

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: March 31, 2009

CAO File No. 0220-02221-8344
Council File No.
Council District: All

To: The Mayor
The City Council

From: Raymond P. Ciranna, Interim City Administrative Officer *RPC*

Subject: **ASSESSMENT OF PUBLIC-PRIVATE PARTNERSHIP FOR PARKING ASSETS**

SUMMARY

In November 2008, a working group consisting of staff from the Mayor's Office, City Administrative Officer (CAO), City Attorney, and Chief Legislative Analyst's Office (CLA) was convened upon request of the Mayor to explore opportunities for a public-private partnership (P3) with respect to the City's parking assets. The working group is collaborating, as needed, with the Community Redevelopment Agency (CRA), Recreation and Parks Department (RAP) and the Department of Transportation (DOT). This report presents a preliminary discussion of the issues and requests authority to negotiate and execute contracts to hire consultants who will assist with the evaluation and possible implementation and execution of a P3 parking transaction. Cost-benefit analyses of potential proposed actions are not included at this time as additional decisions regarding policy direction and transaction structure are required in order to complete a fiscal analysis.

Chicago P3s

In December 2006, the City of Chicago obtained \$563 million from a consortium lead by Morgan Stanley for a 99-year concession to operate over 9,000 parking spaces located around Millennium Park. In February 2009, Chicago obtained \$1.15 billion from a consortium also lead by Morgan Stanley for a 75-year concession to operate over 36,000 metered parking spaces. Both concessions, further described in Attachment 1, were granted through a public and highly competitive process. These deals, together with Chicago's separate concessions for its Skyway toll road and Midway Airport, have positioned Chicago as the North American leader in P3 transactions. There have been recent reports in the media regarding the challenges Chicago is currently facing with the implementation of the meter concession. It is reasonable to expect some initial difficulties with significant changes of this scale, given the relative novelty of P3 transactions. We have also heard that the Midway transaction is facing difficulties as a result of market conditions. We are monitoring these reports to assess all implications for the City, and to learn from Chicago's experiences.

City of Los Angeles Parking Assets

The working group is investigating the feasibility of one or more transactions to include parking structures, parking meters, or a combination thereof. The following opportunities are the focus of this current effort:

Parking Structures – The City and related entities, CRA and RAP, own approximately 8,600 parking spaces in parking structures currently operated by the City or by a contractor. The working group has preliminarily identified six structures as potential candidates to include in a concession agreement. Further discussions with CRA, DOT and RAP may change the lists of assets to be considered for a concession.

<u>Name</u>	<u>Location</u>	<u>CD</u>	<u>Spaces</u>
Broxton	Westwood	5	366
Cherokee	Hollywood	13	386
Cinerama Dome (CRA)	Hollywood	13	1,717
Hollywood & Highland	Hollywood	13	3,006
Pershing Square	Downtown	9	1,800
Robertson	West LA	5	334
			<u>7,609</u>

Parking Meters – The City has approximately 41,000 metered parking spaces, of which approximately 7,000 spaces have been upgraded through a pilot program completed last year. Approximately 33,000 additional meters, installed in the mid-90's, are beyond their useful lives, vulnerable to vandalism and tampering, and not compatible with modern technologies such as pay by credit card or cell phone. If the City continues to operate and maintain the meters, upgrading them will require an additional investment of \$25 to \$30 million by the City.

P3 Opportunity

The City is experiencing significant challenges resulting from several years of declining revenues and increasing obligatory expenditures. The City's contribution for pension costs is expected to increase dramatically over the next few years as a result of market valuation losses from the financial crisis that has resulted in the current global recession. The convergence of these circumstances is a prime opportunity for the City to consider the question of what core services the City should provide and aggressively pursue opportunities to do business differently if the Mayor and Council do not believe these to be core services.

Many governments are assessing P3s as a way to support or enhance services to the public while minimizing costs. There are a multitude of public policy issues to consider and a preliminary list is provided as Attachment 2. This list serves as a starting point for further analysis and is not intended to be a comprehensive or final summary of issues. The potential benefits to the City support the need to further evaluate the opportunity for a P3 approach to parking meters and parking structures.

Key issues include, but are not limited to:

- *Risk Transfer* – In December 2008, the Controller issued a "Special Study to Assess Opportunities to Develop Public-Private Partnerships," assessing the lessons learned in other jurisdictions from these transactions (C.F. 08-3465). The Controller's report stated that "[t]he primary advantage of a P3 arrangement is risk transfer – the transfer of certain risk, such as design, construction/completion, revenue, maintenance, regulatory compliance, and project-based risks from the public sector to the private sector. In exchange for assuming such risk or liability, government must be willing to provide fair compensation and to concede some level of control to the private entity." Owning parking structures and parking meters requires the City to continue making capital investments and cover the risk of catastrophe, such as earthquakes. A concession operator can assume these risks, while committing to continue to provide the needed service to the public over the life of the concession.
- *Debt Restructure* – The City has approximately \$70 million of outstanding debt for the Hollywood and Highland facility, \$32 million outstanding for Mangrove, and the CRA has another \$36 million outstanding for its Cinerama Dome parking garage in Hollywood. In all cases, the debt service exceeds the net income generated by these facilities annually. Continued ownership of these facilities costs the City money and takes resources from other priorities. Moreover, to issue the City's parking bonds, the City committed to deposit all meter revenues, not just structure revenues, into the Special Parking Revenue Fund (SPRF). Though the Council has approved a process to claim "surplus" SPRF revenues in arrears for the current fiscal year (C.F. 08-0600-S33), as a policy matter the City should ask whether it is effective and/or efficient to continue to segregate these revenue streams from other City revenues.
- *Financial Uncertainty* – Recent economic news has been negative and experts now predict that the recession will last well into next year. Chicago used a large share of the proceeds from its structure and meter concessions to create specialized reserves, some of which support park programs in perpetuity, and others are available for budget balancing or long term contingencies. This P3 transaction could provide the City with a unique, and timely, opportunity to create similar reserves.
- *Investor Interest* – Over the past five years a huge amount of capital has been earmarked for infrastructure funds. The Controller's report noted that "[v]arious studies estimate that between \$50 and \$150 billion is available for infrastructure investment globally, and that 72 new funds were created during 2006 and 2007." Though the investment targets vary among these funds, in general, infrastructure funds have become popular because infrastructure is perceived to generate relatively stable cash flows in all economic environments. Though in general the capital markets are weak and there is little private financing available, the managers of these infrastructure funds are actively looking for deals that meet their investment criteria. We believe a well managed public bid solicitation process for the City's structure and meter assets would engender strong market interest.

