

DEC 07 2010

LOS ANGELES FIRE DEPARTMENT



MILLAGE PEAKS
FIRE CHIEF

October 12, 2010

BOARD OF FIRE COMMISSIONERS
FILE NO. 10-121

TO: Board of Fire Commissioners

FROM: Millage Peaks, Fire Chief *mlp*

SUBJECT: APPROVAL OF THE NEW VOCATIONAL EDUCATION TRAINING
AGREEMENT BETWEEN THE CITY OF LOS ANGELES THROUGH
IT'S FIRE DEPARTMENT AND THE LOS ANGELES COMMUNITY
COLLEGE DISTRICT ON BEHALF OF EAST LOS ANGELES COLLEGE

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 Withdrawn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

Recommendations: That the Board:

1. Approve the attached Agreement to establish a new Vocational Education Training Agreement with the District consisting of an initial term of one-year covering the period July 1, 2010 through June 30, 2011 with four one-year options to extend by written amendment.
2. Ratify any ongoing services the District may have provided prior to the execution of this Agreement, to the extent such services were performed in accordance with this Agreement.
3. Direct the Commission Executive I to forward this Agreement to the Mayor for review and approval, in accordance with Executive Directive Number 3.
4. Subject to the approval of the Mayor, authorize the Fire Chief to execute the attached Agreement with the District.

Summary:

From July 1, 2005 through June 30, 2010, the City of Los Angeles (City) through the Fire Department (Department)) and the Los Angeles Community College District (District) on behalf of East Los Angeles College (College) were parties to Agreement C-108389. This old Vocational Education Training Agreement consisted of an initial term of one-year with four one-year options to extend by written amendment.

Pursuant to this Agreement, the College awarded college credit to Department training courses completed by members. The College also shared with the City Vocational Education Training (VET) funds received by the College from the State based on student instructional hours. The State authorized VET program provides reimbursement for Department training related expenditures.

For the student instructional hours used between July 1, 2005 and June 30, 2010, the Department received approximately \$9,000,000 in VET funds. The approval of a new Vocational Education Training Agreement, with the same design of an initial term of one-year with four one-year options to extend, has the potential to generate \$11,000,000 in VET funds if all options are exercised. The new Agreement has the potential to generate more funds than the old Agreement based on the Department's VET fund share of \$3.50 per student instructional hour applying over the life of the new Agreement. Under the old Agreement, a VET fund share of \$2.75 per student instructional hour applied to part of the Agreement before it was increased through negotiation to \$3.50 per student instructional hour and applied to the balance of the old Agreement. College staff have advised that the \$3.50 per student instructional hour share is likely to remain unchanged for several years as is the annual VET fund payment of approximately \$2,200,000.

The new Agreement has been reviewed and approved by the City Attorney. The Department has complied with all City procedures, laws and policies applicable to the execution of the new Agreement.

The new Agreement will be administered by staff assigned to the Training and Support Bureau.

The proposed new Agreement is with a governmental entity and does not require City Council review and approval per City Charter Section 373.

Fiscal Impact:

As stated earlier in this report, if this new Agreement is approved, an estimated \$2,200,000 in VET funds will be received by the Department for each one-year term of the Agreement completed, for a total of \$11,000,000 for five years of training activities if all options to extend are exercised. These funds will provide reimbursement for training and training equipment costs in lieu of strained Department Budget funds and will be used to meet important training needs.

Conclusion:

In addition to the fiscal impact noted above, approval of the new Agreement will also continue college accreditation for Department in-service and regional training programs and college credit for training received by members.

Board Report prepared by Kimberly Perry, Management Analyst I, Training and Support Bureau.

Attachment - Vocational Education Training Agreement
Attachment A – Standard Provision for City Contracts

VOCATIONAL EDUCATION TRAINING AGREEMENT

BETWEEN

THE CITY OF LOS ANGELES

BY AND THROUGH ITS' FIRE DEPARTMENT

AND

THE LOS ANGELES COMMUNITY COLLEGE DISTRICT

ON BEHALF OF EAST LOS ANGELES COLLEGE

THIS AGREEMENT is entered into by and between the LOS ANGELES COMMUNITY COLLEGE DISTRICT (hereinafter referred to as the "DISTRICT"), on behalf of East Los Angeles College and the CITY OF LOS ANGELES (hereinafter referred to as the "CITY"), by and through its Fire Department (hereinafter referred to as the "DEPARTMENT"), with reference to the following:

WHEREAS, the DEPARTMENT conducts training programs designed for entry level and advance fire personnel; and

WHEREAS, continuing education training courses are approved for college credits through the DISTRICT; and

WHEREAS, the East Los Angeles College is an accredited, educational institution empowered to grant college credits for approved educational-training courses.

NOW, THEREFORE, in consideration of the above premises, and the mutual covenants and agreements herein contained, the parties agree as follows:

ARTICLE I. – PARTIES TO AGREEMENT, REPRESENTATIVES, AND NOTICES

A. The parties to this Agreement are:

1. CITY – The City of Los Angeles, having its principal offices at 200 North Spring Street, Los Angeles, California 90012-4801.
2. DISTRICT – The Los Angeles Community College District, 770 Wilshire Boulevard, Los Angeles, California 90017-3856.

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

1. The CITY's Representative will be as follows, unless otherwise stated in the Agreement:

Millage Peaks, Fire Chief
Los Angeles Fire Department
200 North Main Street, 18th Floor
Los Angeles, California 90012-4123
(213) 978-3800

With copies to:

Andrew P. Fox, Deputy Chief
Commander, Training and Support Bureau
Los Angeles Fire Department
200 North Main Street, Room 1680
Los Angeles, California 90012-4123
(213) 978-3550

2. The DISTRICT's Representative will be as follows, unless otherwise stated in this Agreement:

James B. Watson, Contracts & Purchasing Manager
Los Angeles Community College District
770 Wilshire Boulevard
Los Angeles, California 90017-3856
(213) 891-2421

With copies to:

Ernest Moreno, President
East Los Angeles College
1301 Avenida Cesar Chavez
Monterey Park, California 91754-6099
(323) 265-8650

Dr. Daniel LaVista, Chancellor
LA Community College District
770 Wilshire Boulevard
Los Angeles, Ca. 90017-3856

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

ARTICLE II. – TERM

- A. This Agreement will become effective on July 1, 2010 upon signature by the duly authorized representatives of the CITY and the DISTRICT and will terminate on June 30, 2011.
- B. Due to the need for the District's services to be provided on an ongoing basis, the District may have provided services prior to the execution of this Agreement. To the extent that said services were performed in accordance with the terms and conditions of this Agreement, those services are hereby ratified.
- C. The parties may, at their discretion, extend the overall term of this Agreement by written amendment for four (4) additional one-year periods. The amendments will be subject to the performance of all terms of this Agreement by the parties.

ARTICLE III. – DISTRICT'S OBLIGATIONS

- A. The DISTRICT is responsible for the educational programs conducted under the terms of this Agreement. The courses of instruction to be taught under this Agreement are listed in Addendum A. As the need arises and through a written amendment the CITY and the DISTRICT may agree to provide additional courses pursuant to the terms of this Agreement.
- B. The DISTRICT will offer, at the locations specified by the CITY, and consistent with the terms of ARTICLE IV, "City's Obligations", Section A of this Agreement, mutually agreed upon and approved educational courses to meet the needs of the DEPARTMENT's Human Resources Development Committee, Human Relations Implementation Plan. These locations will be open to the public while the courses being offered by the DISTRICT are in session.
- C. College degree and certificate programs have been approved by the State Chancellor's Office and the courses that make up the program are part of the approved curriculum of the DISTRICT. The courses for college credit must have been approved by the DISTRICT's College Curriculum Committee and have been approved by the DISTRICT's Board of Trustees.
- D. The DISTRICT will assist the CITY in student registration procedures, associated paperwork, and other support services to adequately manage and control its course curriculum. All students must be processed and registered in accordance with DISTRICT procedures as outlined in the DISTRICT catalog to conform with State/DISTRICT guidelines. The CITY will be required to pay student registration fees at the rate established by the State for each enrolled student. Class hours, supervision, evaluation of course content and curriculum, and withdrawal of

students must be consistent with DISTRICT approved policies regarding all courses.

- E. The DISTRICT must employ all instructors consistent with the requirements of the California Code of Regulations on a non-compensated basis. The DISTRICT retains the primary right to select, assign, and direct the instructional activities of any instructor employed by the DISTRICT under the terms of this Agreement.
- F. Instruction to be claimed for State apportionment will be under the immediate supervision and control of an employee of the DISTRICT who has met the minimum qualifications for instruction in the subjects to be taught under the terms of this Agreement in accordance with Title 5 of the California Code of Regulations. These minimum qualifications must be those designated by the DISTRICT. Minimum qualifications are within the purview of the DISTRICT's Academic Senate and may be subject to change. The current minimum qualifications are listed in Addendum B and hereby incorporated into and made a part of this Agreement.
- G. When the instructor is not a paid employee of the DISTRICT, the DISTRICT will have a written agreement with each instructor conducting the instruction for which State apportionment is to be collected. The agreement between the DISTRICT and each instructor must state that the DISTRICT has primary right to control and direct the instructional activities of the instructor.
- H. The DISTRICT will approve the selection of course instructors, professional experts, and facilitators and evaluate the quality of instruction to ensure the needs of the students are met and accreditation requirements of the DISTRICT are satisfied.
- I. The DISTRICT reserves the right to inspect any records maintained by the CITY concerning the implementation of the terms of this Agreement.
- J. If the courses under the terms of this Agreement are held outside DISTRICT boundaries, the DISTRICT will comply with the requirements of Sections 55230-55232 of Title 5 of the California Code of Regulations regarding approval by adjoining high school or community college districts and use of non-DISTRICT facilities.

ARTICLE IV. – CITY OBLIGATIONS

- A. The CITY will provide:

1. Classroom space at the Frank Hotchkin Memorial Training Center and/or other CITY facilities for use as off-campus sites by the DISTRICT for conducting the courses pursuant to this Agreement.
 2. Services and equipment which includes, but is not limited to, instructors, professional experts, support staff, educational and specialized equipment, materials, day-to-day management support, and all other related services and overhead necessary to implement the terms of this Agreement.
 3. A line-of-sight instructor of record who will be a non-compensated employee of the DISTRICT and who will meet all of the DISTRICT's minimum qualifications for faculty teaching in the Fire Technology program.
- B. The CITY will maintain records of attendance and achievement. Records will be open at all times to officials of the DISTRICT and submitted on a developed time schedule.
- C. All instructional materials provided by the CITY to students will be at no additional cost to students enrolled in courses in connection with this Agreement. To the extent that charges will be made for students' instructional materials, the charges must be in compliance with the Education Code section 76365, Title 5 California Code of Regulations sections 59400 et seq., Los Angeles Community College District Board Rule 6415, and Los Angeles Community College District Administrative Regulation E-80.
- D. The CITY reserves the right to inspect any records maintained by the DISTRICT concerning the implementation of the terms of this Agreement.

ARTICLE V. – JOINT RESPONSIBILITIES OF THE CITY AND THE DISTRICT

- A. The CITY and the DISTRICT will each work in good faith to implement this Agreement, and will use its best efforts to resolve any disputes informally.
- B. The CITY will offer the DISTRICT the opportunity to support all Department Human Resources Development Committee, Human Relations Implementation Plan programs within the DISTRICT's geographical boundaries including "In-Service Training" or continuing education, which the CITY deems suitable for DISTRICT affiliation and the DISTRICT certifies. The DISTRICT agrees that the CITY may affiliate with other community colleges for courses for which the DISTRICT declines affiliation.

- C. The CITY will coordinate with the DISTRICT to ensure that all personnel, equipment, and materials used in carrying out its responsibilities under this Agreement conform to State of California mandated standards governing instructional programs.
- D. College courses conducted under the terms of this Agreement must be identified as being open to the general public. The DISTRICT will allow any person who has been admitted to the DISTRICT and who has met the applicable prerequisites to enroll in courses taught under the terms of this Agreement in accordance with State law. The DISTRICT policy on open enrollment is published in the DISTRICT catalogue and schedule of classes, along with a description of the courses offered under the terms of this Agreement and information about whether the courses are offered for credit and are transferable.

A student requesting registration in DEPARTMENT's Human Resources Development Committee, Human Relations Implementation Plan courses would first need to complete the prerequisites of the Department's Human Resources Development Committee, Human Relations Implementation Plan Courses. In order for the DISTRICT to claim apportionment for payment under the terms of this Agreement, the student must be enrolled in the course through the DISTRICT.

- E. The DISTRICT and the CITY will ensure that ancillary and support services, such as counseling and job placement, are provided for the students enrolled in courses under the Agreement.

ARTICLE VI. – PAYMENT FOR SERVICES

The DISTRICT will pay the CITY based on student instructional hours (Weekly Student Contract Hours – WSCH or Full-Time Equivalent Students – FTES) in accordance with State guidelines. In consideration for the services provided hereunder the DISTRICT will pay the CITY \$3.50 per student instructional hour that is eligible for State general apportionment. If the State-established registration fee is other than \$20.00 per unit, payments will reflect a pro rata adjustment per student instructional hour for student registration fees based on the change to the rate established by the State. If no compensation is paid by the State to the DISTRICT, the DISTRICT will not be obligated to pay the CITY. If the DISTRICT is paid apportionment on a pro rata basis by the State, this apportionment will be applied directly to the CITY.

ARTICLE VII. – PAYMENTS

- A. All payment by the DISTRICT to the CITY under this Agreement will be subject to verification by the CITY and other appropriate State of California agencies.

Classes offered under this Agreement, which do not meet State requirements or District policy will not be considered when computing the payment under this Agreement.

- B. The DISTRICT will pay the CITY upon submission of valid invoices for the number of courses taught in a calendar year based on the following schedule and documentation:
 - 1. For all courses taught between January 1 and June 20, payment will be made no sooner than forty –five (45) days after June 30, nor later than one hundred twenty (120) days after June 30.
 - 2. For all courses taught between July 1 and December 31, payment will be made no sooner than forty –five (45) days after December 31, nor later than one hundred twenty (120) days after December 31. Source data and associated developmental documentation that support the number of students taught during the calendar year will be presented to the CITY with this payment.

ARTICLE VIII. – CERTIFICATIONS

- A. The DISTRICT certifies that it does not receive full compensation for the direct education costs of the courses from any public or private agency, individual, or group.
- B. The CITY certifies that the instructional activity to be conducted under the terms of this Agreement will not be fully funded by other sources in accordance with Education Code Section 84752.

ARTICLE IX. – PUBLIC ENTITY MUTUAL HOLD HARMLESS CLAUSE

Pursuant to the provisions of the California Government Code, Sections 895.4 et seq., each party agrees to indemnify and hold the other harmless from all loss or liability for injury or damage, actual or alleged, to person or property arising out of or resulting from the indemnifying party's acts or omissions in the performance of this Agreement.

In the event of third-party loss caused by the negligence, wrongful act or omission of more than one party, each party hereto shall bear financial responsibility in proportion to its percentage of fault as may be mutually agreed between them or judicially determined.

The provisions of California Civil Code Section 2778 regarding interpretation of indemnity agreements are hereby incorporated into this agreement.

ARTICLE X.- INSURANCE

- A. The CITY agrees to maintain a program of general liability insurance or self-insurance coverage throughout the term of this Agreement. The certificate will state a limit of liability not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined. The CITY is a self-insured entity. Upon request from the DISTRICT, the CITY will provide the DISTRICT a declaration of self-insurance as evidence of coverage. The CITY must provide thirty (30) days written notice to the DISTRICT of any material change in coverage. Further, the CITY will maintain a program of Workers' Compensation Insurance throughout the term of this Agreement.
- B. The DISTRICT agrees to comply with the PSC 24, EXHIBIT 1, INSURANCE CONTRACTUAL REQUIREMENTS and Exhibit 1 (Continued) Required Insurance and Minimum Limits Form Gen. 146 (Rev. 3/09) of ATTACHMENT A STANDARD PROVISIONS FOR CITY CONTRACTS Rev. 3/09.

ARTICLE XI.- VALIDITY

The invalidity in whole or in part of any portion of this Agreement will not void or affect the validity of any other provisions of this Agreement.

ARTICLE XII.- DISTRICT RECORDS

The DISTRICT will maintain and preserve book(s) of account and other financial transactions which relate to the services performed pursuant of this Agreement. The DISTRICT will retain such books and records for at least three (3) years following the final payment by the CITY hereunder. At any time during the term of this Agreement, or within three (3) years following the payment hereunder, all of the DISTRICT'S books, documents, papers, and records pertaining to this project will be subject to examination and audit by authorized CITY personnel.

ARTICLE XIII.- CONFIDENTIALITY

All documents, reports, statements, or other information prepared, relied upon, or used by the DISTRICT pursuant to this Agreement and/or documentation, reports, statements or other information furnished to the DISTRICT by the CITY will be treated as confidential and privileged by the DISTRICT and will not be made available to any person or party, except upon express written authorization from the CITY.

ARTICLE XIV.- ABANDONMENT OF PROJECT, CANCELLATION OF CONTRACT, DEFAULT, SUSPENSION OF SERVICES, AND RIGHT OF TERMINATION

Notwithstanding anything herein to the contrary, either party has the right to terminate this Agreement, with or without cause, upon sixty (60) calendar days advanced written notice to the other party. In the event of such termination, each party will fully pay and discharge all obligations in favor of the other party accruing prior to the date of the termination. Each party will be released from all obligations or performance that would otherwise accrue subsequent to the date of the termination. Neither party will incur any liability to the other party by reason of the termination.

ARTICLE XV- STANDARD CONTRACT PROVISIONS

The DISTRICT is a public entity and as such, agrees to comply with the *Standard Provisions for City Contracts* (Rev. 3/09)(hereinafter referred to as "Attachment A"), only when those provisions are relevant to the DISTRICT'S performance of the Agreement and when they do not conflict with or exceed the DISTRICT'S own rules and regulations or any of the local, state, and federal rules and regulations to which the DISTRICT is bound. To the extent there is a conflict on any subject matter between the Agreement and Attachment A, the language in the Agreement shall govern.

ARTICLE XVI.- ENTIRE AGREEMENT

A. Complete Agreement

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

B. Number of Pages, Appendices and Addenda

This Agreement is executed in four (4) duplicate originals, each of which is deemed to be an original. This Agreement includes ten (10) pages, one (1) Attachment and two (2) Addenda, which constitute the entire understanding and Agreement of the parties.

{Signature page follows}

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

DATE: _____

For: CITY OF LOS ANGELES

By: _____
MILLAGE PEAKS
Fire Chief

DATE: _____

**For: LOS ANGELES COMMUNITY
COLLEGE DISTRICT**

By: _____
ERNEST H. MORENO
President, East Los Angeles College

APPROVED AS TO FORM:

CARMEN A. TRUTANICH
City Attorney

ATTEST:

JUNE LAGMAY
City Clerk

By: _____
Laurel Lightner
Assistant City Attorney

By: _____
Deputy City Clerk

DATE: _____

DATE: _____

Agreement Number _____ (CITY)

ADDENDUM A

(Courses of Instruction that may be taught under the terms of this Agreement)

On the following page(s) are the courses currently offered under this Agreement . This list of courses is subject to change for each semester of instruction, with courses added to, and/or deleted from, this list. All such changes shall be made upon mutual consent of the City of Los Angeles, City of Los Angeles Fire Department, and the Los Angeles Community College District on behalf of East Los Angeles College.

FIRE UPDATES	COURSE NO.	NO. HOURS	UNITS	STATUS
Fire Update 27 Hours	Fire Tech 221	27	.5	Approved
Fire Update 54 Hours	Fire Tech 63	54	1.0	Approved
Fire Update 81 Hours	Fire Tech 64	81	1.5	Approved
Fire Update 108 Hours	Fire Tech 65	108	2.0	Approved
Fire Update 135 Hours	Fire Tech 66	135	2.5	Approved
Fire Update 162 Hours	Fire Tech 228	162	3.0	Approved
Fire Update 189 Hours	Fire Tech 229	189	3.5	Approved
Fire Update 216 Hours	Fire Tech 230	216	4.0	Approved
Fire Update 243 Hours	Fire Tech 231	243	4.5	Approved
Fire Update 270 Hours	Fire Tech 232	270	5.0	Approved
FIRE OFFICER CERTIFICATION	COURSE NO.	NO. HOURS	UNITS	STATUS
Fire Instructor 1A	Fire Tech 30	40	2.25	Approved
Fire Instructor 1B	Fire Tech 31	40	2.25	Approved
Fire Instructor 1C	Fire Tech 34	40	1.5	Pending
Fire Prevention 1A	Fire Tech 40	40	2.25	Approved
Fire Prevention 1B	Fire Tech 41	40	2.25	Approved
Fire Management 1	Fire Tech 50	40	2.25	Approved
Fire Command 1A	Fire Tech 60	40	2.25	Approved
Fire Command 1B	Fire Tech 61	40	2.25	Approved
Fire Command 1C	Fire Tech 225	40	2.25	Approved
Fire Investigation 1A	Fire Tech 70	40	2.25	Approved
ICS 100	Fire Tech 91	8	.5	Approved
ICS 200	Fire Tech 220	18	1.0	Approved
ICS 300	Fire Tech 93	27	1.5	Approved
ICS 400	Fire Tech 94	22	1.25	Approved
ENGINEER/DRIVE OPERATOR CERTIFICATION	COURSE NO.	NO. HOURS	UNITS	STATUS
Driver/Operator 1A	Fire Tech 237	40	1.5	Approved
Driver/Operator 1B	Fire Tech 238	40	1.5	Approved
Basic Emergency Vehicle Operations	Fire Tech 239	16	.5	Approved
Basic Pump Operations	Fire Tech 240	16	.5	Approved
COURSE NAME	COURSE NO.	NO. HOURS	UNITS	STATUS
Advanced Fire Management and Leadership	Fire Tech 32	136	7.5	Approved
Wildland Fire Behavior Calculations	Fire Tech 33/5390	32	1.75	Approved
EMT Refresher (54hrs)	Fire Tech 97	54	2.0	Archived
Paramedic Refresher (48hrs)	Fire Tech 227	48	1.5	Approved
Intermediate Fire Behavior	Fire Tech 233/S-290	32	1.25	Approved
Strike Team Task Force Leader	Fire Tech 234/S-330	32	1.75	Approved
Division/Group Supervisor	Fire Tech 235/S-339	20	1.0	Approved
Safety Officer	Fire Tech 236	32	1.0	Approved
Fire Control 2-Basic Operations	Fire Tech 242	18	.5	Approved
Auto Extraction	Fire Tech 241	18	.5	Approved
Roof Ventilation	Fire Tech 243	16	.5	Approved
Ethical Leadership For Fire Instructors	Fire Tech 244	8	.5	Approved
Fire Operations In The Wildland Urban Interface	Fire Tech 186/S-215	27	1.5	Approved
Internal Affairs Investigation	Fire Tech 187	40	1.75	Approved
Tactical Decision Making In Wildland Fires	Fire Tech 188/S-336	24	1.25	Approved
Basic Leadership Skills For Fire Supervisors	Fire Tech 189/L-280	16	1	Approved
Fireline Leadership Advanced	Fire Tech 190/L-380	32	1.5	Approved

REVISED APRIL/2010

Advanced Fire Engine Techniques	Fire Tech 191	18	1	Approved
Emergency Treatment By First Responder-Refresher	Fire Tech 226	27	1	Approved

ADDENDUM B

TITLE 5. Education Code of California

53410. Minimum Qualifications for Instructors of Credit Courses, Counselors, and Librarians.

The minimum qualifications for service as a community college faculty member teaching any credit course, or as a counselor or librarian, shall be satisfied by meeting any one of the following requirements:

- (a) For faculty assigned to teach courses in disciplines where the master's degree is not generally expected or available, which are, generally, disciplines in specialized technical, trade, or industrial fields, either of the following:
 - (1) Possession of a bachelor's degree, or equivalent foreign degree, plus two years of professional experience directly related to the faculty member's assignment; or
 - (2) Possession of an associate degree, or equivalent foreign degree, plus six years of professional experience directly related to the faculty member's assignment.
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ATTACHMENT A

STANDARD PROVISION FOR CITY CONTRACTS (REV. 3-09)

STANDARD PROVISIONS FOR CITY CONTRACTS

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STANDARD PROVISIONS FOR CITY CONTRACTS

