

# LOS ANGELES FIRE DEPARTMENT



**RALPH M. TERRAZAS**  
FIRE CHIEF

May 4, 2017

TO: Board of Fire Commissioners

BOARD OF FIRE COMMISSIONERS  
FILE NO. 17-059

FROM: *RMT* Ralph M. Terrazas, Fire Chief

SUBJECT: APPROVAL OF BRUSH CLEARANCE WEED AND REFUSE  
ABATEMENT CONTRACTORS PURSUANT TO THE REQUEST FOR  
QUALIFICATIONS NO. LAFD 2017-038-001 AND AUTHORIZATION TO  
EXECUTE RELATED AGREEMENTS

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 Withdrawn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

The Los Angeles Fire Department, Brush Clearance Unit, annually inspects approximately 140,000 properties located in the Very High Fire Hazard Severity Zone (Zone) in accordance with Los Angeles Municipal Code 57.322.1 and 57.053.1.6.6. Owners of properties within the Zone are required to clear brush, weeds and refuse in accordance with the code. If a property owner does not clear the property as required, the Department is authorized to cause the property to be cleared and the property owner must reimburse the City for the cost of such clearance work. If a property owner fails to pay the City the cost of such work, the City is authorized to file a lien on the property.

Pursuant to City Charter Section 1022, the Bureau of Public Works, Harbor, Recreation & Parks, Los Angeles Department of Water and Power, Los Angeles World Airports, LAPD, El Pueblo, and the Los Angeles Zoo were contacted, and it was determined City employees were not available to perform the work. Thus, the Fire Department contracts with brush, weed and refuse abatement contractors to do the clearance work on private property as well as on City-owned property. The current agreements for brush clearance, weed and refuse abatement services will expire on June 30, 2017.

On March 9, 2017, the Department issued Request for Qualifications LAFD No. 2017-038-001 (RFQ) to establish an on call list of qualified brush clearance, weed and refuse abatement contractors, for the next three fiscal years, starting with FY 2017-18. The deadline for submitting responses to the RFQ was 3:00 p.m., on April 20, 2017. Eight responses to the RFQ were received by the deadline. One response was deemed non-responsive for failure to submit mandatory documentation, and was therefore disqualified and not eligible for further review. A three-person evaluation committee was convened, comprised of LAFD personnel from the High Rise Unit and Central Industrial Unit.

The Evaluation Committee reviewed and scored the seven eligible Responses based on the following criteria, as specified in the RFQ.

Selection / Evaluation Criteria	Points
Work History	60
Safety Protocols	20
History of Accidents and Safety Violations and How Dealt with Those Situations	10
Training Programs	10
<i>Total Possible Points</i>	<i>100</i>

Attachment A to this report lists the seven (7) contractors that the Department recommends be awarded contracts for brush clearance, weed and refuse abatement services. The Department seeks authorization to enter into agreements with each of these contractors. The agreements will be in substantially the same format and content as the *Sample Agreement for Brush Clearance, Weed and Refuse Abatement Services* (Attachment B), which has been approved by the City Attorney as to form. The proposed Agreement provides that the term of the Agreement will be for an initial one-year period, commencing on July 1, 2017 and ending on June 30, 2018. The proposed Agreement authorizes the Fire Chief to execute amendments to extend the term of the Agreement for up to two (2) additional years, exercisable in one-year increments, contingent on availability of funds and the contractor having provided satisfactory services under the Agreement. Commission authorization for the Fire Chief to amend the Agreements to extend the term in one-year increments reduces the administrative cost and burden on staff resources to process yearly amendments. This also ensures that extensions to the term of the Agreements are processed timely so that there is no gap in the contractors being able to provide brush clearance, weed and refuse abatement services to meet the needs of the Department and to meet the Municipal Code requirements for the protection of property and persons.

After execution of the Agreements, approved contractors will be invited to participate in weekly bid sessions beginning in July for privately owned parcels and in May for City-owned parcels. These bid sessions are to ensure that the work is performed at competitive prices. The contractors perform the work at the discretion of the Fire Department and must abide by the regulations and requirements stated in the Agreement and those established by the Brush Clearance Unit, and must abide by the Affidavit of Non-Collusion. Because historically there has been very limited opportunity for portions of the work to be subcontracted, the Department requested a waiver from the Business Inclusion Program (BIP) requirements for subcontractor outreach to Minority, Women, Emerging, Disabled Veteran, and Other Business Enterprises, which has been granted by the Mayor's Office.

## **RECOMMENDATIONS**

That the Board:

1. Approve the contractors listed in Attachment A to provide brush clearance, weed and refuse abatement services.
2. Authorize the Fire Chief to execute Agreements with the approved contractors, substantially in the same form and content as the Sample Agreement for Brush Clearance, Weed and Refuse Abatement Services (Attachment B), for an initial one-year term, with authority for the Fire Chief to execute amendments to extend the term of the Agreements for up to two (2) additional years, exercisable in one-year increments, contingent on availability of funds and the contractor having provided satisfactory services under the Agreement, and subject to review and approval by the City Attorney.
3. Transmit the Sample Agreement to the Mayor for review and approval, in accordance with Executive Directive No. 3, for use with the approved contractors.

## **FISCAL IMPACT**

Each contractor is required to maintain sufficient crews and equipment to furnish the required services in a timely manner and must continue to demonstrate a willingness and ability to satisfactorily perform such services. During the 2016 Brush Clearance season, the Fire Department's Brush Clearance Unit inspected 137,000 parcels, issued 13,500 citations, and sent an estimated \$2.5 million worth of brush clearance, weed and refuse abatement work out to contract.

These contracts are paid from Account No. 3070 – Brush Clearance Contracts. The funds for this account are approved each year in the Department's Adopted Annual Budget. The City is reimbursed for brush clearance costs by invoicing the property owners directly, or through the County Assessor's tax rolls.

## **CONCLUSION**

The Fire Department has determined that brush clearance, weed and refuse abatement contractors are an essential element to a successful Brush Clearance Program. The Los Angeles Fire Department's Brush Clearance Program has proven to be one of the best and most successful programs in the country. The Brush Clearance Unit requires the assistance of private contractors to ensure that adequate clearance and defense against the threat of wildfires is maintained.

Board Report prepared by James Patrick Hayden, Battalion Chief, and Robert Knight, Captain II, Brush Clearance Unit, Industrial Commercial Section.

## **Attachments**

*Attachment A: Proposed Brush Clearance, Weed and Refuse Abatement Contractors  
Pursuant to Request for Qualifications LAFD No. 2017-038-001*

*Attachment B: Sample Contract for Brush Clearance, Weed and Refuse Abatement Services*

## Los Angeles Fire Department

### Proposed Brush Clearance, Weed and Refuse Abatement Contractors Pursuant to Request for Qualifications LAFD No. 2017-038-001

<b>Company's Legal Name</b> <ul style="list-style-type: none"> <li>• <b>Authorized Representative</b></li> <li>• <b>City, State</b></li> </ul>	<b>Evaluation Score</b>
AVALON LANDSCAPE, INC. LUIS CADIZ SHERMAN OAKS, CA	89
BRIAN T. WALSH dba BRIAN WALSH BRUSH CLEARANCE BRIAN T. WALSH LOS ANGELES, CA	99
INTERNATIONAL ENVIRONMENTAL CORPORATION VIRGINIA CESPEDES PANORAMA CITY, CA	99
PAN AMERICAN BRUSH CLEARANCE, INC. EDDIE MARTINEZ SHERMAN OAKS, CA	90
PEPO WEED ABATEMENT, INC. MICHAEL PEPO PASO ROBLES, CA	83
SILENT FIRE, INC. COURTNEY KITE OXNARD, CA	88
THRIFTY TREE SERVICE, INC. DAVID AVIRAM RESEDA, CA	75

## **ATTACHMENT B**

### **Sample Contract for Brush Clearance, Weed and Refuse Abatement Services**

DRAFT

AGREEMENT NO. \_\_\_\_\_

between

THE CITY OF LOS ANGELES

and

<<CONTRACTOR>>

for

BRUSH CLEARANCE, WEED AND REFUSE ABATEMENT SERVICES

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## LIST OF EXHIBITS

EXHIBIT 1 - STANDARD PROVISIONS FOR CITY CONTRACTS

EXHIBIT 2 - REQUIREMENTS FOR BRUSH CLEARANCE, WEED AND REFUSE  
ABATEMENT WORK

EXHIBIT 3 - REQUIREMENTS FOR TREE TRIMMING AND REMOVAL

EXHIBIT 4A - REQUIREMENTS FOR WORK ON PUBLIC PROPERTY  
California Department of Industrial Relations Registration Requirement  
California State Senate Bill 854

EXHIBIT 4B - REQUIREMENTS FOR WORK ON PUBLIC PROPERTY  
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City of Los Angeles Labor Compliance Manual

EXHIBIT 5 - AFFIDAVIT OF NON-COLLUSION

EXHIBIT 6 - LOCAL BUSINESS PREFERENCE PROGRAM

EXHIBIT 7 - SMALL & LOCAL BUSINESS PROGRAM

EXHIBIT 8 - BID CHECK LIST



**AGREEMENT NO. \_\_\_\_\_**  
**BETWEEN**  
**THE CITY OF LOS ANGELES**  
**AND**  
**«Company»**  
**TO PROVIDE BRUSH CLEARANCE, WEED AND REFUSE ABATEMENT SERVICES**

This Agreement is made and entered into by and between the City of Los Angeles (hereinafter referred to as the "City"), a municipal corporation, acting by and through the Los Angeles Fire Department (hereinafter referred to as the "Department"), and «Company», a «LegalEntity», a qualified brush clearance contractor (hereinafter referred to as the "Contractor").

**WHEREAS**, the Department has the responsibility to comply with and enforce the Los Angeles Municipal Code ("LAMC") with regard to the property under the jurisdiction of the Department and in particular the abatement of certain public nuisances including, but not limited to, overgrown vegetation and refuse as set forth in LAMC §57.322.1 and §57.503.1.6.6; and

**WHEREAS**, the Department requires the services of qualified contractors to abate fire hazards located in the Very High Fire Hazard Severity Zone, on improved and unimproved, publically-owned and privately-owned property within the City of Los Angeles; and

**WHEREAS**, in connection with said efforts, the Department has determined it is necessary to have qualified contractors with sufficient crews and equipment available to furnish said abatement services in a timely manner; and

**WHEREAS**, the Department requires such services every year generally commencing in late-Spring; and

**WHEREAS**, the City performed the City of Los Angeles Charter §1022 review and outreach and determined the work could be performed more economically and feasibly by independent contractors than by City employees; and

**WHEREAS**, on March 9, 2017 the Department issued a Request for Qualifications ("RFQ") No. 2017-38-001 in accordance with City Charter §372, seeking qualified brush clearance, weed and refuse abatement contractors; and

**WHEREAS**, the Contractor responded to the RFQ and the Department has determined that the Contractor possesses the qualifications and experience necessary to provide the services requested; and

**WHEREAS**, it is in the City's best interest to secure said services from the Contractor; and

**NOW THEREFORE**, in consideration of the above premises and terms, covenants and conditions hereinafter contained to be kept and performed by the respective parties hereto, it is mutually agreed as follows:

## **1. PARTIES TO THE AGREEMENT, REPRESENTATIVES AND NOTICE**

### **1.1. Parties**

The parties to this Agreement are:

City - The City of Los Angeles, a municipal corporation, acting by and through its Fire Department, having its principal office at 200 North Main Street, 18<sup>th</sup> Floor, Los Angeles, California 90012.

Contractor - «Company», a «LegalEntity», having its principal office at «LegalAddress».

### **1.2. Representatives**

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

#### **1.2.1. The City's Representative will be as follows, unless otherwise stated in this Agreement:**

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

With copies to:

Sidney Chambers, Captain I  
Los Angeles Fire Department  
Fire Prevention and Public Safety Bureau  
Brush Clearance Unit  
6262 Van Nuys Boulevard, Suite 451  
Van Nuys, California 91401

#### **1.2.2. The Contractor's representative will be:**

Name: «OwnerName»  
Title: «OwnerTitle»  
Company: «Company»  
Telephone Number: «TelephoneNumber»

Mobile Number: «MobileNumber»  
Fax Number: «FaxNumber»  
E-mail Address: «EmailAddress»

### 1.3. Notices

Formal notices, demands and communications to be given hereunder by either party shall be made in writing and shall be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and will be deemed communicated as of the date of receipt.

If the name of the person designated to receive the notices, demands or communications or the address of such person is changed, written notice will be given, in accordance with this Article, within five (5) working days of said change.

## 2. TERM OF AGREEMENT AND COMPENSATION

### 2.1. Term

Upon signatures by all parties and attestation by the City Clerk, this Agreement will be effective as of July 1, 2017, and will terminate on June 30, 2018, unless otherwise terminated by the Department as provided for in this Agreement.

### 2.2. Amendments

The Board of Fire Commissioners has authorized the Fire Chief to extend the Agreement for a total of two (2) additional years, exercisable in one (1) year increments, utilizing the amendment process described in Section PSC 6 of Exhibit 1 – Standard Provisions for City Contracts. Any amendments to extend the term of this Agreement are contingent on availability of funds and the Contractor having provided satisfactory services under this Agreement.

### 2.3. Ratification of Agreement

To the extent that the Contractor may have begun performance of the services before the date of execution at the City's request and due to the immediate needs, the City hereby ratifies and accepts those services performed in accordance with this Agreement and authorizes payment as provided by the terms of this Agreement. Notwithstanding this Section, the term of this Agreement will remain as stated above.

### 2.4. Compensation

The Contractor will be compensated by the City, for satisfactory performance, pursuant to the bidding process and other requirements as set forth in this Agreement.

## **2.5. Non-Exclusive Agreement**

2.5.1. The Contractor understands and agrees that this is a non-exclusive agreement and that the City may enter into other agreements for the provision of brush clearance services.

2.5.2. Execution of this Agreement does not guarantee that the City will request the Contractor to provide any services.

## **3. GENERAL SPECIFICATIONS AND REQUIREMENTS**

### **3.1. Mandatory Orientation**

The Contractor must attend any required orientation sessions presented by the Department regarding the Brush Clearance Program. By executing this Agreement, the Contractor certifies that they are familiar with the policies, procedures and requirements for brush clearance, weed and refuse abatement under the Brush Clearance Program and the relevant provisions of the LAMC.

If the Contractor intends to bid for work involving tree trimming and removal, the Contractor further certifies that they are familiar with the procedures and requirements for said work and the relevant provisions of the LAMC.

### **3.2. Work to Be Performed by the Contractor**

During the term of this Agreement, the Contractor will provide brush clearance, weed and/or refuse abatement services, including tree trimming and removal, on public and/or private property under the Department's jurisdiction, pursuant to the requirements specified in LAMC §57.322.1 and §57.503.1.6.6.

3.2.1. Specific work to be performed by the Contractor will be assigned by the Department to the Contractor pursuant to the Brush Clearance Program's policies and procedures.

3.2.2. The exact nature of the work to be performed by the Contractor for each bid award will be described in bid packages prepared by the Department for each parcel to be cleared.