There are many options for the use of proceeds from a P3 transaction which will be further researched and analyzed with the assistance of our advisors, if approved. Options to be investigated

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include one lump-sum up-front payment, partial up-front payment plus some form of revenue-sharing over a specified duration, or revenue-sharing only over a specified duration. Some of the factors that will need to be considered include the status of the credit markets, the valuation impact of equity compared to debt financing, and the City's short and long term financial goals. Chicago created several funds with proceeds received from their parking transactions: debt retirement, budget stabilization, capital infrastructure, and reserve funds from which interest earnings are used to replace lost revenue and cover other operation and maintenance expenses. Given the City's ongoing structural deficit, the use of some portion of the proceeds for a reserve fund similar to Chicago and minimal use as a one-time funding source would be highly desirable.

Attached to this report is a proposed schedule to assess the opportunity and identify the important public policy issues for discussion and determination by the Mayor and Council (Attachment 3). To meet the City's budget challenges, and to take advantage of market conditions, expeditious action will be critical. In the near term, the working group will meet with the selected advisors to assess the policy choices and the key questions for stakeholders, and lead a public discussion about the advantages and disadvantages of a potential transaction. If the Mayor and the Council determine to proceed, it is expected that this transaction could close in late 2009 or early 2010.

Advisory Support

Financial Advisor

In December 2007, the Mayor and Council approved a CAO report to establish a pre-qualified list of 13 firms to serve as Financial Advisors (C.F. 07-2896) and assist this Office with bond deals and other financial transactions. In October 2008, this Office issued a Request for Proposals (RFP) to the pre-qualified firms for Financial Advisor services for the assessment of a P3 parking-related transaction and received four responses. Scott-Balice Strategies (SBS) was selected as the strongest proposal.

SBS has experience with approximately 20 prominent P3 transactions and has worked with public agencies on the sell-side and with global debt and equity investors on the buy-side. SBS served as the independent valuation advisor for the Chicago structure transaction and conducted the bond defeasance analysis. SBS will serve as an independent expert exclusively for the City to provide the City with advice and critical feedback throughout the process and to provide the City with an impartial cost-benefit analysis of the proposed transaction. Compensation will be based on an hourly rate/flat fee structure that is not contingent upon the closing of a transaction.

The CAO is authorized to negotiate and execute contracts with any of the firms on the pre-approved list pursuant to C.F. 07-2896. In most cases, compensation is funded through bond proceeds and no further authority is required. In this instance, authority for funding is required as payment for these services is not contingent upon the closing of any transaction or the issuance of bonds. The not-to-exceed amount for this contract is being negotiated at this time. Funding identified in the SPRF herein is for projected expenditures for the current fiscal year, including this contract. Funding for next year will be addressed in the context of the 2009-10 budget.

Sell Side Advisor

In December 2007, the City issued a Request for Qualifications (RFQ) to establish four pools of investment banking firms, including one pool for unique types of transactions such as P3s. In July 2008, the Mayor and Council approved the pre-qualified list including the following firms in the pool for unique transactions (C.F. 07-2943): Cabrera Capital Markets LLC (SBE), Citigroup Global Markets Inc. (LBE), JPMorgan Chase & Co. (LBE), Loop Capital Markets LLC (LBE/SBE), Merrill Lynch, Samuel A. Ramirez & Company, Inc. (LBE/SBE), Siebert Brandford Shank & Co., LLC (LBE/SBE), Goldman Sachs & Co. (LBE), and Backstrom McCarley Berry & Co (LBE/SBE).

In November 2008, this Office released a RFP to the pre-qualified firms to solicit proposals for advisory services for a potential parking structure transaction; all nine pre-qualified firms responded to this RFP. In early December 2008, when Chicago announced acceptance of a bid of more than \$1 billion for a meter concession, the Mayor asked that the working group expand its exploratory evaluations. In consultation with the City Attorney, the working group elected to issue a new RFP in January 2009, soliciting proposals for advisory services for both meters and structures. In this second round, proposals were received from eight of the nine firms; one firm elected to drop out, indicating that it may represent a potential bidder.

Based on a review of proposals and the results of interviews, the working group recommends JP Morgan as lead advisor, with Samuel A. Ramirez & Company, Inc., and Loop Capital Markets, LLC as co-advisors. A proposed contract for the lead advisor, JP Morgan, in substantially final form is attached (Attachment 4). Nearly identical contracts will be proposed for the two co-advisors.

