

0150-08087-0000

**TRANSMITTAL**

TO  
The City Council

DATE  
DEC 04 2006

COUNCIL FILE NO.

FROM  
The Mayor

COUNCIL DISTRICT

**Proposed Contract between the Department of Transportation and  
Ilium Associates, Inc., for the development, marketing and distribution of the  
Los Angeles and Surrounding Areas Bicycle Map.**

Transmitted for your consideration. See the  
City Administrative Officer report attached.



MAYOR



WTF:ALB:06070089ct

**Report From**  
**OFFICE OF THE CITY ADMINISTRATIVE OFFICER**  
**Analysis of Proposed Contract**  
(\$25,000 or Greater and Longer than Three Months)

To: The Mayor	Date: 12-01-06	C.D. No.	CAO File No.: 0150-08087-0000				
Contracting Department/Bureau: Department of Transportation		Contact: Michelle Mowery					
Reference: Transmittal from the General Manager of the Department of Transportation dated September 25, 2006; Received by the Mayor on November 14, 2006; Referred for report on November 14, 2006							
Purpose of Contract: To furnish technical and professional expertise in developing, marketing and distributing the Los Angeles and Surrounding Communities Bicycle Map							
Type of Contract: (X) New contract ( ) Amendment		Contract Term Dates: Two years from the date of execution, with two additional one-year options to renew					
Contract/Amendment Amount: \$400,000							
Proposed amount \$ 400,000 + Prior award(s) \$ 0 = Total \$ 400,000							
Source of funds: MTA 2001 Call for Projects grant funds, Proposition C funds and TDA Article 3 funds							
Name of Contractor: Ilium Associates, Inc.							
Address: 600 108 <sup>th</sup> Avenue NE, Suite 660, Bellevue, WA 98004							
	Yes	No	N/A*	8. Contractor has complied with:	Yes	No	N/A*
1. Council has approved the purpose	X			a. Equal Employmt. Oppty./Affirm. Action	X		
2. Appropriated funds are available	X			b. Good Faith Effort Outreach**	X		
3. Charter Section 1022 findings completed	X			c. Equal Benefits Ordinance	X		
4. Proposals have been requested	X			d. Contractor Responsibility Ordinance	X		
5. Risk Management review completed	X			e. Slavery Disclosure Ordinance	X		
6. Standard Provisions for City Contracts included	X						
7. Workforce that resides in the City: 7%							


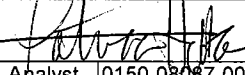

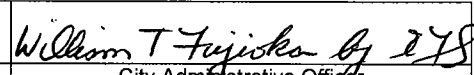
\*N/A = not applicable \*\* Contracts over \$100,000

**COMMENTS**

The General Manager of the Department of Transportation (DOT) requests approval to negotiate and execute a contract with Ilium Associates, Inc. to develop, market and distribute the Los Angeles and Surrounding Communities Bicycle Map (attached). DOT selected this firm through a proposal process and the costs of the services are funded through budgeted Proposition C funds and the MTA's 2001 Call for Projects. The total cost of the two-year contract, with two one-year options to renew, is not to exceed \$400,000.

**BACKGROUND**

One of the main products of DOT's Bicycle Program, which encourages the use of bicycles for transportation, is the Citywide Bicycle Map. This map is offered to the public and provides routing information and safety tips for bicyclists riding in Los Angeles. The first DOT Bicycle Map was developed in 2000. In 2001, DOT was awarded \$217,000 through the Metropolitan Transportation Authority's (MTA's) 2001 Call for Projects for the development and printing of an updated Bicycle

 ALB	 Analyst	 Assistant CAO	 City Administrative Officer
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Map. A requirement by the MTA for award of funding for this project is that the City provides 20 percent in matching funds. These matching funds, in the amount of \$43,300, are available and programmed in the Proposition C Local Transit Improvement Fund. The balance of funds required for this proposed contract, totaling approximately \$139,700, has been provided through the Transportation Development Act, Article 3 and is available in the Local Transportation Fund.