3.2.3. Cut vegetation must be processed or removed within the same day it is cleared, by a reasonable hour.

### **3.3. Required Licenses, Certifications, Registrations and Insurance**

In order to participate in bid sessions, the Contractor must submit to the Brush Clearance Unit seven (7) days prior to bid day, required licenses, certificates, registration and insurances as specified in:

- 3.3.1. Exhibit 2 – Requirements for Brush Clearance, Weed and Refuse Abatement Services; and
- 3.3.2. Exhibit 3 – Requirements for Tree Trimming and Removal Above Thirteen Feet; and
- 3.3.3. Exhibit 4A – Requirements for work on Public Properties – CA Department of Industrial Relations Registration Requirement
- 3.3.4. Exhibit 4B – Requirements for work on Public Properties – Prevailing Wage Requirements

#### 3.4. Equipment Requirements, Inspections and Operation

##### 3.4.1. Equipment Requirements

The Contractor must provide all equipment in good working condition that is required to satisfactorily perform the services under this Agreement as more fully described in Exhibit 2 – Requirements for Brush Clearance, Weed and Refuse Abatement Services and Exhibit 3 – Requirements for Tree Trimming and Removal Services. All equipment furnished must meet the specifications below.

##### 3.4.2. Equipment Inspection

Any and all equipment being used by the Contractor must be available for inspection by a Department representative prior to the awarding of a bid. If equipment is to be leased or purchased, the supplier and specifications must be provided to the Department upon request. Any unsatisfactory equipment will be rejected.

##### 3.4.3. Equipment Operation and Maintenance

3.4.3.1. The Contractor shall have the necessary tools and spare parts for equipment to allow the operator or worker to make minor repairs in the field and to keep all equipment operating and serviceable throughout the day.

3.4.3.2. The Contractor is responsible for performing all routine maintenance and repairs to equipment on its own time.

#### 3.5. Professional Conduct

The Contractor, and each of his or her employees, will conduct themselves in a professional manner while conducting business pursuant to this Agreement on public

or private property, while in contact with City employees, other Contractors, and members of the public.

- 3.5.1. The Contractor shall keep himself or herself fully informed of all existing and future federal, state, county or city laws, regulations and municipal ordinances, which may in any manner affect their work.
- 3.5.2. The Contractor shall at all times observe and comply with, and shall cause their subcontractors to observe and comply with all existing and future safety requirements, laws, ordinances, regulations, orders and decrees, which may in any manner affect work performed under this Agreement.
- 3.5.3. The Contractor shall at all times enforce strict discipline and good order among its employees or subcontractors.
- 3.5.4. The Contractor shall not employ or assign work to unfit persons or anyone not skilled in the operation of equipment or in the work to be performed under this Agreement.

#### **4. BID PROCESS**

##### **4.1. Mandatory Orientation**

A mandatory orientation meeting will be held prior to the start of bid sessions to provide an overview of the bid process and licenses, certifications, registration, and insurance required to participate. Contractors will be notified of the mandatory orientation by email.

##### **4.2. Requirements**

Requirements listed in Exhibit 2 – Requirements for Brush Clearance, Weed and Refuse Abatement Services and Exhibit 3 – Requirements for Tree Trimming and Removal Above Thirteen Feet must be current and on file with the Department by 12:00 p.m., Pacific Time seven (7) days prior to bid day in order to bid on certain bid packages.

##### **4.3. Bid Packages**

- 4.3.1. The Department will compile numbered bid packages for the work required, usually consisting of thirty (30) to fifty (50) hours or more of brush, weed and refuse abatement, and tree trimming and removal services for a typical five (5) person crew. The bid package may contain more than one (1) parcel to be abated.
- 4.3.2. Bid packages may contain multiple parcels and will include:

- 4.3.2.1. Detailed specifications describing work on each parcel.
- 4.3.2.2. A copy of the applicable Los Angeles County Assessor's map.
- 4.3.2.3. The Start Date.
- 4.3.2.4. Affidavit of Non-Collusion (Exhibit 5)

Throughout the term of this Agreement, the Contractor must abide by the requirements stated in Exhibit 5 – Affidavit of Non-Collusion, attached hereto and incorporated herein, on each and every bid submitted, and regarding any other action in furtherance of the Contractor's participation in the Brush Clearance Program.

Failure to abide by the requirements of this Article and Exhibit 5 – Affidavit of Non-Collusion will be cause for termination of this Agreement and will result in the Contractor being disqualified from future participation in the Brush Clearance Program.

- 4.3.2.5. The Solicitation Order describing specific licenses, certifications and insurance required by the bid package.
- 4.3.2.6. The Bid Sheet that is required to be submitted by Contractor in a sealed envelope on the date bids are due.

#### 4.4. Bid Package Adjustments

- 4.4.1. The Department will inspect each parcel included in a bid package by the date that bids are due to ensure work described within the bid package has not already been abated by the property owner during the period between issuance of the original bid package and the deadline for submitting the bid.
- 4.4.2. Should one (1) or more parcels in the original bid package be removed for reasons stated above, the Department will post an updated list of parcels highlighting those that have been removed. The updated list will be located at the Brush Clearance Unit Office, by 2:00 p.m., Pacific Time, on the date the bids are due.
- 4.4.3. It is the Contractor's sole responsibility to revise and adjust their bid, based on the final posted list of parcels, to reflect any changes made to the parcels in the bid package.

4.4.4. Bids submitted by the Contractor that do not conform to the final list of parcels as posted by the Department will be rejected as non-responsive, and will not be considered for an award.

4.4.5. A Contractor may withdraw his or her bid at any time during the bid session.

#### 4.5. Submitting a bid

4.5.1. Once bid packages are released by the Department, the Contractor has seven (7) calendar days (unless otherwise specified in the bid package) to submit their bid.

4.5.2. The price for each parcel must be specified and the total package amount must be stated.

4.5.3. Prior to submitting a bid, the Contractor will have the sole responsibility to confirm what parcels are included in the final bid package, based on the final posted list of parcels.

4.5.4. Any and all problems, complaints and questions regarding policies and procedures of the Brush Clearance Program or bidding process and awarding of bids hereunder must be directed to the Brush Clearance Unit Commander or the attending Inspector II, prior to the submittal of the bid.

4.5.5. Bids must be submitted in sealed envelopes. Only one (1) bid sheet is to be submitted per envelope. An Affidavit of Non-Collusion, fully executed by the Contractor, must accompany each bid sheet. Bids must be complete, legible, and in black ink.

4.5.6. Bids are due in the Department's Brush Clearance Unit Office at 6262 Van Nuys Boulevard, Suite 451, Van Nuys, California, 91401 before 2:45 p.m., Pacific Time, each Thursday following the release of a bid package. NO BIDS WILL BE ACCEPTED AFTER 2:45 P.M.

4.5.7. After the deadline for submittal of bids, the Contractor will wait outside of the Brush Clearance Unit office until summoned.

4.5.8. After the deadline for submittal of bids and continuing until the bid award, the Contractor will not communicate in any manner with the Department's personnel regarding any bid package or bid.

#### 4.6. Award of Bids

4.6.1. It is mandatory that bidders, or their qualified representatives, be present at bid openings and during the awarding of bids.



- 4.6.1.1. If someone, other than the Contractor's representative, specified in Section 1.2.2, is participating in a particular bid session, written documentation from the Contractor identifying and authorizing the representative to participate must be submitted to the Department along with the bid, prior to the deadline for submittal of the bid.
- 4.6.1.2. It is the Contractor's sole responsibility to ensure that his or her representative is thoroughly familiar with Brush Clearance Program bidding policies and is thereby qualified to participate in the bid process on behalf of the Contractor.
- 4.6.1.3. Any lost bids on the part of the Contractor due to the inability or unfamiliarity of the Contractor's representative with Brush Clearance Program bidding policies and procedures will not be the responsibility of the Department.
- 4.6.2. Bids will be opened, sorted, and read promptly by the Department personnel. The bid will be awarded to the lowest responsible bidder for each package at 3:00 p.m., Pacific Time, or shortly thereafter.
- 4.6.3. Each package will be awarded to only one (1) contractor.
- 4.6.4. The Department reserves the right to reject all bids and not make an award on any bid package that was issued.
- 4.6.5. If parcels have been pulled during the bid session, the winning contractor will have the option of not accepting the bid award, at which time it will be awarded to the next lowest bidder.
- 4.6.6. If no parcels were pulled during bid session, the winning contractor must accept the package in total.
- 4.7. Timelines for Completion of Work
  - 4.7.1. Performance Period

**Time is of the essence.** All work identified in a bid package must be satisfactorily completed no later than 5:00 p.m. Pacific Time, thirteen (13) calendar days after the bid award.
  - 4.7.2. Performance Days
    - 4.7.2.1. Performance days shall include weekends.
    - 4.7.2.2. Performance days shall not include City holidays and/or rain days.

#### **4.7.3. Extension of Performance Period**

4.7.3.1. If Contractor's performance period include City holidays and/or rain days, the Department may grant Contractor an extension to the performance period.

4.7.3.2. If the performance period due date falls on a City holiday or rain day, the due date will be the next regular City business day.

#### **4.7.4. Unexcused Delays**

Unexcused delays in completion of work will result in assessment of penalties pursuant to Article 8 – LIQUIDATED DAMAGES, of this Agreement.

#### **4.8. Re-Awarding a Bid Package**

4.8.1. If the Contractor fails to perform satisfactorily under this Agreement, the Department may re-award bid packages that have not been completed by the Contractor to the next lowest acceptable bid from the applicable bid session.

4.8.2. The performance period of a re-awarded bid package may be extended for good cause beyond the stated expiration date at the sole discretion of the Department.

### **5. PREVAILING WAGE**

5.1. Prevailing Wage – Only applicable if Contractor is working on public properties.

5.1.1. Pursuant to the Labor Code of the State of California the general prevailing rate of wages for each craft, classification or type of worker needed in the execution of this Agreement shall be those rates as determined by the Director of the Department of Industrial Relations ("DIR") of the State of California. All personnel employed under this Agreement working on bids involving publicly owned properties must be paid at least the prevailing wage.

5.1.2. Current prevailing wage rates may be obtained by contacting the City of Los Angeles Office of Contract Compliance at (213) 847-1922. Information on prevailing wages can also be obtained from the California DIR's website at <http://www.dir.ca.gov/DLSR/PWD>.

5.1.3. In the event that the wage determination decision of the DIR has been superseded by any subsequent wage determination decision(s) published

up to and including ten (10) days prior to bid opening, the most recent applicable wage decisions shall be incorporated by reference, and the successful bidder agrees to be bound by it regardless of what is contained in the specifications.

**5.2. Pursuant to §1776 of the California Labor Code:**

5.2.1. The Contractor must keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each worker or other employee employed by the Contractor.

5.2.2. All payroll records shall be available for inspection at all reasonable hours at the principal office of the Contractor upon request by the City.

**6. SUBCONTRACTING**

Contractors must request approval from the Department for all subcontractors who will be working under a bid package at least seven (7) days prior to a bid session. The subcontractor must be approved in writing by the Department prior to the beginning of work, regardless of the dollar amount of work to be performed.

**6.1. Subcontractor Requirements**

Prior to requesting approval, the Contractor must ensure their subcontractors meet the following City compliance document requirements. The following documents can be downloaded off the Brush Clearance, Weed and Refuse Abatement RFQ page on BAVN ([www.labavn.org](http://www.labavn.org)) and must be submitted with the subcontractor approval request seven (7) days prior to a bid session.

6.1.1. Municipal Lobbying Ordinance and CEC Form 50 (RFQ Attachment D1 and D2)

6.1.2. City Charter §470 (c)(12) and CEC Form 55 should they meet threshold requirements. (RFQ Attachment E)

6.1.3. If working on a agreement over \$25,000, the Contractor must ensure that his or her subcontractors meet the criteria for responsibility set forth in the Contractor Responsibility Ordinance ("CRO") and complete the CRO Questionnaire and Pledge of Compliance. (RFQ Attachment F1, F2 and O)

- 6.1.4. Proof subcontractors hold required license(s), certification(s), registration(s) and insurance as outlined in Exhibit 2, Exhibit 3, Exhibit 4A and Exhibit 4B of this Agreement.

The Contractor may not use any subcontractor that has been determined or found to be a non-responsible contractor by the City.

6.2. All requests for subcontractor approval must contain the following information:

- 6.2.1. Subcontractor's Name
- 6.2.2. Subcontractor's Address
- 6.2.3. Subcontractor's Phone Number
- 6.2.4. Subcontractor's State of California Contractor License Number if required by the work order
- 6.2.5. Subcontractor's Los Angeles City Business Tax Registration Certificate Number ("BTRC")
- 6.2.6. CEC Form 50
- 6.2.7. CEC Form 55
- 6.2.8. Contractor Responsibility Questionnaire
- 6.2.9. Contractor Responsibility Pledge of Compliance
- 6.2.10. Proof of required license(s), certification(s), registration(s) and insurance

Failure to provide any of the information listed will result in denial of approval until such time as the information is provided.

Failure to obtain approval by the Department prior to each subcontractor performing work on the package may result in an order to suspend work by that subcontractor, and/or removal of work performed by unapproved subcontractor(s) at the Contractor's expense, assessment of penalties, and possible sanctions against the Contractor.

6.3. The Contractor must timely submit all requests for subcontractor approval at least seven days (7) prior to a bid session to:

Unit Commander  
Brush Clearance Unit  
6262 Van Nuys Boulevard, Suite 451  
Van Nuys, California 91401

Requests for subcontractor approval may also be faxed to the attention of the Unit Commander at (818) 778-4910 or (818) 778-4911.

#### **6.4. Subcontractor Substitutions**

If the Contractor is awarded a bid package, the Contractor may not substitute any person or company as a subcontractor in place of a subcontractor listed in the original RFQ Response or in the original bid package without prior written consent from the Department, in compliance with Los Angeles Administrative Code §10.14.

### **7. REQUIREMENTS FOR PAYMENT**

Contractor must timely submit invoices with adequate photographic documentation, as outlined in the following subsections, to receive payment for completed work.

#### **7.1. Invoices**

- 7.1.1. The Contractor must submit five (5) copies of the invoice for each completed bid package.
- 7.1.2. All invoices must include the following:
  - 7.1.2.1. Complete name and address of the company's firm
  - 7.1.2.2. Complete name and address of the Los Angeles Fire Department
  - 7.1.2.3. Date of the invoice
  - 7.1.2.4. City issued agreement number
  - 7.1.2.5. Complete bid package number
  - 7.1.2.6. Assessor Parcel Number (APN)
  - 7.1.2.7. Brief description of work performed
  - 7.1.2.8. Amount due
- 7.1.3. Invoices and photographs, related to each bid package, must be submitted by 2:00 p.m., Pacific Time, fourteen (14) calendar days after the awarding of the bid.
- 7.1.4. The performance period of any requirement set forth in this Agreement will be determined based on calendar days, excluding City holidays and rain days, but not excluding weekends.