Key terms and provisions of the proposed contracts are as follows:

- *Term* – The proposed term is the earlier of the closing of a transaction or two years from the execution of the Agreement.
- *Compensation* – The transaction fee is contingent upon closing a transaction and payable upon receipt of funds, and in the same manner in which funds are received, by the City from a concessionaire. If the transaction consists of structures only, compensation is calculated as 1.25 percent of the first \$250 million of the total concession plus 0.50 percent of the amount in excess of \$250 million. If the transaction includes structures and meters, compensation will be 0.80 percent of the total concession. Reasonable expenses, as defined and capped by the proposed Agreements, will be invoiced and paid on a quarterly basis. The transaction fee is payable as 70 percent to JP Morgan, as the lead advisor, 20 percent to Ramirez & Co and 10 percent to Loop Capital.
- *Tail (Payment if terminate during term of the Agreement)* – If the City elects to terminate for convenience before Council approval of a request for proposals and a draft concession agreement, no fee is due. If the transaction closes within one year after termination for convenience and the request for proposals containing a draft concession agreement was approved by the Mayor and Council, the City must pay 75 percent of the transaction fee previously discussed. If the transaction closes within one year after termination for convenience and the final concession agreement has been agreed to by a concessionaire,

the City must pay the full transaction fee.

- *Indemnification* – The proposed Agreement includes a provision that is a deviation from standard contracting practices. Standard contract provisions include a condition wherein the consultant indemnifies the City for damages, except for in the case of the City's own active negligence or willful misconduct. The proposed Agreement with JP Morgan includes this provision, as well as a provision wherein the City indemnifies JP Morgan from liabilities arising after the closing of the transaction, except for in the case of JP Morgan's bad faith, negligence or willful misconduct. The Risk Manager has reviewed and approved this proposed provision.
- *Other Engagements* – JP Morgan's key personnel assigned to this transaction must obtain the City's consent prior to acting in a financial advisory capacity for any other governmental entity on a pending or proposed transaction involving parking assets in North America during the term of the Agreement.

Transaction Counsel

In February 2009, the City Attorney's Office released a RFQ for assistance and representation on a potential P3 parking project. The working group reviewed approximately 30 responses and interviewed 10 firms. From these 10 firms interviewed, the working group has selected 4 finalists and expects to finalize a selection with the City Attorney's Office within the next 30 days. The City Attorney is authorized to negotiate and execute contracts with outside counsel, subject to the availability of funds. The compensation details are being negotiated at this time. Funding for outside counsel will be provided as part of the SPRF funds identified herein. If additional funding is required next year, it will be addressed in the context of the 2009-10 budget.

Next Steps

Following the engagement of the key consultants previously discussed, the working group will commence a rigorous and detailed process to analyze the various aspects of a potential concession agreement for parking assets.

The working group intends to involve the Mayor and Council in a series of discussions focused on key issues, such as use of proceeds, rate setting authority, operating standards, and labor issues, which will serve as the blueprint for the proposed concession agreement. This Office intends to report back to the Mayor and Council for approval of the Request for Qualifications (RFQ) to qualify interested bidders. This RFQ will include a Private Placement Memorandum (PPM), which will provide the key terms and conditions for the proposed transaction based on the outcome of the discussions with the Mayor and Council.

The working group, in consultation with our advisors, will identify the bidders who qualify pursuant to the requirements stated in the RFQ.

This Office intends to subsequently report back to the Mayor and Council for approval of the Request for Proposals, which will include the proposed concession agreement, and for authority to enter into negotiations with the qualified bidders.

A final concession agreement will be developed based on feedback from the qualified bidders and released for bids. This Office intends to report back to the Mayor and Council with the outcome of the bid process and recommendations for the selection of the winning concessionaire.

1022 Determination and Contracting Requirements

This Office determines that it is more feasible to contract for these services based on the short-term nature of this proposed project and the need for technical skills and professional experience specific to the field of public-private partnerships, which are necessary to deliver a successful outcome in a timely manner.

Further, this Office finds that because these services will be performed by professionals and experts and are of a temporary and occasional character, selection by sealed competitive bidding is not practical or advantageous.

To the best of our knowledge, the proposed contractors are in compliance with the remaining contracting policies and procedures. City Attorney review as to form is required.

Funding Source

The 2008-09 Adopted Budget for SPRF includes funding for capital equipment purchases for meters. DOT confirms that funds in this account are available to fund these Agreements through the end of the fiscal year. Funding for next year will be addressed in the context of the 2009-10 budget.

Adoption of this report is consistent with the City's Financial Policies in that funding is provided from available balances in the current year for 2008-09 expenses and future year expenses will be addressed through the budget process.

RECOMMENDATIONS

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

1. Authorize the City Administrative Officer to evaluate and report back on one or more public-private partnership transactions for parking structures and parking meters;
2. Authorize the City Administrative Officer to negotiate and execute Agreements using the attached pro forma with JP Morgan Chase, Ramirez & Co., and Loop Capital, for a term not-to-exceed two years for sell-side advisory services, subject to City Attorney approval as to form;
3. Transfer appropriations of \$500,000 within Special Parking Revenue Fund No. 363/94, Account 0040, Capital Equipment Purchases to Account E203, Capital Finance Administration Fund;
4. Appropriate \$500,000 from Special Parking Revenue Fund No. 363/94, Account E203, Capital Finance Administration Fund to the Capital Finance Administration Fund No. 100/53, General

Administration Account No. 0170, for expenditures related to the engagement of outside counsel, the Sell-Side Advisory Agreement and the Financial Advisor Contract including subcontractors needed to evaluate the public-private partnership transactions;

5. Instruct the City Attorney to prepare and present an Ordinance to amend Sections 5.117 through 5.119 of the Los Angeles Administrative Code to clarify that Special Parking Revenue Fund incidental expenses include attorney and consultant fees;
6. Direct the Community Redevelopment Agency, Department of Transportation, Recreation and Parks Department, and any other department, to make available information as needed by the City Administrative Officer upon request; and,
7. Authorize the City Administrative Officer to make technical adjustments as necessary to implement the intent of the Mayor and Council actions.

FISCAL IMPACT STATEMENT

The City Administrative Officer will report back with the results of the public-private partnership evaluation and include a fiscal impact statement based on any proposals resulting from this evaluation.

DEBT IMPACT STATEMENT

The City Administrative Officer will report back with the results of the public-private partnership evaluation and include a debt impact statement based on any proposals resulting from this evaluation.