DOT states that the new Bicycle Map will contain current data in Geographic Information System (GIS) format and allow for the new data to be included on the LADOT Bicycle Program web homepage ([www.bicyclela.org](http://www.bicyclela.org)). Additionally, this new Bicycle Map will incorporate bike path and bike lane data from agencies in surrounding areas of the City, such as Santa Monica and Burbank, for a more comprehensive area map.

Ilium Associates, Inc. will not only develop the new Bicycle Map, but will market and distribute the map. Currently, Ilium Associates, Inc. is responsible for the development of all DOT Bicycle Program marketing materials including the first DOT Bicycle Map developed in 2000, individual transit services schedules, maps and system route maps, and the design and maintenance of the DOT Transit website and the DOT Bicycle Program website.

### **Request for Proposals Process**

In April 2006, DOT distributed a Request for Proposals (RFP) for an update of the City's Bicycle Map. DOT distributed a letter regarding the release of the RFP to known bicycle planning companies and copies of the RFP were mailed to all companies interested in the project. The RFP was also made available on the City's website.

On May 11, 2006, DOT held a mandatory pre-proposal conference led by representatives from DOT's Contract Administration section and Bicycle Program to review the City's contractual compliance requirements, review the scope of work required and answer questions from interested companies. Five firms attended the pre-proposal conference.

By June 8, 2006, the Department received two responses to the RFP. An evaluation panel consisting of representatives from DOT reviewed the two proposals on the criteria established in the RFP: (1) Qualifications of the Proposer, (2) Qualifications of the Proposed Staff, (3) Cost Effectiveness and (4) Methodology. Ilium Associates Inc. was selected by the evaluation panel because of their extensive experience in the production of maps for use by the public.

To the best of this Office's knowledge, Ilium Associates, Inc. is in compliance with all City contractual requirements.

### **Contract Funding and Compensation**

Funding for this contract has been provided through MTA's 2001 Call for Projects, Proposition C Local Transit Improvement Funds, and the Transportation Development Act, Article 3. Compensation to Ilium Associates, Inc. will not exceed \$400,000. Ilium Associates, Inc. will submit monthly invoices, in compliance with City standards, that will include a summary of work performed for the period being billed. Ilium Associates, Inc. will supply supporting documentation for each invoice and DOT reserves the right to audit the supporting documentation.

## **RECOMMENDATIONS**

That the Council, subject to the approval of the Mayor:

Authorize the General Manager of the Department of Transportation to negotiate and execute a contract with Ilium Associates, Inc. to provide services for the development, marketing and distribution of the Los Angeles and Surrounding Communities Bicycle Map for two years, with two one-year options to extend the contract, at a cost to not exceed \$400,000, subject to approval of the City Attorney as to form.

## **FISCAL IMPACT STATEMENT**

Sufficient funding is available for the proposed contract between the City and Ilium Associates, Inc. for services for the development, marketing and distribution of the Los Angeles and Surrounding Communities Bicycle Map. Funding in the amount of \$400,000 has been provided through the Metropolitan Transportation Authority's 2001 Call for Projects (\$217,000), Proposition C Local Transit Improvement funds (\$43,000) and the Transportation Development Act, Article 3 (\$140,000). This proposed contract is in compliance with the City's Financial Policies.

*WTF:ALB:06070089c*

Attachment

**CITY OF LOS ANGELES**  
 INTER-DEPARTMENTAL CORRESPONDENCE

OFFICE OF THE MAYOR  
 Date: **September 25, 2006**

2006 NOV 14 AM 10:23

To: **Honorable Antonio Villaraigosa**  
 CITY OF LOS ANGELES  
 Attention: **June Lagmay, Legislative Coordinator**

2006 NOV 14 PM 4:08

CITY ADMINISTRATIVE OFFICE

From: **Gloria J. Jeff, General Manager**  
 Department of Transportation



Subject: **RECOMMENDATION TO AWARD CONTRACT FOR THE LOS ANGELES AND SURROUNDING COMMUNITIES BICYCLE MAP**

In April 2006, the City of Los Angeles Department of Transportation (LADOT) issued a Request for Proposals (RFP) for an update and upgrade of the city's bicycle map. Two proposals were received by the proposal due date of May 11, 2006. An evaluation panel from LADOT evaluated each proposal based on the evaluation criteria established in the RFP. This report contains the evaluation panel's recommendation that a contract be awarded to Ilium Associates.