- 7.1.5. The Contractor must submit invoices that conform to City standards. All invoices must be submitted on the company's letterhead, contain the company's official logo, or contain other unique and identifying information and must be signed by the Contractor's representative as identified in Section 1.2.2 of this Agreement.
- 7.1.6. The City will not compensate the Contractor for any costs incurred for preparing invoices.
- 7.1.7. The Department may at any time change the content and format of the invoices and supporting documentation to substantiate costs, and will inform the Contractor in writing of those changes.
- 7.1.8. If any discrepancy exists between the invoice and the Department's record, including but not limited to, the reported number of parcels, the amount of work done, or the size of parcels cleared by Contractor, the Department shall investigate and make a final determination.
- 7.1.9. Failure to submit timely invoices or comply fully with this section will result in assessment of liquidated damages pursuant to Section 8 – LIQUIDATED DAMAGES of this Agreement.

## 7.2. Photographs

### 7.2.1. Details on Photographs

Every photograph submitted by Contractor must include the following:

- 7.2.1.1. Date and Time taken
- 7.2.1.2. Assessor's Parcel Number
- 7.2.1.3. Contractor's name must appear legibly somewhere on photograph
- 7.2.1.4. Contractor's initials

### 7.2.2. Number of Photograph Required on Invoice

The Contractor must submit the following minimum photographs for each parcel included on the invoice:

- 7.2.2.1. Three (3) photographs taken before the work commenced.

7.2.2.2. At least two (2) photographs that show the Contractor's crew(s) working on the property.

7.2.2.3. Three (3) photographs taken after the work is finished.

7.2.3. In all cases, enough photographs must be taken to identify the entire work area.

7.2.4. The "before" and "after" photographs must be taken from the same vantage point.

7.2.5. Contractors must maintain duplicates of all photographs submitted to the Department.

7.2.6. Failure to provide adequate photographs is a material breach and relieves the Department from any obligation to make any payments on invoices submitted without said photographs. Additionally, failure to provide photographs timely will result in assessment of liquidated damages pursuant to Section 8 – LIQUIDATED DAMAGES of this Agreement.

## **8. LIQUIDATED DAMAGES**

**Time is of the essence** in the performance of each bid package. Due to the seasonal nature of the work, and the extreme fire hazard posed by the material to be removed from each parcel, it would be extremely burdensome for the parties to ascertain the actual damage incurred by the City and the general public from late performance by the Contractor.

### **8.1. Liquidated Damage Amount**

Therefore, the parties agree that liquidated damages for late performance, or failure to perform satisfactorily, will be assessed against the Contractor at the rate of:

8.1.1. A minimum of \$200 per day for any package awarded under \$2,000, or

8.1.2. Any package awarded an amount above \$2,000 will be assessed at a rate of ten percent (10%) of the awarded bid amount per day.

### **8.2. Late Performance**

8.2.1. Late performance is defined as the Contractor's failure to complete the awarded package, submit the invoice of completed bid package or submit the required number of "before, during and after" photographs, in a timely manner as required in Section 7 – REQUIREMENTS FOR PAYMENT of this Agreement.

- 8.2.2. Contractor will be notified, by telephone or email, regarding the number of extra days allotted for City holidays or rain day(s).

## **9. SUSPENSION**

The Contractor's performance must meet all Agreement terms and standards and will be evaluated on a regular basis by the Department throughout the term of this Agreement. Failure to comply may result in suspension from participating in future bid sessions.

### **9.1. Causes for Suspension**

Causes for suspension may include, but are not limited to, the following:

- 9.1.1. Unexcused late performance.
- 9.1.2. Failure to properly notify the Department of delays in completing an awarded package and the reasons for the delay.
- 9.1.3. Failure to comply with City ordinances as included in the Agreement.
- 9.1.4. Unsatisfactory work performance, such as, but not limited to:
  - 9.1.4.1. Failure to properly dispose of all cuttings and dead trees or other debris
  - 9.1.4.2. Failure to follow the Department's work order instructions
  - 9.1.4.3. Failure to properly chip and spread cut vegetation
  - 9.1.4.4. Failure to notify the Department when weed or debris abatement has been completed or partially completed by the property owner
  - 9.1.4.5. Failure to maintain a degree of professionalism, including becoming disruptive or argumentative, during a bid session

### **9.2. Suspension Duration**

The duration of the suspension will be determined by the Department based on the offense or reasons given by the Contractor for the unexcused late performance or unsatisfactory performance.

### **9.3. While suspended, the Contractor may not:**

- 9.3.1. View and/or work parcels posted for bid sessions,



9.3.2. Observe bid sessions,

9.3.3. Participate in bid sessions.

If the Contractor engages in any of the above activities while on suspension, this Agreement will be terminated.

9.4. If a Contractor is suspended and unable to meet all or a portion of his or her obligation, the Department may assign another contractor to perform the work required and the Contractor will be disqualified from future bid sessions for a period of two (2) weeks or more.

## **10. TERMINATION**

### **10.1. Termination for Convenience**

The Department may terminate this Agreement, in whole or in part, for its convenience at any time, as set forth in this section.

### **10.2. Termination for Failure to Perform**

The Department may terminate this Agreement, in whole or in part for failure to satisfactorily perform under this Agreement. Or for the Contractor's default (including, but not limited to, unexcused late performance), at any time, as set forth in this Section.

### **10.3. Termination for Solicitation**

The Contractor may not solicit monetary fees from a property owner whose parcel is part of a bid package, before, during, or after abating a fire hazard on such parcel. Solicitation of such fees will be grounds for the immediate termination of this Agreement.

### **10.4. Termination Notification**

The Department will provide the Contractor with notice of termination pursuant to Section I – PARTIES TO AGREEMENT, REPRESENTATIVES AND NOTICE of this Agreement. The notice of termination will indicate the reason(s) for termination of the Agreement and the effective date of such termination.

10.4.1. The Department will compensate the Contractor for work satisfactorily completed prior to the effective date of such termination, but will not be liable for cost of services performed subsequent to such termination.

## **11. WORKPLACE VIOLENCE POLICY**

### **11.1. City's Policy on Workplace Violence**

The Contractor shall refrain from violence or the threat of violence during the course, scope and performance of this Agreement. The City shall not tolerate violence or threat of violence, whether actual or reasonably perceived. Any form of violent behavior or threat of violence by the Contractor shall be deemed a breach of this Agreement.

### **11.2. The types of behavior covered by this Section include, but are not limited to:**

#### **11.2.1. Violent physical actions.**

#### **11.2.2. Direct or implied threats to do harm to a person or to a property (Including intimidating use of one's body or physical objects).**

#### **11.2.3. Verbally abusive or intimidating language or gestures.**

#### **11.2.4. Threatening, abusive, or harassing communication (e.g., phone calls, letters, memoranda, faxes or e-mails).**

#### **11.2.5. Engaging in a pattern of unwanted or intrusive behavior against another (e.g., stalking, spying, following).**

## **12. CONTRACTOR PERFORMANCE EVALUATION ORDINANCE**

At the end of this Agreement, the City will conduct an evaluation of the Contractor's performance. The City may also conduct evaluations of the Contractor's performance during the term of this Agreement. If the Contractor fails to perform satisfactorily, the City reserves the right to enforce remedies under this Agreement.

As required by LAAC §10.39.2, evaluations will be based on a number of criteria, including the quality of the work product or service performed, the timeliness of performance, financial issues, and the expertise of personnel that the Contractor assigns to this Agreement. A Contractor who receives a "Marginal" or "Unsatisfactory" rating will be provided with a copy of the final City evaluation and allowed fourteen (14) calendar days to respond. The City will use the final City evaluation, and any response from the Contractor, to evaluate proposals and to conduct reference checks when awarding other personal services agreements.

## **13. FIRST SOURCE HIRING ORDINANCE**

Unless approved for an exemption, the Contractor shall comply with the provisions of LAAC §10.44 et seq., First Source Hiring Ordinance ("FSHO").

#### **14. MUNICIPAL LOBBYING ORDINANCE**

The Contractor shall comply with the disclosure requirements and prohibitions established in the Los Angeles Municipal Lobbying Ordinance if the Contractor qualifies as a lobbying entity under LAMC §48.02. Contractors who fail to comply with City Law may be subject to penalties, termination of contract and debarment.

#### **15. CITY CHARTER §470 (c)(12)**

City Charter §470 (c)(12) and related ordinances state that contractors may not make campaign contributions to and/or engage in fundraising for certain elected City officials or candidates for elected City office from the time they submit a proposal until either the contract is approved or, for successful proposers, twelve (12) months after the contract is signed. The Contractor's principals and subcontractors performing \$100,000 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. Contractors who fail to comply with City Law may be subject to penalties, termination of contract and debarment.

#### **16. Local Business Preference Ordinance (EXHIBIT 6)**

Per City of Los Angeles Ordinance No. 181910 and LAAC §10.47, *et seq.*, the City is committed to maximizing opportunities for local businesses, as well as encouraging local businesses to locate and operate in Los Angeles County ("County"). It is the policy of the City to prevent unemployment, encourage an increase in local jobs, and create high road economic development. The Local Business Preference Program ("LBPP") aims to benefit the City by increasing local jobs and expenditures within the private sector. Criteria and instructions for participation in the LBPP are set forth herein in Exhibit 6 – Local Business Preference Program.

Contractors interested in participating in the LBPP must complete the required documentation on BAVN seven (7) days prior to bid day.

#### **17. Small, Local Business Preference Program (EXHIBIT 7)**

Companies certified as a Small & Local Business ("SLB") with the City of Los Angeles are given a preference applied to bid contracts of \$100,000 or less. A 10% preference (discount) is given to the bids of SLB certified companies. The preference is determined by taking 10% of the lowest bid that is proposed by a non-certified SLB company, and subtracting that amount from the bid of the SLB certified company. If after the preference the SLB's bid is less than or equal to the lowest non-certified company's bid, the SLB will be awarded the contract. (See LAAC §10.25-10.30). This preference has been extended to non-profits as well (see LAAC §10.5).

Contractors must meet several criteria to qualify for the SLB preference:

- 17.1. Have a principal office located in the County of Los Angeles;

- 17.2. Hold a City BTRC, if this firm is subject to the City Business Tax;
- 17.3. Have submitted an application to the Office of Contract Compliance no less than five (5) calendar days before the last day for submission of the bid and be approved prior to award; and
- 17.4. Have annual receipts, which are less than \$3 million for the previous fiscal year.

Contractors must complete and submit Exhibit 7 – Small & Local Business Program Application per instructions on the application. For questions concerning the Small & Local Business Program, contact the Office of Contract Compliance, Centralized Certification Section at (213) 847-2641.

### **18. Fair Chance Initiative for Hiring Ordinance**

Contractor must comply, and also ensure his or her subcontractors comply, with the Fair Chance Initiative for Hiring Ordinance ("FCIHO"), LAAC §10.48. The Ordinance provides, among other things, that contractors/subcontractors with at least ten (10) employees are: prohibited from seeking a job applicant's criminal history information until after a job offer is made; must post FCIHO information in conspicuous places at worksites; and cannot withdraw a job offer based on an applicant's criminal history unless a link has effectively been made between the applicant's criminal history and the duties of the job position.

Contractor seeking additional information regarding the requirements of the FCIHO may visit the Bureau of Contract Administration's web site at <http://bca.lacity.org>.

### **19. STANDARD PROVISIONS**

By entering into this Agreement with the City, the Contractor agrees to abide by the Standard Provisions for City Contracts, attached hereto and incorporated herein as Exhibit 1, with the exception of PCSs 11, 27, 28 and 29, which are superseded by the related provisions below.

### **20. INDEPENDENT CONTRACTOR**

- 20.1. The Contractor shall perform such services in its own way and as an independent contractor in the pursuit of its own calling and not as an employee of the Department or City, and the Contractor shall be under the control of the Department or City only as to the results to be accomplished and not as to the means or manner by which said results are to be accomplished.
- 20.2. Neither the Contractor nor its personnel may do or omit to do anything that may be construed that they are agents, officials, or employees of the Department or the City or any of its department or agencies.
- 20.3. In the event of actions by the Contractor or its personnel that would impart color of authority or use any of the City Marks ("Acts"), the Contractor hereby

agrees that the Acts would cause irreparable harm to the City and its residents, and that the Acts may not be remedied by monetary damages, and that the Contractor will not oppose any injunctive relief sought by the City to stop the Acts.

## **21. 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.

## **22. 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 ("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.

## **23.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 Contracts 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.

## **24. ENTIRE AGREEMENT**

This Agreement contains the full and complete agreement between the parties. No verbal agreement or conversation between the Contractor and any officer or employee of the City will affect or modify any of the terms and conditions of this Agreement.

[Signature page follows.]

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

**THE CITY OF LOS ANGELES**

**<<COMPANY>>**

By: \_\_\_\_\_

Ralph M. Terrazas  
Fire Chief  
Los Angeles Fire Department

By\*: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

**APPROVED AS TO FORM:**

**MICHAEL N. FEUER**, City Attorney

By\*\*: \_\_\_\_\_

By: \_\_\_\_\_

Marcia Gonzales-Kimbrough  
Deputy City Attorney

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

**ATTEST:**

**HOLLY L. WOLCOTT**, City Clerk

NOTE: If Contractor is a corporation, two signatures are required.

By: \_\_\_\_\_

\* The signature of President, Chairman of the Board, or Vice President is required here; and  
\*\* an additional signature of Secretary, Assistant Secretary, Chief Financial Officer, or Assistant Treasurer is also required for the Corporation.