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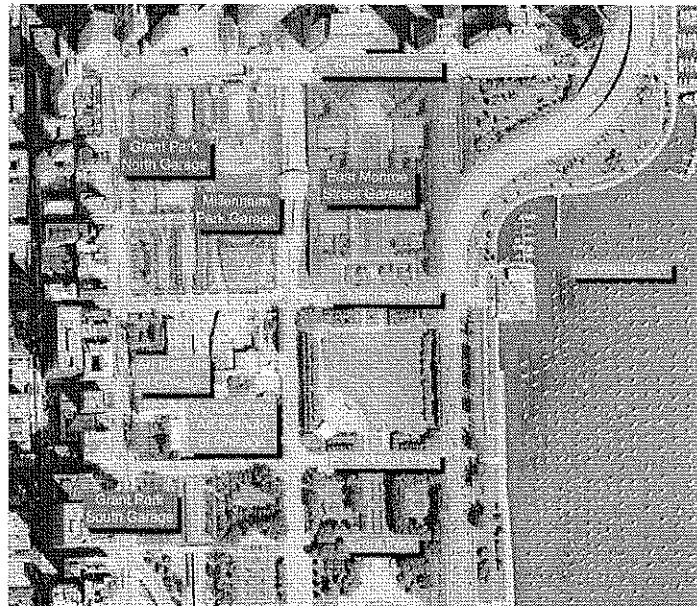
Attachments

ATTACHMENT 1

CHICAGO CASE STUDY

Summary of Chicago Parking Transactions

1. **Parking Structures (2006).** The City of Chicago incurred approximately \$70 million in debt to construct Millennium Park and the Millennium Park Garage. In addition the Chicago Park District (a separate entity) owned three garages in the same immediate area—Grant Park South, Grant Park North and East Monroe. Altogether these garages provide more than 9,000 parking spaces. Chicago wished to retire the debt, obtain a large up front payment, and transfer responsibility for maintaining these garages to the private sector.



The Park District received all revenues from the three garages it owned, and it used those revenues to support various park activities. As part of the deal the Park District and the City agreed to create specialized reserves to replace the Park District's lost income.

The final concession agreement did not impose any restrictions on what the Concession operator could charge garage patrons. Since these garages are surrounded by other parking lots (mostly in office buildings), the City concluded that there was enough market competition to keep the vendor's pricing at appropriate levels. This policy decision had a very favorable impact on the final values obtained by Chicago.

Both Chicago parking transactions followed a set two-step process and were completed very quickly, as shown in the adjacent chart. First, Chicago issued an RFQ, asking interested parties to demonstrate that they

	structures	meters
Intention announced	early 2006	early 2008
RFQ released	May-06	early 2008
Bidders qualified	Jun-06	Apr-08
Bidder due diligence	June-August	April-June
Bids due	Sep-06	Jun-08
Closing	Nov-06	Feb-09
Final Price	\$563MM	\$1.16 B

understood the parking business and were financially capable of closing a deal of this size. Bidders responding to this RFQ were vetted quickly; qualified bidders immediately got access to a private "data room" where due diligence materials were provided, as well as an opportunity to review and comment on a proposed form of concession agreement. As buyers were doing due diligence reviews the City released and requested comments on the proposed form of concession agreement, so that when final bids were due each bidder understood that it was bidding on and, if successful, committing to execute the final concession agreement presented by the City. Since the form of concession agreement was known when bids were due, in each case bidders were re-

quired to post sizable earnest money deposits that would be retained by the City if the bidder subsequently failed to close. In the structures transaction Chicago announced a winning bid of \$563 million from a consortium of Laz Parking and Morgan Stanley; the transaction closed a few months later. Chicago's use of proceeds is summarized in Section 3 below.

The winning concessionaire has the right to operate these garages for 99 years, at which time they revert back to City control. This highlights an important distinction between leasing and selling assets like parking structures. When the asset is sold the seller doesn't usually care what the buyer does after closing. In a lease or concession deal the lessor/concession grantor (in this case the City of Chicago) cares a great deal about how the asset is managed, since (i) it wants to ensure that public parking is available throughout the term of the concession, and (ii) at the end of 99 years it wants to receive a well maintained asset, not a dilapidated structure suffering from years of deferred maintenance. To achieve this goal the final concession documentation includes 150 pages of maintenance procedures and specifications, prepared by Walker Parking Consultants. These standards form the legal and practical foundation to require the concessionaire to maintain the structures in good condition for the entire 99 year term.

The concessionaire also agreed to pay a living wage to all employees and prevailing wage for all construction projects. It also agreed that a specified percentage of its workforce would be Chicago residents.

2. **Parking Meters** (2009). Chicago and the Chicago Park District have approximately 36,100 metered parking spaces on streets and parking lots. Similar to Los Angeles, the City had begun a process to upgrade meters to modern technologies, but had completed upgrades for only a small percentage of the total meter supply. Rather than continue with City financing of meter upgrades Chicago elected to pursue a P3 concession, similar to its approach on the Parking Structures.

As noted above Chicago's process for the meter concession was very similar to the process for its structure concession. However, the process took longer to complete than the structure transaction, primarily because of important differences in the operational aspects of meters. Specifically, Chicago retained the right to (i) set meter rates throughout the term of the concession, and (ii) add or reduce the number of metered spaces on City streets or in parking lots. On the rate side, the City retained rate setting authority; since the governmental power to set rates could not be delegated to the contractor (the City of Los Angeles likely faces the same legal constraint). To maximize the economic value of the concession, Chicago promised to raise meter rates dramatically during the first 5 years of the concession (thereafter rates must rise only in step with the Consumer Price Index (CPI)). Similarly, the City owns a number of parking lots that now offer metered parking, but the city did not wish to commit to maintain these lots as metered parking for 75 years. Over time (especially a period as long as 75 years) land uses change, on street meters may be removed to create more vehicle traffic lanes, and/or parking lots may be converted to higher and better uses. To give the city operational flexibility the concession agreement includes a complex "true up" calculation pursuant to which

the City and the concessionaire account to each other quarterly for differences between planned and actual rates as well as adjustments to the metered space inventory. In other words, though the city retained complete governmental control over rates, hours and meter locations, it has economic incentives and penalties that are intended to align its interests with the Concessionaire's interests.