### RECOMMENDATION

That the City Council, subject to the concurrence of the Mayor:

Authorize the General Manager, Department of Transportation, to negotiate and execute a contract with Ilium Associates subject to the approval of the City Attorney as to legality and form.

### BACKGROUND

The Department of Transportation's Bicycle Program encourages the use of bicycles for transportation and produces materials to make traveling by bicycle easier and more accessible to the general public. One of the key elements in this effort is the citywide bicycle map which provides routing information and safety tips for bicyclists riding in Los Angeles.

The first bicycle map developed by DOT was made available to the public in 2000 and divides the city into three segments to provide the level of detail needed by cyclists. In 2001, a grant application was submitted to MTA's Call for Projects and funding in the amount of \$217,000 was awarded to the city for the development and printing of an update of the map.

The new map will upgrade the data from the current map in a Geographic Information System (GIS) format and allow for the new data to be included on the LADOT Bicycle Program Homepage ([www.bicyclela.org](http://www.bicyclela.org)). In addition, the new map will include bikeway data (bike path and lane) from agencies immediately surrounding the city such as Santa Monica and Burbank.

**DISCUSSION**

On April 19, 2006, the Department released the RFP to solicit proposals for an update of the bicycle map. The Department circulated a letter regarding the availability of the RFP to a list of known bicycle planning companies and copies of the document were mailed to all of the prospective proposers expressing an interest in the project. In addition, the RFP was advertised on the City's website.

A pre-proposal conference was held by the department on May 11, 2006 to review the City's compliance requirements, review the project's Scope of Work, and answer questions from potential bidders. Five firms attended the conference and representatives from the DOT's Contract Administration and Bicycle Program were in attendance to answer questions pertaining to the City's various contract requirements including MBE/WBE/OBE Outreach Effort, Contractor Responsibility Ordinance, Equal Benefits Ordinance and the Living Wage and Service Contractor Worker Retention Ordinance.

The Department received a total of two responses to the RFP by the proposal due date of June 8, 2006. Both respondents, Carter Burgess and Ilium Associates were determined to have submitted responsive proposals. An evaluation panel was formed consisting of representatives from DOT and the Metropolitan Transportation Authority (Metro). At the last moment the panelist from Metro was unable to participate in the interview phase of the selection process and was forced to disqualify herself, and another representative from DOT was added to the panel. Each proposal was based on the following evaluation criteria established in the RFP:

<u>Rating Categories:</u>	<u>Proposal Points</u>	<u>Interview Points</u>	<u>Total Possible Points</u>
1. Qualifications of the Proposer	25	25	25
2. Qualifications of Proposed Staff	25	25	25
3. Cost Effectiveness	20	20	20
4. Methodology	30	30	30
		Total:	100 (per rater)

Based on Ilium's involvement with the production of the 2000 map and their extensive experience in the production of maps for use by the public, staff is recommending that the Mayor and the City Council authorize the General Manager, Department of Transportation, to negotiate and execute with Ilium Associates, subject to the approval of the City Attorney as to legality and form.

**FISCAL IMPACT**

There is no fiscal impact on the City's General Fund. The proposed contract will be funded from grants funds from the MTA's 2001 Call for Projects and TDA Article 3 funds.

**AGREEMENT BETWEEN**  
**THE CITY OF LOS ANGELES**  
**AND**  
**ILIUM ASSOCIATES INCORPORATED**  
**FOR**  
**LOS ANGELES AND SURROUNDING**  
**COMMUNITIES BICYCLE MAP**

**AGREEMENT  
BETWEEN THE  
CITY OF LOS ANGELES  
AND  
ILIUM ASSOCIATES INCORPORATED**

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**THIS AGREEMENT** is made and entered into, by and between the City of Los Angeles, a Municipal Corporation (hereinafter referred to as "City") and Ilium Associates Incorporated (hereinafter referred to as the "Contractor").