DATE: \_\_\_\_\_

City Agreement Number: \_\_\_\_\_

Council File Number: \_\_\_\_\_

City Business Tax Registration Certificate Number: \_\_\_\_\_

Internal Revenue Service Taxpayers I.D. Number: \_\_\_\_\_

# EXHIBIT 1

## STANDARD PROVISIONS FOR CITY CONTRACTS

# **EXHIBIT 2**

## **REQUIREMENTS FOR BRUSH CLEARANCE, WEED AND REFUSE ABATEMENT WORK**

# **EXHIBIT 3**

## **REQUIREMENTS FOR TREE TRIMMING AND REMOVAL**



# **EXHIBIT 4A**

## **REQUIREMENTS FOR WORK ON PUBLIC PROPERTY**

**California Department of Industrial Relations  
Registration Requirement**

**California State Senate Bill 854**

# **EXHIBIT 4B**

## **REQUIREMENTS FOR WORK ON PUBLIC PROPERTY**

### **Prevailing Wage Requirements**

#### **City of Los Angeles Labor Compliance Manual**

# **EXHIBIT 5**

## **AFFIDAVIT OF NON-COLLUSION**

# **EXHIBIT 6**

## **LOCAL BUSINESS PREFERENCE PROGRAM**

# **EXHIBIT 7**

## **SMALL & LOCAL BUSINESS PROGRAM**

# **EXHIBIT 8**

## **BID CHECK LIST**

## BID CHECKLIST

The following must be completed and/or on file with the Brush Clearance Unit (BCU) **by noon, Pacific Time, seven (7) days prior to a bid session:**

- \_\_\_\_\_ Insurance certificates must be current on Track4LA.org
- \_\_\_\_\_ Proof of current California State Licenses
- \_\_\_\_\_ Proof of Required Certifications
- \_\_\_\_\_ Proof of Department of Industrial Relations Registration (if applicable)
- \_\_\_\_\_ Small & Local Business Certification (if applicable)
- \_\_\_\_\_ Subcontractor approval request with their completed compliance documents:
  - \_\_\_\_\_ CEC Form 50 ([http://ethics.lacity.org/pdf/forms/CEC\\_Form\\_50.pdf](http://ethics.lacity.org/pdf/forms/CEC_Form_50.pdf))
  - \_\_\_\_\_ CEC Form 55 ([http://ethics.lacity.org/pdf/forms/CEC\\_Form\\_55.pdf](http://ethics.lacity.org/pdf/forms/CEC_Form_55.pdf))
  - \_\_\_\_\_ Contractor Responsibility Questionnaire  
([http://bca.lacity.org/site/pdf/cro/CROQ%20Construction%20Questionnaire%20\(rev%2012-05-11\).pdf](http://bca.lacity.org/site/pdf/cro/CROQ%20Construction%20Questionnaire%20(rev%2012-05-11).pdf))
  - \_\_\_\_\_ Contractor Responsibility Pledge of Compliance  
(<http://bca.lacity.org/site/pdf/cro/CRO%20Pledge%20of%20Compliance.PDF>)
  - \_\_\_\_\_ Business Tax Registration Certificate Number (<http://finance.lacity.org>)
  - \_\_\_\_\_ Proof of Subcontractor Licenses, Certifications, Registration and Insurance (see Exhibit 2, Exhibit 3 and Exhibit 4A & 4B)
  - \_\_\_\_\_ Affidavit of Non-Collusion (see Exhibit 5)

The following must be submitted **in a sealed envelope at time of bid:**

- \_\_\_\_\_ Completed Bid Sheet containing Contractor's bid price for each parcel and total bid package
- \_\_\_\_\_ Affidavit of Non-Collusion (see Exhibit 5)
- \_\_\_\_\_ Name and information on BCU approved subcontractor

# EXHIBIT 1

## STANDARD PROVISIONS FOR CITY CONTRACTS



## STANDARD PROVISIONS FOR CITY CONTRACTS

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## STANDARD PROVISIONS FOR CITY CONTRACTS

### **PSC-1. CONSTRUCTION OF PROVISIONS AND TITLES HEREIN**

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" herein in this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one **CONTRACTOR** herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

### **PSC-2. NUMBER OF ORIGINALS**

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the **CITY'S** option, one or more additional original texts of this Contract may also be retained by the City.

### **PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT**

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Contract.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of the Contract shall not be affected thereby.

**PSC-4. TIME OF EFFECTIVENESS**

Unless otherwise provided, this Contract shall take effect when all of the following events have occurred:

- A. This Contract has been signed on behalf of **CONTRACTOR** by the person or persons authorized to bind **CONTRACTOR** hereto;
- B. This Contract has been approved by the City Council or by the board, officer or employee authorized to give such approval;
- C. The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and
- D. This Contract has been signed on behalf of the **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

**PSC-5. INTEGRATED CONTRACT**

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in paragraph PSC-6 hereof.

**PSC-6. AMENDMENT**

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-4.

**PSC-7. EXCUSABLE DELAYS**

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

**PSC-8. BREACH**

Except for excusable delays as described in PSC-7, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights

and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

**PSC-9. WAIVER**

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

**PSC-10. TERMINATION**

**A. TERMINATION FOR CONVENIENCE**

The **CITY** may terminate this Contract for the **CITY'S** convenience at any time by giving **CONTRACTOR** thirty days written notice thereof. Upon receipt of said notice, **CONTRACTOR** shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The **CITY** shall pay **CONTRACTOR** its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by **CONTRACTOR** to affect such termination. Thereafter, **CONTRACTOR** shall have no further claims against the **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon the date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

**B. TERMINATION FOR BREACH OF CONTRACT**

1. Except for excusable delays as provided in PSC-7, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, the **CITY** may give **CONTRACTOR** written notice of such default. If **CONTRACTOR** does not cure such default or provide a plan to cure such default which is acceptable to the **CITY** within the time permitted by the **CITY**, then the **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then the **CITY** may immediately terminate this Contract.
3. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates the

**CITY'S** lobbying policies, then the **CITY** may immediately terminate this Contract.

4. In the event the **CITY** terminates this Contract as provided in this section, the **CITY** may procure, upon such terms and in such manner as the **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to the **CITY** for all of its costs and damages, including, but not limited, any excess costs for such services.
5. All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.
6. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-10(A) Termination for Convenience.
7. The rights and remedies of the **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

#### **PSC-11. INDEPENDENT CONTRACTOR**

**CONTRACTOR** is acting hereunder as an independent contractor and not as an agent or employee of the **CITY**. **CONTRACTOR** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the **CITY**.

#### **PSC-12. CONTRACTOR'S PERSONNEL**

Unless otherwise provided or approved by the **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. The **CITY** shall have the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** agrees to remove personnel from performing work under this Contract if requested to do so by the **CITY**.

**CONTRACTOR** shall not use subcontractors to assist in performance of this Contract without the prior written approval of the **CITY**. If the **CITY** permits the use of subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of

this Contract. The **CITY** has the right to approve **CONTRACTOR'S** subcontractors, and the **CITY** reserves the right to request replacement of subcontractors. The **CITY** does not have any obligation to pay **CONTRACTOR'S** subcontractors, and nothing herein creates any privity between the **CITY** and the subcontractors.

**PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION**

**CONTRACTOR** may not, unless it has first obtained the written permission of the **CITY**:

- A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

**PSC-14. PERMITS**

**CONTRACTOR** and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance hereunder and shall pay any fees required therefor. **CONTRACTOR** certifies to immediately notify the **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

**PSC-15. CLAIMS FOR LABOR AND MATERIALS**

**CONTRACTOR** shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any **CITY** property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), against **CONTRACTOR'S** rights to payments hereunder, or against the **CITY**, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**PSC-16. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED**

If applicable, **CONTRACTOR** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the **CITY'S** Business Tax Ordinance, Section 21.00 et seq. of the Los Angeles Municipal Code. For the term covered by this Contract, **CONTRACTOR** shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

**PSC-17. RETENTION OF RECORDS, AUDIT AND REPORTS**

**CONTRACTOR** shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form, in accordance with

requirements prescribed by the **CITY**. These records shall be retained for a period of no less than three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. Said records shall be 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 three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. **CONTRACTOR** shall provide any reports requested by the **CITY** regarding performance of this Contract. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

#### **PSC-18. FALSE CLAIMS ACT**

**CONTRACTOR** acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the **CITY** under the False Claims Act (Cal. Gov. Code §§ 12650 et seq.), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

#### **PSC-19. BONDS**

All bonds which may be required hereunder shall conform to **CITY** requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

#### **PSC-20. INDEMNIFICATION**

Except for the active negligence or willful misconduct of the **CITY**, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, **CONTRACTOR** undertakes and agrees to defend, indemnify and hold harmless the **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by **CONTRACTOR** or its subcontractors of any tier. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-20 shall survive expiration or termination of this Contract.

#### **PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION**

**CONTRACTOR**, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the **CITY**, and any of its Boards, Officers, Agents, Employees, Assigns,



and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information right (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its subcontractors of any tier, in performing the work under this Contract; or (2) as a result of the **CITY'S** actual or intended use of any Work Product furnished by **CONTRACTOR**, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-21 shall survive expiration or termination of this Contract.

#### **PSC-22. INTELLECTUAL PROPERTY WARRANTY**

**CONTRACTOR** represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

#### **PSC-23. OWNERSHIP AND LICENSE**

Unless otherwise provided for herein, all Work Products originated and prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract shall be and remain the exclusive property of the **CITY** for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas matters and combinations thereof, and all forms of intellectual property. **CONTRACTOR** hereby assigns, and agrees to assign, all goodwill, copyright, trademarks, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by **CONTRACTOR** under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

For all Work Products delivered to the **CITY** that are not originated or prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract, **CONTRACTOR** hereby grants a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

**CONTRACTOR** shall not provide or disclose any Work Product to any third party without prior written consent of the **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subcontractors performing work under this Contract such that the **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

**PSC-24. INSURANCE**

During the term of this Contract and without limiting **CONTRACTOR'S** indemnification of the **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by **CONTRACTOR**, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form General 146 in Exhibit 1 hereto), covering its operations hereunder. Such insurance shall conform to **CITY** requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto) and shall otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

**PSC-25. DISCOUNT TERMS**

**CONTRACTOR** agrees to offer the **CITY** any discount terms that are offered to its best customers for the goods and services to be provided hereunder and apply such discount to payments made under this Contract which meet the discount terms.

**PSC-26. WARRANTY AND RESPONSIBILITY OF CONTRACTOR**

**CONTRACTOR** warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within **CONTRACTOR'S** profession, doing the same or similar work under the same or similar circumstances.

**PSC-27. NON-DISCRIMINATION**

Unless otherwise exempt, this Contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the **CITY**. In performing this Contract, **CONTRACTOR** shall not

discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

#### **PSC-28. EQUAL EMPLOYMENT PRACTICES**

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **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, religion, ancestry, national origin, 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. **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. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

- D. **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 Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of **CITY** contracts. On their or either of their request **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 Contract may be deemed to be a material breach of **CITY** contracts. Such 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 Board of Public Works, Office of Contract Compliance. 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 **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has failed to comply with the Equal Employment Practices provisions of a **CITY** contract, the contract may be forthwith canceled, 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, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until **CONTRACTOR** shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the **CITY**, or when an individual bid or proposal is submitted, **CONTRACTOR** shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of **CITY** Contracts.

- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Hiring practices;
  2. Apprenticeships where such 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. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR'S** Contract with the **CITY**.

**PSC-29. AFFIRMATIVE ACTION PROGRAM**

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **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, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
1. This provision 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. **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. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to

their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, **CONTRACTOR** shall certify on an electronic or hard copy form to be supplied, that **CONTRACTOR** has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. **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 Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of **CITY** contracts, and on their or either of their 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** contracts may be deemed to be a material breach of contract. Such 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 Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has breached the Affirmative Action Program provisions of a **CITY** contract, the contract 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, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two 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 of Los Angeles, or any court of competent jurisdiction, that **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** contract, there may be deducted from the amount payable to **CONTRACTOR** by the **CITY** under the contract, a penalty of ten dollars

(\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a **CITY** contract.

- H. Notwithstanding any other provisions of a **CITY** contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in **CITY** contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. **CONTRACTOR** shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the **CITY**. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. 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 Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, **CONTRACTOR** may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, **CONTRACTOR** must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
  - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
  - 2. **CONTRACTOR** may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the **CITY** with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and **CONTRACTOR**.

- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or 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 contract 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.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the **CITY'S** Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the **CITY** and may be used at the discretion of the **CITY** in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.



- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract 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 contract with the **CITY**.

### **PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS**

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, **CONTRACTOR** will fully comply with all applicable State and Federal employment reporting requirements for **CONTRACTOR'S** employees. **CONTRACTOR** shall also certify (1) that the Principal Owner(s) of **CONTRACTOR** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that **CONTRACTOR** will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, et seq. of the California Family Code; and (3) that **CONTRACTOR** will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to obtain compliance of its subcontractors shall constitute a default by **CONTRACTOR** under this Contract, subjecting this Contract to termination where such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

**CONTRACTOR** certifies that, to the best of its knowledge, it is fully complying with the Earnings Assignment Orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

**PSC-31. LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE**

- A. Unless otherwise exempt, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:
1. **CONTRACTOR** assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.
  2. **CONTRACTOR** further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. **CONTRACTOR** shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. **CONTRACTOR** shall deliver the executed pledges from each such subcontractor to the CITY within ninety (90) days of the execution of the subcontract. **CONTRACTOR'S** delivery of executed pledges from each such subcontractor shall fully discharge the obligation of **CONTRACTOR** with respect to such pledges and fully discharge the obligation of **CONTRACTOR** to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
  3. **CONTRACTOR**, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the CITY with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. **CONTRACTOR** shall post the Notice of Prohibition Against Retaliation provided by the CITY.
  4. Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of PSC-31 and shall incorporate the provisions of the LWO and the SCWRO.

5. **CONTRACTOR** shall comply with all rules, regulations and policies promulgated by the **CITY'S** Designated Administrative Agency which may be amended from time to time.
- B. Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR** has violated provisions of either the LWO or the SCWRO, or both.
- C. Where under the LWO Section 10.37.6(d), the **CITY'S** Designated Administrative Agency has determined (a) that **CONTRACTOR** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the **CITY** in such circumstances may impound monies otherwise due **CONTRACTOR** in accordance with the following procedures. Impoundment shall mean that from monies due **CONTRACTOR**, **CITY** may deduct the amount determined to be due and owing by **CONTRACTOR** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether **CONTRACTOR** is to continue work following an impoundment shall remain in the sole discretion of the **CITY**. **CONTRACTOR** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.
- D. **CONTRACTOR** shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). **CONTRACTOR** shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from **CONTRACTOR**.

#### **PSC-32. AMERICANS WITH DISABILITIES ACT**

**CONTRACTOR** hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq., and its implementing regulations. **CONTRACTOR** will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. **CONTRACTOR** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by **CONTRACTOR**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

**PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 et seq., of the Los Angeles Administrative Code, as amended from time to time, which requires **CONTRACTOR** to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect **CONTRACTOR'S** fitness and ability to continue performing this Contract.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this Contract, **CONTRACTOR** pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. **CONTRACTOR** further agrees to: (1) notify the **CITY** within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that **CONTRACTOR** is not in compliance with all applicable federal, state and local laws in performance of this Contract; (2) notify the **CITY** within thirty calendar days of all findings by a government agency or court of competent jurisdiction that **CONTRACTOR** has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance; (3) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the **CITY**; and (4) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the **CITY** within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

**PSC-34. MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM**

**CONTRACTOR** agrees and obligates itself to utilize the services of Minority, Women and Other Business Enterprise firms on a level so designated in its proposal, if any. **CONTRACTOR** certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Personal Services Contracts Greater than \$100,000, if applicable. **CONTRACTOR** shall not change any of these designated subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of the **CITY**, provided that such approval shall not be unreasonably withheld.

**PSC-35. EQUAL BENEFITS ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of the Contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** will comply with the EBO.
- B. The failure of **CONTRACTOR** to comply with the EBO will be deemed to be a material breach of this Contract by the **CITY**.
- C. If **CONTRACTOR** fails to comply with the EBO the **CITY** may cancel, terminate or suspend this Contract, in whole or in part, and all monies due or to become due under this Contract may be retained by the **CITY**. The **CITY** may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.
- E. If the **CITY'S** Designated Administrative Agency determines that a **CONTRACTOR** has set up or used its contracting entity for the purpose of evading the intent of the EBO, the **CITY** may terminate the Contract. Violation of this provision may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

**CONTRACTOR** shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

"During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles' Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922."