The concession agreement obligates the concessionaire to upgrade to non-cash payment technologies (e.g., pay by credit card or cell phone) within 180 days after the rate for a given space reaches \$1.50 per hour. However studies have demonstrated that these technologies improve revenues approximately 30% per space, so the concessionaire is expected to upgrade more quickly than the contract requires.

Chicago retained enforcement responsibilities and revenues. The concession authorizes the concessionaire to augment Chicago's enforcement functions, using the same tickets and systems that Chicago uses for tickets issued by City enforcement staff. The vendor is not expected to use this enforcement function unless Chicago reduces its enforcement efforts.

3. Use of Proceeds. As noted the Chicago Parks District is legally separate from the City, so to include Park District assets in a concession deal the City had to offset lost Parks District revenue. To do so the City earmarked certain proceeds for reserves that exclusively benefit the Parks District. It also created other reserves that are available to offset budget deficits, as shown in the adjacent chart. Overall these transactions have given Chicago substantial budget flexibility. Funds deposited in the budget stabilization fund are available to the city to help defray "true up" payments due to the concessionaire.

Chicago Parking Use of Proceeds		
(\$MM)	structures	meters
Retire debt	\$278	
Reserves to supplant lost income for parks	120	
for general city purposes		\$400
budget balancing through 2012		325
Budget stabilization		324
Citiwide Park Improvements	122	
Rebuild Daley Plaza	35	
Human infrastructure fund costs		100
	8	11
TOTAL	\$563	\$1,160

ATTACHMENT 2

PRELIMINARY SUMMARY OF PUBLIC POLICY ISSUES

**Preliminary Summary of Public Policy Issues
Structure & Meters Combined and Separate**

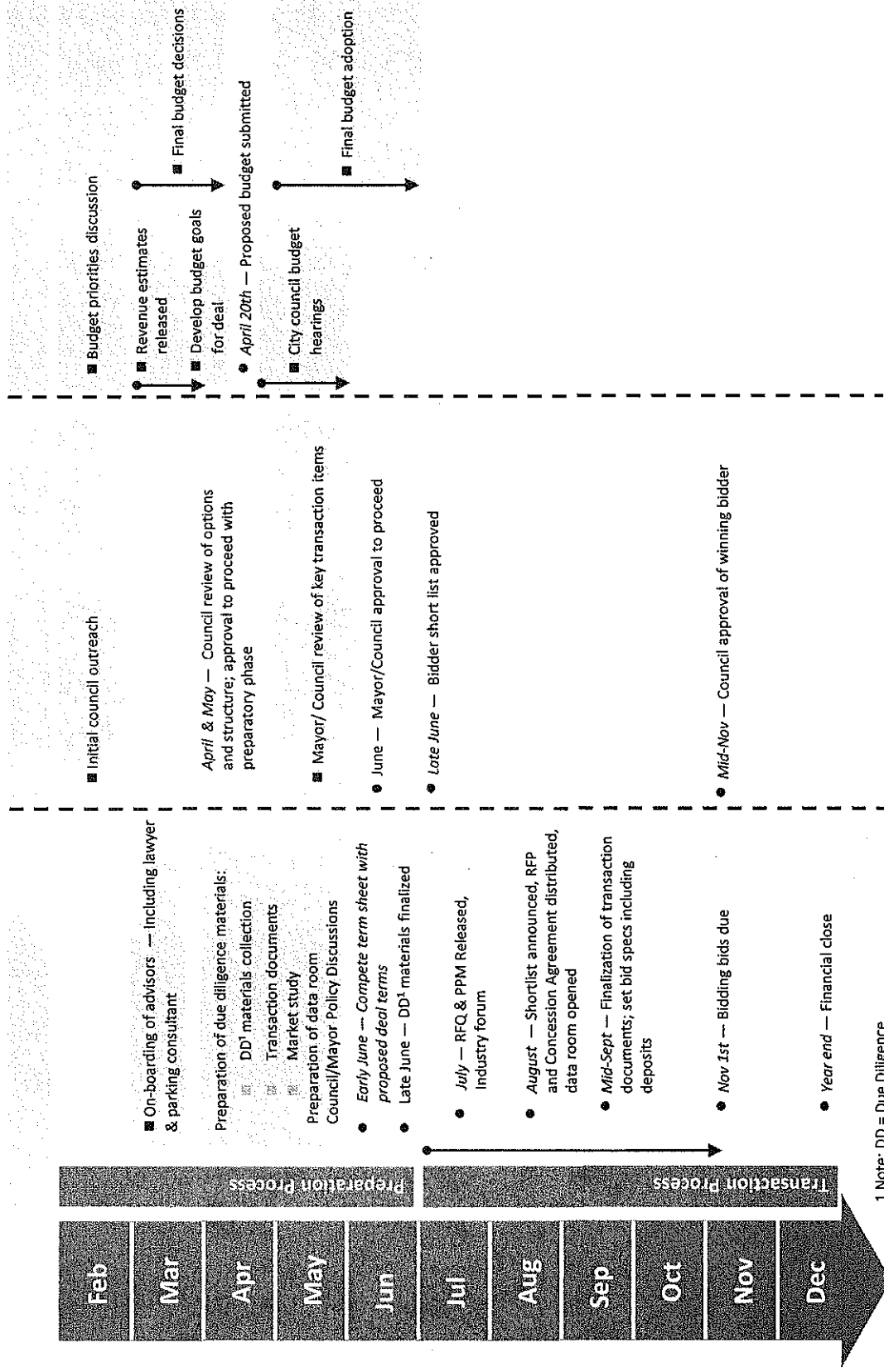
- 1) As to both Structures and Meters:
 - a) Who sets rates? If the City retains rate setting authority, what should bidders assume about future rate increases? Can the vendor charge premiums for special services such as pay by cell phone or FasTrak systems?
 - b) What is the concession structure? Cash up front or will the City participate in ongoing revenue stream on some basis?
 - c) What kind of reporting will the City receive? Who owns the data?
 - d) What will proceeds be used for?
 - e) Living wage/prevailing wage for construction.
 - f) Labor.
 - g) What level of customer service/response times will be required, if any?
 - h) Should the City terminate "for convenience" the contracts of existing vendors (e.g., GSD as manager of some structures or coin collection contract with third party vendor), or is some other treatment more equitable?
- 2) As to Structures:
 - a) Who determines hours of operation?
 - b) How does the City encourage the concessionaire to facilitate retail shoppers, enhancing City sales tax revenues?
 - c) Will there be restrictions against construction of future structures in the vicinity of the concession structures?
 - d) Can the concessionaire rename the structures, and/or sell advertising?
 - e) Can the concessionaire alter the structure configuration—e.g., converting retail space to parking, or changing from one retail use to another?
- 3) As to Meters:
 - a) What happens if the City increases or reduces enforcement hours?
 - b) Will the City be required to sustain a certain enforcement level? Will the vendor be permitted to augment City enforcement?
 - c) How does the City expand or contract the number of metered spaces?
 - i) Permanent changes—e.g., addition of meters in given area, or removal of meters due to new development/traffic mitigation, new/expanded peak hour restrictions, street re-striping, bus zone installation/expansion, conversion to passenger/commercial loading zone, taxi zone, sightseeing bus zone
 - ii) Temporary changes—e.g., no parking for filming, special events, short-term construction
 - d) What is the City's role in the selection of particular meter technology? Can the City require specific technology to be deployed, or impose performance standards on the concessionaire's technology?

- e) Can/should the City require that the concessionaire deploy technology that delivers meter occupied and unpaid status to the enforcement handhelds to streamline enforcement?
- f) Who will install and maintain meter-related signs, curb markings, and stall markings? If concessionaire, then to what standards and how long do they have to bring existing up to standard?
- g) What is the concessionaire's role, if any, on the City-owned parking lots?
- h) What is the City's role in monitoring contract compliance, e.g. inspecting meter performance and signage, or validating data reported? How is concessionaire penalized for non-compliance?

ATTACHMENT 3

PROPOSED SCHEDULE

Preliminary Transaction Timetable



1 Note: DD = Due Diligence

The transaction timeline will be driven by the speed of the preparation process, in particular the collection and refinement of all necessary due diligence materials from the City, such as detailed revenues and expenses

ATTACHMENT 4

PROPOSED AGREEMENT WITH JP MORGAN

CONFIDENTIAL

DRAFT

PROFESSIONAL SERVICES AGREEMENT

Consultant: J.P. Morgan Securities Inc.

Subject: Financial Advisory Services

Agreement Number:

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Attachment 1 to Exhibit D

AGREEMENT NUMBER _____**BETWEEN****THE CITY OF LOS ANGELES****AND****J.P. MORGAN SECURITIES INC.**

THIS AGREEMENT ("Agreement"), City Agreement No. _____, is made and entered into by and between the City of Los Angeles, a municipal corporation, (hereinafter the "City") on the one hand, and J.P. Morgan Securities Inc., a Delaware corporation (hereinafter the "Consultant" or "Lead Advisor"). Individually, Consultant and City are each referred to under this Agreement as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the City, through its Department of Transportation, the Los Angeles Community Redevelopment Agency, and the Department of Recreation and Parks, owns (i) certain surface parking lots ("Off Street Lots"), (ii) certain parking structures ("Off Street Structures"), and (iii) the franchise to charge for the right to park on City streets at the locations at which charges are assessed as of the date of this Agreement (the "On Street Franchise"; the On Street Franchise, Off Street Lots, and Off Street Structures are collectively referred to as the "Assets"). The Off Street Lots and Off Street Structures are more fully described in Exhibit A attached hereto and made a part hereof; and

WHEREAS, the City desires to engage a financial advisor ("Consultant") in connection with a possible Transaction (as defined below); and

WHEREAS, the City desires and expects the Consultant to play a key role in structuring, marketing the opportunity to qualified bidders, soliciting responsive bids, and ultimately closing the Transaction; and

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

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

NOW THEREFORE, in consideration of the premises and of the covenants, representations and agreements set forth herein, the Parties hereby covenant, represent and agree as follows:

**ARTICLE I.
INTRODUCTION**

101. Parties to the Agreement

The Parties to this Agreement are:

- A. The City having its principal office at 200 N. Spring St., Los Angeles, California 90012.
- B. The Consultant, J.P. Morgan Securities Inc., a Delaware corporation, having its corporate headquarters located at 383 Madison Avenue, New York, NY 10179, and having a local office at 1999 Avenue of the Stars, Los Angeles, CA 90067.

Samuel A. Ramirez & Company, Inc. and Loop Capital Markets, LLC are collectively referred to herein as "Co-Advisors". For purposes of this Agreement, the terms "Consultant" and "Lead Advisor" are used interchangeably.