**WITNESSETH**

WHEREAS, the City desires to engage the service of the Contractor to furnish technical and professional expertise in developing, marketing, and distributing the Los Angeles and Surrounding Communities Bicycle Map; and

WHEREAS, the City issued a Request for Proposal ("RFP") on April 19, 2006 for companies interested in developing the Los Angeles and Surrounding Communities Bicycle Map, which RFP is on file with the City and is incorporated herein by reference; and

WHEREAS, the Contractor submitted a Proposal in response to the RFP which is dated June 6, 2006 and is incorporated herein by reference (collectively the "Proposal"); and

WHEREAS, the Contractor has the management, expertise and financial viability necessary to develop, market, and distribute the Los Angeles and Surrounding Communities Bicycle Map; and

WHEREAS, the Contractor has agreed to provide the services requested in the time and manner set forth in the RFP, and Proposal incorporated into this Agreement; and

WHEREAS, the Mayor and City Council concurred with the selection of the Contractor on \_\_\_\_\_, (CF 06-\_\_\_\_) and the said Proposal was the most responsive Proposal received by the City for said services.

NOW, THEREFORE, the parties hereto agree as follows:



## SECTION I. INTRODUCTION AND CONDITIONS PRECEDENT

### A. Parties to this Agreement

The Parties to this Agreement are:

1. The City of Los Angeles, A Municipal Corporation, having its principal offices at 200 North Main Street, Los Angeles, CA 90012
2. The Contractor, known as Ilium Associates Incorporated, located at 600 108<sup>th</sup> Avenue NE, Suite 660, Bellevue, WA 98004

### B. Representatives of the Parties and Service of Notices

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

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

Michelle Mowery, Sr. Project Coordinator  
City of Los Angeles  
Department of Transportation  
100 South Main Street, 9<sup>th</sup> floor  
Los Angeles, CA 90012

- b. The representative of the Contractor shall be:

Carolyn Perez Andersen  
President  
Ilium Associates Incorporated  
600 108<sup>th</sup> Avenue NE, Suite 660  
Bellevue, WA 98004

2. *Notices.* Formal notices, demands and communications to be given by either party shall be made in writing and may be affected by personal delivery or by mail. The notice of breach of Agreement, liquidated damages, or performance penalties will be sent via certified mail.
3. *Changes.* If the name of the person designated to receive the notices, demands or communications or the address of such person is changed, written notice shall be given, in accordance with this Section, within five (5) working days of said change.

C. Contract Modifications

The Agreement fully expresses all understanding of the parties concerning all matters covered and shall, with the RFP, Addendums, Contractor's Proposal in response to the RFP and following correspondences, constitute the total Agreement. Except as may otherwise be provided herein, no addition to, or alteration of, the parties, their officers, agents or employees, shall be valid unless made in the form of a written amendment to this Agreement, which is formally approved by the Mayor and/or City Council, and executed by the parties. No modification or addition to this Agreement shall have any effect whatsoever unless set forth in writing and signed by both parties.

D. Conditions Precedent

1. *Required Facilities.* The Contractor shall, prior to the commencement of service, have all facilities required for all necessary functions in place for the creation, production, administration and support of service.
2. *Staff/Hourly Staff Rates.* As per the Contractor's Proposal, the listing of all relevant personnel and a discussion of the type of work that will be performed by the personnel shall remain in effect for the term of this contract. The hourly staff rates for each staff member for each year of this contract are included in the contractor's proposal and shall be incorporated into this Agreement. If there are changes in the status of the staff (including retirement, transfers, promotions, etc.) the City shall be notified in writing within 30 days of the change.
3. *Travel/Media/Other Direct Costs.* The Contractor may be required to travel, on behalf of the City, to perform the duties specified in the RFP and required under this Agreement. All records and receipts for travel (airfare, rental car, taxi, bus, gas, parking, mileage), media and other direct costs must be retained and submitted with invoices for work performed per this contract as set forth by the City and will be reviewed by the City for appropriateness before payment. All travel, media and other direct costs will be reimbursed by the City, provided they are in compliance with the standards established under the City's "User Department Manual." Since the Contractor's headquarters is located outside the City, the City will pay for Contractor's travel to and from the City while performing work under this Contract, but will not pay for hotel accommodations or meals.
4. *Insurance Requirements.* The Contractor shall comply with all of the insurance requirements under this Agreement and all Insurance verification must be produced on City Insurance Endorsement forms. Appendix B (Standard Provisions for City Contracts (Rev. 10-03) of the RFP describes in detail the insurance coverage and amounts required by this Agreement.