#### **PSC-36. SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this Contract.

## **EXHIBIT 1**

### **INSURANCE CONTRACTUAL REQUIREMENTS**

**CONTACT** For additional information about compliance with City Insurance and Bond requirements, contact the Office of the City Administrative Officer, Risk Management at (213) 978-RISK (7475) or go online at [www.lacity.org/cao/risk](http://www.lacity.org/cao/risk). The City approved Bond Assistance Program is available for those contractors who are unable to obtain the City-required performance bonds. A City approved insurance program may be available as a low cost alternative for contractors who are unable to obtain City-required insurance.

### **CONTRACTUAL REQUIREMENTS**

#### **CONTRACTOR AGREES THAT:**

**1. Additional Insured/Loss Payee.** The CITY must be included as an Additional Insured in applicable liability policies to cover the CITY'S liability arising out of the acts or omissions of the named insured. The CITY is to be named as an Additional Named Insured and a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.

**2. Notice of Cancellation.** All required insurance will be maintained in full force for the duration of its business with the CITY. By ordinance, all required insurance must provide at least thirty (30) days' prior written notice (ten (10) days for non-payment of premium) directly to the CITY if your insurance company elects to cancel or materially reduce coverage or limits prior to the policy expiration date, for any reason except impairment of an aggregate limit due to prior claims.

**3. Primary Coverage.** CONTRACTOR will provide coverage that is primary with respect to any insurance or self-insurance of the CITY. The CITY'S program shall be excess of this insurance and non-contributing.

**4. Modification of Coverage.** The CITY reserves the right at any time during the term of this Contract to change the amounts and types of insurance required hereunder by giving CONTRACTOR ninety (90) days' advance written notice of such change. If such change should result in substantial additional cost to CONTRACTOR, the CITY agrees to negotiate additional compensation proportional to the increased benefit to the CITY.

**5. Failure to Procure Insurance.** All required insurance must be submitted and approved by the Office of the City Administrative Officer, Risk Management prior to the inception of any operations by CONTRACTOR.

CONTRACTOR'S failure to procure or maintain required insurance or a self-insurance program during the entire term of this Contract shall constitute a material breach of this Contract under which the CITY may immediately suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect the CITY'S interests and pay any and all premiums in connection therewith and recover all monies so paid from CONTRACTOR.

**6. Workers' Compensation.** By signing this Contract, CONTRACTOR hereby certifies that it is aware of the provisions of Section 3700 *et seq.*, of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake

self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all time during the performance of the work pursuant to this Contract.

**7. California Licensee.** All insurance must be provided by an Insurer admitted to do business in California or written through a California-licensed surplus lines broker or through an insurer otherwise acceptable to the CITY. Non-admitted coverage must contain a **Service of Suit** clause in which the underwriters agree to submit as necessary to the jurisdiction of a California court in the event of a coverage dispute. Service of process for this purpose must be allowed upon an agent in California designated by the insurer or upon the California Insurance Commissioner.

**8. Aggregate Limits/Impairment.** If any of the required insurance coverages contain annual aggregate limits, CONTRACTOR must give the CITY written notice of any pending claim or lawsuit which will materially diminish the aggregate within thirty (30) days of knowledge of same. You must take appropriate steps to restore the impaired aggregates or provide replacement insurance protection within thirty (30) days of knowledge of same. The CITY has the option to specify the minimum acceptable aggregate limit for each line of coverage required. No substantial reductions in scope of coverage which may affect the CITY'S protection are allowed without the CITY'S prior written consent.

**9. Commencement of Work.** For purposes of insurance coverage only, this Contract will be deemed to have been executed immediately upon any party hereto taking any steps that can be considered to be in furtherance of or towards performance of this Contract. The requirements in this Section supersede all other sections and provisions of this Contract, including, but not limited to, PSC-4, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

**EXHIBIT 1 (Continued)**  
**Required Insurance and Minimum Limits.**

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Agreement/Reference: \_\_\_\_\_

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

Limits

\_\_\_\_ **Workers' Compensation – Workers' Compensation (WC) and Employers' Liability (EL)** **WC** Statutory  
**EL** \_\_\_\_\_

☐ Waiver of Subrogation in favor of City

☐ Longshore & Harbor Workers

☐ Jones Act

\_\_\_\_ **General Liability** \_\_\_\_\_

☐ Products/Completed Operations

☐ Sexual Misconduct \_\_\_\_\_

☐ Fire Legal Liability \_\_\_\_\_

\_\_\_\_ **Automobile Liability** (for any and all vehicles used for this Contract, other than commuting to/from work) \_\_\_\_\_

\_\_\_\_ **Professional Liability** (Errors and Omissions) \_\_\_\_\_

\_\_\_\_ **Property Insurance** (to cover replacement cost of building – as determined by insurance company) \_\_\_\_\_

☐ All Risk Coverage

☐ Boiler and Machinery

☐ Flood \_\_\_\_\_

☐ Builder's Risk

☐ Earthquake \_\_\_\_\_

☐ \_\_\_\_\_

\_\_\_\_ **Pollution Liability** \_\_\_\_\_

☐ \_\_\_\_\_

\_\_\_\_ **Surety Bonds – Performance and Payment (Labor and Materials) Bonds** 100% of Contract Price

\_\_\_\_ **Crime Insurance** \_\_\_\_\_

Other: \_\_\_\_\_



# **EXHIBIT 2**

## **REQUIREMENTS FOR BRUSH CLEARANCE, WEED AND REFUSE ABATEMENT WORK**

## **REQUIREMENTS FOR BRUSH CLEARANCE, WEED AND REFUSE ABATEMENT SERVICES**

The following must be on file with the Brush Clearance Unit by **noon (12:00 pm, Pacific Time), seven (7) days prior to bid day** in order to participate in the bid process.

- Contractor State License(s).
- All insurance certificates have to be uploaded and current on the City's insurance compliance system located at <http://Track4LA.lacity.org>. Contractors with lapsed insurance certificates will not be able to participate in bid process. Lapsed insurance certificates will also trigger non-payment until proof of insurance renewal is provided.
- The California Highway Patrol (CHP) Safety Net Driver/Vehicle Inspection Report (CHP 407)

### **1. LICENSE REQUIREMENTS**

- 1.1 California C-27 Landscaping Contractor State License.
- 1.2 If utilizing devices to manage traffic on public roadways, including but not limited to, cones, barricades, etc. a California C-31 Construction Zone Traffic Control Contractor State License is required.

### **2. INSURANCE REQUIREMENTS**

- 2.1 Evidence of insurance coverages listed below must be valid and uploaded on Track4LA.org by 12:00pm, Pacific Time, seven (7) days prior to bid day in order to participate in bid process:
  - 2.1.1 General Liability - \$1 million
  - 2.1.2 Workmans Compensation - \$1 million
  - 2.1.3 Automobile Liability - \$1 million
- 2.2 Proof of Workers' Compensation 0109 will be required to bid and must be available at all times for inspection at the job location.

### **3. SAFETY REQUIREMENTS**

- 3.1 All vehicles used to conduct brush clearance, weed and refuse abatement require a CHP 407 report and must be approved by the CHP.
- 3.2 Contractor will be required to renew their CHP 407 annually.
- 3.3 Prior to start of work each day, contractor foreman must conduct a safety meeting on-site.
- 3.4 Safety meeting must be conducted with LAFD Captain, Inspector, Utilities personnel, and Arborist.
- 3.5 Contractor must provide to the LAFD written emergency procedures in the event of a medical emergency involving one, or more, of its staff during an assignment.
- 3.6 Contrator must ensure each that vehicle used to perform the brush clearance, weed

## **REQUIREMENTS FOR BRUSH CLEARANCE, WEED AND REFUSE ABATEMENT SERVICES**

and refuse abatement has (1) a Class A portable 2.5 gallon water fire extinguisher, and (2) a Class 4A 60B:C dry chemical fire extinguisher with current inspection tags.

### **4. OTHER REQUIREMENTS**

4.1 Foreman/Public Relations person shall remain on site with the work crew throughout the workday.

4.2 When needed, the City Geologist may be required to be on site and must follow requirements posed by City Geologist.

4.3 Contractor must have clear professional relationship with:

4.3.1 Fire Inspector

4.3.2 Residents

4.4 Contractor must have a complete list of emergency contacts and/or phone numbers for all utilities who must be notified in the event of mishaps.

4.5 Contractor must notify the LAFD Inspector if contractor is working on the weekend. Contractor must have the Inspector's mobile number in case of an emergency. Inspector mobile number shall not be disclosed to the public.

4.6 Contractor must review and follow procedures on how to deal with public complaints, and staff.

4.6.1 Fire Inspector

4.6.2 DWP and other utilities

4.6.3 Electrical wires

4.6.4 And areas of concern

### **5. FINANCIAL RESPONSIBILITY - Contractor is responsible for all costs associated with the following:**

5.1 Providing and on-site Foreman/Public Relations person to respond to property owner, residents, HOA, and on-site questions and complaints.

5.2 Obtaining DOT permits

5.3 Obtaining traffic flow signs, Flasher boards, cones, barricade, delineators, and flagmen.

5.4 Any citations resulting from no parking signs and other street signs with restrictions.

5.5 All damages to physical property owned by or in part by the DWP: electrical lines, water lines, and cable telephone wire.

# **EXHIBIT 3**

## **REQUIREMENTS FOR TREE TRIMMING AND REMOVAL**

## REQUIREMENTS FOR TREE TRIMMING AND REMOVAL ABOVE THIRTEEN FEET

The following must be on file in the Brush Clearance unit by **noon (12:00 pm, Pacific Time), seven (7) days prior to bid day** in order to participate in the bid process for tree trimming and removal.

- Contractor State License(s)
- All insurance certificates must be uploaded and current on the City's insurance compliance system located at <http://Track4LA.lacity.org>. Contractors with lapsed insurance certificates will not be able to participate in bid process. Lapsed insurance certificates will also trigger non-payment until proof of insurance renewal is provided.
- The California Highway Patrol (CHP) Safety Net Driver/Vehicle Inspection Report (CHP 407)

### 1. LICENSE REQUIREMENTS

- 1.1. California C-61/D-49 Limited Specialty Tree Service Contractor State License.
- 1.2. All Tree Trimmers shall be Qualified line clearance trimmers with Electrical Hazard Awareness Program Certification from the International Society of Arborists (ISA) or Tree Care Industry Association (TCI).
- 1.3. If utilizing devices to manage traffic on public roadways, including but not limited to, cones, barricades, etc. a California C-31 Construction Zone Traffic Control Contractor State License is required.
- 1.4. 1 full-time American Society of Consulting Arborists (ASCA) Registered Consulting Arborist on staff when City of Los Angeles Urban Forestry reporting requirements are conducted.
- 1.5. In addition to the requirements listed above, to bid on any of the following Service Categories, the following certifications and licenses must be on file by noon (12 pm pacific time), seven (7) days prior to bid day.
  - 1.5.1. Service Category 1: Certified Arborist Tree Trimming or Removal
    - 1 full-time Certified Arborists on staff certified through International Society of Arboriculture (ISA)
  - 1.5.2. Service Category 2: Municipal Specialist Tree Trimming or Removal
    - 1 full-time Municipal Specialist on staff certified through ISA
    - 1 full-time Tree Risk Assessment Qualification (TRAQ) Certified Arborist certified through ISA
    - Certified Tree Worker climbers and groundsmen certified through ISA
  - 1.5.3. Service Category 3: Utility Tree Trimming or Removal
    - 1 full-time Utility Specialist on staff certified through ISA

**REQUIREMENTS FOR  
TREE TRIMMING AND REMOVAL ABOVE THIRTEEN FEET**

**2. INSURANCE REQUIREMENTS**

2.1. Evidence of insurance coverages listed below must be valid and uploaded on Track4LA.org by 12:00pm, Pacific Time, seven (7) days prior to bid day in order to participate in bid process:

- 2.1.1. General Liability - \$1 million
- 2.1.2. Workers' Compensation - \$1 million
- 2.1.3. Automobile Liability - \$1 million

2.2. Proof of Workers' Compensation Class Code 0106 will be required seven days prior bid day and must be available for inspection at the job location:

**3. NOTIFICATION REQUIREMENTS:**

3.1. Contractor must have emergency number for all Utility Companies (LADWP, Cable, Telephone) and provide the list to LAFD Brush Unit.

3.2. Contractor is responsible for notifying the Utility Company regarding any mishaps.

3.3. Contractor must hand deliver a letter/flyer notifying affected property owner of the pending brush clearance, weed and/or refuse abatement project at least 48 hours in advance, at the discretion of the Inspector in charge. (Notice shall include contact person and phone number of contracting company and the LAFD)

**4. SAFETY REQUIREMENTS**

4.1. All vehicles used to conduct brush clearance, weed and refuse abatement require a CHP 407 report and must be approved by the CHP.

4.2. Contractor will be required to renew their CHP 407 annually.

4.3. Prior to start of work each day, contractor foreman must conduct a safety meeting on-site.

4.4. Safety meeting must be conducted with LAFD Captain, Inspector, Utilities personnel, and Arborist.

4.5. Contractor must provide to the LAFD written emergency procedures for the following scenario:

- 4.5.1. Medical Emergency
- 4.5.2. Tree Rescue
- 4.5.3. Power line emergency

## REQUIREMENTS FOR TREE TRIMMING AND REMOVAL ABOVE THIRTEEN FEET

- 4.6. Contractor must ensure each vehicle used to perform the brush clearance, weed and refuse abatement, including tree trimming, must have (1) a Class A portable 2.5 gallon water fire extinguisher and (2) a Class 4A 60B:C dry chemical fire extinguisher with current inspection tags.

### 5. OTHER REQUIREMENTS

- 5.1. Foreman/Public Relations person and Arborist shall remain on site with the work crew throughout the workday.
- 5.2. Contractor employees must follow high power utility safety procedures at all times.
- 5.3. Have a meeting with DWP regarding power lines.
- 5.4. Arborist must have a meeting with the LAFD representative.
- 5.5. When needed, the City Geologist may be required.
- 5.6. Contractor must have clear relationship with:
- 5.6.1. Fire Inspector
  - 5.6.2. Residents
  - 5.6.3. Urban Forestry Dept. (Registered Consulting Arborist required)
  - 5.6.4. Certified Arborist, ISA
- 5.7. Contractor must have a complete list of emergency contacts and/or phone numbers for all utilities who must be notified in the event of mishaps.
- 5.8. Contractor shall notify the LAFD if contractor is working on the weekend. Contractor must have the Inspector's mobile number in case of an emergency. Inspector mobile number shall not be disclosed to the public.
- 5.9. Review and follow procedures on how to deal with public complaints, and staff.
- 5.9.1. Arborist
  - 5.9.2. Fire Inspector
  - 5.9.3. Department of Forestry, DWP and other utilities
  - 5.9.4. Electrical wires
  - 5.9.5. And areas of concern
6. FINANCIAL RESPONSIBILITY - Contractor is responsible for all costs associated with the following:
- 6.1. On-site Foreman/Public Relations person to respond to homeowners, residents and on-site questions and complaints.
  - 6.2. Obtaining DOT permits

**REQUIREMENTS FOR  
TREE TRIMMING AND REMOVAL ABOVE THIRTEEN FEET**

- 6.3. Obtaining traffic flow signs, Flasher boards, cones, barricade, delineators, and flagmen.
- 6.4. Any citations resulting from no parking signs and other street signs with restrictions.
- 6.5. All damages to physical property owned by or in part by the DWP: electrical lines, water lines, and cable telephone wire.