102. Representatives of the Parties and Service of Notices

102.1 Authorized Representatives

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

- A. The authorized representatives of the City shall be, unless otherwise stated in the Agreement:

City Administrative Officer
City of Los Angeles
Attention: Debt Management Group
City Hall East
200 N. Main Street, 15th Floor
Los Angeles, CA 90012

Telephone Number: (213) 473-7526
Facsimile Number: (213) 473-7540
Email Address: Natalie.Brill@lacity.com

With copies to:

Office of the Mayor
Attention: Budget Director
City Hall
200 N. Spring Street, 3rd Floor
Los Angeles, CA 90012

B. The authorized representatives of the Consultant shall be:

Name: Robert F. Doherty
Title: Managing Director
Division: Investment Bank
Primary Location Address:
J.P. Morgan Securities Inc.
370 17th Street, Suite 3200
Denver, CO 80202-1370
Facsimile Number: (303) 945-7940

With copies to:

Name: E. Randolph Hooks
Title: Executive Director and Assistant General Counsel
Division: Legal
Primary Location Address:
JP Morgan Chase & Co.
245 Park Avenue, 12th Floor
New York, NY 10167

Facsimile Number: (646) 534-6397

102.2 Service of Notices

Unless otherwise stated herein, formal notices, demands and communications required hereunder by any Party shall be made in writing and may be effected by personal delivery or by certified mail, overnight carrier, or confirmed facsimile and shall be deemed communicated as of the date of delivery or the date of mailing, whichever is applicable, or in the case of a facsimile, upon receipt if transmitted during the receiving

Party's normal business hours, otherwise on the first business day following receipt.

If the name or address of the person designated to receive notices, demands or communications, is changed, or additional persons are added to receive notices, demands or communications, written notice shall be given, in accord with this section, within five (5) business days of said change.

103. Conditions Precedent to Execution of This Agreement

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

- A. Proof of insurance as required by the City in accordance with PSC-18 of Exhibit D to this Agreement.
- B. A Certification of Compliance with the Living Wage Ordinance Service Contractor Worker Contention and Living Wage Policy in accordance with PSC-20 of Exhibit D to this Agreement.

104. Definitions

Key terms used in this Agreement are defined as below:

"Approved in Concept" shall mean the date of the affirmative vote of a majority of the City Council, plus approval by the Mayor, of the distribution to pre-qualified potential Concessionaires of the Request for Proposals/Concession containing a draft concession agreement.

"Assets" shall have the meaning set forth in the Recitals.

"Cause" shall include the Consultant's failure to perform, in whole or in part, any material duty, promise, covenant, or agreement set forth herein, or the Consultant's misrepresentation to the City of any material fact, or the Consultant's failure to perform its duties set forth herein satisfactorily as measured by industry standards for comparable consultants with comparable credentials and compensation for comparable transactions.

"Closing" shall mean the date on which the Consideration (excluding contingent payments) is received by the City. In the event that the Consideration should only consist of contingent payments, Closing shall have the meaning set forth in the final concession agreement between the City and Concessionaire.

"Concessionaire" shall have the meaning set forth in Section 401.1.

"Consideration" shall mean:

The total value of all cash paid to the City in connection with the consummation of the applicable Transaction less amounts paid by the City to a Concessionaire after consummation of the Transaction arising from an event (not including adverse events caused by the City's breach of any covenant or other obligation under the concession agreement) that obligates the City to pay the Concessionaire such amounts. Cash amounts paid into escrow and contingent payments (meaning cash payments dependant upon future events) in connection with the applicable Transaction shall be included as part of the aggregate Consideration. Transaction Fees on cash paid into escrow will be payable upon release of the related cash to the City. Transaction Fees related to contingent payments shall be calculated and paid as and when such contingent payments are received by the City. For the avoidance of doubt, Consideration shall specifically not include the value or amount of any liabilities (including but not limited to debt or liabilities for deferred capital maintenance) assumed by a Concessionaire, except to the extent that the Concessionaire specifically assumes the City's obligations for bonded indebtedness existing as of the date of this Agreement.

For purposes of calculating the Consideration, any currency other than United States dollars shall be translated into United States dollars at the rate of exchange published in The Wall Street Journal (or, if no such rate is published, at the prevailing market rate) on the date a Transaction is consummated.

"Deliverables" shall mean:

Any tangible property of any kind, including documentation, copies of documentation, and electronic copies of documentation, delivered by Consultant to the City in connection with this Agreement.

"Eligible Expenses" shall have the meaning set forth in Section 302.

"Transaction" shall mean:

Whether in one or a series of legal agreements between the City and one or more unrelated parties defined below as a Concessionaire, (a) the acquisition for value by a Concessionaire, directly or indirectly, of one or more of the Asset(s), and/or businesses of the Asset(s), or the right to operate and collect revenues from such Asset(s), and/or businesses, by way of a direct or indirect purchase, lease, license, exchange, joint venture, concession agreement, management agreement, or other means; (b) any merger, consolidation, joint venture or other business combination pursuant to which one or more of the Assets is combined with that of a Concessionaire; or (c) the acquisition by a Concessionaire, directly or indirectly, of a material portion of the capital stock of an entity created to own or lease one or more of the Assets, by way of negotiated purchase or any other means. For the avoidance of doubt, agreements between City and a third party for asset

management services, wherein the City retains all revenue but pays a specified fee for various services, shall not be deemed a "Transaction" for purposes of this Agreement.

"Transaction Fee" shall have the meaning set forth in Section 301.1.

**ARTICLE II.
TERM OF THE AGREEMENT****201. Term of the Agreement**

The term of this Agreement shall commence upon execution of this Agreement by all Parties hereto and shall terminate at the earlier of: (i) two (2) years after execution of this Agreement or (ii) at Closing. Said term is subject to the provisions herein. Performance shall not begin until the Consultant has obtained City approval of insurance required herein.

202. Time is of the Essence

The City and the Consultant understand and agree that "Time is of the Essence" in performance of this Agreement.