5. *Changes to Documentation.* Changes to the foregoing documents affecting the performance of the Contractor under this Agreement shall receive City approval in writing before the Contractor may effect the change.
6. *Agreement Restrictions.* This Agreement is not to be assigned to a substitute contractor, a successor in interest, or a purchaser of the current Contractor without the permission of the City. This Agreement will be terminated if the City does not approve or grant permission to a subsequent contractor to assume the services.

## **SECTION II. TERMS OF CONTRACT**

### **A. Contract Period**

1. This Agreement shall be in effect for a total of two years from December 1, 2006 through December 31, 2008. The City reserves the option to extend the Agreement for two additional one-year periods contingent upon Mayor and Council approval of funding for each year and subject to the approval of the City Attorney as to form and content.
2. City obligations under this contract are contingent upon the City's ability to obtain the funds from funding agencies and the availability of City funds in this and subsequent fiscal year budgets to finance the cost of this Agreement.
3. Contractor shall perform service hereinafter indicated strictly in accordance with the terms and conditions of this Agreement.
4. The City shall reserve the right to enter into other contracts with other firms for similar services during the term of this Agreement.

## **SECTION III. CONTRACTOR DUTIES AND SCOPE OF WORK**

### **A. Appointment**

The City hereby contracts with the Contractor to conduct, in a competent and professional manner, all of the Los Angeles and Surrounding Communities Bicycle Map services upon the terms and conditions as set forth in the RFP, Proposal, and this Agreement (collectively the "Agreement").

The Contractor will render the service as fully described and set forth in the RFP, Proposal, and this Agreement, unless otherwise modified by this Agreement.

## B. Independent Contractor/Status of Contractor

1. In rendering service hereunder, the Contractor shall be and remain an independent Contractor. It is expressly understood and acknowledged by the parties hereto that any amount payable hereunder shall be paid in gross amount, without reduction for any federal or state withholding or other payroll taxes, or any other governmental taxes or charges. The Contractor is responsible for assuming and remitting any applicable federal or state withholding taxes, estimated tax payments, social security payments, unemployment compensation payments, or any other fees or expenses whatsoever.
2. The Contractor shall refrain from any action that would create or tend to create obligations, expressed or implied, on behalf of the City, it being understood that the Contractor is not and shall not be the legal representative or agent of the City and that the Contractor shall not be authorized to make any promises, warranty or representation except as specifically provided for in this Agreement or as otherwise agreed to in writing between the parties.
3. The City shall have no liability to any subcontractor(s) for payment for service under this Agreement or other work performed for the Contractor and any subcontractor entered into by the Contractor pursuant to the conduct of service under this Agreement. It shall be duly noted that the responsibility for payment for technical services or any other work performed shall be the sole responsibility of the Contractor.
4. All real property, purchased directly by the City or through the Contractor for this contract shall become the property of the City and shall be returned to the City upon termination of this Agreement, except as provided otherwise.

## SECTION IV. COMPENSATION

1. The Contractor agrees to provide all personnel, facilities, effort, materials and equipment required to complete, to the full satisfaction of the City, all the work described in the RFP, Proposal and this Agreement; and the City agrees to pay as full compensation for said service, including all allowable expenses incurred and incident thereto, an estimated amount not to exceed a ceiling price of \$400,000 over the one year term of the Agreement. In the event the City selects the option of extending the Agreement for two additional one-year periods, the estimated amount will not exceed the original ceiling price of \$400,000 set for the first term of the Agreement.
2. The amount above includes all costs related to the creation, production and design of art work, bike route survey, GIS bike route mapping, gathering of information, placement in media, public relations and promotions, distribution of materials and all other activities related to the Los Angeles and Surrounding Communities Bicycle Map. For

performance of this Agreement, the City shall pay the Contractor upon submission of monthly invoices for all labor and other costs incurred.

