11.0 EQUAL EMPLOYMENT PRACTICES

Every non-construction and construction Agreement with, or on behalf of, the CITY for which the consideration is \$1,000 or more shall contain the following provisions, which shall be designated as the EQUAL EMPLOYMENT PRACTICES provision of such Agreement:

- A. During the performance of this AGREEMENT, the CONTRACTOR agrees and represents that it will provide Equal Employment Practices and the CONTRACTOR and each Subcontractor hereunder will ensure that in his or her Employment Practices persons are employed and employees are treated equally and without regard to, or because of, race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.
 - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
 - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 - 3. The CONTRACTOR agrees to post a copy of Paragraph A, hereof, in conspicuous places at its place of business available to employees and applicants for employment.
- B. The CONTRACTOR will, in all solicitations or advertisements for employees placed by, or on behalf of, the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.
- C. At the request of the Awarding Authority or the Designated Administrative Agency (hereinafter referred to as "DAA"), the CONTRACTOR shall certify in the specified

format that he or she has not discriminated in the performance of CITY Agreements against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

- D. The CONTRACTOR shall permit access to, and may be required to provide certified copies of, all of his or her records pertaining to employment and to employment practices by the Awarding Authority or the DAA for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of CITY Agreements. Upon request, the CONTRACTOR shall provide evidence that he or she has or will comply therewith.
- E. The failure of any CONTRACTOR to comply with the Equal Employment Practices provisions of this AGREEMENT may be deemed to be a material breach of CITY Agreements. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to the CONTRACTOR.
- F. Upon a finding duly made that the CONTRACTOR has failed to comply with the Equal Employment Practices provisions of a CITY Agreement, the Agreement may be forthwith cancelled, terminated or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to, and retained by, the CITY. In addition thereto, the failure to comply may be the basis for a determination by the Awarding Authority or the DAA that the said CONTRACTOR is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of this Code. In the event of such a determination, the CONTRACTOR shall be disqualified from being awarded an Agreement with the CITY for a period of two (2) years, or until the CONTRACTOR shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this AGREEMENT, the CITY shall have any and all other remedies at law or in equity for any breach hereof.
- H. The Board of Public Works shall promulgate rules and regulations through the DAA, and provide necessary forms and required language to the Awarding Authorities to be included in CITY Request for Bids or Request for Proposal packages or in supplier registration requirements for the implementation of the Equal Employment Practices provisions of this AGREEMENT, and such rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive orders. No other rules, regulations or forms may be used by an Awarding Authority of the CITY to accomplish the Agreement compliance program.

- I. Nothing contained in this AGREEMENT shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. By affixing its signature on an Agreement that is subject to this article, the CONTRACTOR shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of CITY Agreements.
- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with employment practices, including, but not limited to:
 - 1. hiring practices;
 - 2. apprenticeships where approved programs are functioning and other on-the-job training for non-apprenticeable occupations;
 - 3. training and promotional opportunities; and
 - 4. reasonable accommodations for persons with disabilities.
- L. All CONTRACTORs subject to the provisions of this section shall include a similar provision in all subcontracts awarded for work to be performed under the Agreement with the CITY, and shall impose the same obligations including, but not limited to, filing and reporting obligations, on the Subcontractors as are applicable to the CONTRACTOR. Subcontracts shall follow the same thresholds specified in Section 10.8.1.1 of CITY Ordinance No.184292. Failure of the CONTRACTOR to comply with this requirement or to obtain the compliance of its Subcontractors with all such obligations shall subject the CONTRACTOR to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the CONTRACTOR's Agreement with the CITY.

12.0 AFFIRMATIVE ACTION PROGRAM

Every non-construction and construction Contract with, or on behalf of, the CITY for which the consideration is \$25,000 or more shall contain the following provisions which shall be designated as the AFFIRMATIVE ACTION PROGRAM provisions of such Agreement:

- A. During the performance of a CITY Agreement, the CONTRACTOR certifies and represents that the CONTRACTOR and each Subcontractor hereunder will adhere to an Affirmative Action Program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

1. This section applies to work or services performed or materials manufactured or assembled in the United States.
 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 3. The CONTRACTOR shall post a copy of Paragraph A, hereof, in conspicuous places at its place of business available to employees and applicants for employment.
- B. The CONTRACTOR shall, in all solicitations or advertisements for employees placed, by or on behalf of, the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.
- C. At the request of the Awarding Authority or the DAA, the CONTRACTOR shall certify on an electronic or hard copy form to be supplied, that the CONTRACTOR has not discriminated in the performance of CITY Agreements against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.
- D. The CONTRACTOR shall permit access to, and may be required to provide certified copies of, all of its records pertaining to employment and to its employment practices by the Awarding Authority or the DAA for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of CITY Agreements and, upon request, to provide evidence that it has or will comply therewith.
- E. The failure of any CONTRACTOR to comply with the Affirmative Action Program provisions of CITY Agreements may be deemed to be a material breach of a CITY Agreement. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the CONTRACTOR.
- F. Upon a finding duly made that the CONTRACTOR has breached the Affirmative Action Program provisions of a CITY Agreement, the Agreement may be forthwith cancelled, terminated or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to and retained by the CITY. In addition thereto, the breach may be the basis for a determination by

the Awarding Authority or the Board of Public Works that the CONTRACTOR is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of this Code. In the event of such determination, the CONTRACTOR shall be disqualified from being awarded an Agreement with the CITY for a period of two (2) years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.

- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the CITY, or any court of competent jurisdiction, that the CONTRACTOR has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a CITY Agreement, there may be deducted from the amount payable to the CONTRACTOR by the CITY under the Agreement, a penalty of ten dollars (\$10.00) for each person for each calendar day on which the person was discriminated against in violation of the provisions of a CITY Agreement.
- H. Notwithstanding any other provisions of a CITY Agreement, the CITY shall have any and all other remedies at law or in equity for any breach hereof.
- I. The Public Works Board of Commissioners shall promulgate rules and regulations through the DAA and provide to the Awarding Authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of CITY Agreements, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an Awarding Authority of the CITY to accomplish this AGREEMENT compliance program.
- J. Nothing contained in CITY Agreements shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. By affixing its signature to an Agreement that is subject to this article, the CONTRACTOR shall agree to adhere to the provisions in this article for the duration of the Agreement. The Awarding Authority may also require CONTRACTORs and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Program.
 - 1. The CONTRACTOR certifies and agrees to immediately implement good faith effort measures to recruit and employ minority, women and other potential employees in a non-discriminatory manner including, but not limited to, the following actions as appropriate and available to the CONTRACTOR's field of work. The CONTRACTOR shall:

- a) Recruit and make efforts to obtain employees through:
 - i) Advertising employment opportunities in minority and other community news media or other publications;
 - ii) Notifying minority, women and other community organizations of employment opportunities;
 - iii) Maintaining contact with schools with diverse populations of students to notify them of employment opportunities;
 - iv) Encouraging existing employees, including minorities and women, to refer their friends and relatives;
 - v) Promoting after school and vacation employment opportunities for minority, women and other youth;
 - vi) Validating all job specifications, selection requirements, tests, etc.;
 - vii) Maintaining a file of the names and addresses of each worker referred to the CONTRACTOR and what action was taken concerning the worker; and
 - viii) Notifying the appropriate Awarding Authority and the DAA in writing when a union, with whom the CONTRACTOR has a collective bargaining agreement, has failed to refer a minority, woman or other worker.
- b) Continually evaluate personnel practices to assure that hiring, upgrading, promotions, transfers, demotions and layoffs are made in a non-discriminatory manner so as to achieve and maintain a diverse work force.
- c) Utilize training programs and assist minority, women and other employees in locating, qualifying for and engaging in the training programs to enhance their skills and advancement.
- d) Secure cooperation or compliance from the labor referral agency to the CONTRACTOR's contractual Affirmative Action Program obligations.
- e) Establish a person at the management level of the CONTRACTOR to be the Equal Employment Practices officer. Such individual shall have the

authority to disseminate and enforce the CONTRACTOR's Equal Employment and Affirmative Action Program policies.

- f) Maintain records as are necessary to determine compliance with Equal Employment Practices and Affirmative Action Program obligations and make the records available to CITY, State and Federal authorities upon request.
 - g) Establish written company policies, rules and procedures which shall be encompassed in a company-wide Affirmative Action Program for all its operations and Agreements. The policies shall be provided to all employees, Subcontractors, vendors, unions and all others with whom the CONTRACTOR may become involved in fulfilling any of its Agreements.
 - h) Document its good faith efforts to correct any deficiencies when problems are experienced by the CONTRACTOR in complying with its obligations pursuant to this article. The CONTRACTOR shall state:
 - i) What steps were taken, how and on what date;
 - ii) To whom those efforts were directed;
 - iii) The responses received, from whom and when;
 - iv) What other steps were taken or will be taken to comply and when; and
 - v) Why the CONTRACTOR has been or will be unable to comply.
2. Every Agreement of \$25,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall also comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
- L. The Affirmative Action Program required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Awarding Authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
- 1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;

2. Classroom preparation for the job when not apprenticeable;
 3. Pre-apprenticeship education and preparation;
 4. Upgrading training and opportunities;
 5. Encouraging the use of CONTRACTORS, Subcontractors and suppliers of all racial and ethnic groups; provided, however, that any Agreement subject to this ordinance shall require the CONTRACTOR, Subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the CONTRACTOR's, Subcontractor's or supplier's geographical area for such work;
 6. The entry of qualified women, minority and all other journeymen into the industry; and
 7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- M. Any adjustments which may be made in the CONTRACTOR's work force to achieve the requirements of the CITY's Affirmative Action Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- N. This ordinance shall not confer upon the CITY or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by CONTRACTORS engaged in the performance of CITY Agreements.
- O. All CONTRACTORS subject to the provisions of this article shall include a similar provision in all subcontracts awarded for work to be performed under the Agreement with the CITY and shall impose the same obligations including, but not limited to, filing and reporting obligations, on the Subcontractors as are applicable to the CONTRACTOR. Failure of the CONTRACTOR to comply with this requirement or to obtain the compliance of its Subcontractors with all such obligations shall subject the CONTRACTOR to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the CONTRACTOR's Agreement with the CITY.

13.0 FIRST SOURCE HIRING

Unless otherwise exempt in accordance with the provisions of this Ordinance, this contract is subject to the applicable provisions of the First Source Hiring Ordinance (FSHO), Section 10.44 et seq. of the Los Angeles Administrative Code, as amended from time to time.

CONTRACTOR shall, prior to the execution of the Agreement, provide a list of anticipated employment opportunities that CONTRACTOR estimate they will need to fill in order to perform the services under the Agreement.

CONTRACTOR further pledges that it will, during the term of the Agreement, a) At least seven (7) business days prior to making an announcement of a specific employment opportunity, provide notifications of that employment opportunity to the Community Development Department (CDD), which will refer individuals for interview; b) Interview qualified individuals referred by CDD; and c) Prior to filling any employment opportunity, the CONTRACTOR shall inform the LAFD of the names of the Referral Resources used, the names of the individuals they referred, the names of the referred individuals who the CONTRACTOR interviewed and the reasons why referred individuals were not hired.

Any Subcontract entered into by the CONTRACTOR relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of FSHO, and shall incorporate the FSHO.

CONTRACTOR shall comply with all rules, regulations and policies promulgated by the designated administrative agency, which may be amended from time to time.

Where under the provisions of Section 10.44.13 of the Los Angeles Administrative Code the designated administrative agency has determined that the CONTRACTOR intentionally violated or used hiring practices for the purpose of avoiding the article, the determination must be documented in the Awarding Authority's Contractor Evaluation, required under Los Angeles Administrative Code Section 10.39 et seq., and must be documented in each of the Contractor's subsequent Contractor Responsibility Questionnaires submitted under Los Angeles Administrative Code Section 10.40 et seq. This measure does not limit the City's authority to act under this article.

Under the provisions of Section 10.44.8 of the Los Angeles Administrative Code, the Awarding Authority shall, under appropriate circumstances, terminate this Agreement and otherwise pursue legal remedies that may be available if the designated administrative agency determines that the subject CONTRACTOR has violated provisions of the FSHO.

14.0 MUNICIPAL LOBBYING ORDINANCE AND CHARTER SECTION 470

14.1 CEC Form 50

CONTRACTOR agrees to comply with the disclosure requirements and prohibitions established in the Los Angeles Municipal Lobbying Ordinance if those contractors qualify as a lobbying entity under Los Angeles Municipal Code §48.02. CEC Form 50 is attached hereto as Attachment D. Agreements submitted without a completed CEC Form 50, by contractors that qualify as a lobbying entity under Los Angeles Municipal Code §48.02 may be subject to penalties, termination of contract, and debarment.

14.2 CEC Form 55

Campaign Contributions - Per City Charter Sections 470(c) (12) the CONTRACTOR is subject to Charter section 470(c) (12) and related ordinances. As a result, the CONTRACTOR may not make campaign contributions to and/or engage in fundraising for certain elected City officials or candidates during the proposal process or for twelve (12) months after the contract is signed. The CONTRACTOR'S principals and subcontractors performing \$100,000.00 or more in work on the contract, as well as the principals of those subcontractors, are also subject to the same limitations on campaign contributions and fundraising.

CEC Form 55 requires the CONTRACTOR to identify with their principals, their subcontractors performing \$100,000 or more in work on the Agreement, and the principals of those subcontractors. The CONTRACTOR must also notify their principals and subcontractors in writing of the restrictions and include the notice in Agreements with subcontractors. CEC Form 55 is attached hereto as Attachment E. Agreements submitted without a completed CEC Form 55 shall be considered nonresponsive. Contractors who fail to comply with City law may be subject to penalties, termination of contract, and debarment. Additional information regarding these restrictions and requirements may be obtained from the City Ethics Commission at (213) 978-1960 or ethics.lacity.org

15.0 ENTIRE AGREEMENT

15.1 Complete Agreement

This Agreement contains the full and complete Agreement between the parties. No verbal agreement or conversation with any officer or employee of either party shall affect or modify any of the terms and conditions of this Agreement.