PSC-1. CONSTRUCTION OF PROVISIONS AND TITLES HEREIN

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

PSC-2. NUMBER OF ORIGINALS

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

PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT

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

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

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

PSC-4. TIME OF EFFECTIVENESS

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

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

PSC-5. INTEGRATED CONTRACT

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

PSC-6. AMENDMENT

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

PSC-7. EXCUSABLE DELAYS

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

PSC-8. BREACH

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

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

PSC-9. WAIVER

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

PSC-10. TERMINATION

A. TERMINATION FOR CONVENIENCE

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

B. TERMINATION FOR BREACH OF CONTRACT

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

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

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

PSC-11. INDEPENDENT CONTRACTOR

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

PSC-12. CONTRACTOR'S PERSONNEL

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

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

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

PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION

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

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

PSC-14. PERMITS

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

PSC-15. CLAIMS FOR LABOR AND MATERIALS

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

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

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

PSC-17. RETENTION OF RECORDS, AUDIT AND REPORTS

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

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

PSC-18. FALSE CLAIMS ACT

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

PSC-19. BONDS

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

PSC-20. INDEMNIFICATION

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

PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION

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

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

PSC-22. INTELLECTUAL PROPERTY WARRANTY

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

PSC-23. OWNERSHIP AND LICENSE

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

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

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

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

PSC-24. INSURANCE

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

PSC-25. DISCOUNT TERMS

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

PSC-26. WARRANTY AND RESPONSIBILITY OF CONTRACTOR

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

PSC-27. NON-DISCRIMINATION

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

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

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

PSC-28. EQUAL EMPLOYMENT PRACTICES

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

- A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **CONTRACTOR** and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
 - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
 - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 - 3. **CONTRACTOR** agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

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

- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of **CITY** contracts. On their or either of their request **CONTRACTOR** shall provide evidence that he or she has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of **CITY** contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has failed to comply with the Equal Employment Practices provisions of a **CITY** contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until **CONTRACTOR** shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the **CITY**, or when an individual bid or proposal is submitted, **CONTRACTOR** shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of **CITY** Contracts.

- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
 - 1. Hiring practices;
 - 2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
 - 3. Training and promotional opportunities; and
 - 4. Reasonable accommodations for persons with disabilities.
- L. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR'S** Contract with the **CITY**.

PSC-29. AFFIRMATIVE ACTION PROGRAM

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

- A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
 - 1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
 - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 - 3. **CONTRACTOR** shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to

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

- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, **CONTRACTOR** shall certify on an electronic or hard copy form to be supplied, that **CONTRACTOR** has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of **CITY** contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Affirmative Action Program provisions of **CITY** contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has breached the Affirmative Action Program provisions of a **CITY** contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that **CONTRACTOR** has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a **CITY** contract, there may be deducted from the amount payable to **CONTRACTOR** by the **CITY** under the contract, a penalty of ten dollars

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

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

- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
 2. Classroom preparation for the job when not apprenticeable;
 3. Pre-apprenticeship education and preparation;
 4. Upgrading training and opportunities;
 5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
 6. The entry of qualified women, minority and all other journeymen into the industry; and
 7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the **CITY'S** Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the **CITY** and may be used at the discretion of the **CITY** in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.

- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the **CITY** and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the **CITY**.

PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS

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

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

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

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

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

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

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

PSC-32. AMERICANS WITH DISABILITIES ACT

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

PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE

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

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

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

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

PSC-35. EQUAL BENEFITS ORDINANCE

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

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

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

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

PSC-36. SLAVERY DISCLOSURE ORDINANCE

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

EXHIBIT 1

INSURANCE CONTRACTUAL REQUIREMENTS

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

CONTRACTUAL REQUIREMENTS

CONTRACTOR AGREES THAT:

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

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

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

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

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

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

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

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

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

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

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

Exhibit 1 (Continued)

Required Insurance and Minimum Limits

Name: _____ Date: _____

Agreement/Reference: _____

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

	Limits
Workers' Compensation – Workers' Compensation (WC) and Employer's Liability (EL)	WC <u>Statutory</u> EL _____
<input type="checkbox"/> Waiver of Subrogation in favor of City <input type="checkbox"/> Longshore & Harbor Workers <input type="checkbox"/> Jones Act	
<hr/>	
General Liability	
<input type="checkbox"/> Products/Completed Operations <input type="checkbox"/> Sexual Misconduct _____ <input type="checkbox"/> Fire Legal Liability _____ <input type="checkbox"/> _____	
<hr/>	
Automobile Liability (for any and all vehicles used for this Contract, other than commuting to/from work)	_____
<hr/>	
Professional Liability (Errors and Omissions)	_____
<hr/>	
Property Insurance (to cover replacement cost of building – as determined by insurance company)	_____
<input type="checkbox"/> All Risk Coverage <input type="checkbox"/> Boiler and Machinery <input type="checkbox"/> Flood _____ <input type="checkbox"/> Builder's Risk <input type="checkbox"/> Earthquake _____ <input type="checkbox"/> _____	
<hr/>	
Pollution Liability	_____
<input type="checkbox"/> _____	
<hr/>	
Surety Bonds – Performance and Payment (Labor and Materials) Bonds	100 % of Contract Price
Crime Insurance	_____
<hr/>	
Other:	