3. Invoices for the payment services shall document all charges and fees collected, and be prepared in such a form and supported by such copies of original invoices, payrolls and other documents as may be required by the City to establish that the charges are allowable. The City shall pay the Contractor upon submission of approved monthly request for payment. The City agrees to pay the Contractor amounts billed, less disputed costs, if any, within 30 days following receipt.
4. Upon forty-eight (48) hours notice, the City or its designated agent shall have the right to inspect all relevant data books and records related to the project during the Contractors' regular business hours. There shall no cost to the City, and the Contractor shall not invoice the City for any costs incurred in the assisting the auditor in the review of project records. All project records prepared by the Contractor shall be owned by the City, and the Contractor shall maintain all required records for three (3) years after final payments are made and all other pending matters under this Agreement are concluded.

#### **SECTION V. PROJECT MANAGEMENT**

Carolyn Perez Andersen, the Project Manager designated by the Contractor, shall assume responsibility for, and participate in, all activities relative to the development and completion of the Los Angeles and Surrounding Communities Bicycle Map. Mrs. Perez Andersen shall oversee all staff and subcontractors assigned to the project and all products produced by Ilium Associates and its sub-contractors. The Contractor shall not replace Mrs. Perez Andersen or other key proposed staff without written approval in advance to the City.

#### **SECTION VI. PROJECT FINDINGS AND OWNERSHIP OF DOCUMENTS**

1. Any reports, data, or other information given to, prepared, or assembled by the Contractor under the Agreement shall, if requested by the City, be kept confidential and shall not be published or made available to any individual or organization by the Contractor without prior written approval by the City.
2. All finished or unfinished documents, data, surveys, studies, drawings, maps, brochures, photographs, and reports prepared by the Contractor shall become the City's property.

## **SECTION VII. DOCUMENTS, RECORDS AND AUDIT**

### **A. Audits and Inspections**

1. At any time during normal business hours and as often as the City may deem necessary, the Contractor shall make available to the City for examination, all of its records with respect to all matters covered by this Agreement. The City shall have the authority to audit, examine and make excerpts or transcripts from records, including all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other statistical data relating to all matters covered by this Agreement.
2. The City reserves the right to dispatch auditors of its choosing to any site where any phase of the project is being conducted. The City auditors shall be provided adequate and appropriate work space in order to conduct audits and shall be allowed to interview any employees of the Contractor.
3. The City shall have the authority to make physical inspections and to require such physical safeguarding devices as locks, alarms, safes, etc., to safeguard property and/or equipment authorized by this Agreement. In the event the City requires equipment to be purchased beyond what was originally proposed, the Contractor has the right to renegotiate the hourly rate to reflect the cost of the equipment.
4. If a fiscal or special audit determines that the Contractor has billed the City for inaccurate or unsubstantiated work hours in its billings to the City, the Contractor shall be notified and given the opportunity to justify the inaccurate billings. The City shall determine the amount to be paid to the Contractor during the period of audit. If the Contractor fails to respond within fifteen (15) days from the notice date, the City shall make the final determination of disallowed billed work hours and the findings will be incorporated in the final audit report. Over-billings shall be reimbursed by deducting the amount deemed over-billed from the Contractor's current or future invoices.

## **SECTION VIII. STANDARD CONTRACT PROVISIONS**

The provisions of the Standard Provisions for City Contracts (Rev. 10-03), found in Appendix B of the RFP, are hereby incorporated by reference into this Contract. The Contractor shall abide by the City's Standard Provisions for City Contracts and the following provisions hereby incorporated by reference into the contract:

### **A. Worker's Compensation**

The Contractor hereby certifies knowledge of the provisions of Section 3700 et seq., of the Labor Code that requires 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 shall comply with such provisions at all such times as they may apply during the performance of the work under this Agreement.

B. Contractor Evaluation Program

At the conclusion of the Contract, the City will conduct an evaluation of the Contractor's performance. The City may also conduct evaluations of the Contractor's performance during the term of the contract. As required by Section 10.39.2 of the Los Angeles Administrative Code, evaluations will be based on a number of criteria, including the quality of the work product or service performed, the timeliness of performance, the Contractor's compliance with budget requirements, and the expertise of personnel that the Contractor assigns to the contract. The Contractor will be provided with a copy of the final City evaluation and allowed 14 calendar days to respond. The City will use the final City evaluation, and any response from the Contractor, to evaluate proposals and to conduct reference checks when awarding other personal services contracts.

