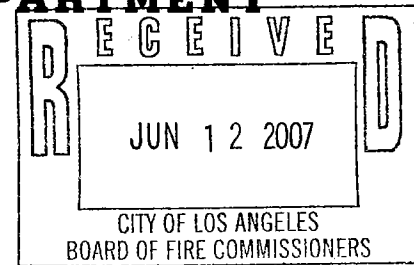


LOS ANGELES FIRE DEPARTMENT



DOUGLAS L. BARRY
INTERIM FIRE CHIEF

JUN 19 2007



June 13, 2007

BOARD OF FIRE COMMISSIONERS
FILE NO. **BFC 07-053**

TO: Board of Fire Commissioners

FROM: Douglas L. Barry, Interim Fire Chief *DLB*

SUBJECT: ACCEPTANCE OF GRANT FUNDS AND EXECUTION OF A
CONTRACT WITH LOS ANGELES COUNTY FOR THE
ACQUISITION AND IMPLEMENTATION OF A SYNDROMIC
SURVEILLANCE PROGRAM

FINAL ACTION: ☐ Approved ☐ Approved w/Corrections ☐ Withdrawn
☐ Denied ☐ Received & Filed ☐ Other

RECOMMENDATIONS: That the Board:

1. Request that the Mayor and City Council accept on behalf of the City, the United States Department of Health and Human Services (USDHH) grant award, in the amount of \$278,500 from the County of Los Angeles.
2. Approve the attached National Bioterrorism Fire Department Preparedness Program Surveillance Agreement from the Los Angeles Department of County Health Services (Attachment A) for the acquisition and implementation of a syndromic surveillance program for a minimum of five years. Said agreement is authorized by provisions of the Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002, Public Law 107-117.
3. Subject to the approval of the City Council and Mayor, authorize the Fire Chief to execute the Agreement, and any subsequent amendments on behalf of the City, subject to approval to form by the City Attorney.
4. Subject to the approval of the City Council and Mayor, authorize the Fire Chief to accept disbursement of grant funds from the County of Los Angeles to the Fire Department.

5. Subject to approval of the City Council and Mayor, authorize the Fire Chief to negotiate and execute a sole source contract with First Watch Solutions, Inc. (Attachment B).
6. Request that the Controller deposit \$278,500 for the USDHH grant into Fund 335/38, Account to be determined, for the purpose of a contract agreement.
7. Request that the Controller deposit \$251,756.34 for the USDHH grant into Fund 335/38, Account to be determined, for the purpose of annual maintenance agreements (Year 2 through Year 5) as outlined in Attachment C.

SUMMARY

The Los Angeles County Emergency Medical Services (EMS) Agency has asked the Los Angeles Fire Department to participate as project partners in the implementation and evaluation of syndromic surveillance. Syndromic surveillance (or biosurveillance), an early warning system for the early detection of bioterrorist events, involves collecting and analyzing statistical data on health trends. The Department's 9-1-1 EMS incident data will be collected real-time from the Department's computer aided dispatch system, immediately processed to determine if appropriate triggers have been activated and alert authorized key personnel.

Based on provisions outlined in Los Angeles Administrative Code, Section 10.41.3.F, and authorization subject to the City Council and Mayor, the Fire Department will pursue a sole-source acquisition with a potential vendor.

In addition, due diligence was performed to identify potential vendors and commercial off-the-shelf software products that provide syndromic surveillance capabilities involving biosurveillance and collection of prehospital data.

As supporting documentation for a sole source acquisition, attached is a sole source letter from the syndromic surveillance vendor, FirstWatch Solutions, Inc., with signatures from Todd Stout, President of FirstWatch and Stuart Sorenson, FirstWatch Legal Council (Attachment D) attesting to the uniqueness of the FirstWatch software and the sole source acquisition by all of their clients. Further supporting a sole source acquisition, attached is a letter for securing a sole source purchasing agreement with FirstWatch from the Georgia Division of Public Health (GDPH), Department of Human Resources (Attachment E).

CONCLUSION

It is recommended that upon approval of the Board of Fire Commissioners, steps be initiated for City Council and Mayor approval to enter into an agreement with Los Angeles County; that the City accept the offer of grant funds for the acquisition of the syndromic surveillance software from FirstWatch Solutions, Inc., including four years of maintenance costs; and that the Department enter into a sole source contract with FirstWatch for their software and services paid for by the County.

Board Report prepared by William D. Bloemhof, Director of Systems,
Management Information Systems Division

Table of Attachments

- Attachment A – Health Resources and Services Administration Funds National Bioterrorism Hospital Preparedness Program Surveillance Agreement
City of Los Angeles Fire Department
- Attachment B – Professional Services Agreement (FirstWatch)
- Attachment C – FirstWatch Solutions, Inc. Syndromic Surveillance Pricing Schedule
- Attachment D - FirstWatch Solutions, Inc. Sole Source Letter
- Attachment E - Georgia Division of Public Health, Department of Human Resources,
Sole Source Letter to FirstWatch



Health Services
LOS ANGELES COUNTY

**Los Angeles County
Board of Supervisors**

Gloria Molina
First District

Yvonne B. Burke
Second District

Zev Yaroslavsky
Third District

Don Knabe
Fourth District

Michael D. Antonovich
Fifth District

Bruce A. Chernof, MD
Director and Chief Medical Officer

John R. Cochran III
Chief Deputy Director

Robert G. Splawn, MD
Acting Senior Medical Officer

313 N. Figueroa Street
Los Angeles, CA 90012

Tel: (800) 427-8700

*To improve health
through leadership,
service and education*

May 1, 2007

Daniel R. McCarthy
Battalion Chief
City of Los Angeles Fire Department
200 North Main Street, Suite 1860
Los Angeles, CA 90012

**RE: NATIONAL BIOTERRORISM FIRE DEPARTMENT
PREPAREDNESS PROGRAM SURVEILLANCE AGREEMENT**

Enclosed are four copies of the above referenced Agreement which establishes the terms for obtaining dispatch data from City of Los Angeles Fire Department. Authority to enter into this Agreement was approved by the County of Los Angeles Board of Supervisors on January 18, 2005. This Agreement will become effective May 15, 2007 through August 31, 2007. Thereafter, the Agreement will be renewed on an annual basis through August 31, 2012, contingent upon funding by the National Bioterrorism Hospital Preparedness Program.

Please obtain the required, original signatures of Fire Department and City officials on three (3) copies of the Agreement. Retain the "Advance Copy" for your records until the fully executed copies are made available. Return the three (3) Agreements with the original signatures as soon as possible to the following address:

County of Los Angeles - Department of Health Services
Contracts and Grants Division
313 North Figueroa Street
6th Floor-East
Los Angeles, CA 90012
ATTENTION: Anna Farias

Please contact me at (213) 240-8170 or Kay Fruhwirth at (323) 890-7539 if you have any questions.

Very truly yours,

Anna Farias
Contract Administrator
Contracts and Grants Division

Enclosures



www.ladhs.org

ATTACHMENT A

HEALTH RESOURCES AND SERVICES ADMINISTRATION FUNDS
NATIONAL BIOTERRORISM HOSPITAL PREPAREDNESS PROGRAM
SURVEILLANCE AGREEMENT
CITY OF LOS ANGELES FIRE DEPARTMENT

EXHIBIT A

HEALTH RESOURCES AND SERVICES ADMINISTRATION FUNDS
NATIONAL BIOTERRORISM HOSPITAL PREPAREDNESS PROGRAM

SURVEILLANCE AGREEMENT

STATEMENT OF WORK

I. FIRE DEPARTMENT RECEIVABLES:

Fire Department shall receive from the County:

A. Funding of a minimum of Two Hundred and Seventy Eight Thousand, Five Hundred Dollars (\$278,500), which will be provided in a lump sum to participating Fire Department. The Fire Department will purchase software from a data mining vendor and work with this vendor to establish a real-time interface between Fire Department Computer Aided Dispatch and data mining vendor. This interface will allow real-time information to be shared with key personnel, which include Fire Department, Department of Public Health (DPH) Acute Communicable Disease Control (ACDC) Program, Bioterrorism (BT) Epidemiology and Surveillance Section and the Emergency Medical Services Agency. The sharing of information will be via a web-based application that is password protected and will

also include an alert/notification function that would alert the key personnel when a significant volume increase of dispatch calls are identified. Based on volumetric or geographic trends the alerted personnel will determine the nature and significance of the occurrence, and will take appropriate steps to warn and protect the public, if necessary.

II. FIRE DEPARTMENT DELIVERABLES:

Fire Department shall:

A. Work with identified data mining vendor to purchase software and develop an interface with their computer aided dispatch system and notify County of selected vendor and software.

B. Provide website view of real-time dispatch data to DPH ACDC Program, BT Epidemiology and Surveillance Section. This dispatch data will be used to perform public health monitoring, i.e. early event disease surveillance;

C. Data will also be provided to the DPH BT Surveillance Unit through a automatic transfer of detail level dispatch data in real-time/near real-time from Fire Department data mining vendor to DPH BT Surveillance Unit on an hourly basis, and;

D. Key Public Health and EMS Agency staff will receive alerts when volumetric and/or geographic trends are detected.

III. Key Project Personnel

The Director of the County EMS Agency, or designee, is designated County Project Manager, who shall have full authority to act for County in all matters connect with this Agreement consistent with the provisions contained herein. The key EMS Agency staff contact is the NBHPP Coordinator. The Fire Department Chief, or designee, is the designated Fire Department Project Manager. The key Fire Department contact is the Fire Department Director of Systems, Management of Information Systems Section.

CONTRACT No. H-_____

**HEALTH RESOURCES AND SERVICES ADMINISTRATION FUNDS
NATIONAL BIOTERRORISM HOSPITAL PREPAREDNESS PROGRAM**

SURVEILLANCE AGREEMENT

CITY OF LOS ANGELES FIRE DEPARTMENT

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EXHIBIT A	-	STATEMENT OF WORK
EXHIBIT B	-	HRSA: ASSURANCE NON-CONSTRUCTED PROGRAMS
EXHIBIT C	-	SAFELY SURRENDERED BABY LAW EMPLOYEE NOTICE
EXHIBIT D	-	CONTRACTOR'S EEO CERTIFICATION

Contract # H-_____

**HEALTH RESOURCES AND SERVICES ADMINISTRATION FUNDS
NATIONAL BIOTERRORISM FIRE DEPARTMENT PREPAREDNESS PROGRAM
SURVEILLANCE AGREEMENT**

THIS AGREEMENT is made and entered into this _____ day
of _____, 2007,

by and between

COUNTY OF LOS ANGELES
(hereafter "County"),

and

CITY OF LOS ANGELES FIRE
DEPARTMENT (hereafter "Fire
Department").

WHEREAS, pursuant to the provisions of the Public Health and Social Security Emergency Funds (Section 319 of the Public Health Services Act, 42 U.S.C.247d), the United States Department of Health and Human Services (USDHHS) awarded a grant to County, for the use, or distribution of funds to hospitals, other healthcare entities and emergency medical services (EMS) providers, under administration of County in connection and in accordance with the Health Resources and Services Administration (HRSA) National Bioterrorism Hospital Preparedness Program (Program), to support County activities related to countering

potential terrorism threats to civilian populations; and

WHEREAS, Fire Department is a County EMS provider and is equipped, staffed, and willing to provide dispatch data to assist in surveillance of terrorism events for and in consideration of funds for use by Fire Department under this Agreement and upon the conditions hereinafter set forth; and

WHEREAS, this Agreement is authorized by provisions of the Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002, Public Law 107-117.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, the parties agree hereto as follows:

1. GOVERNING LAWS: Provisions of this Agreement relating to the terms and conditions of disbursement of HRSA funds to Fire Department shall be construed in accordance with the Public Health and Social Services Emergency Fund (hereinafter "governing laws").

Any provision of this Agreement which may conflict with the governing laws is hereby amended to conform to the provisions of the governing laws. Any amendment to the governing laws, to the extent it affects a term or condition of this Agreement, shall also be deemed to amend this Agreement as determined by County on the effective date of such amendment, even though such

amendment may not have been reduced to writing and formally agreed upon and executed by the parties.

2. BASIS AND PURPOSE: The basis of this Agreement is the desire and intention of the parties to cooperate in the development, implementation, and evaluation of a surveillance program that utilizes Fire Department dispatch data to enhance the County's overall bioterrorism preparedness. Its purpose is to establish, in a manner reflective of such cooperative basis that (a) appropriate dispatch data is provided to the Department of Public Health by the Fire Department; (b) the specific duties and responsibilities of the parties with respect to this dispatch data surveillance program as expressed herein are addressed and (c) appropriate procedures are implemented to assist in the evaluation of a surveillance signal.

3. DESCRIPTION OF SERVICES: Fire Department shall provide the services described in Exhibit A, attached hereto and incorporated herein by reference.

4. TERM AND TERMINATION:

A. This Agreement shall commence effective May 15, 2007, and shall remain in full force and effect to and including August 31, 2007, and will be automatically renewed on an annual basis through August 31, 2012, dependent on ongoing funding through the NBHPP, unless

sooner terminated, revoked or cancelled pursuant to the terms of this Agreement.

B. Should the USDHHS cease funding this Program, except as set forth in this Agreement's conditions and all Exhibits and Attachments, Fire Department shall be entitled to keep for its use any Receivables received from the County.

C. Notwithstanding any other provision of this Agreement, either party may terminate this Agreement for any reason (with or without cause) by giving the other party at least sixty (60) calendar days prior written notice thereof.

5. WORK:

A. Pursuant to the provisions of this Agreement, Fire Department shall fully perform, complete and deliver on time, all tasks, deliverables, services and other work as set forth in Exhibit A, Statement of Work, attached hereto and incorporated herein by reference of this Agreement.

B. If Fire Department provides any tasks, deliverables, goods, services, or other work, other than as specified in this Agreement, the same shall be deemed to be a gratuitous effort on the part of the Fire Department, and

Fire Department shall have no claim whatsoever against the County.

6. MAXIMUM COUNTY OBLIGATION: County's maximum payment obligation for Fire Department services provided hereunder shall not exceed the sum of the total dollar amount made available by HRSA to County for Fire Department under the Program.

The payment obligations of County under this Agreement are at all times contingent upon receipt by County of HRSA funding, sufficient to compensate Fire Department and all other participating contract providers under the Program.

7. BILLING AND PAYMENT: Payment for the surveillance activities identified in Exhibit A, Statement of Work, will be provided in a lump sum to participating Fire Department. Annual maintenance fees will also be paid in lump sum beginning in Year Two (2).

8. COMPLIANCE WITH NBHPP GRANT: Fire Department agrees to comply with all terms and conditions, to the extent applicable, as set forth in HRSA grant for the Program. The Assurance Non-Construction Programs is set forth in Exhibit B attached hereto and incorporated herein by reference of this Agreement.

9. MAINTENANCE OF STATUS: As a condition of receiving HRSA monies hereunder, Fire Department promises to maintain through the Agreement term at least the same number and

designation of Advanced Life Support (ALS) and Basic Life Support (BLS) units as were in effect on September 1, 2006.

10. RECOVERY OF PAYMENT/EQUIPMENT: Fire Department shall return monies and/or equipment provided by County, if Fire Department fails to provide dispatch data to Public Health. Compliance to be determined at the sole discretion of the County.

11. INDEPENDENT CONTRACTOR STATUS:
This Agreement is by and between the County and Fire Department and is not intended and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between County and Fire Department. Fire Department understands and agrees that all persons furnishing Fire Department services on behalf of Fire Department under this Agreement are, for purposes of workers' compensation liability, not the responsibility of County.

Fire Department shall bear the sole responsibility and liability for any and all worker's compensation benefits which are legally required to be paid to any person for injuries arising from, or connected with, services performed on behalf of Fire Department pursuant to this Agreement.

12. INDEMNIFICATION: Fire Department shall indemnify, defend, and hold harmless County and its Special Districts,

elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with Fire Department's acts and/or omissions arising from and/or relating to this Agreement.

13. GENERAL INSURANCE REQUIREMENTS: Without limiting Fire Department's indemnification of County, and during the term of this Agreement, Fire Department shall provide and maintain, and shall require all of its subcontractors to maintain, the following programs of insurance specified in this Agreement. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by County, and such coverage shall be provided and maintained at Fire Department's own expense.

A. Evidence of Insurance: Certificate(s) or other evidence of coverage satisfactory to County shall be delivered to Contract Administrator, Contracts and Grants Division, 313 North Figueroa Street, Sixth Floor East, Los Angeles, CA 90012 prior to commencing services under this Agreement, such certificate or other evidence shall:

- (1) Specifically identify this Agreement.
- (2) Clearly evidence all coverages required in

this Agreement.

(3) Contain the express condition that County is to be given written notice by mail at least thirty 30 calendar days in advance of cancellation for all policies evidenced on the certificate of insurance.

(4) Include copies of the additional insured endorsement to the commercial general liability policy, adding County of Los Angeles, its Special Districts, its officials, officers, and employees as insureds for all activities arising from this Agreement.

(5) Identify any deductibles or self-insured retentions for County's approval. County retains the right to require Fire Department to reduce or eliminate such deductibles or self-insured retentions as they apply to County, or, require Fire Department to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expenses or fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

B. Insurer Financial Ratings: Insurance is to be provided by an insurance company acceptable to County with an A.M. Best rating of not less than A:VII, unless otherwise approved by County.

C. Failure to Maintain Coverage: Failure by Fire Department to maintain the required insurance, or to provide evidence of insurance coverage acceptable to County, shall constitute a material breach of contract upon which County may immediately terminate or suspend this Agreement. County, at its sole option, may obtain damages from Fire Department resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Fire Department, County may deduct from sums due to Fire Department any premium costs advanced by County for such insurance.

D. Notification of Incidents, Claims or Suits:

Fire Department shall report to County:

(1) Any accident or incident relating to services performed under this Agreement which involves injury or property damage which may result in the filing of a claim or lawsuit against Fire Department and/or County. Such report shall be made in writing within twenty-four (24) hours of occurrence.

(2) Any third party claim or lawsuit filed against Fire Department arising from or related to services performed by Fire Department under this Agreement.

(3) Any injury to a Fire Department employee which occurs on County property. This report shall be submitted on a County "Non-employee Injury Report" to County contract manager and/or liaison.

(4) Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies or securities entrusted to Fire Department under the terms of this Agreement.

E. Compensation for County Costs: In the event that Fire Department fails to comply with any of the indemnification or insurance requirements of this Agreement, and such failure to comply results in any costs to County, Fire Department shall pay full compensation for all costs incurred by County.

F. Insurance Coverage Requirements for Subcontractors: Fire Department shall ensure any and all subcontractors performing services under this Agreement meet the insurance requirements of this Agreement by either:

(1) Fire Department providing evidence of insurance covering the activities of subcontractors, or

(2) Fire Department providing evidence submitted by subcontractors evidencing that subcontractors maintain the required insurance coverage. County retains the right to obtain copies of evidence of subcontractor insurance coverage at any time.

14. INSURANCE COVERAGE REQUIREMENTS:

A. General Liability: Insurance (written on ISO policy form CG 00 01 or its equivalent) with limits of not less than the following:

General Aggregate:	\$2 million
Products/Completed Operations Aggregate:	\$1 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$1 million

B. Automobile Liability: Insurance (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than \$1 million for each accident. Such insurance shall include coverage for all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto".

C. Workers Compensation and Employers' Liability:
Insurance providing workers compensation

benefits, as required by the Labor Code of the State of

California or by any other state, and for which Fire Department is responsible. If Fire Department's employees will be engaged in maritime employment, coverage shall provide workers compensation benefits as required by the U.S. Longshore and Harbor Workers' Compensation Act, Jones Act, or any other federal law for which Fire Department is responsible.

In all cases, the above insurance also shall include Employers' Liability coverage with limits of not less than the following:

Each Accident:	\$1 million
Disease - policy limit:	\$1 million
Disease - each employee:	\$1 million

D. Professional Liability: Insurance covering liability arising from any error, omission, negligent or wrongful act of Fire Department, its officers or employees with limits of not less than \$1 million per occurrence and \$3 million aggregate. The coverage also shall provide an extended two (2) year reporting period commencing upon termination or cancellation of this Agreement.

15. LICENSES: Fire Department shall obtain and maintain, during the term of this Agreement, all appropriate licenses

required by law for the operation of its services and for the provision of services hereunder. Fire Department, in its operation, shall also comply with all applicable local, State, and Federal statutes, ordinances, and regulations.

16. EMPLOYMENT ELIGIBILITY VERIFICATION: Fire Department warrants that it fully complies with all Federal statutes and regulations regarding employment of undocumented aliens and others, and that all its employees performing services hereunder meet the citizenship or alien status requirements contained in Federal statutes and regulations. Fire Department shall obtain, from all covered employees performing services hereunder, all verification and other documentation of employment eligibility status required by Federal statutes and regulations as they currently exist and as they may be hereafter amended. Fire Department shall retain such documentation for all covered employees for the period prescribed by law. Fire Department shall indemnify, defend, and hold harmless County, its officers and employees from employer sanctions and any other liability which may be assessed against Fire Department or County in connection with any alleged violation of Federal statutes or regulations pertaining to the eligibility for employment of persons performing services under this Agreement.

17. ADMINISTRATION AND MONITORING:

Director shall have the authority to administer this Agreement on behalf of County.

Fire Department extends to Director and to authorized representatives of the County, the right to review and monitor Fire Department's programs and procedures, and to inspect its facilities for contractual compliance at any time with reasonable notice.

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

19. RECORDS AND AUDITS:

A. Audit/Compliance Review: In the event County representatives conduct an audit/compliance review of Fire

Department, Fire Department shall fully cooperate with such representatives. Fire Department shall allow County representatives access to all pertinent reports, and shall allow photocopies to be made of these documents utilizing Fire Department's photocopier, for which County shall reimburse Fire Department its customary charge for record copying services, if requested. An exit conference shall be held following the performance of any such audit/compliance review at which time the results shall be discussed with Fire Department. Fire Department shall be provided with a copy of any written evaluation reports.

B. Availability of Personnel, Facilities, Protocols:

Fire Department shall make its personnel, facilities, and data sharing protocols available to assist with the inspection at reasonable times by authorized representatives of Director, to verify compliance with applicable standards and regulations and with the terms of this Agreement.

20. CONFIDENTIALITY: Fire Department agrees to maintain the confidentiality of its records, including billings, in accordance with all applicable State, Federal, and local laws, ordinances, rules, regulations, and directives relating to confidentiality. Fire Department shall inform all of its

officers, employees, and agents, and others providing services hereunder of said confidentiality provisions. County shall maintain the confidentiality of patient medical records made available hereunder in accordance with the customary standards and practices of governmental third-party payers.

21. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT:

The parties acknowledge the existence of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations ('HIPAA'). Fire Department understands and agrees that, as a provider of medical treatment services, it is a 'covered entity' under HIPAA and, as such, has obligations with respect to the confidentiality, privacy and security of patients' medical information, and must take certain steps to preserve the confidentiality of this information, both internally and externally, including the training of its staff and the establishment of proper procedures for the release of such information, and the use of appropriate consents and authorizations specified under HIPAA.

The parties acknowledge their separate and independent obligations with respect to HIPAA, and that such obligations relate to transactions and code sets, privacy, and security. Fire Department understands and agrees that it is separately and independently responsible for compliance with HIPAA in all these

areas and that County has not undertaken any responsibility for compliance on Fire Department's behalf. Fire Department has not relied, and will not in any way rely, on County for legal advice or other representations with respect to Fire Department's obligations under HIPAA, but will independently seek its own counsel and take the necessary measures to comply with the law and its implementing regulations.

"FIRE DEPARTMENT AND COUNTY UNDERSTAND AND AGREE THAT EACH IS INDEPENDENTLY RESPONSIBLE FOR HIPAA COMPLIANCE AND AGREE TO TAKE ALL NECESSARY AND REASONABLE ACTIONS TO COMPLY WITH THE REQUIREMENTS OF THE HIPAA LAW AND IMPLEMENTING REGULATIONS RELATED TO TRANSACTIONS AND CODE SET, PRIVACY, AND SECURITY. EACH PARTY FURTHER AGREES TO INDEMNIFY AND HOLD HARMLESS THE OTHER PARTY (INCLUDING THEIR OFFICERS, EMPLOYEES, AND AGENTS), FOR ITS FAILURE TO COMPLY WITH HIPAA."

22. NONDISCRIMINATION IN SERVICES: Fire Department shall not discriminate in the provision of services hereunder because of race, color, religion, national origin, ancestry, sex, age, or physical or mental disability, or medical condition, or sexual orientation, in accordance with applicable requirements of State and Federal law.

23. NONDISCRIMINATION IN EMPLOYMENT: Fire Department's and its contractor's, as ensued by Fire Department, employment

practices and policies shall also meet all applicable State and Federal nondiscrimination requirements.

24. STAFF PERFORMANCE OF SERVICES WHILE UNDER THE INFLUENCE: Fire Department shall use its best efforts to assure that no employee will perform services while under the influence of any alcoholic beverage, medication, narcotic, or other substance that might impair his/her physical or mental performance.

25. FIRE DEPARTMENT'S PERFORMANCE DURING CIVIL UNREST OR DISASTER: Fire Department recognizes that health care facilities maintained by County provide care essential to the residents of the communities they serve, and that these services are of particular importance at the time of riot, insurrection, civil unrest, natural disaster, or similar event.

Notwithstanding any other provision of this Agreement, full performance by Fire Department during any riot, insurrection, civil unrest, natural disaster, or similar event is not excused if such performance remains physically possible. Failure to comply with this requirement shall be considered a material breach by Fire Department for which Director may suspend or County may immediately terminate this Agreement.

26. UNLAWFUL SOLICITATION: Fire Department shall inform all of its employees performing services hereunder of the

provisions of Article 9 of Chapter 4 of Division 3 (commencing with Section 6150) of the California Business and Professions Code (i.e., State Bar Act provisions regarding unlawful solicitation as a runner or capper for attorneys) and shall take positive and affirmative steps in its performance hereunder to ensure that there is no violation of such provisions by its employees. Fire Department agrees that if a patient requests assistance in obtaining the services of any attorney, it will refer the patient to the attorney referral service of those bar associations within Los Angeles County that have such a service.

27. CONFLICT OF INTEREST: No County employee whose position in County enables him or her to influence the award of this Agreement or any competing Agreement, and no spouse or economic dependent of such employee shall be employed in any capacity by Fire Department herein, or have any other direct or indirect financial interest in this Agreement.

No officer, subcontractor, agent, or employee of Fire Department who may financially benefit from the provision of services hereunder shall in any way participate in County's approval, or ongoing evaluation, of such services, or in any way attempt to unlawfully influence County's approval or ongoing evaluation of such services.

28. FAIR LABOR STANDARDS ACT: Fire Department shall comply

with all applicable provisions of the Federal Fair Labor Standards Act, and shall indemnify, defend, and hold harmless County, its agents, officers and employees from any and all liability including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law including, but not limited to, the Federal Fair Labor Standards Act for services performed by Fire Department's employees for which County may be found jointly or solely liable.

29. NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT: Fire Department shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the Federal income tax laws. Such notice shall be provided in accordance with the requirements set for in Internal Revenue Service Notice 1015.

30. NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW: The Fire Department shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in Exhibit D attached hereto and incorporated herein

by reference of this Agreement, and is also available on the Internet at www.babysafela.org for printing purposes.

31. PROHIBITION AGAINST ASSIGNMENT AND DELEGATION:

Fire Department shall not assign its rights or delegate its duties under this Agreement, or both, whether in whole or in part, without the prior written consent of County. Any assignment or delegation which does not have such prior County consent shall be null and void. For purposes of this Paragraph, such County consent shall require a written amendment to this Agreement which is formally approved and executed by the parties. Any billings to County by any delegatee or assignee on any claim under this Agreement, as a consequence of any such County consent, shall reduce dollar for dollar any claims which Fire Department may have against County and shall be subject to set-off, recoupment, or other reduction for any claims which County may have against Fire Department, whether under this Agreement or otherwise.

Shareholders or partners, or both, of Fire Department may sell, exchange, assign, divest, or otherwise transfer any interest they may have therein. However, in the event any such sale, exchange, assignment, divestment, or other transfer is effected in such a way as to give majority control of Fire Department to any person(s), corporation, partnership, or legal

entity other than the majority controlling interest therein at the time of execution of this Agreement, then prior written consent thereof by County's Board of Supervisors shall be required. Any payments by County to Fire Department on any claim under this Agreement shall not waive or constitute such County consent. Consent to any such sale, exchange, assignment, divestment, or other transfer shall be refused only if County, in its sole judgment, determines that the transferee(s) is (are) lacking in experience, capability, or financial ability to perform all Agreement services and other work. This in no way limits any County right found elsewhere in this Agreement, including, but not limited to, any right to terminate this Agreement.

32. MERGER PROVISION: This contract document and its attachments fully expresses all understandings of the parties concerning all matters covered and shall constitute the total agreement of the parties. No addition to, or alteration of, the terms of this Agreement, whether by written or verbal understanding of the parties, their officers, agents, or employees, shall be valid unless made in the form of a written amendment to this Agreement which is formally approved and executed by the parties.