# **EXHIBIT 4A**

## **REQUIREMENTS FOR WORK ON PUBLIC PROPERTY**

**California Department of Industrial Relations  
Registration Requirement**

**California State Senate Bill 854**



State of California  
Department of Industrial Relations

Public Works Public Works Reforms (SB 854) Fact Sheet

## Public Works Reforms (SB 854) Fact Sheet

Public works reforms (SB 854) were signed into law on June 20, 2014. The reforms made several significant changes to the administration and enforcement of prevailing wage requirements by the Department of Industrial Relations (DIR). Among other things, SB 854 established a public works contractor registration program to replace prior Compliance Monitoring Unit (CMU) and Labor Compliance Program (LCP) requirements for bond-funded and other specified public works projects. The fees collected through the program established by SB 854 are used to fund DIR's public works activities.

### Essentials of public works contractor registration program:

- Contractors are subject to a registration and annual renewal fee set initially at \$300. The fee is non-refundable and applies to all contractors and subcontractors who intend to bid or perform work on public works projects (as defined under the Labor Code).
- Contractors apply and pay the fee online and must meet minimum qualifications to be registered as eligible to bid and work on public works projects:
  - Must have workers' compensation coverage for any employees and only use subcontractors who are registered public works contractors.
  - Must have Contractors State License Board license if applicable to trade.
  - Must not have any delinquent unpaid wage or penalty assessments owed to any employee or enforcement agency.
  - Must not be under federal or state debarment.
  - Must not be in prior violation of this registration requirement once it becomes effective. However, for the first violation in a 12-month period, a contractor may still qualify for registration by paying an additional penalty.
- The registration fee is not related to any project. It is more like a license that enables the registrant to bid on and perform public works.
- DIR provides a searchable database of registered contractors and subcontractors on its website, so that awarding bodies and contractors can comply with the requirement to only use registered contractors and subcontractors.
- Various protections are built in so that
  - A contractor won't be in violation for working on a private job that is later determined to be public work;
  - The inadvertent listing of an unregistered subcontractor on a bid doesn't necessarily invalidate that bid;
  - A contract with an unregistered contractor or subcontractor is subject to cancellation but is not void as to past work;
  - An unregistered contractor or subcontractor can be replaced with one who is registered;
  - A contractor whose registration lapses will have a 90-day grace period within which to pay a late fee and renew.
- Contractors and subcontractors register online. The preferred method of payment is by credit card.
- The requirement to list only registered contractors and subcontractors on bids became effective on March 1, 2015. The requirement to only use registered contractors and subcontractors on public works projects applies to all projects awarded on or after April 1, 2015.

### Essentials of Public Works Enforcement Fund:

All contractor registration fees go into the State Public Works Enforcement Fund and are used to fund the following items:

- Administration of contractor registration requirement;
- All DIR costs for administering and enforcing public works laws;
- Labor Commissioner's enforcement of other Labor Code violations on monitored public works projects.

DIR no longer charges awarding bodies for prevailing wage compliance monitoring and enforcement on legacy CMU projects.

### Related changes in DIR's administration and enforcement of public works requirements:

- Requirements to use CMU or specified alternative (labor compliance program or project labor agreement) for state bond-funded and other specified projects were eliminated and replaced by requirements that apply to all public works projects (as defined under the Labor Code).
- Awarding bodies are required to submit PWC-100 (contract award notice) for all public works projects.
- Contractors and subcontractors on all public works projects are required to submit certified payroll records (CPRs) to the Labor Commissioner unless excused from this requirement.
  - CPRs are furnished to the Labor Commissioner online
  - This requirement phases in as follows:
    - Applied to public works projects that had been under CMU monitoring;
    - Applies to any new projects awarded on or after April 1, 2015;
    - May apply to other projects as determined by Labor Commissioner;
    - Applies to all public works projects, (except those listed under Exemptions just below), on and after January 1, 2016.
  - **Exemptions:** As of April 1, 2015, and even after January 1, 2016, the following projects are exempt from the requirement to have contractors and subcontractors furnish certified payroll records (CPRs) to the Labor Commissioner:

#### **Any projects monitored and enforced by the following legacy LCPs:**

- California Department of Transportation (Caltrans)
- City of Los Angeles
- Los Angeles Unified School District
- County of Sacramento

Projects covered by qualifying project labor agreements, at the Labor Commissioner's discretion.

- Requirements for awarding bodies to adopt and enforce a DIR-approved LCP are now limited to: (1) ongoing public works projects awarded prior to January 1, 2012, that were under a pre-existing LCP requirement (see the four legacy LCPs listed above) and (2) projects funded in whole or in part by Proposition 84.

April 2016

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## Public Works

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# **EXHIBIT 4B**

## **REQUIREMENTS FOR WORK ON PUBLIC PROPERTY**

### **Prevailing Wage Requirements**

#### **City of Los Angeles Labor Compliance Manual**

# **CITY OF LOS ANGELES**



# **LABOR COMPLIANCE MANUAL**

Revised May 2014

**PART I**  
**CITY OF LOS ANGELES**  
**LABOR COMPLIANCE PROGRAM REQUIREMENTS**

**I. INTRODUCTION**

The Bureau of Contract Administration, Office of Contract Compliance, Labor Compliance Section (LCS) is responsible for educating, assisting, monitoring and enforcing prevailing wage requirements of the applicable labor laws to insure that all contractors working on City projects are in compliance with State (California Labor Code Chapter 1 of Part 7 of Division 2) and Federal (Code of Federal Regulations 29) prevailing wage statutes and regulations.

The City's Labor Compliance Program (LCP) is certified under California Code of Regulations Chapter 8, Section 16425. The LCS received initial certification on August 6, 1998. In establishing the LCP, the City adheres to the statutory requirements as stated in California's Labor Code Section 1771.5.

**II. LABOR COMPLIANCE PROGRAM REQUIREMENTS**

- a.) Pursuant to Labor Code Section 1771.5, the City of Los Angeles requires the payment of the general prevailing rate of per diem wages and the general prevailing rate of per diem wages for holiday and overtime work on this project.
- b.) The Labor Compliance Section monitors labor standards compliance by conducting interviews with construction workers at the job site and reviewing payroll reports and initiates and oversees any enforcement actions that may be required.
- c.) In the event that a project is federally funded, the Federal Department of Labor (DOL) has a role in monitoring Davis-Bacon administration and enforcement. A DOL investigator or other DOL representative may visit Davis-Bacon construction sites to interview construction workers or review payroll information. In the event that there is a conflict between the State prevailing wage rate and the Federal prevailing wage rate, then the higher rate shall be paid.

**III. PUBLIC WORKS CONSTRUCTION PROJECTS**

This project is subject to the provisions of the State laws and regulations including, but not limited to, California Labor Code Sections 226, 227, 1021, 1021.5, 3093, 3077 and 1720 through and including 1861, together with all applicable regulations (e.g., Title 8 California Code of Regulations Section 16001 et seq.). All pertinent California statutes and regulations, including those

referenced above, are hereby incorporated by reference in this document as if set forth in their entirety.

#### **IV. EMPLOYMENT OF MINORS PROHIBITED**

The employment of minors, under 16 years of age, is strictly prohibited in all building and construction work of any kind per California Code of Regulations Title 8, Chapter 6, Subsection 1, Article 1 §11701(b).

#### **V. YOUTH EMPLOYMENT PROGRAMS**

Youths (ages 18 – 23) employed on Public Works projects are subject to the payment of the prevailing wage.

#### **VI. CASH PAYMENTS PROHIBITED**

The City requires the Contractor and all subcontractors to make weekly wage payments to all workers employed on the project. Payments shall be made by means of a check, money order or cashier's check. **Cash payments are prohibited.**

#### **VII. WORKERS DEFINED**

The City defines "worker" as defined in Labor Code Section 1723, and extends the definition to include Corporate Officers, Partners, Sole Owners, Mechanics and Laborers employed or working on the site of the Work. Such workers will be paid unconditionally and not less than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act) (CFR 29 Part 3), the full amounts due at time of payment computed at wage rates not less than those contained in the wage determination decisions of the State of California Director of the Department of Industrial Relations (DIR).

#### **VIII. PREVAILING WAGES**

Payments of wages not less than those contained in the wage determination decision of the State of California Director of the Department of Industrial Relations (DIR), are in effect for the duration of this Contract. Any classes of laborers or mechanics, including apprentices, which are not listed in the applicable wage determination and which are to be employed under the Contract, shall be classified in conformance with the applicable wage determination. If the Contractor fails to request a special determination (CCR 8 §16202) within 45 days after the commencement of advertising of the call for bids, and the classification of laborers and mechanics, including apprentices, is not found in the applicable wage determination, the City reserves the right to re-classify the affected class of laborers and/or mechanics, including apprentices, to the most

closely related craft as published in the applicable wage determination. If the interested parties cannot agree on the proper classification or re-classification of a particular class of laborers or mechanics, including apprentices, to be used, the question accompanied by the recommendation of the City shall be referred to the DIR for final determination.

## **IX. EFFECTIVE PREVAILING WAGE RATES**

The State Prevailing Wage Rates are determined by the Department of Industrial Relations as prescribed in Labor Code Sections 1773 – 1773.1 and are effective 10 days after issuance. The established Prevailing Wage rates are published in the General Prevailing Wage Determinations which are issued bi-annually (occasionally, the DIR may issue an additional General Prevailing Wage Determination in the same year). The **Bid Advertise Date** determines the applicable General Prevailing Wage Determination. The expiration date indicated for each craft is followed by either a single asterisk (\*) or double asterisk (\*\*). The single asterisk (\*) indicates that the wage rate will remain constant and effective throughout the duration of the contract. The double asterisk (\*\*) indicates that the wage rate is effective until the expiration date, and the rate to be paid for work performed after that date has already been determined. If work will extend past the expiration date, the new rate must be paid and should be incorporated in this contract. (CCR 8, §16204).

To obtain the most current prevailing wage rates, contact the Office of Contract Compliance at (213) 847-2662. The rates are also available on the internet at [www.dir.ca.gov](http://www.dir.ca.gov).

## **X. PAYMENT OF PREVAILING WAGE FRINGE BENEFITS**

Per diem wages shall be deemed to include employer payments for health and welfare, pension, vacation, travel time, training contributions and subsistence pay as provided for in Section 1773.8, for apprenticeship or other training programs, authorized by Section 3093. (Contractors paying per diem wages cannot pay less than the basic hourly rate of pay to the worker working on a covered prevailing wage. (CCR 8, §16000))

A copy of California Public Works Form PW-26, *Fringe Benefits Statement*, must be prepared by the Contractor and submitted to the OCC with the first payroll. In addition, a copy of the *Employer's Monthly Report To Trustees*, must be submitted to the OCC by the (15<sup>th</sup>) of the following month. Any worker not covered under a Trustee account must be paid a fringe benefit equivalent to that required by the DIR, associated with the minimum prevailing wage for the worker classification. Contractors not making payments to a fringe benefit trust account shall include the total fringe benefit package in the Total Hourly Wage Rate paid to the worker.



## **XI. APPRENTICE REQUIREMENTS**

Contractors shall comply with the requirements of the apprenticeship provisions of California Labor Code Section 1777.5.

### **1. APPRENTICES**

In accordance with California Labor Code Section 1777.5(d), a contractor (including any subcontractor) who is awarded a City of Los Angeles contract, and who employs workers in an apprenticeable craft or trade, shall employ apprentices in at least the ratios as stipulated in Labor Code Section 1777.5.

California Code of Regulations Title 8 §230.1 requires contractors who are not already approved to train by an applicable joint apprenticeship committee or unilateral committee, to request the dispatch of required apprentices from all of the applicable Apprenticeship Committees whose geographic area of operation includes the site of the public work by giving the committee actual notice of 72 hours (excluding Saturdays, Sundays and holidays) before the date on which one or more apprentices are required. However, if a non-signatory contractor declines to abide by and comply with the terms of a local committee's standards, the Apprenticeship Committee shall not be required to dispatch apprentices to such contractor. Conversely, if in response to a written request an Apprenticeship Committee does not dispatch any apprentice to a contractor who has agreed to employ and train apprentices in accordance with either the Apprenticeship Committee's Standards or these regulations within 72 hours of such request (excluding Saturdays, Sundays and holidays) the contractor shall not be considered in violation as a result of failure to employ apprentices for the remainder of the project, provided that the contractor made the request in enough time to meet the ratios as stated in Labor Code Section 1777.5. If an Apprenticeship Committee dispatches fewer apprentices than the contractor requests, the contractor shall be considered in compliance if the contractor employs those apprentices who are dispatched, provided that, where there is more than one Apprenticeship Committee able and willing to unconditionally dispatch apprentices, a contractor who is not a participant in an apprenticeship program has requested dispatch from all applicable apprenticeship committees in the project area.

Apprentices shall be individually registered in a bona fide state or federally approved apprenticeship program. Apprentices, as defined in Labor Code Section 3077, must be registered with the State of California, Division of Apprenticeship Standards (DAS) to be eligible for employment as an apprentice on the project. Any employee listed on a payroll as an apprentice and paid the apprentice wage rate who is not an apprentice, as defined in California Labor Code Section 3077, shall be paid the journey level wage rate determined for the classification of work actually performed. The Contractor and sub-contractors shall furnish the City a copy of a DAS apprentice

registration for each apprentice employed. The wage rates paid to the apprentices shall not be less than the applicable wage determination as determined by the Department of Industrial Relations Division of Apprenticeship Standards (Contact DAS at (415) 703-4920 or (213) 576-7750 or at their website: [www.dir.ca.gov/DAS](http://www.dir.ca.gov/DAS)).

## 2. RATIOS

The ratio of apprentice work to journeyman work shall conform to the requirements as mandated in Section 1777.5 of the California Labor Code. In the event that the Contractor fails to comply with apprenticeship requirements as mandated by California Labor Code Section 1777.5, the Contractor shall be subject to penalties in accordance with California Labor Code Section 1777.7.

If the Contractor fails to comply with the ratios as determined by the DAS, the City will issue a "Notice of Reprimand" and forward the matter to the DAS.

All apprentices shall work under the direct supervision of a journeyman from the trade in which the apprentice is indentured. A journeyman shall be defined as set forth in the California Code of Regulations, Title 8 [apprenticeship] section 205, which defines a journeyman as a person who has either completed an accredited apprenticeship in his or her craft, or has completed the equivalent of an apprenticeship in length and content of work experience and all other requirements in the craft which has workers classified as journeyman in the apprenticeable occupation.

## **XII. LIABILITY FOR UNPAID WAGES**

- a.) As required by Labor Code Section 1775, the Contractor and any Subcontractor shall forfeit to the City not more than two hundred dollars (\$200) per day for each worker who is paid less than the prevailing wage rate (including fringe benefits) required.