**SECTION IX TERMINATION OF CONTRACT**

- A. The City may terminate this Agreement without cause, in whole or in part, at any time by written notice to the Contractor. The Contractor shall be paid its reasonable costs, including contract closeout costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim for payment to the City. If the Contractor has any property in its possession belonging to the City, the Contractor shall account for the same, and dispose of it in the manner the City directs.
- B. Upon receiving notice of Agreement termination the Contractor will begin transition of service and equipment back to the City and the City's designated replacement contractor in an amount of time to be determined by the City.
- C. If the City determines that the Contractor has not materially complied with the terms of the contract, the City shall notify the Contractor of such non-compliance and reserves right to terminate this Agreement. Reasons for such termination may include, but shall not be limited to the failure to provide service within agreed performance standards as evidence by City inspection, through surveys, or by communications from users of a service. Giving a notice of termination to the Contractor setting forth the manner in which the Contractor is in default shall effect termination. In the event of termination for default of Contractor, the Contractor shall only be paid the contract price for supplies delivered and accepted, and for services performed in accordance with the manner of performance set forth in this Agreement.
- D. In the event of contract termination due to noncompliance, the Contractor may request a delay in such termination in order to present an appeal to City Council.
- E. In case of default by Contractor, the City reserves the right to procure the articles or services

from other sources and to hold the Contractor responsible for any excess costs incurred by the City.

## **SECTION X. MISCELLANEOUS**

- A. Neither party assumes any liability for failure to fulfill the terms and conditions of this Agreement caused by events beyond the reasonable control of such party. Such events may include, but are not limited to the following: natural disaster, acts of the government in either its sovereign or contracted capacity, a failure or shortage of fuel, water, fuel oil or other utility or services, strikes, riots, fires, floods, epidemics, war, insurrection or other national or local emergency, freight embargo, impasse of routes due to construction, and unusually severe weather but in every case the failure to perform must be beyond the control and without the fault or negligence of either party or the Contractor's subcontractor(s).
- B. This Agreement, the RFP, this Proposal and all exhibits, contain the entire understanding between the Contractor and City. No modification or addition to this Agreement shall have any affect whatsoever unless set forth in writing and signed by both parties hereto.
- C. Any item of work contained in either the RFP or Contractor shall perform the Proposal as though it appeared in this Agreement. In the event of any conflict, the terms of this Agreement and the RFP govern over the Proposal unless specifically stated otherwise.
- D. Disputes regarding the interpretation or application of any provisions shall, to the extent reasonably feasible, be resolved through good faith negotiations between the parties. The City shall make every effort to limit the negotiating period for a time not to exceed 30 days. Failure to come to a negotiated settlement will allow the aggrieved party to seek recourse in the courts of law (Refer to the Standard Provisions for City Personal Services Contract, Appendix B, Section PSC-8 of the RFP).
- E. The failure of the City to insist upon strict performance by Contractor of any provision hereunder in every one or more instances shall not constitute a waiver of such provision by City, nor shall, as a result, City relinquish any rights that it may have under this Agreement.
- F. This Agreement shall be binding on and insures to the benefit of the heirs, executors, administrators and assigns of the parties hereto.



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

Approved as to form and legality:

ROCKARD J. DELGADILLO, City Attorney

By: \_\_\_\_\_  
SHELLEY I. SMITH  
Assistant City Attorney

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

Executed for: the City of Los Angeles

By: \_\_\_\_\_  
GLORIA J. JEFF  
General Manager  
Department of Transportation

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

Executed for: Ilium Associates Incorporated

By: \_\_\_\_\_  
CAROLYN PEREZ ANDERSEN  
President

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

Attest:

FRANK T. MARTINEZ, City Clerk

By: \_\_\_\_\_  
Deputy City Clerk

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

City Council File Number:  
Said Agreement is Number:  
Date of City Council Approval: