

LOS ANGELES FIRE DEPARTMENT



BRIAN L. CUMMINGS
FIRE CHIEF

September 20, 2013

BOARD OF FIRE COMMISSIONERS
FILE NO. 13-122

TO: Board of Fire Commissioners

FROM: Brian L. Cummings, Fire Chief

SUBJECT: AGREEMENT FOR COMPREHENSIVE FIRE AND EMERGENCY
MEDICAL SERVICES FOR THE CITY OF SAN FERNANDO

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 Withdrawn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

SUMMARY

In 1978, the City of Los Angeles (City) entered into an Agreement with the City of San Fernando (San Fernando) (Contract No. 49757) for the City to: (a) employ qualified sworn San Fernando Fire Department employees into the Los Angeles Fire Department (LAFD); (b) take over the performance of fire protection (e.g., fire suppression, prevention, and inspection) and emergency medical services (EMS) for San Fernando; (c) be paid an annual fee for the performance of these services that "should as nearly as possible represent San Fernando's comparable share of the total cost of said functions to Los Angeles less offsetting revenues received by Los Angeles."

The proposed Agreement submitted for the Board's consideration provides a term of five years retroactive to July 1, 2012, and may be amended for two additional five-year terms by mutual written agreement of the parties. The Agreement also provides a revision to the fee formula. Through an amendment executed in January 1985 (C.F. 84-1476), the current fee formula has been calculated based on the following:

- 1984-85 fee of \$1,113,762, determined by multiplying the 1979-80 fee by the percentage of increased costs for emergency services provided by the LAFD for each of the subsequent four-year contract periods.
- Subsequent to 1984-85, the fee for each fiscal year would be adjusted by the percentage difference of the service period LAFD fiscal year Fire Suppression Program line item (including related and indirect costs), and the prior LAFD fiscal year Fire Suppression Program line item (including related and indirect costs), minus the following elements:

- Departments of Airports and Harbor reimbursements for LAFD emergency services
- Emergency Ambulance Service Program revenues

During negotiations of the proposed Agreement, San Fernando sought a revised fee formula that would be easier to understand, provide a more predictable and consistent amount, and lessen the fiscal burden on its strained budgetary condition due to the severe economic downturn. A reflection of San Fernando's fiscal challenges is the outstanding balance of approximately \$1.26M owed to the City for services rendered in FY 2011-12 (\$3.16M owed; \$2.63M received) and FY 2012-13 (\$3.36M owed; \$2.63M received). Using the current formula, the FY 2013-14 fee owed by San Fernando would amount to \$3.70M.

San Fernando's geographic boundaries are completely surrounded by the City. Allowing the LAFD to respond to emergencies in San Fernando minimizes the impact of large-scale fires or mass casualty incidents on City residents that border the San Fernando community. If the Agreement is not continued, San Fernando would seek a contract with another fire agency to provide fire and emergency medical services that the City has been providing for 35 years. If this occurs, the City would enter into a mutual aid agreement with the other fire agency to provide assistance for fire suppression, with no reimbursement for services rendered. For all of these reasons, maintaining the contractual relationship between the City and San Fernando provides a mutual public safety benefit to both municipalities, and a mechanism for the City to continue to receive compensation for the services provided.

The revised fee formula contained in the proposed Agreement is based on the following:

- Determining the ratio of assessed property value of San Fernando to the City; currently, that ratio is 0.35% (\$1.56B for San Fernando/\$440.53B for the City)
- Applying the ratio to the service period LAFD Fiscal Year Total Budget (Operating Budget; Related and Indirect Costs), minus revenues
- If there is a significant increase in services to San Fernando as compared to the previous fiscal year, and that increase is not proportional to the increase in services provided in the City, the parties would negotiate an adjustment in the fee.

The below table provides a fee comparison using the current formula and the proposed revised formula:

Fiscal Year	Current Fee Formula	Revised Fee Formula	Difference
2012-13	\$3,361,286	\$2,448,254	(\$913,032)
2013-14*	\$3,701,992	\$2,584,620	(\$1,117,372)

*Based on Proposed Budget; Adopted Budget pending finalization by City Controller.

Recognizing San Fernando's fiscal challenges, the LAFD projected revenue receipts for the services provided of \$2.7M in the respective budget for FY 2012-13 and FY 2013-14. The revised fee formula would result in a reduction from this revenue projection of \$251,746 for FY 2012-13 and \$115,380 for FY 2013-14.

RECOMMENDATIONS

That the Board:

1. Approve the attached Agreement for Comprehensive Fire and Emergency Medical Services between the City of Los Angeles and the City of San Fernando.
2. Transmit the Agreement to the Mayor and City Council for review and approval.

FISCAL IMPACT

The Agreement enables the City to continue to receive compensation for fire and emergency medical services provided to San Fernando. The revised formula would reduce San Fernando's fee for FY 2012-13 LAFD services by approximately \$913,000 (from \$3.36M to \$2.45M), and for FY 2013-14 by approximately \$1.12M (from \$3.70M to \$2.58M). In the respective fiscal year budgets for 2012-13 and 2013-14, the LAFD projected \$2.7M in revenue receipts from San Fernando. The revised fee formula would result in a reduction from this revenue projection of approximately \$250,000 for FY 2012-13 and approximately \$115,000 for FY 2013-14. Future fee increases would occur with increases to the ratio of assessed property value of San Fernando to the City, and increases to the LAFD Total Budget (Operating Budget; Related and Indirect Costs), minus revenues.

Board report prepared by Mariana Rivera, Sr. Management Analyst II, Administrative Services Bureau.

Attachments

**AGREEMENT FOR COMPREHENSIVE FIRE
AND EMERGENCY MEDICAL SERVICES**

**BETWEEN
THE CITY OF LOS ANGELES
AND
THE CITY OF SAN FERNANDO**

THIS AGREEMENT is made and entered into on _____, 2013 by and between the City of Los Angeles, a municipal corporation acting by and through the Los Angeles Fire Department (hereinafter referred to as "the LAFD"), and the City of San Fernando, a municipal corporation, acting by and through its City Council.

WITNESSETH:

WHEREAS, the City of San Fernando seeks to enter into an agreement with the City of Los Angeles for the LAFD to provide Comprehensive Fire and Emergency Medical Services within its jurisdictional limits; and,

WHEREAS, the LAFD currently provides the City of San Fernando with Comprehensive Fire and Emergency Medical Services in the City of San Fernando, a municipal corporation within the County of Los Angeles, and adjacent to the City of Los Angeles; pursuant to a December 14, 1978 agreement, including one amendment, between the City of Los Angeles and the City of San Fernando (Contract No. 49757) and,

WHEREAS, the provision of Comprehensive Fire and Emergency Medical Services in the City of San Fernando is advantageous for the public safety of both cities; and,

WHEREAS, the LAFD is agreeable to provide Comprehensive Fire Services and Emergency Medical Services to the City of San Fernando for compensation; and,

WHEREAS, the City of San Fernando is agreeable to paying the City of Los Angeles for LAFD's Comprehensive Fire and Emergency Medical Services provided, herein.

NOW THEREFORE, it is agreed as follows:

1. PURPOSE

The purpose of this Agreement is for the LAFD to provide the City of San Fernando Comprehensive Fire and Emergency Medical Services within its boundaries (included herein as Attachment A). Comprehensive Fire and Emergency Medical Services (hereinafter referred to as "Services") shall mean the same services the LAFD provides to the residents and businesses of the City of Los Angeles under standard operating procedures including, but not limited to, fire suppression, fire prevention, inspection, paramedic and emergency medical technician functions, and medical transportation. In addition, Emergency Medical Services ("EMS") will be provided as that term is defined in Health and Safety Code Section 1797.72. The City of San Fernando and the City of Los Angeles (hereinafter referred to as the "Parties") mutually agree that the fee for Services should represent the City of San Fernando's comparable share of the total cost of said Services as provided by the

LAFD. The Parties agree to the "Comparable Share of the Total Cost" as noted in this Agreement (included herein as Attachment B).

2. **STATEMENT OF BENEFITS AND INTEREST**

Although the City of San Fernando has the primary responsibility to provide Services to its residents and businesses, the LAFD agrees to provide Services within the corporate limits of City of San Fernando in the same manner it provides to its residents and businesses. Except as otherwise agreed, Services shall only encompass duties and functions within the jurisdiction of and customarily rendered by the LAFD under the City of Los Angeles Charter and ordinances, and or under authority or statutes of the State of California.

3. **GENERAL PROVISIONS**

A. **TERM**

The term of this Agreement shall commence upon execution by all Parties and shall remain in effect for a period of five (5) years, and may be amended to extend the term of the Agreement up to two (2) additional five (5) year terms, by mutual written agreement of the Parties.

B. **RATIFICATION**

In order to provide uninterrupted Services crucial to public safety, the City of San Fernando agrees that Services have been provided prior to the date of execution of this agreement and therefore, both parties agree that the calculation and payment of services under this Agreement shall begin on July 1, 2012, and will be made annually thereafter.

C. **SERVICES**

The LAFD shall provide the City of San Fernando with the same level of Service that the LAFD provides to the territory within its corporate limits. Such Services shall be in accordance with the appropriate national and area standards, as defined above in Sections 1 and 2. The discipline of officers and other matters incidental to the performance of such Services, and the control of personnel so employed, shall remain at all times with the LAFD.

D. **SERVICES INCREASE**

In the event there is a significant increase in providing Services in the City of San Fernando as compared to the previous twelve (12) month, fiscal year period and such increase is not proportional to the increase in services provided in the City of Los Angeles, then the Parties agree to meet and negotiate, in good faith, a fair and equal adjustment in the fee paid to the LAFD for its increased costs for providing Services to the City of San Fernando. If an adjustment cannot be negotiated, both Parties agree to pay and accept Service fees as described in this Agreement's Fees and Method of Payment Section.

E. **SUPPLIES**

For the purpose of performing Services under this Agreement, the LAFD shall furnish and provide all necessary supplies to maintain and provide normal operating Service levels. The Parties further agree that in all instances where

special supplies, stationary, notices, forms, and the like must be issued in the name of the City of San Fernando, the City of San Fernando shall provide the same at its own cost and expense.

F. PAYMENT FOR PAST SERVICES

Whereas the LAFD has provided Services to the City of San Fernando under a prior agreement (Agreement No. 49757), both parties agree that any amounts due under that Agreement will be paid in a manner agreeable between the Parties.

G. EMPLOYMENT POLICY

Each Party's employees shall at all times be subject only to the laws, regulations, and rules governing their respective employment and employer, regardless of the incident location. Employees shall not be entitled to compensation or other benefits of any kind other than specifically provided by the terms of their respective employment or employer.

H. CODE ADOPTION

The City of San Fernando agrees to fully adopt the City of Los Angeles Fire Code, as well as the City of Los Angeles Building Code, pursuant to all laws, rules, and regulations, including all amendments.

I. FIRE HYDRANT SYSTEM

The LAFD will annually test the City of San Fernando's fire hydrant system in accordance with the LAFD's policies and procedures. The LAFD will notify the City of San Fernando of the annual test results, including any defects, faults, or notices to cure and correct said defaults. The City of San Fernando agrees to repair at its own cost, within a reasonable period of time, any portion of such system defects. The City of San Fernando will also notify the LAFD, in writing, of long-term repairs to said system or any changes contemplated or made to its fire hydrant system.

J. FEES AND METHOD OF PAYMENT

- (1) **Fees** The LAFD will charge a yearly fee for the Services. The fee may be paid in full or will be payable in monthly installments, due in advance of any Services.
- (2) **Invoices** The LAFD will provide a monthly invoice a minimum of 30 days prior to the upcoming Payment Due Date.
- (3) **Payment Due Dates** With the exception of the first payment, payments are due on the first day of each month. The first payment is due upon execution of the Agreement. Subsequent payments are due in accordance with the above schedule.
- (4) **Service Period** Service periods are calculated on an annual basis. The first service period will begin on July 1, 2012 and end on June 30, 2013. Thereafter, each Annual Service Period will always begin the following July 1 and end June 30 of the following calendar year.

- (5) **Fee Calculation and Reconciliation** The LAFD will estimate its fees based on cost of Services during the preceding Service Period. The cost will be determined by taking the assessed value of the City of Los Angeles compared to the assessed value of the City of San Fernando. This ratio will then be applied to the Total Budget for the Los Angeles City Fire Department including its Operating Budget, Related and Indirect Costs, and reduced by the total revenue allocated in the proposed budget.

K. **NONDISCRIMINATION** Both Parties shall comply with all Federal and State statutes relating to nondiscrimination and all applicable requirements of all other Federal and State laws. These include, but are not limited to: (a) Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, disability, or national origin; (b) Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of disabilities.

L. **PRINCIPAL CONTACTS** The principal contacts for the Agreement are:

LOS ANGELES FIRE DEPARTMENT

Brian Cummings, Fire Chief

200 North Main Street

Los Angeles, CA 90012

(213) 978-3800

CITY OF SAN FERNANDO

Donald E. Penman, Interim City Manager

117 Macneil Street

San Fernando, CA 91340

(818) 898-1203

4. **PREVIOUS AGREEMENT CANCELLED** The Parties agree this Agreement supersedes Agreement No. C-49757, which, by execution of this Agreement, will be terminated effective after any and all amounts past due to the City of Los Angeles under Agreement C-49757 are paid or satisfied to the City of Los Angeles pursuant to the terms as outlined in this Agreement's Section 3.F.
5. **INSURANCE** The Parties shall maintain in effect through the term of this contract the coverage and policy limits as stated in Form 146 (Attachment C). Each Party may satisfy the insurance obligations by a combination of commercial insurance, formal risk pooling under California statutory provision, and or a self-funded loss reserve in whatever proportions are deemed appropriate by each respective Party.
6. **INDEMNIFICATION** Each of the Parties to this Agreement is a public entity. In contemplation of the provisions of Section 895.2 of the Government Code of the State of California imposing certain tort liability jointly upon public entities, solely by reason of such entities being parties to an Agreement as defined by Section 895 of said Code, the parties hereto, as between themselves, pursuant to the authorization contained in Section 895.4 and 895.6 of said Code, will each assume

the full liability imposed upon it or upon any of its officers, agents, or employees by law, for injury caused by a negligent or wrongful act or omission occurring in the performance of this Agreement, to the same extent that such liability would be imposed in the absence of Section 895.2. Each party indemnifies and holds harmless the other party solely by virtue of said Section 895.2. The provision of Section 2778 of the California Civil Code is made a part hereto as if fully set forth herein. Both the City of Los Angeles and the City of San Fernando certifies that it has adequate commercial insurance or self-insured retention of funds to meet any obligation arising from this Agreement. The provisions of this indemnification shall survive expiration or termination of this Agreement.

7. **DISPUTE RESOLUTION** In the event of a dispute between the Parties as to the operations, payment, or any other issue arising under this Agreement, the parties agree to meet and negotiate in good faith to resolve such dispute. This shall not limit the parties' right to pursue any available remedies at law or in equity.

8. **AMENDMENTS** Any extension or amendment of this Agreement must be made in writing and executed by both Parties.

9. **TERMINATION** Both Parties retain the right to terminate their participation under this Agreement by providing a minimum of 180 days written notice to the other Party.

The City of San Fernando is responsible, and agrees, to pay, on a pro-rated basis, all Services provided through the effective date of termination.

The City of Los Angeles is responsible to refund, on a pro-rated basis, any fees paid in advance by the City of San Fernando within 60 days from effective date of termination.

10. **LEGAL AUTHORITY** Both Parties certify that the individuals executing this Agreement on their behalf has the legal authority to enter into this Agreement.

11. **CHILD SUPPORT ASSIGNMENT ORDERS** This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code. Pursuant to this Ordinance, the **CITY OF SAN FERNANDO** 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 **CITY OF SAN FERNANDO** 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 the **CITY OF SAN FERNANDO** 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 the **CITY OF SAN FERNANDO** to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a

default by the **CITY OF SAN FERNANDO** 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 the **CITY OF SAN FERNANDO** by **CITY OF LOS ANGELES**. Any subcontract entered into by the **CITY OF SAN FERNANDO** 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 **CITY OF SAN FERNANDO** to obtain compliance of its subcontractors shall constitute a default by the **CITY OF SAN FERNANDO** 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 **CITY OF SAN FERNANDO** by the **CITY OF LOS ANGELES**.

CITY OF SAN FERNANDO shall comply with the Child Support Compliance Act of 1998 of the State of California Employment Development Department. The **CITY OF SAN FERNANDO** 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.

12. **CITY STANDARD PROVISIONS** The City has reviewed the requirements of the City's Provisions for Standard Contracts, attached herein as Attachment D, and incorporated hereto, and has determined that the provisions listed below are not applicable to this Agreement and therefore not incorporated herein because they are either superseded by the provisions of this Agreement and/or not required pursuant to the requirements and regulations of the Los Angeles Administrative Code: PSC Sections 9, 11, 12, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, and 31 through 36.
13. **ENTIRE 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.

This Agreement is executed in four (4) originals. This Agreement includes seven (7) pages (including the signature page) with four (4) Attachments, which constitute the entire understanding and agreement of the Parties.

(Signature Page to Follow)

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

CITY OF LOS ANGELES

CITY OF SAN FERNANDO

By _____
Eric Garcetti
Mayor

By _____
Antonio G. Lopez
Mayor

Date _____

Date _____

APPROVED AS TO FORM:

Michael N. Feuer, City Attorney

ATTEST:

Holly Wolcott, Interim City Clerk

By _____
Anthony-Paul Diaz
Assistant City Attorney

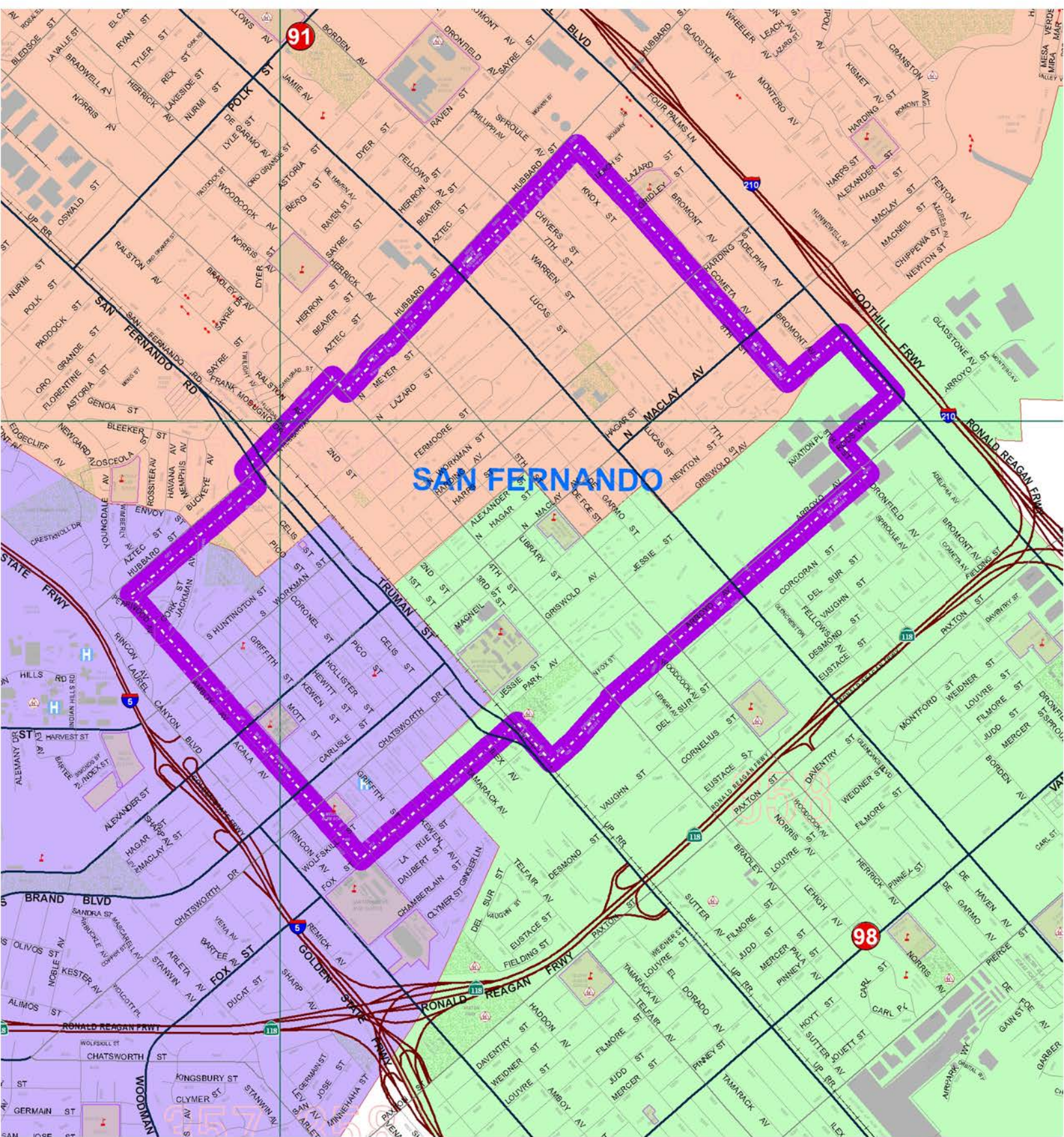
By _____
Deputy City Clerk

Date _____

Date: _____

Attachment A, Geographical Map of the Boundaries of the City of San Fernando
Attachment B, Comparable Share of the Total Cost for Fire and EMS
Attachment C, Insurance Requirements - Form 146
Attachment D, City Standard Provisions

Attachment "A"



SAN FERNANDO BOUNDARY

LAFD FIRST-IN DISTRICTS

-  75
-  91
-  98



Attachment B

City of Los Angeles Fire Department Comparable Share of the Total Cost As of September 20, 2013

San Fernando	Actual	Estimated
Assessment Value Note 1	2013	2014
City of Los Angeles	\$ 440,534,147,051	\$ 440,534,147,051
San Fernando	1,559,819,035	1,559,819,035
Ratio	0.350%	0.350%
Fire Department Budget Note 2		
Operating Budget	513,444,773	550,170,530
Related and Indirect Costs	355,764,172	358,000,000
Total Budget	869,208,945	908,170,530
Less Revenue Note 3	(169,707,771)	(169,707,771)
	699,501,174	738,462,759
Proposed Fee	\$ 2,448,254	\$ 2,584,620

Note 1: The Assessment values for both the City of Los Angeles and the City of San Fernando are obtained from the Los Angeles County Office of the Assessor's Annual Report located in the County of Los Angeles' website.

Note 2: The information for the Fire Department Budget is obtained from the annual budget submitted by the Mayor and Modified and Adopted by the City of Los Angeles Council.

Note 3: The Revenue for the Fire Department is obtained from the Revenue Outlook book, a supplemental to the Proposed Budget.

ATTACHMENT C

Required Insurance and Minimum LimitsName: Los Angeles Fire DepartmentDate: 03/28/2013Agreement/Reference: City of San Fernando - Mutual Aid Agreement

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 StatutoryEL \$1,000,000☐ Waiver of Subrogation in favor of City☐ Longshore & Harbor Workers☐ Jones Act☒ **General Liability**\$2,000,000☒ Products/Completed Operations☐ Sexual Misconduct☐ Fire Legal Liability☒ \$5,000,000 Aggregate☐ **Automobile Liability** (for any and all vehicles used for this contract, other than commuting to/from work)☐ **Professional Liability** (Errors and Omissions)Discovery Period 12 Months After Completion of Work or Date of Termination☐ **Property Insurance** (to cover replacement cost of building - as determined by insurance company)☐ All Risk Coverage☐ Flood☐ Earthquake☐ Boiler and Machinery☐ Builder's Risk☐ Fine Arts - Cover value of exhibit☐ **Pollution Liability**☐☐ **Surety Bonds - Performance and Payment (Labor and Materials) Bonds**100% of the contract price☐ **Crime Insurance****Other:** General Notes:

1) If a contractor has no employees and decides to not cover herself/himself for workers' compensation, please complete the form entitled "Request For Waiver of Workers' Compensation Insurance Requirement" located at: <http://cao.lacity.org/risk/InsuranceForms.htm>

2) In the absence of imposed auto liability requirements, all contractors using vehicles during the course of their contract must adhere to the financial responsibility laws of the State of California.

ATTACHMENT D

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	
General Liability	
<input type="checkbox"/> Products/Completed Operations <input type="checkbox"/> Sexual Misconduct _____ <input type="checkbox"/> Fire Legal Liability _____ <input type="checkbox"/> _____	
Automobile Liability (for any and all vehicles used for this Contract, other than commuting to/from work)	_____
Professional Liability (Errors and Omissions)	_____
Property Insurance (to cover replacement cost of building – as determined by insurance company)	_____
<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"/> _____	
Pollution Liability	_____
<input type="checkbox"/> _____	
Surety Bonds – Performance and Payment (Labor and Materials) Bonds	100 % of Contract Price
Crime Insurance	_____

Other: _____