33. SUBCONTRACTING: Although it is the intent of the

parties that all services hereunder are to be provided by Fire Department's employees, both parties agree that Fire Department may encounter a need for highly specialized services for which Fire Department will find it necessary to subcontract. The requirements for such limited use of subcontracting are as follows:

A. No performance of this Agreement or any portion thereof shall be subcontracted by Fire Department without the prior written consent of Director or his/her authorized designee(s). Any attempt by Fire Department to subcontract any performance of services under this Agreement without the prior written consent of Director or his/her authorized designee(s) shall be null and void and shall constitute a material breach of this Agreement.

B. In the event Director or his/her authorized designee(s) may consent to subcontracting, each and all of the provisions of this Agreement and any amendment thereto shall extend to, be binding upon, and inure to the benefit of, the successors or administrators of the respective parties.

C. In the event that Director or his/her authorized designee(s) would consent to subcontracting, Fire Department shall include in all subcontracts the terms of

this Agreement with the County of Los Angeles and subcontractor shall be subject to all the provisions of this Agreement. All representations and warranties shall inure to the benefits of the County of Los Angeles.

D. Fire Department's request to Director or his/her authorized designee(s) for approval to enter into a subcontract shall include:

(1) A description of the services, to be provided by the subcontract.

(2) Identification of the proposed subcontractor and documented explanation as to the qualifications of the subcontractor and the ability to provide services required in the Contract, and to include a description of Fire Department's efforts to obtain competitive bids of why and how the proposed subcontractor was selected.

(3) Any other information and/or certifications requested by Director or his/her authorized designee(s).

E. All subcontracts shall be made in the name of Fire Department and shall not bind nor purport to bind County. The making of subcontracts hereunder shall not relieve Fire Department of any requirement under this

Agreement, including, but not limited to, the duty to properly supervise and coordinate the work of any subcontractor. Approval of the provisions of any subcontract by Director or his/her authorized designee(s) shall not be construed to constitute a determination of the allocability of any cost under this Agreement.

F. Fire Department shall be solely liable and responsible for any and all payments and other compensation for all subcontractors. County shall have no liability or responsibility for any payment or other compensation for any subcontractor.

34. FIRE DEPARTMENT RESPONSIBILITY AND DEBARMENT:

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

Fire Department is hereby notified that, in accordance Chapter 2.202 of the County Code, if County acquires information concerning the performance of Fire Department under this Agreement or other contracts, which indicates that Fire Department is not responsible, County may or otherwise in addition to other remedies provided under this Agreement, debar

Fire Department from bidding on County contracts for a specified period of time not to exceed three (3) years, and terminate this Agreement and any or all existing contracts Fire Department may have with County.

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

If there is evidence that Fire Department may be subject to debarment, Director will notify Fire Department in writing of the evidence which is the basis for the proposed debarment and will advise Fire Department of the scheduled date for a debarment hearing before County's Contractor Hearing Board. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. Fire Department or Fire Department's representative, or both, shall

be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a proposed decision, which shall contain a recommendation regarding whether Fire Department should be debarred, and, if so, the appropriate length of time of the debarment. If Fire Department fails to avail itself of the opportunity to submit evidence to the Contractor Hearing Board, Fire Department shall be deemed to have waived all rights of appeal. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny or adopt the proposed decision and recommendation of the Hearing Board. These terms shall also apply to (subcontractors/subconsultants) of County contractors.

35. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION: Fire Department hereby acknowledges that the County is prohibited from contracting with and making sub-awards to parties that are suspended, debarred, ineligible, or excluded from securing federally funded contracts. By executing this Agreement, Fire Department certifies that neither it nor any of its owners, officers,

partners, directors, or principals is currently suspended, debarred, ineligible, or excluded from securing federally funded contracts. Further, by executing this Agreement, Fire Department certifies that, to its knowledge, none of its subcontractors, at any tier, or any owner, officer, partner, director, or other principal of any subcontractor is currently suspended, debarred, ineligible, or excluded from securing federally funded contracts. Fire Department shall immediately notify County in writing, during the term of this Agreement, should it or any of its subcontractors or any principals of either be suspended, debarred, ineligible, or excluded from securing federally funded contracts. Failure of Fire Department to comply with this provision shall constitute a material breach of this Agreement upon which the County may immediately terminate or suspend this Agreement.

36. FIRE DEPARTMENT'S WILLINGNESS TO CONSIDER COUNTY'S EMPLOYEES FOR EMPLOYMENT: Fire Department agrees to receive referrals from County's Department of Human Resources of qualified permanent employees who are targeted for layoff or qualified former employees who have been laid off and are on a reemployment list during the life of this Agreement. Such referred permanent or former County employees shall be given first consideration of employment as vacancies occur after the

implementation and throughout the term of this Agreement. Notwithstanding this or any other provision of this Agreement, the parties do not in any way intend that any person shall acquire any rights as a third party beneficiary of this Agreement.

37. CONSIDERATION OF GREATER AVENUES FOR INDEPENDENCE ("GAIN") PROGRAM OR GENERAL RELIEF OPPORTUNITY FOR WORK ("GROW") PARTICIPATION FOR EMPLOYMENT: Should Fire Department require additional or replacement personnel after the effective date of this Agreement, Fire Department shall give consideration for any such employment openings to participants in the County's Department of Public Social Services' Greater Avenues for Independence ("GAIN") or General Relief Opportunity Work ("GROW") Programs, who meet Fire Department's minimum qualifications for the open position. For this purpose, consideration shall mean that Fire Department will interview qualified candidates. The County will refer GAIN/GROW participants by job category to Fire Department. In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, County employees shall be given first priority.

38. FIRE DEPARTMENT'S EXCLUSION FROM PARTICIPATION IN A FEDERALLY FUNDED PROGRAM: Fire Department hereby warrants that

neither it nor any of its staff members is restricted or excluded from providing services under any health care program funded by the federal government, directly or indirectly, in whole or in part, and that Fire Department will notify Director within thirty (30) calendar days in writing of: (1) any event that would require Fire Department or a staff member's mandatory exclusion from participation in a federally funded health care program; and (2) any exclusionary action taken by any agency of the federal government against Fire Department or one or more staff members barring it or the staff members from participation in a federally funded health program, whether such bar is direct or indirect, or whether such bar is in whole or in part. Fire Department shall indemnify, defend, and hold County harmless against any and all loss or damage County may suffer arising from any Federal exclusion of Fire Department or its staff members from such participation in a federally funded health care program.

Failure by Fire Department to meet the requirements of this Paragraph shall constitute a material breach of contract upon which County may immediately terminate or suspend this Agreement.

39. FIRE DEPARTMENT'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM: Fire Department acknowledges

that County has established a goal of ensuring that all individuals who benefit financially from County through County contracts are in compliance with their court ordered child, family, and spousal support obligations in order to mitigate the economic burden otherwise imposed upon County and its taxpayers. As required by County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting Fire Department's duty under this Agreement to comply with all applicable provisions of law, Fire Department warrants that it is now in compliance and shall during the term of this Agreement maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 U.S.C. Section 653a) and California Unemployment Insurance Code Section 1088.55, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department (CSSD) Notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

40. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM:
Failure of Fire Department to maintain compliance with the requirements set forth in Paragraph 42 (Fire Department's Warranty of Adherence to County's Child Support Compliance

Program), hereinabove, shall constitute a default by Fire Department under this Agreement. Without limiting the rights and remedies available to County under any other provision of this Agreement, failure to cure such default within ninety (90) calendar days of written notice by County's CSSD shall be grounds upon which County's Board of Supervisors may terminate this Agreement pursuant to Paragraph 43 (Termination for Default), hereinabove, and pursue debarment, pursuant to County Code Chapter 2.20

41. TERMINATION FOR DEFAULT:

A. County may, by written notice to Fire Department, terminate the whole or any part of this Agreement, if, in the judgment of County's Project Director:

(1) Fire Department has materially breached this Agreement;

(2) Fire Department fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required either under this Agreement; or

(3) Fire Department fails to demonstrate a high probability of timely fulfillment of performance requirements under this Agreement, or of any obligations of this Agreement, and in either case,

fails to demonstrate convincing progress toward a cure within five (5) working days (or such longer period as the County may authorize in writing) after receipt of written notice from the County specifying such failure;

B. In the event County terminates this Agreement in whole or in part as provided in Subparagraph A, hereinabove, County may procure, upon such terms and in such manner as County may deem appropriate, goods and services similar to those so terminated. Fire Department shall be liable to County for any and all excess costs incurred by the County, as determined by County, for such similar goods and services. Fire Department shall continue the performance of this Agreement to the extent not terminated under the provisions of this Subparagraph.

G. Except with respect to defaults of any subcontractors, Fire Department shall not be liable for any such excess costs of the type identified in the subparagraph hereinabove, if its failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of Fire Department. Such causes may include, but are not limited to: acts of God or of the public enemy, acts of County in either its sovereign

or contractual capacity, acts of the Federal or State governments in their sovereign capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the failure to perform must be beyond the control and without the fault or negligence of Fire Department. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both Fire Department and subcontractor, and without the fault or negligence of either of them, Fire Department shall not be liable for any such excess costs for failure to perform, unless the goods and services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Fire Department to meet the required performance schedule.

As referenced in this Subparagraph C, the terms "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.

H. If, after the notice of termination of this Agreement under the provisions of this Paragraph, it is determined by the County that Fire Department was not in default under the provisions of this Paragraph, or that the default was excusable under the provisions of this

Paragraph, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Paragraph 42 (Termination for Convenience), hereinbelow.

I. The rights and remedies of County provided in this Paragraph shall not be exclusive and are in addition to any other rights and provided by law or under this Agreement.

42. TERMINATION FOR CONVENIENCE: The performance of services under this Agreement may be terminated in whole or in part from time to time when such action is deemed by County and Fire Department to be in its best interest. Termination of services hereunder shall be effected by delivery to the non-notifying party of a thirty (30) day by the County, and one hundred and twenty (120) days by the Fire Department, advance Notice of Termination specifying the date upon which such termination becomes effective.

After receipt of a Notice of Termination and except as otherwise directed by County, Fire Department shall stop services under this Agreement on the date and to the extent specified in such Notice of Termination.