15.2 Number of Originals and Attachments

This Agreement is executed in four (4) duplicate originals, each of which is deemed to be an original. Attachments A through E listed below are incorporated herein by this reference:

Attachment A - Standard Provisions for City Contracts (rev. 03/09)
Attachment B - Fee Schedule
Attachment C - Confidentiality Agreement
Attachment D - CEC Form 50
Attachment E - CEC Form 55

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives.

Date: _____

For: THE CITY OF LOS ANGELES

By: _____

Ralph M. Terrazas
Fire Chief
Los Angeles Fire Department

Date: _____

For: Lynden J. and Associates

By: _____

Lowell W. Glover
President

Approved as to Form:

ATTEST:

MICHAEL N. FEUER, City Attorney

HOLLY L. WOLCOTT, City Clerk

By: _____

By: _____

Deputy City Clerk

Name: _____

Title: _____

Date: _____

Date: _____

Agreement Number: C-1280006

ATTACHMENT B**RATE SCHEDULES**

Live Hearings	
LYNDEN J. AND ASSOCIATES INC.	
Full-day Per Diem	\$ 180.00
Half-day Per Diem	\$ 150.00
Rate per page (original and 1 copy)	\$ 4.65
Page rate for Rationales, delivered next day	\$ 5.00
Weekend/Holiday Per Diem	\$ 30.00/hr. plus Full-day Per Diem
Time after 5:00 p.m.	\$ 30.00/hr.
Next day expedite	\$ 9.30/p
2 nd day expedite	\$ 8.84/p
3 rd day expedite	\$ 8.37/p
4 th day expedite	\$ 7.91/p
5 th day expedite	\$ 7.44/p
6th day expedite	\$ 6.98/p
7 th day expedite	\$ 6.98/p
Extra Copy	\$.85/p
Handling	No Charge
Messenger Services	\$ 45.00 (Expedites only)
Parking and mileage	No Charge
Court Reporter Waiting Time	No Charge
Certifying the Transcript	No Charge
Condensed Transcript	No Charge
Completion of BOR Decision Form	No Charge
BOR Hearing Cancellation Fee with less than 2 hours Notice	\$ 150.00
Hearing No Transcript Write up – ½ day	\$ Refer to ½ day Per Diem Charge
Hearing No Transcript Write up – Full day	\$ Refer to Full-day Per Diem Charge
PDF Digital Condensed Transcripts	\$ 10.00 each

**Audio/Video Tape/CD
Transcription
CERTIFIED COURT REPORTER**

LYNDEN J. AND ASSOCIATES INC.

Rate Per Page	\$ 3.75
Spanish to English Transcription, Rate Per Page	N/A
Korean/Vietnamese Transcription	N/A
Exotic Language Transcription	N/A
Transcription From Continuous Recording (Blank Time)	\$ 155.00/hr
Video to Audiotape Conversion	\$ 17.00
Transcription from CD – per CD Hour	\$ 155.00 if Blank time; otherwise \$3.75 per page
Additional Copies Per Page	\$.85
Next-day Expedite	\$ 7.50
2 nd day Expedite	\$ 7.13
3 rd day Expedite	\$ 6.75
4 th day Expedite	\$ 6.38
5 th day Expedite	\$ 6.00
6 th day Expedite	\$ 5.63
7 th day Expedite	\$ 5.63
Unlimited Transcript Corrections	No Charge
Tape Pick-up from LAPD L.A Office	No Charge

**Audio/Video Tape/CD
Transcription
Court Certified Interpreters**

LYNDEN J. AND ASSOCIATES INC

Spanish to English Transcription	\$ 6.75 per audio minute plus .25 per word
Korean/Vietnamese & Exotic Transcription	\$ 45.00 per audio minute plus .38 per word

**Audio/Video Tape/CD
Transcription
UNLICENSED COURT REPORTER**

LYNDEN J. AND ASSOCIATES INC.

Rate Per Page (for original and one copy)	\$ 3.56
Spanish to English Transcription, Rate Per Page	\$ 6.60
Spanish to English written translation	\$.38 per word
Spanish to Spanish to English two-column transcription	\$ 14.00 per page
Transcription From Continuous Recording (Blank Time)	\$ 155.00/hr
Messenger Service (Expedites)	\$ 45.00
Video to Audiotape Conversion	\$ 17.00
Transcription from CD – per CD Hour	\$ 155.00 if blank time; otherwise \$3.56 per page
Additional Copies Per Page	\$.85
Next-day Expedite	\$ 7.12
2 nd day Expedite	\$ 6.76
3 rd day Expedite	\$ 6.41
4 th day Expedite	\$ 6.05
5 th day Expedite	\$ 5.70
6 th day Expedite	\$ 5.34
7 th day Expedite	\$ 5.34
Handling	No charge
Tape Pick-up from LAPD L.A Office	No charge