Additionally, Section 1813 of the Code requires the Contractor or subcontractor to forfeit twenty-five dollars (\$25) to the City for each worker employed in the execution of the Contract for each calendar day a worker is permitted or required to work in excess of 8 hours per day or 40 hours per week at a rate less than 1 ½ times the hourly rate of pay for the worker classification involved. Moreover, the City may withhold payment from the Contractor to ensure that the Contractor's obligation to pay prevailing wage rates is met.

- b.) The **Contract Work Hours and Safety Standards Act (CWHSSA)** require time and one-half pay for overtime as defined by the Federal government. (Overtime as defined by the Federal government is any time

over 40 hours worked by a worker in a given work week.) In the event that this project is federally funded, an additional penalty of \$10/day per violation will be strictly enforced for under-payment of the overtime rate. Intentional violations of CWHSSA standards are considered a Federal criminal misdemeanor.

- c.) California Labor Code Section 1778 makes it a felony for anyone to require any laborer or mechanic employed on a public works project to *kickback* any portion of their wages. The **Copeland (Anti-Kickback) Act** is the federal statute that makes it a felony to require any laborer or mechanic employed on a Federal or Federally Assisted public works project to return any portion of his/her wages in connection with services rendered upon any public work.

### **XIII. POSTING**

The Contractor shall post at each job site, in a conspicuous location readily available to the workers, a copy of all applicable wage determinations.

### **XIV. JOINT LABOR COMPLIANCE MONITORING PROGRAM**

The Contractor, and all subcontractors, shall cooperate in allowing approved Compliance Group Representatives access to the project job site for the purpose of conducting worker interviews to insure compliance with the requirement to pay proper prevailing wages on City projects. This will be done in order to comply with the Board of Public Works' August 20, 2004 adoption of a Joint Labor Compliance Monitoring Program.

Each Compliance Group Representative must wear their City-issued Joint Labor Compliance Monitoring Program identification badge at all times while on the job site, and must restrict their actions to interviewing workers employed on the project. For a copy of the Joint Labor Compliance Monitoring Program board report, or for any questions, contact the Office of Contract Compliance at (213) 847-2660.

### **XV. CERTIFIED PAYROLL RECORDS**

- a.) The Contractor shall adhere to the provisions of Labor Code Section 1776.

The payroll records referred to must include the employee's:

- A. name;
- B. address;
- C. social security number;
- D. work classification;
- E. straight time hours per day and total per week;

- F. overtime hours per day and total per week;
- G. gross wages earned this project;
- H. gross wages earned on all other projects;
- I. itemized deductions;
- J. actual per diem wages paid; and
- K. payroll check numbers or direct deposit verification

In addition, the records must identify apprentices and the ratio of apprentices to journeymen.

- b.) Certified payrolls from the Contractor and all Subcontractors shall be submitted to the City weekly through the Department of Public Works Bureau of Contract Administration's Online Certified Payroll System (OCPS) and shall be accompanied by a Statement of Compliance, signed electronically on OCPS by the Contractor or the Contractor's agent attesting that the payrolls are correct and complete and the wage rates contained therein are not less than those set by the applicable wage determinations incorporated into this Contract. The City reserves the right to reject incomplete payroll reports and request re-submittal of complete reports.
- c.) The Contractor shall be responsible for ensuring that all their Subcontractors, regardless of tier, submit certified payrolls through OCPS. In the event that Subcontractor payrolls are not submitted, the City may withhold contract payments from the Contractor.
- d.) Upon a request from the City, the Contractor and all Subcontractors shall be prepared to submit hard copies of certified payrolls accompanied by a Statement of Compliance, signed in ink.
- e.) Payroll data pertaining to owner-operators must be submitted on Certified Payroll Reports through OCPS, and a copy of the DMV vehicle registration of the Owner-Operator shall be submitted to the City after the first Certified Payroll on which this owner-operator's name appears. Listing any individual as "Owner-Operator" will not be accepted as the classification is not recognized by the State of California Department of Industrial Relations' Office of Policy, Research and Legislation.
- f.) As required by Labor Code Section 1776 (h), the Contractor shall forfeit to the City one hundred dollars (\$100) per day, per worker employed on the project, for failing to comply strictly with requests by the City for submittal of payroll documents and/or all supporting documents which includes, but is not limited to: cancelled checks, time sheets, W-4 Forms, W-2 Forms, DE-6 Forms, and any other forms utilized in the course of business that are relevant to the payment of wages. In addition, according to California Labor Code Section 1777.1(c), the Contractor may also be

subject to debarment by the Labor Commissioner for failure to furnish certified payroll records within thirty (30) days after receipt of the written notice for such records.

## **XVI. WORKING HOURS**

- a.) Generally, the Contractor shall not employ a worker more than eight (8) hours in a calendar day or forty (40) hours in a calendar week except upon compensation of one and one-half (1½ ) times the basic rate of pay for all hours worked in excess of eight (8) hours per day and forty (40) hours per week. Special rules may apply to specific worker classifications. See applicable wage determinations for overtime definitions. Recognized holidays shall be consistent with area practice in determining the applicability of overtime wage rates.
- b.) The Portal-to-Portal Act does not allow employers to forego payments to its employees for compulsory travel time and overtime. A worker required to report to the employer's place of business to load tools and material and to be transported to the job site are entitled to be paid for travel time at the applicable rate as set forth in the General Area Wage Determinations inclusive of return trip travel time from a public work classified project. All "hours worked" must be included in calculating any overtime including time denominated as compulsory travel time.

The Portal-to Portal Act applies to public works project that are funded in whole or in part with federal funds and excludes from the workday travel to or from the workplace by an employee (29 USC 254 (a)(1)). Under section 254(a), this includes work performed pursuant to contracts awarded by the federal government under the Davis-Bacon Act. However, the Portal-to-Portal Act, to the degree it amends the Davis-Bacon Act, does not supercede any aspect of the California Prevailing Wage Law and is not applicable to compulsory travel time incurred in the performance of a California awarding body's public work project when determining the "hours worked" as noted by the California Supreme Court in *Morrillion v. Royal Packing Company* (2000) 22 Cal. 4<sup>th</sup> 575,94 Cal. Rptr.2d3,

"The California Labor Code and the Industrial Welfare Commission (IWC) wage orders do not contain an express exemption for travel time similar to that of the Portal-to-Portal Act. ...In contrast to these specific findings showing the congressional intent, the Legislature has not similarly identified existing evils under state law." (*Id.* at p.590.)

In reviewing the history of the IWC's Wage Order No. 14-80, the California Supreme Court said,

“The IWC added the phrase ‘the time during which an employee is subject to the control of the employer’ to the definition of ‘hours worked.’ ...Absent convincing evidence of the IWC’s intent to adopt the federal standard for determining whether time spent traveling is compensable under state law, we decline to import any federal standard, which expressly eliminates substantial protections to employees. Accordingly, we do not give much weight to the federal authority.” (*Id.* at p. 590-591)

Finally, the California Supreme Court observed,

“our departure from the federal authority is entirely consistent with the recognized principle that state law may provide employees greater protection than the F.L.S.A. [Fair Labor Standards Act].” (*Id.* at p. 592.)

#### **XVII. WITHHOLDING PAYMENTS FOR LABOR COMPLIANCE VIOLATIONS**

In accordance with Labor Code Section 1727, the City may withhold, from any monies payable on account of work performed by the Contractor or Subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of the Contractor or its Subcontractor for unpaid wages and liquidated damages as specified in this Section. In the event of failure to pay any laborer or mechanic, including any apprentice, employed or working on the site of the Work, all or part of wages required by the Contract, the City may, after written notice to the Contractor (Notice of Withholding Contract Payments), take such action as may be necessary to cause the suspension of further payment, advance or guarantee of funds until such violations have ceased.

In accordance with Labor Code Section 1771.5, the City may withhold contract payments when payroll records are delinquent or inadequate.

#### **XVIII. DISPUTES**

The City’s Labor Compliance Program administered by the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance, Labor Compliance Section shall adhere to the provisions of Labor Code Section 1771.6 and will provide the Contractor or Subcontractor an opportunity for review of assessed wages and penalties pursuant to the provisions of Labor Code Section 1742.

## PART II

### LABOR COMPLIANCE PROGRAM REQUIREMENTS – FEDERALLY FUNDED/ASSISTED CONSTRUCTION PROJECTS

Projects receiving full or partial federal funds are subject to the regulations listed below, in addition to any and all applicable California labor requirements.

#### I. DAVIS-BACON REGULATIONS

The U.S. Department of Labor (DOL) has published rules and instructions concerning Davis-Bacon and other labor laws in the Code of Federal Regulations (CFR) and can be found in Title 29 CFR Parts 1, 3, 5, 6 and 7. Part 1 explains how the DOL establishes and publishes Davis-Bacon Act wage determinations and provides instructions on how to use the determinations. Part 3 describes the Copeland Act requirements for payroll deductions and the submission of weekly certified payroll reports. Part 5 covers the labor standards provisions that are in each contract relating to Davis-Bacon Act wage rates and the responsibilities of contractors and contracting agencies to administer and enforce the provisions. Part 6 provides for administrative proceedings enforcing Federal labor standards on construction and service contracts. Part 7 sets parameters for due process procedures before the Wage Appeals Board (renamed Administrative Review Board). These regulations are used as the basis for administering and enforcing the laws.

##### **The Davis-Bacon Act**

The Davis-Bacon Act requires the payment of prevailing wage rates (which are determined by the DOL) to all laborers and mechanics on Federal construction projects in excess of \$2,000. Construction includes alteration and/or repair, including painting and decorating, of public buildings or public works.

##### **The Contract Work Hours and Safety Standards Act (CWHSSA)**

CWHSSA requires time and one-half pay for overtime (O/T) hours (over 40 hours in any work week) worked on the covered project. The CWHSSA applies to both direct Federal contracts and to indirect Federally-assisted contracts *except* where the assistance is solely in the nature of a loan guarantee or insurance. CWHSSA violations carry a liquidated damages penalty (\$10/day per violation). Intentional violations of CWHSSA standards are considered a Federal criminal misdemeanor.

### **The Copeland Act (Anti-Kickback Act)**

The Copeland Act makes it a crime for anyone to require any laborer or mechanic (employed on a Federal or Federally-assisted project) to *kickback* any part of their wages. The Copeland Act also requires every employer (contractors and subcontractors) to submit weekly certified payroll reports (CPRs).

### **The Fair Labor Standards Act (FLSA)**

The FLSA contains Federal minimum wage rates and overtime (O/T) requirements. These requirements generally apply to any labor performed and may be *pre-empted* by other Federal standards such as the Davis-Bacon Act prevailing wage requirements and CWHSSA O/T provisions. Only the Department of Labor has the authority to administer and enforce the FLSA. The Office of Contract Compliance (OCC) will refer any possible FLSA violations that are found on projects to the DOL.

## **II. CONSTRUCTION CONTRACT PROVISIONS**

Each contract subject to Federal (Davis-Bacon) labor standards requirements must contain contract provisions containing labor standards clauses and a Davis-Bacon Wage Decision. These documents are bound into the contract specifications.

### **The Labor Standards Clauses**

The labor standards clauses describe the responsibilities of the contractor concerning Davis-Bacon wages and obligate the contractor to comply with the labor requirements. The labor standards clauses also provide for remedies in the event of violations, including withholding from payments due to the contractor to ensure the payment of wages or liquidated damages which may be found due. These contract clauses enable the contract administrator to enforce the Federal labor standards applicable to the project.

### **Davis-Bacon Wage Decisions**

The Davis-Bacon Wage Decision is a listing of various construction work classifications such as Carpenter, Plumber, and Electrician, and the minimum wage rates (and fringe benefits, where prevailing) that employees performing work in those classifications must be paid.

### **Contract Administration form BCA-167**

The Bureau of Contract Administration form BCA-167 “Contractor Daily Field Report” must be utilized on all projects receiving federal-aid.



The BCA-167 is to be completed by the Prime Contractor on a daily basis and forwarded to the Bureau of Contract Administration Project Inspector no later than noon of the work day following the work date.

### **III. INQUIRIES**

All questions regarding this section and all matters concerning the payment of prevailing wages should be referred to:

The Office of Contract Compliance  
Labor Compliance Section  
1149 South Broadway, Suite 300  
Los Angeles, CA 90015  
(213) 847-2662

For more information, log on to:

<http://bca.lacity.org>  
<http://www.dir.ca.gov>  
<http://www.dol.gov>

# **EXHIBIT 5**

## **AFFIDAVIT OF NON-COLLUSION**

**NON-COLLUSION AFFIDAVIT**

The appropriate, authorized operator's designate must sign and affix the corporate seal (see space below).

I, \_\_\_\_\_, depose and say that I am

\_\_\_\_\_, of \_\_\_\_\_,  
("President," "Vice-President," etc.) (Insert Name and Address of Organization)

who submits this proposal to the City of Los Angeles, City Attorney's Office, and hereby declare that this proposal is genuine, and not sham or collusive, nor made in the interest or in behalf of any person not herein named and the proposer had not directly induced or solicited any other proposer to put in a sham proposal, or any other person, firm, or corporation to refrain from submitting a proposal, and that the proposer has not in any manner sought by collusion to secure for him/herself an advantage over any other proposer.

Date: \_\_\_\_\_ at \_\_\_\_\_  
(Month, Day, Year) (City, State)

(Corporate Seal)

I certify under penalty of perjury that the foregoing is correct.

\_\_\_\_\_  
(Signature)

# **EXHIBIT 6**

## **LOCAL BUSINESS PREFERENCE PROGRAM**

# PROPOSAL

(Pages LBPP-1 through LBPP-6)

**CITY OF LOS ANGELES  
REQUEST FOR PROPOSALS- LOCAL BUSINESS PREFERENCE PROGRAM (LBPP)  
City of Los Angeles Ordinance No. 181910, Article 21, Sections 10.47, et seq. of the Los  
Angeles Administrative Code**

Local Business Prime	8%
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Or

Local Business Subcontractor (s)	Up to 5%
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**NOTE: Local Business Preference Program information and/or assistance may be obtained through [RFQ Administrator, Rosemarie Barraza at [rosemariebarraza@lacity.org](mailto:rosemariebarraza@lacity.org)]**

## **MANDATORY LOCAL BUSINESS PREFERENCE PROGRAM (LBPP) FOR USE ON CITY-FUNDED CONTRACTS GREATER THAN \$150,000.00**

### **A. General**

This program is subject to the policies and requirements established by the City Council and the City of Los Angeles (City) Mayor's Office. The City is committed to maximizing opportunities for local businesses, as well as encouraging local businesses to locate and operate in Los Angeles County (County). It is the policy of the City to prevent unemployment, encourage an increase in local jobs, and create high road economic development. The Local Business Preference Program (LBPP) aims to benefit the City by increasing local jobs and expenditures within the private sector. The LBPP is set forth herein. Bidders should be fully informed of this program.

Awarding Authorities shall opt out when the contract is funded by a grant or is federally funded and funding regulations prohibit the funding recipient from implementing the LBPP on the resulting contract. The Awarding Authority can also opt out of the program when full and open competition is limited because of a sole source vendor, provider, or supplier. Finally, the Awarding Authority is entitled to determine at anytime before the award of a contract that it is not in the City's best interest to grant a proposal preference to a qualifying Local Business, Local Subcontractor, or Provisionally Qualified Local Business. Failure to comply with the LBPP shall result in investigations by the Bureau of Contract Administration/ Office of Contract Compliance (BCA/OCC) in its role as the Designated Administrative Agency.

### **B. Participation Criteria for Local Business Preference Program**

To be eligible for participation in this program, the BCA/OCC requires that the prospective local business submit an affidavit attesting as such on the Los Angeles Business Assistance Virtual Network (LABAVN) website. An affidavit form is available to be downloaded on the LABAVN website at <http://www.labavn.org>. Determination of qualification as a local business by any other entities, other than BCA/OCC, or by any other means other than submission of an affidavit on LABAVN shall not be accepted for purposes of participation in the LBPP. Affidavit forms are prioritized according to the date they are received. The local business must be listed on LABAVN as such prior to the proposal deadline in order to participate in the LBPP. In cases where the affidavit was submitted prior to the proposal deadline but has not been verified by BCA/OCC and the local business designation would result in a change of award recommendation, status as a local business will be based on the date it was submitted.

### **C. Definitions**

1. "Awarding Authority" means any Board or Commission of the City, or any employee or officer of the City, except those of departments that control their own funds, authorized to award or enter into any Contract, as defined by Article 21, Section 1 of the Los Angeles Administration Code, on behalf of the City. The Proprietary Departments and the Departments of Recreation and Parks, and Library are strongly encouraged to

adopt local preference programs consonant with the provisions of Article 21, Section 10.47, et seq.

2. "Contract" means a written agreement involving consideration in excess of \$150,000.00 for the purchase of goods, equipment or services, including construction, by or for the benefit of the City or its residents.
3. "Contractor" means the person, business or entity awarded the Contract by the Awarding Authority.
4. "Bid Price" means the dollar amount after the bidder's quoted price is adjusted for evaluation in accordance with applicable provisions.
5. "Local Business" means a business entity that occupies work space within the County, is in compliance with all applicable City and County licensing and tax laws, and can demonstrate one of the following: (1) it is headquartered in the County and physically conducts and manages all of its operations from a location in the County; (2) that at least 50 of its full time employees perform work within the boundaries of the County at least 60 percent of their total regular hours worked on an annual basis; or (3) that at least half of the full-time employees (50%) of the business work within the boundaries of the County at minimum of 60 percent of their total, regular hours worked on an annual basis.
  - a. A business entity with multiple locations within the County, can aggregate 50 of its full time employees working at least 60% of their regular hours from its different locations within the County to qualify as a Local Business.
  - b. A business entity awarded a City contract under the LBPP, must carry out the services of the contract using employees whose exclusive, primary working location is in Los Angeles County.
6. "Local Subcontractor" means a contractor that meets the same qualification as a local business.
7. "Provisionally Qualified Local Business" means a business entity that is yet to establish operations within the County, and does not immediately qualify as a local business under the Los Angeles Administrative Code. However, the business is provisionally qualified as a local business because it is undertaking imminent steps to qualify as a local business as defined by Article 21, Section 10.47.3. No later than 60 days after the date on which the Contract with the City is awarded, but prior to execution of the contract, the Provisionally Qualified Local Business must become a qualified Local Business.

D. Local Business Preference Program Participation Recognition

1. Qualifying contractors who participate in the LBPP by qualifying as a local business will receive 8% of the total possible evaluation points added to their evaluation score

provided their bid proposal is in excess of \$150,000.00 or in excess of \$1,000,000.00 if a Provisionally Qualified Local Business.

2. Qualifying contractors who participate in the LBPP but do not qualify as a local business, but however are qualified because they identify a qualified local subcontractor to perform the work under the contract will receive up to a 5% of the total possible evaluation points added to their evaluation score.
  - a. The Awarding Authority shall provide 1% of the total possible evaluation points credit, up to a maximum of 5%, to the contractor's evaluation score for every 10% of the total cost of the proposed work to be performed by the local subcontractor. This rule applies to a local subcontractor or local subcontractors; provided that the work performed is of a commercially useful purpose in execution of the contract and/or performed in the subcontractor's normal course of business. The work performed and all costs of each local subcontractor or subcontractors should be clearly specified in the proposal.
3. Preferences shall only be awarded to a Local Business or Local Subcontractor when the services provided under the contract are directly provided by its employees whose primary work location is in Los Angeles County. Preferences shall only be awarded for equipment, goods or materials when the Local Business or Local Subcontractor acts as a supplier or dealer (not less than two thirds of the time), or designs, manufactures, or assembles the equipment, goods or materials (not less than two thirds of the time), at a business location in the City.
4. A Provisionally Qualified Local Business who participates in the LBPP by qualifying as a local business will receive 8% of the total possible evaluation points credit added to its evaluation score, as long as the proposed contract between the business and the City involves consideration valued at no less than \$1,000,000.00 and has a duration of no less than three (3) years.
  - a. To participate in the program a proposed Provisionally Qualified Local Business must download and complete a Provisionally Qualified Local Business affidavit form at <http://bca.lacity.org>, which it shall attach and submit with its bid documents to the Awarding Department.
5. Once a Business asserting to be a Provisionally Qualified Local Business is notified by the Awarding Department of its intent to award a contract, the Provisionally Qualified Local Business shall submit all of the following documentation: (1) an enforceable, contractual right to occupy commercial space within the County, which shall commence no later than 60 days after the date of the execution of the contract; (2) a business plan on its ability to become a Local business; (3) any other sufficient documentation required by the Awarding Authority.

All required supporting documentation/ evidence demonstrating qualification as a Provisionally Qualified Local Business must be submitted to the Awarding Department within 30 days of request.



- a. If an Awarding Department is satisfied with the documentation submitted by the Provisionally Qualified Local Business, and it determines that it shall award the contract to the business, then the Awarding Department, prior to the execution of the contract, shall send BCA a memo stating that the business was able to demonstrate that it qualifies as a Provisionally Qualified Local Business. The memo shall also list the documents received by the Awarding Department, with copies attached, and recommend that BCA determine the business to be a Provisionally Qualified Local Business.
6. A Provisionally Qualified Local Business shall lose its status as such when it fails to fully comply as a local business within 60 days after the date on which the Contract with the City is awarded. The Awarding Department shall notify the Provisionally Qualified Local Business thirty (30) days after contract award that it comply as a local business or contract award will be rescinded.
7. Loss of status as a Provisionally Qualified Local Business is permanent and forbids a business from qualifying as a Provisionally Qualified Local Business in the future for purposes of bidding on City Contracts.
8. The maximum preference for all qualifying local businesses, local subcontractor (s), and provisionally qualified local businesses shall not exceed 8% credit of the total evaluation points for any proposal.
9. In the event where a certified Local business, bids on a City contract, and is determined by the Awarding Department after the bid deadline to not qualify as a Local Business, the business will be eligible for the Local Subcontractor Preference of up to 5%, if it has identified a qualifying Local Subcontractor(s) to perform work under the contract.
  - a. The above exemption shall only apply where the non-compliance is an error or mistake. It shall not apply to a business that intentionally or fraudulently claims to be a Local Business through misleading or false statements.
  - b. It is the responsibility of the business registered on LABAVN as a certified Local Business to inform BCA via email at [bca.certifications@lacity.org](mailto:bca.certifications@lacity.org), that it no longer meets the certification criteria within 7days of the change. Failure to do so shall be construed as a misleading and/or false statement.
10. Upon receipt of information believed by the Awarding Authority to be reliable and which indicates that the Local Business no longer qualifies as a Local Business for more than 60 days during the entire time of the Contract, the Awarding Authority shall withhold or recover funds from the Contractor in an amount that represents the value of 8% of the executed contract.
11. If for any reason the Local Subcontractor, providing the basis for a Local Subcontractor Preference, is unable to, or does not, perform the work under the Contract; the

Contractor shall, within 60 days, replace that Local Subcontractor with another Local Subcontractor. If the Contractor is unable to replace the Local Subcontractor specified in the Contract with another Local Subcontractor within 60 days, the Awarding Authority shall be entitled to withhold or recover funds from the Contractor in an amount that represents the value of the work that was pledged to the Local Subcontractor, not to exceed 8% of the Contractor's executed contract.

12. Value of the Proposal Preference may be calculated as the difference between the Proposal price between the Contractor's Proposal and the Proposal of the next most competitive bid. In cases where the value of the awarded Business's proposal price is lower, the value of the Proposal Preference may be calculated as the product between the proposal preference percentage points provided and the submitted proposal price.
13. In the event that investigations reveal that a business fraudulently represents itself as a Local Business for the purpose of gaining a preference under the LBPP, the business shall not be eligible for the Local Business status for up to five years from the date of disqualification. This will also apply to any business that has received a preference, but failed to maintain its Local Business qualification for a cumulative of 60 days during the entire time of the contract.

**E. ComplaintsandProtests**

1. All complaints and/or protests regarding qualifying local businesses, provisionally qualified local businesses, and local subcontractors claiming non-compliance by Awarding Authorities or its failure to maintain certification criteria, shall be made to the BCA/OCC either in writing or by email for further investigations. Complaints must be accompanied by documentation which substantiates complainant's allegations.
2. Any complaints that meet the criteria of No. 1 shall be investigated by BCA/OCC in its role as the Designated Administrative Agency.

Submit complaints to:

**By Mail**

**Bureau of Contract Administration  
Office of Contract Compliance  
Department of Public Works  
1149 South Broadway, Suite 300  
Los Angeles, CA 90015**

**By Email**

**[bca.biphelp@lacity.org](mailto:bca.biphelp@lacity.org)**

# **EXHIBIT 7**

## **SMALL & LOCAL BUSINESS PROGRAM**

**City of Los Angeles  
Small & Local Business Program Application**

(Application must be submitted five (5) days prior to the bid or proposal deadline and approved prior to the award date in order to be considered for SLB status for the project)

**1. BUSINESS INFORMATION**

Organization Type (check one):    ☐ Sole Proprietorship    ☐ Corporation    ☐ Limited Liability  
    ☐ Partnership                      ☐ Joint Venture

Business Name: \_\_\_\_\_

Contact Person and Title: \_\_\_\_\_

Business Address: \_\_\_\_\_

Business Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Business E-mail Address: \_\_\_\_\_

Los Angeles Business Tax Registration Certificate Number: \_\_\_\_\_

List supplies, materials and/or services of your firm: \_\_\_\_\_

**2. BUSINESS AFFILIATION**

Is your firm affiliated with another firm? (check one)    ☐ Yes    ☐ No

If yes, please provide the following information describing the affiliate firm:

Affiliate Name(s) and/or Owner(s): \_\_\_\_\_

Business Address: \_\_\_\_\_

Business Telephone Number: \_\_\_\_\_

**3. REQUIRED DOCUMENTS (please attach to application)**

Copy of firm's City of Los Angeles Business Tax Registration Certificate.

Copy of firm's most recent U.S. Federal Income Tax Return (Form 1120, 1120S, 1040 or 1065) with all schedules, forms and support statements as required by and filed with the IRS.

The undersigned declares under penalty of perjury that the information contained herein is true and correct.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title in Company

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## **City of Los Angeles Small & Local Business Program**

Thank you for applying for the Small & Local Business (SLB) Program with the City of Los Angeles.

Qualifications to obtain SLB status are listed below:

1. Your principal office must be located within the County of Los Angeles.
2. Your firm must have a City of Los Angeles Business Tax Registration Certificate. For information on obtaining a City of Los Angeles Business Tax Registration Certificate, please call the Office of Finance, Tax and Permits Division at (213) 626-9271.
3. Gross receipts for your business (including affiliates) must total less than \$3 million for the previous fiscal year.

Companies certified as a Small & Local Business with the City of Los Angeles are given a preference applied to bid contracts of \$100,000 or less. A 10% preference (discount) is given to the bids of SLB certified companies. The preference is determined by taking 10% of the lowest bid that is proposed by a non-certified SLB company, and subtracting that amount from the bid of the SLB certified company. If after the preference the SLB's bid is less than or equal to the lowest non-certified company's bid, the SLB will be awarded the contract.

In order to be given the bid preference as a certified SLB, your SLB application must be submitted to the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance, Centralized Certification Section no later than five (5) calendar days prior to the bid or proposal deadline and approved prior to the award date.

The Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance, Centralized Certification Section is located at:

1149 S. Broadway, Suite 300  
Los Angeles, CA 90015

Certification as a Small & Local Business is valid for two calendar years from the date of approval. Applicant firms must be recertified every two years with the Office of Contract Compliance, Centralized Certification Section. For questions concerning the Small & Local Business Program, contact the Office of Contract Compliance, Centralized Certification Section at (213) 847-2641.

# EXHIBIT 8

## BID CHECK LIST

## BID CHECKLIST

The following must be completed and/or on file with the Brush Clearance Unit (BCU) **by noon, Pacific Time, seven (7) days prior to a bid session:**

- \_\_\_\_\_ Insurance certificates must be current on Track4LA.org
- \_\_\_\_\_ Proof of current California State Licenses
- \_\_\_\_\_ Proof of Required Certifications
- \_\_\_\_\_ Proof of Department of Industrial Relations Registration (if applicable)
- \_\_\_\_\_ Small & Local Business Certification (if applicable)
- \_\_\_\_\_ Subcontractor approval request with their completed compliance documents:
  - \_\_\_\_\_ CEC Form 50 ([http://ethics.lacity.org/pdf/forms/CEC\\_Form\\_50.pdf](http://ethics.lacity.org/pdf/forms/CEC_Form_50.pdf))
  - \_\_\_\_\_ CEC Form 55 ([http://ethics.lacity.org/pdf/forms/CEC\\_Form\\_55.pdf](http://ethics.lacity.org/pdf/forms/CEC_Form_55.pdf))
  - \_\_\_\_\_ Contractor Responsibility Questionnaire  
([http://bca.lacity.org/site/pdf/cro/CROQ%20Construction%20Questionnaire%20\(rev%2012-05-11\).pdf](http://bca.lacity.org/site/pdf/cro/CROQ%20Construction%20Questionnaire%20(rev%2012-05-11).pdf))
  - \_\_\_\_\_ Contractor Responsibility Pledge of Compliance  
(<http://bca.lacity.org/site/pdf/cro/CRO%20Pledge%20of%20Compliance.PDF>)
  - \_\_\_\_\_ Business Tax Registration Certificate Number (<http://finance.lacity.org>)
  - \_\_\_\_\_ Proof of Subcontractor Licenses, Certifications, Registration and Insurance (see Exhibit 2, Exhibit 3 and Exhibit 4A & 4B)
  - \_\_\_\_\_ Affidavit of Non-Collusion (see Exhibit 5)

The following must be submitted **in a sealed envelope at time of bid:**

- \_\_\_\_\_ Completed Bid Sheet containing Contractor's bid price for each parcel and total bid package
- \_\_\_\_\_ Affidavit of Non-Collusion (see Exhibit 5)
- \_\_\_\_\_ Name and information on BCU approved subcontractor