After receipt of a Notice of Termination, Fire Department shall submit to County, in the form and with the certifications

as may be prescribed by County, its termination claim and invoice. Such claim and invoice shall be submitted promptly, but not later than three (3) months from the effective date of termination. Upon failure of Fire Department to submit its termination claim and invoice within the time allowed, County may determine in the reasonable exercise of its judgment on the basis of information available to County, the amount, if any, due to Fire Department in respect to the termination, and such determination shall be final. After such determination is made, County shall pay Fire Department the amount so determined. Fire Department, for a period of seven (7) years after final settlement under this Agreement, shall make available to County, at all reasonable times, all its books, records, documents, or other evidence bearing on the costs and expenses of Fire Department under this Agreement in respect of the termination of services hereunder. All such books, records, documents or other evidence shall be retained by Fire Department or made available by Fire Department at a location in Los Angeles County and shall be made available within twenty (20) working days of County's request during County's normal business hours to representatives of County for purposes of inspection or audit. In the event that such books, records, documents, or other evidence are located outside Los Angeles County, then, at Fire Department's

option, such inspection or audit shall take place at an agreed place at such location, and Fire Department shall pay County for travel, per diem, and other costs related to such inspection or audit.

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

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

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

44. SERVICE DELIVERY SITE - MAINTENANCE STANDARDS:

Fire Department shall assure that the locations where services are provided under provisions of this Agreement are operated at all times in accordance with County community standards with regard to property maintenance and repair, graffiti abatement, refuse removal, fire safety, landscaping, and in full compliance with all applicable local laws, ordinances, and regulations relating to the property. County's periodic monitoring visits to Fire Department's facilities shall include a review of compliance with the provisions of this Paragraph.

45. RECYCLED BOND PAPER: Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at County landfills, Fire Department agrees to use recycled-content paper to the maximum extent possible in connection with services to be performed by Fire Department under this Agreement.

46. RESTRICTIONS ON LOBBYING: If any federal monies are to be used to pay for Fire Department's services under this Agreement, Fire Department shall comply with all certification and disclosure requirements prescribed by Section 319, Public

Law 101-121 (31 United States Code Section 1352) and any implementing regulations, and shall ensure that each of its subcontractors receiving funds provided under this Agreement also fully complies with all such certification and disclosure requirements.

47. COUNTY LOBBYISTS: Fire Department and each County lobbyist or County lobbying firm as defined in Los Angeles County Code Section 2.160.010. retained by Fire Department, shall fully comply with the County Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of Fire Department or any County lobbyist or County lobbying firm retained by Fire Department to fully comply with the County Lobbyist Ordinance shall constitute a material breach of this Agreement upon which County may immediately terminate or suspend this Agreement.

48. NO PAYMENT FOR SERVICES PROVIDED FOLLOWING EXPIRATION/TERMINATION OF AGREEMENT: Fire Department shall have no claim against County for payment of any money or reimbursement, of any kind whatsoever, for any service provided by Fire Department after the expiration or other termination of this Agreement. Should Fire Department receive any such payment it shall immediately notify County and shall immediately repay all such funds to County. Payment by County for services rendered after

expiration/ termination of this Agreement shall not constitute a waiver of County's right to recover such payment from Fire Department.

This provision shall survive the expiration or other termination of this Agreement.

49. GOVERNING LAWS, JURISDICTION, AND VENUE: This Agreement shall be construed in accordance with and governed by the laws of the State of California. Fire Department agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Agreement and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles, California.

50. COMPLIANCE WITH APPLICABLE LAW: Fire Department shall comply with all applicable Federal, State and local laws, rules, regulations, ordinances, and directives, and all provisions required thereby to be included in this Agreement are hereby incorporated by reference. Fire Department shall indemnify and hold harmless the County from and against any and all liability, damages, costs, and expenses, including, but not limited to, defense costs and attorneys' fees, arising from or related to any violation on the part of Fire Department or its employees, agents, or subcontractors of any such laws, rules, regulations,

ordinances, or directives.

51. COMPLIANCE WITH CIVIL RIGHTS LAWS: Fire Department assures that it will comply with all applicable provisions of the Civil Rights Act of 1964, 42 USC Sections 2000(e)(1) through 2000(e)(17), to the end that no person shall, on the grounds of race, creed, color, sex, religion, ancestry, age, condition of physical handicap, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement. Fire Department shall comply with Exhibit E, Contractor's EEO Certification, attached hereto and incorporated herein by reference.

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

53. WAIVER: No waiver of any breach of any provision of this Agreement by County shall constitute a waiver of any other breach of such provision. Failure of County to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The remedies herein reserved shall be cumulative and in addition to any other remedies in law or equity.

54. NOTICES: Any and all notices required, permitted, or

desired to be given hereunder by one party to the other shall be in writing and shall be delivered to the other party personally or by United States mail, certified or registered, postage prepaid, return receipt requested, to the parties at the following addresses and to the attention of the person named. County's Director of Health Services shall have the authority to issue all notices which are required or permitted by County hereunder. Addresses and persons to be notified may be changed by the parties by giving ten (10) days prior written notice thereof to the parties.

To County: (1) Department of Health Services
 Contracts and Grants Division
 313 North Figueroa Street
 Sixth Floor-East
 Los Angeles, California 90012

Attention: Division Chief

(2) Department of Health Services
 Emergency Medical Services Agency
 5555 Ferguson Drive, Suite 220
 Commerce, California 90022

Attention: Director

(3) Department of Health Services
 Fiscal Management
 313 North Figueroa Street, Room 531
 Los Angeles, California 90012

Attention: Fiscal Manager

To Fire Department: City of Los Angeles Fire Department
 200 North Main Street
 Los Angeles, CA 90012

Attention: Fire Chief

IN WITNESS WHEREOF, the Board of Supervisors of the County of

/ / / / / / / / / / / / / / / /

Director of Health Services or his designee, and Fire Department has caused this Agreement to be subscribed in its behalf by its duly authorized officer, the day, month, and year first above written.

CITY OF LOS ANGELES

COUNTY OF LOS ANGELES

By _____

Douglas L. Barry
Interim Fire Chief

By _____

Bruce A. Chernof, M.D.
Director and Chief Medical Officer

APPROVED BY

Rockard J. Delgadillo
City Attorney

Assistant City Attorney

ATTEST:

Frank T. Martinez, City Clerk

(AFFIX CORPORATE SEAL)

Deputy City Clerk

APPROVED AS TO FORM
BY THE OFFICE OF THE COUNTY COUNSEL

APPROVED AS TO CONTRACT
ADMINISTRATION:

Department of Health Services

By _____

Cara O'Neill, Chief
Contracts and Grants

ATTACHMENT B

PROFESSIONAL SERVICES AGREEMENT

Contractor: FirstWatch

PROFESSIONAL SERVICES AGREEMENT

Contractor: FirstWatch

Title: Syndromic Surveillance Software

Said Agreement is Number _____ of City Contracts

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AGREEMENT NUMBER _____ OF CITY CONTRACTS
BETWEEN
THE CITY OF LOS ANGELES
AND

THIS AGREEMENT is made and entered into by and between the City of Los Angeles, a municipal corporation ("City"), acting through the Los Angeles City Fire Department ("LAFD") and FirstWatch, a California Corporation ("Contractor").

W I T N E S S E T H

WHEREAS, pursuant to the provisions of the Public Health and Social Security Emergency Funds Act (Section 319 of the Public Health Services Act, 42 U.S.C. 247d), the United States Department of Health and Human Services ("Grantor") awarded a grant (Grant") to Los Angeles County ("County") for the distribution of funds to healthcare entities and emergency medical service providers, in accordance with the Health Resources and Services Administration National Bioterrorism Hospital Preparedness Program; and

WHEREAS, LAFD provides emergency medical services within the County; and

WHEREAS, pursuant to a separate agreement between the City and the County, the County distributed, or will distribute, Grant funds to City to license software ("Software") from a vendor that will allow real-time information to be shared by key personnel from LAFD and the County's Acute Communicable Disease Control Program, Bioterrorism Epidemiology and Surveillance Section; and

WHEREAS, the City and the Contractor seek to execute a Software License Agreement, wherein the Contractor will license to the City said Software; and

WHEREAS, the City and the Contractor are desirous of executing this Agreement as authorized by the City Council and the Mayor (refer to Council File Number _____ dated _____).

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

WHEREAS, pursuant to Los Angeles City Charter Section 1022, the City Council or designee has determined that the work can be performed more economically or feasibly by independent contractors than by City employees; and

NOW, THEREFORE, the City and the Contractor agree as follows:

I.
INTRODUCTION

§101. Parties to the Agreement

The parties to this Agreement are:

- A. The City of Los Angeles, a municipal corporation, having its principal office at 200 North Main Street, Los Angeles, California 90012.
- B. The Contractor, known as FirstWatch, a California Corporation, having its principal office at 937 S. Coast Highway, 101 Suite G-201, Encinitas, California 92024.

§102. Representatives of the Parties and Service of Notices

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

- 1. The representative of the City shall be, unless otherwise stated in the Agreement:

- 2. The representative of the Contractor shall be:

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

§103. Independent Contractor

The Contractor is acting hereunder as an independent contractor and not as an agent or employee of the City. No employee of the Contractor has been, is, or shall be

an employee of the City by virtue of this Agreement, and the Contractor shall so inform each employee organization and each employee who is hired or retained under this Agreement. 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.

§104. Conditions Precedent to Execution of This Agreement

Contractor shall provide copies of the following documents to the City:

- A. Proof of insurance as required by the City in accordance with Section 413 of this Agreement and attached hereto as Exhibit A and made a part hereof.
- B. Certification Regarding Ineligibility, Suspension and Debarment as required by Executive Order 12549 in accordance with Section §415.A.12 of this Agreement and attached hereto as Exhibit B and made a part hereof.
- C. Certification and Disclosure Regarding Lobbying in accordance with Section §415.A.4 of this Agreement and attached hereto as Exhibit C and made a part hereof. Contractor shall also file a Disclosure Form at the end of each calendar quarter in which there occurs any event requiring disclosure or which materially effects the accuracy of the information contained in any Disclosure Form previously filed by Contractor
- D. A Certification of Compliance With Equal Benefits Ordinance/Reasonable Measures Application for Equal Benefits Ordinance in accordance with Section 420 of this Agreement and the Slavery Disclosure Ordinance in accordance with Section 422.

II.

TERM AND SERVICES TO BE PROVIDED

§201. Time of Performance

The term of this Agreement shall commence on **insert specific date** and end **insert specific date** and any additional period of time as is required to complete any necessary close-out activities. Said term is subject to the provisions herein. Performance shall not commence until the Contractor has obtained the City's approval of the insurance required in §413 herein.

§202. Services to be Provided by the Contractor

The Contractor shall provide contractual services which are supported by the Scope of Work, attached to this Agreement by Exhibit D. All work is subject to prior City approval. Failure to receive approval may result in withholding compensation pursuant to §301.

Should there be any conflicts between this Agreement and Exhibit D, the terms of this Agreement shall take precedence.

III. PAYMENT

§301. Compensation and Method of Payment

- A. The City shall pay to the Contractor as compensation for complete and satisfactory performance of the terms of this Agreement, an amount not to exceed two hundred seventy-eight thousand five hundred dollars (\$278,500). The foregoing rate represents the total compensation to be paid by the City to Contractor for services to be performed as designated by this Agreement.
- B. Each monthly invoice shall be submitted on the Contractor's letterhead; include the name, hours, rate of pay for all personnel to be paid; include evidence of the completed project; include supporting documentation for all approved purchases of equipment or supplies and shall be accompanied by a statement detailing the work completed for the month. All expenses for travel must receive prior approval from the City and must be documented and will be paid only in conformance with City policies and procedures. Funds shall not be released until the City has approved the work received and satisfied with the documentation included in the invoice.
- C. Ten percent (10%) of the total compensation shall be withheld by the City until the Contractor has completed the requirements of this Agreement.
- D. It is understood that the City makes no commitment to fund this Agreement beyond the terms set herein. However, should the City desire to amend this Agreement to provide for the maintenance of the Software, the Contractor shall provide maintenance of the Software to the City at rates delineated in Exhibit D.
- E. Invoices and supporting documentation shall be prepared at the sole expense and responsibility of the Contractor. The City will not compensate the contractor for any costs incurred for invoice preparation. The City may request, in writing, changes to the content and format of the invoice and supporting documentation at any time. The City reserves the right to request additional supporting

documentation to substantiate costs at any time. All invoices must be signed by an officer of the Contractor under penalty of perjury that the information submitted is true and correct.

- F. Funding for all periods of this contract is subject to the continuing availability of Grant funds for this program to the City. The Contract may be terminated immediately upon written notice to the Contractor of a loss or reduction of Grant funds.
- G. Contractor shall warrant that any applicable discounts have been included in the costs to the City.

IV. STANDARD PROVISIONS

§401. Construction of Provisions and Titles Herein

All titles or subtitles appearing herein 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 Agreement shall be construed according to its fair meaning and not strictly for or against the City or the Contractor. The word "Contractor" herein and in any amendments hereto includes the party or parties identified in this Agreement. The singular shall include the plural. If there is more than one Contractor as identified 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.

§402. 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. This Agreement shall be enforced and interpreted under the laws of the State of California and the City.

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

§403. Integrated Agreement

This Agreement sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous agreements or

understandings, whether written or oral, relating thereto. This Agreement may be amended only as provided for herein.

§404. Excusable Delays

In the event that performance on the part of any party hereto shall be 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 shall include, but not be 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; 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.

§405. Breach

Except for excusable delays, 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.

§406. Prohibition Against Assignment or Delegation

The Contractor may not, unless it has first obtained the written permission of the City:

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

§407. Permits

The Contractor and its officers, agents and employees shall obtain and maintain all permits and licenses necessary for the Contractor's performance hereunder and shall pay any fees required therefore. The Contractor further certifies to immediately notify the City of any suspension, termination, lapses, non-renewals or restrictions of licenses, certificates, or other documents.

§408. Nondiscrimination and Affirmative Action

The Contractor shall comply with the applicable nondiscrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the City. In performing this Agreement, the 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, physical handicap, mental disability, marital status, domestic partner status or medical condition. The Contractor shall comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

The Contractor shall comply with the provisions of the Los Angeles Administrative Code Sections 10.8 through 10.13, to the extent applicable hereto. The Contractor shall also comply with all rules, regulations, and policies of the City's Board of Public Works, Office of Contract Compliance relating to nondiscrimination and affirmative action, including the filing of all forms required by City.

Any subcontract entered into by the Contractor relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

§409. Claims for Labor and Materials

The Contractor shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this Agreement 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 matter produced by the Contractor hereunder), against the 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.

§410. Los Angeles City Business Tax Registration Certificate

The Contractor represents that it has obtained and presently holds the Business Tax Registration Certificate(s) or exemption required by the City's Business Tax Ordinance (Article 1, Chapter 2, Sections 21.00 et seq., of the Los Angeles Municipal Code). For the term covered by this Agreement, the Contractor shall maintain, or obtain as necessary, all such Certificates required of it under said Ordinance and shall not allow any such Certificate to be revoked or suspended. The cost of the Certificate and the tax incurred pursuant to Contractor's performance of this contract will be reimbursed to Contractor.

§411. Bonds

Duplicate copies of 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 Attorney for its review in accordance with Los Angeles Administrative Code Sections 11.47 through 11.56.

§412. Indemnification

Except for the active negligence or willful misconduct of CITY, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, CONTRACTOR/CONSULTANT undertakes and agrees to defend, indemnify and hold harmless 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 and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including CONTRACTOR'S/CONSULTANT'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 the CONTRACTOR/CONSULTANT or its SUBCONTRACTORS of any tier. The provisions of this paragraph survive expiration or termination of this Contract.

§413. Insurance

A. General Conditions

During the term of this Contract and without limiting CONTRACTOR'S/CONSULTANT'S indemnification of the CITY, CONTRACTOR/CONSULTANT shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by CONTRACTOR/CONSULTANT but not less than the amounts and types listed on the Insurance Requirements Sheet (Form Gen 146/IR in Exhibit A hereto, covering its operations hereunder. Such insurance shall conform to CITY requirements established by Charter, ordinance or policy, shall comply with the instructions set forth on Form General 133 and with the conditions set forth on the applicable City Special Endorsement form(s), copies of which are included in Exhibit A, and shall otherwise be in a form acceptable to the City Attorney. Specifically, such insurance shall: 1) protect CITY as an Insured or an Additional Interest Party, or a Loss Payee As Its Interests May Appear, respectively, when such status is appropriate and available depending on the nature of the applicable coverages; 2) provide CITY at least thirty (30) days advance written notice of cancellation, material reduction in coverage or reduction in limits when such change is made at the option of the insurer; and 3) be primary with respect to CITY'S insurance program. Except when CITY is a named insured, CONTRACTOR'S/CONSULTANT'S insurance is not expected to respond to claims which may arise from the acts or omissions of the CITY.

B. Modification of Coverage

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/CONSULTANT ninety (90) days advance written notice of such change. If such change should result in substantial additional cost to the CONTRACTOR/CONSULTANT, CITY agrees to negotiate additional compensation proportional to the increased benefit to CITY.

C. Failure to Procure Insurance

All required insurance must be submitted and approved by the City Attorney prior to the inception of any operations or tenancy by CONTRACTOR/CONSULTANT. The required coverages and limits are subject to availability on the open market at reasonable cost as determined by CITY. Non-availability or non-affordability must be documented by a letter from CONTRACTOR'S/CONSULTANT'S insurance broker or agent indicating a good faith effort to place the required insurance and showing as a minimum the names of the insurance carriers and the declinations or quotations received from each.

Within the foregoing constraints, CONTRACTOR'S/ CONSULTANT'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 CITY may immediately suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect CITY'S interests and pay any and all premiums in connection therewith and recover all monies so paid from CONTRACTOR/CONSULTANT.

D. Workers' Compensation

By signing this Contract, CONTRACTOR/CONSULTANT hereby certifies that it is aware of the provisions of Section 3700 et seq., of the 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 such times as they may apply during the performance of the work pursuant to this Contract.

A Waiver of Subrogation in favor of CITY will be required when work is performed on CITY premises under hazardous conditions.

§414. Conflict of Interest

- A. The Contractor covenants that none of its directors, officers, employees, or agents shall participate in selecting, or administering any subcontract supported

(in whole or in part) by Federal funds where such person is a director, officer, employee or agent of the subcontractor; or where the selection of subcontractors is or has the appearance of being motivated by a desire for personal gain for themselves or others such as family business, etc.; or where such person knows or should have known that:

1. A member of such person's immediate family, or domestic partner or organization has a financial interest in the subcontract;
2. The subcontractor is someone with whom such person has or is negotiating any prospective employment; or
3. The participation of such person would be prohibited by the California Political Reform Act, California Government Code §87100 et seq. if such person were a public officer, because such person would have a "financial or other interest" in the subcontract.

B. Definitions:

1. The term "immediate family" includes but is not limited to domestic partner and/or those persons related by blood or marriage, such as husband, wife, father, mother, brother, sister, son, daughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law.
2. The term "financial or other interest" includes but is not limited to:
 - a. Any direct or indirect financial interest in the specific contract, including a commission or fee, a share of the proceeds, prospect of a promotion or of future employment, a profit, or any other form of financial reward.
 - b. Any of the following interests in the subcontractor ownership: partnership interest or other beneficial interest of five percent or more; ownership of five percent or more of the stock; employment in a managerial capacity; or membership on the board of directors or governing body.

C. No members of the Board of Directors may be employed by the Contractor if this Contractor is a corporation.

D. The Contractor further covenants that no officer, director, employee, or agent shall solicit or accept gratuities, favors, anything of monetary value from any actual or potential subcontractor, supplier, a party to a subagreement, (or

persons who are otherwise in a position to benefit from the actions of any officer, employee, or agent).

- E. The Contractor shall not subcontract with a former director, officer, or employee within a one-year period following the termination of the relationship between said person and the Contractor.
- F. Prior to obtaining the City's approval of any subcontract, the Contractor shall disclose to the City any relationship, financial or otherwise, direct or indirect, of the Contractor or any of its officers, directors or employees or their immediate family with the proposed subcontractor and its officers, directors or employees.
- G. For further clarification of the meaning of any of the terms used herein, the parties agree that references shall be made to the guidelines, rules, and laws of the City of Los Angeles, State of California, and Federal regulations regarding conflict of interest.
- H. The Contractor warrants that it has not paid or given and will not pay or give to any third person any money or other consideration for obtaining this Agreement.
- I. The Contractor covenants that no member, officer or employee of Contractor shall have interest, direct or indirect, in any contract or subcontract or the proceeds thereof for work to be performed in connection with this project during his/her tenure as such employee, member or officer or for one year thereafter.
- J. The Contractor shall incorporate the foregoing subsections of this Section into every agreement that it enters into in connection with this project and shall substitute the term "subcontractor" for the term "Contractor" and "sub-subcontractor" for "Subcontractor".

§415. Compliance with State and Federal Statutes and Regulations

Contractor understands that failure to comply with any of the following assurances may result in suspension, termination or reduction of grant funds, and repayment by Contractor to City of any unlawful expenditure.

A. Statutes and Regulations Applicable To All Grant Contracts

Contractor shall comply with all applicable requirements of state, federal, County and City of Los Angeles laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this Agreement. Contractor shall comply with state and federal laws and regulations pertaining to labor, wages, hours, and other conditions of employment. Contractor shall comply with new, amended, or revised laws, regulations, and/or

procedures that apply to the performance of this Agreement. These requirements include, but are not limited to:

1. Office of Management and Budget (OMB) Circulars

Contractor shall comply with OMB Circulars, as applicable: OMB Circular A-21 (Cost Principles for Educational Institutions); OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments); OMB Circular A-102 (Grants and Cooperative Agreements with State and Local Governments); Common Rule, Subpart C for public agencies or OMB Circular A-110 (Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations); OMB Circular A-122 (Cost Principles for Non-Profit Organizations); OMB Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations).

2. Single Audit Act

If Federal funds are used in the performance of this Agreement, Contractor shall adhere to the rules and regulations of the Single Audit Act, 31 USC Sec. 7501 et seq.; City Council action dated February 4, 1987 (C.F. No. 84-2259-S1); and any administrative regulation or field memos implementing the Act.

3. Americans with Disabilities Act

Contractor hereby certifies that it will comply with the Americans with Disabilities Act 42, USC §§ 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 the Contractor, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

4. Political and Sectarian Activity Prohibited

Contractor shall comply with the Anti-Lobbying Act (18 U.S.C. § 1913). None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public

office. Neither shall any funds provided under this agreement be used for any purpose designed to support or defeat any pending legislation or administrative regulation. None of the funds provided pursuant to this Agreement shall be used for any sectarian purpose or to support or benefit any sectarian activity.

If this Agreement provides for more than \$100,000.00 in grant funds or more than \$150,000 in loan funds, Contractor shall submit to the City a Certification Regarding Lobbying and a Disclosure Form, if required, in accordance with 31 USC 1352. A copy of the Certificate is attached hereto as Exhibit C. No funds will be released to Contractor until the Certification is filed.

Contractor shall file a Disclosure Form at the end of each calendar quarter in which there occurs any event requiring disclosure or which materially affects the accuracy of any of the information contained in any Disclosure Form previously filed by Contractor. Contractor shall require that the language of this Certification be included in the award documents for all sub-awards at all tiers and that all subcontractors shall certify and disclose accordingly.

5. Records Inspection

At any time during normal business hours and as often as the City, the U.S. Comptroller General and the Auditor General of the State of California may deem necessary, Contractor shall make available for examination all of its records with respect to all matters covered by this Agreement. The City, the U.S. Comptroller General and the Auditor General of the State of California shall have the authority to audit, examine and make excerpts or transcripts from records, including all Contractor's invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

Contractor agrees to provide any reports requested by the City regarding performance of the Agreement.

6. Records Maintenance

Records, in their original form, shall be maintained in accordance with requirements prescribed by the City with respect to all matters covered on file for all documents specified in this Agreement. Original forms are to be maintained on file for all documents specified in this agreement. Such records shall be retained for a period of five (5) years after termination of

this Agreement and after final disposition of all pending matters. "Pending matters" include, but are not limited to, an audit, litigation or other actions involving records. The City may, at its discretion, take possession of, retain and audit said records. Records, in their original form pertaining to matters covered by this Agreement, shall at all times be retained within the County of Los Angeles unless authorization to remove them is granted in writing by the City.

7. Subcontracts and Procurement

Contractor shall comply with the federal and City standards in the award of any subcontracts. For purposes of this Agreement, subcontracts shall include but not be limited to purchase agreements, rental or lease agreements, third party agreements, consultant service contracts and construction subcontracts.

Contractor shall ensure that the terms of this Agreement with the City are incorporated into all Subcontractor Agreements. The Contractor shall submit all Subcontractor Agreements to the City for review prior to the release of any funds to the subcontractor. The Contractor shall withhold funds to any subcontractor agency that fails to comply with the terms and conditions of this Agreement and their respective Subcontractor Agreement.

8. Labor

Contractor shall comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed requirements for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System Personnel Administration (5 C.F.R. 900, Subpart F).

Contractor shall comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

Contractor shall comply with the Federal Fair Labor Standards Act (29 USC § 201) regarding wages and hours of employment.

None of the funds be used to promote or deter Union/labor organizing activities. CA Gov't Code Sec. 16645 et seq.

Hatch Act (5 USC §§1501-1508 and 7324-7328).

9. Civil Rights

Contractor shall comply with all Federal statutes relating to to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681- 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) The Age Discrimination act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation act of 1970 (P.L. 91-616) as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; (j) the requirements of any other nondiscrimination statute(s) which may apply to the application; and (k) P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

10. Environmental

Contractor shall comply, or has already complied, with the requirements of Titles II and III of the Uniform relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

Contractor shall comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating

facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205); and (i) Flood Disaster Protection Act of 1973 §102(a) (P.L. 93-234).

Contractor shall comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

Contractor shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

Contractor shall comply with the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) which restores and maintains the chemical, physical and biological integrity of the Nation's waters.

Contractor shall ensure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of this project are not listed in the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal Grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

By signing this Agreement, Contractor ensures that it is in compliance with the California Environmental Quality Act (CEQA), Public Resources Code §21000 et seq. and is not impacting the environment negatively.

Contractor shall comply with the Energy Policy and Conservation Act (P.L. 94-163, 89 Stat. 871).

11. Preservation

Contractor shall comply with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593

(identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

12. Suspension and Debarment

Contractor shall comply with Federal Register, Volume 68, Number 228, regarding Suspension and Debarment, and Contractor shall submit a Certification Regarding Debarment required by Executive Order 12549 and any amendment thereto. Said Certification shall be submitted to the City concurrent with the execution of this Agreement and shall certify that neither Contractor nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department head or agency. Contractor shall require that the language of this Certification be included in the award documents for all sub-award at all tiers and that all subcontractors shall certify accordingly.

13. Drug-Free Workplace

Contractor shall comply with the federal Drug-Free Workplace Act of 1988, 41 USC §701, 28 CFR Part 67; the California Drug-Free Workplace Act of 1990, CA Gov't Code §§ 8350-8357.

14. Miscellaneous

Laboratory Animal Welfare Act of 1966, as amended (P.L. 89-544, 7 USC §§2131 et. seq.

B. Statutes and Regulations Applicable To This Particular Grant

Contractor shall comply with all applicable requirements of state and federal laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this particular grant program. Contractor shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement. These requirements include, but are not limited to those listed in Exhibit E.

Contractor understands that failure to comply with any of these assurances may result in suspension, termination or reduction of funds, and repayment by Contractor to City of any unlawful expenditure.

§416. Federal, State and Local Taxes

Federal, State and local taxes shall be the responsibility of the Contractor as an independent Contractor and not as a City employee.

§417. Inventions, Patents and Copyrights

A. Inventions and Patents

1. Reporting Procedure for Inventions

If any project under this Agreement produces any invention or discovery (Invention) including, without limitation, processes and business methods, the Contractor shall promptly report the Invention to the City. The City shall then report the Invention to the Grantor.

2. Allocation of Patent Rights

Unless otherwise provided, the Grantor shall determine how the rights in the Invention, including rights under any patent issued thereon, will be allocated and administered. The determination shall be consistent with the Federal Acquisition Regulations System (System), which is based on 35 U.S.C. §§ 200 et seq.; 37 CFR Part 401; Presidential Memorandum on Government Patent Policy to the Heads of the Executive Departments and Agencies, dated 2/18/1983; and Executive Order 12591, 4/10/87, as amended by Executive Order 12618, 12/22/87, 52 FR 48661. Contractor hereby agrees to be bound by the System, and will contractually require its personnel to be bound by the System.

3. Right of City to Use Inventions

City shall have a non-exclusive, irrevocable, royalty-free license, to use, manufacture, improve upon, and allow others to do so for all government purposes, any Invention developed under this Agreement.

B. Copyright Policies

1. Copyright Ownership

Unless otherwise provided by the terms of the Grant or of this Agreement, when copyrightable material is developed under this Agreement (Material), the author or the City, at the City's discretion, may copyright the Material. Before copywriting any Material, the Contractor shall obtain written permission from the City.

2. Rights of City in Copyrighted Materials

If the City declines to copyright the Material, the City shall have a non-exclusive, irrevocable, royalty-free license, to use, manufacture, improve upon, and allow others to do so for all government purposes, any Material developed under this Agreement.

3. Rights of Grantor in Copyrighted Materials

Pursuant to 28 CFR 66.34, 28 C.F.R. § 70.36 and 37 C.F.R. Part 401, the Grantor shall have a non-exclusive, irrevocable, royalty-free license, to use, manufacture, improve upon, and allow others to do so for all government purposes, any Material developed under this Agreement or any Copyright purchased under this Agreement.

C. Rights to Data

The Grantor and the City shall have unlimited rights or copyright license to any data first produced or delivered under this Agreement, pursuant to 48 CFR 27.401 and 48 USC 27.404(a),

If any project produced under this Agreement contains data not first produced under this Agreement, or data published with the notice of 17 U.S.C. Section 401 or 402, the Grantor shall have limited rights to such data pursuant to 48 CFR 27.404 (f) (2).

D. Obligations Binding on Subcontractors

Contractor shall require all subcontractors to comply with the obligations of this section by incorporating the terms herein into all subcontracts.

§418. Living Wage Ordinance Service Contractor Worker Retention and Living Wage Policy

A. Unless otherwise exempt in accordance with the provisions of this Ordinance, 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. The Ordinances require the following:

1. CONTRACTOR/CONSULTANT 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 benefits as defined in the LWO.

2. CONTRACTOR/CONSULTANT 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/CONSULTANT 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/CONSULTANT shall deliver the executed pledges from each such Subcontractor to the City within ninety (90) days of the execution of the Subcontract.
CONTRACTOR'S/CONSULTANT'S delivery of executed pledges from each such Subcontractor shall fully discharge the obligation of the CONTRACTOR/CONSULTANT to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
 3. The CONTRACTOR/CONSULTANT, 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 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/CONSULTANT shall post the Notice of Prohibition Against Retaliation provided by the City.
 4. Any Subcontract entered into by the CONTRACTOR/CONSULTANT relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of LWO and the SCWRO, and shall incorporate the "Living Wage Ordinance and Service Contractor Worker Retention Ordinance" language.
 5. CONTRACTOR/CONSULTANT shall comply with all rules, regulations and policies promulgated by the designated administrative agency, which may be amended from time to time.
- B. Under the provisions of Section 10.36.3(c) and Section 10.37.5(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/CONSULTANT has violated provisions of the LWO and the SCWRO.
- C. Where under the LWO Section 10.37.6(d), the designated administrative agency has determined (a) that the CONTRACTOR/CONSULTANT 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 awarding authority in such circumstances may

impound monies otherwise due the CONTRACTOR/CONSULTANT in accordance with the following procedures. Impoundment shall mean that from monies due the CONTRACTOR/CONSULTANT, the awarding authority may deduct the amount determined to be due and owing by the CONTRACTOR/CONSULTANT 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 there described through final and binding arbitration. Whether the CONTRACTOR/CONSULTANT is to continue work following an impoundment shall remain in the unfettered discretion of the awarding authority. The CONTRACTOR/CONSULTANT 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.

§419 Earned Income Tax Credit

This contract is subject to the provisions of Section 10.37.4 of the Los Angeles Administrative Code, requiring employers to inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Tax Credit (EITC). Employers must further make available to employees the forms required to secure advance EITC payments from employers.

§420. Equal Benefits Ordinance

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

- A. During the performance of the Contract, the Contractor/Consultant certifies and represents that the Contractor/Consultant will comply with the EBO. The Contractor/Consultant agrees to 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/Consultant will provide equal benefits to 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, Bureau of Contract Administrator, Office of Contract Compliance Section at (213) 847-6480.”

- B. The failure of the Contractor/Consultant to comply with the EBO will be deemed to be a material breach of the Contract by the Awarding Authority.

- C. If the Contractor/Consultant fails to comply with the EBO the Awarding Authority may cancel, terminate or suspend the Contract, in whole or in part, and all monies due or to become due under 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 the Contractor/Consultant in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.
- E. If the Office of Contract Compliance determines that a Contractor/Consultant has set up or used its Contracting entity for the purpose of evading the intent of the EBO, the Awarding Authority may terminate the Contract on behalf of the City. Violation of this provision may be used as evidence against the Contractor/Consultant in actions taken pursuant to the provisions of the Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.

§421. Contractor Responsibility Ordinance

Unless otherwise exempt in accordance with the provisions of the Ordinance, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 et seq., of Article 14, Chapter 1 of Division 10 of the Los Angeles Administrative Code, which requires Contractor/Consultant 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/Consultant's fitness and ability to continue performing the contract. In accordance with the provisions of this Ordinance, by signing this Contract, Contractor/Consultant 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, wage and hours, and licensing laws which affect employees. The Contractor/Consultant further agrees to: (1) notify the awarding authority within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the Contractor/Consultant is not in compliance with all applicable federal, state and local laws in performance of this contract; (2) notify the awarding authority within thirty calendar days of all findings by a government agency or court of competent jurisdiction that the Contractor/Consultant has violated the provisions of Section 10.40.3 (a) of the Ordinance; (3) ensure that its subcontractor(s), as defined in the Ordinance, submit a Pledge of Compliance to awarding authorities; and (4) ensure that its subcontractor(s), as defined in the Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify Awarding Authorities 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 Ordinance in performance of the subcontract.

§422. Slavery Disclosure Ordinance

This contract may be subject to the Slavery Disclosure Ordinance in the future. If so, Contractor will be notified of the applicability by the City.

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

§423. Restriction on Disclosures

Any reports, analysis, studies, drawings, information, or data generated as a result of this Agreement are to be considered as confidential. Such information shall not be made available to any individual, agency, or organization except as provided for in this Agreement or as provided by law.

§424 Child Support Assignment Orders

This Contract is subject to Section 10.10 of the Los Angeles Administrative Code, Child Support Assignment Orders Ordinance. Pursuant to this Ordinance, Contractor/Consultant certifies that it will (1) fully comply with all State and Federal employment reporting requirements applicable to Child Support Assignment Orders; (2) that the principal owner(s) of Contractor/Consultant are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (3) fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code Section 5230 et seq.; and (4) maintain such compliance throughout the term of this Contract. Pursuant to Section 10.10.b of the Los Angeles Administrative Code, failure of Contractor/Consultant to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders and Notices of Assignment or the failure of any principal owner(s) of Contractor/Consultant to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default by the Contractor/Consultant under the terms of this Contract, subjecting this Contract to termination where such failure shall continue for more than ninety (90) days after notice of such failure to Contractor/Consultant by City. Any subcontract entered into by the Contractor/Consultant relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph and shall incorporate the provisions of the Child Support Assignment Orders Ordinance. Failure of the Contractor/Consultant to obtain compliance of its subcontractors shall constitute a default by the Contractor/Consultant under the terms of this contract, subjecting this Contract to

termination where such failure shall continue for more than ninety (90) days after notice of such failure to Contractor/Consultant by the City.

Contractor/Consultant shall comply with the Child Support Compliance Act of 1998 of the State of California Employment Development Department. Contractor/Consultant assures 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 subdivision (1) of the Public Contract Code 7110.

V.

DEFAULTS, SUSPENSION, TERMINATION, AND AMENDMENTS

§501. Defaults

Should the Contractor fail for any reason to comply with the contractual obligations of this Agreement within the time specified by this Agreement, the City reserves the right to:

- A. Reduce the total budget;
- B. Make any changes in the general scope of this Agreement;
- C. Suspend project operations in accordance with §502 of this Agreement; or
- D. Terminate the Agreement.

§502. Suspension

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

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

compliance with §413 (Insurance) herein. Performance shall not resume without the prior written approval of City.

§503. Termination

- A. Either party to this Agreement may terminate this Agreement or any part hereof upon giving the other party at least thirty (30) days written notice prior to the effective date of such termination, which date shall be specified in such notice.
- B. All property, documents, data, studies, reports and records purchased or prepared by the Contractor under this Agreement shall be disposed of according to City directives.
- C. In the event that the Contractor ceases to operate (i.e. dissolution of corporate status, declaration of bankruptcy, etc.) Contractor shall provide to the City copies of all records relating to this Agreement.
- D. Upon satisfactory completion of all termination activities, the City shall determine the total amount of compensation that shall be paid to the Contractor for any unreimbursed expenses reasonably and necessarily incurred in the satisfactory performance of this Agreement.
- E. The City may withhold any payments due to the Contractor until such time as the exact amount of any damages that may be due to the City from the Contractor is determined.
- F. The foregoing Subsection B, C, D, and E shall also apply to activities terminating upon the date specified in §201 or upon completion of the performance of this Agreement.

§504. Notices of Suspension or Termination

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

§505. Amendments

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

The Contractor agrees to comply with all future City Directives, or any rules, amendments or requirements promulgated by the City affecting this Contract.

VI.
ENTIRE AGREEMENT

§601. Complete Agreement

This Agreement contains the full and complete Agreement between the two parties. No verbal agreement nor conversation with any officer or employee of either party shall affect or modify any of the terms and conditions of this Agreement.

§602. Number of Pages and Attachments

This Agreement is executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement includes **insert number** pages (xxx) pages and **insert number** (xxx) Exhibits which constitute the entire understanding and agreement of the parties.

IN WITNESS WHEREOF, the City of Los Angeles and the Contractor have caused this Agreement to be executed by their duly authorized representatives.

APPROVED AS TO FORM AND LEGALITY:
ROCKARD J. DELGADILLO, City Attorney

Executed this _____ day of _____, 2006

By _____
Deputy/Assistant City Attorney
Date _____

For: THE CITY OF LOS ANGELES
ANTONIO R. VILLARAIGOSA, Mayor

ATTEST:

FRANK T. MARTINEZ, City Clerk

By _____
Deputy City Clerk
Date _____

Executed this _____ day of _____, 2006

For:

(Contractor's Corporate
Seal or Notary)

By _____
Print Name _____
Its _____

ATTEST:

By _____
Print Name _____
Title _____

City Business License Number _____
Internal Revenue Service ID Number _____
Council File/CAO File Number _____ Date of Approval _____
Said Agreement is Number _____ of City Contracts