**ARTICLE III.
COMPENSATION AND METHOD OF PAYMENT**

301. Compensation

301.1 Transaction Fee

In exchange for complete and satisfactory performance of this Agreement, City agrees to pay Consultant and Co-Advisors a Transaction Fee equal to the following upon the receipt of the related Consideration by the City:

- (a) If the consummated Transaction does not include the City's On Street Franchise or any material portion thereof:
 - i. 1.25% of the first two hundred and fifty million dollars (\$250,000,000) of the Consideration, plus
 - ii. 0.50% of the amount of Consideration in excess of two hundred and fifty million dollar (\$250,000,000); OR
- (b) If the consummated Transaction does include the City's On Street Franchise or a material portion thereof:
 - i. 0.80% of the Consideration.

The Lead Advisor and Co-Advisors shall split the Transaction Fee as follows:

70% payable directly to the Lead Advisor

20% payable directly to Samuel A. Ramirez & Company, Inc.

10% payable directly to Loop Capital Markets, LLC

In the event a Transaction is Closed within one (1) year after the Consultant was terminated for convenience by the City: (a) if the Transaction was Approved in Concept before the Consultant was so terminated, Consultant shall be entitled to seventy-five percent (75%) of the Transaction Fee set forth above or (b) if the final concession agreement had been agreed to by the Concessionaire and City Council before the Consultant was so terminated, Consultant shall be entitled to the full Transaction Fee set forth above. In either case, the applicable fee would be payable upon receipt of Consideration by the City from the consummated Transaction. The provisions of this paragraph shall be limited to a Transaction 1) with Consideration received upon Closing by the City in excess of two hundred million dollars (\$200,000,000) and 2) involving all or substantially all of the Assets contemplated by this Agreement.

301.2 Method of Payment

Payment for Consultant's services shall be earned and payable only after the Closing of a Transaction. Transaction Fees on cash paid into escrow will be payable upon release of the related cash to the City. Transaction Fees related to contingent payments shall be calculated and paid as and when such contingent payments are received by the City.

302. Eligible Expenses

In addition to the Transaction Fee detailed in Section 301.1, the City agrees to reimburse the Consultant for, and the Consultant will separately bill, Eligible Expenses up to an amount not to exceed fifty thousand dollars (\$50,000) under any circumstances. For purposes of this Agreement "Eligible Expenses" shall mean the following:

- 1) Reasonable travel costs of personnel who are based outside of Los Angeles or Orange Counties, California, subject to the City's per diem limit and travel policies;
- 2) Other reasonable out of pocket costs for document production and other similar expenses, provided that such costs are consistent with the Approved Budget (described below); and
- 3) Such other and reasonable fees and costs as the City may approve in advance.

(a) Under no circumstances shall the Consultant be entitled to reimbursement for any expenses, including travel costs, incurred by the Consultant prior to the formal execution of this Agreement.

(b) Exhibit B to this Agreement, attached hereto and made a part hereof, is a budget for Eligible Expenses (the "Approved Budget") that the parties have estimated as of the date of this Agreement. Eligible Expenses shall not exceed amounts set forth in the Approved Budget without the City's prior written consent.

(c) Eligible Expenses will be billed to the City quarterly prior to Closing, but in no event before July 15, 2009, and within 30 days after the first to occur of any of the following:

- 1) City's election to terminate for convenience; or

2) The Closing of the Transaction.

The City shall make reasonable efforts to pay such Eligible Expenses within 30 days after receipt of an invoice that meets the requirements of this Agreement. In the event that the Consultant does not complete satisfactory performance of this Agreement or a Transaction is not consummated under the terms of this Agreement for any reason other than the City terminating the Consultant for convenience, the Consultant shall not be entitled to its Eligible Expenses and must reimburse the City immediately and without demand or setoff for all Eligible Expenses previously paid for by the City under this Agreement.

303. Details of Payment

303.1 Required Invoice Information

Invoices shall be submitted by the Consultant to the City in triplicate. The following information shall be included in each invoice submitted by the Consultant to the City:

1. Consultant name, address, and vendor code number as registered on the City vendor database.
2. City of Los Angeles Business Tax Registration Number
3. Date of invoice
4. Invoice number
5. Contract number
6. Taxes
7. Total amount of invoice
8. Description of services and Deliverables provided and associated costs
9. Supporting documentation for all costs and expenses, in a format acceptable to the City.
10. Following certification statement signed by the Consultant:
"I hereby certify, under penalty of perjury, that the services rendered and billings reflected in this invoice are true, accurate and in conformance with the terms of this Agreement, including but not limited to the Living Wage Ordinance, Los Angeles Administrative Code Section 10.37 *et. seq.*"
11. Approval signature blocks for City authorized representative(s) identified in Section 102.1, Representative(s) of the Parties and Service of Notices, of this Agreement.
12. An accompanying City Subcontractor Tracking Form, or its successor reporting format, identifying the amounts paid to each authorized subconsultant for both the current invoice

and total invoiced to date. The Consultant shall provide written evidence of the City's prior approval of Consultant's use of subconsultant(s).

13. Invoices shall be submitted to:

Office of the City Administrative Officer
City of Los Angeles
Attention: Debt Management Group
City Hall East
200 N. Main Street, 15th Floor
Los Angeles, CA 90012

Telephone Number: (213) 473-7526
Facsimile Number: (213) 473-7540
Email Address: Natalie.Brill@lacity.com

Consultant's failure to submit accurate and all required information shall result in City's rejection of the invoice and non-payment.

303.2 Notice of Items Not Approved for Payment

The City's authorized representative will make reasonable effort to review the Consultant invoice within fifteen (15) working days and notify the Consultant of any missing or required additional documents, questioned costs, inaccuracies, or concerns.

303.3 Timely Invoicing

The City shall not reimburse or pay the Consultant for any costs, expenses, work, or services invoiced to the City more than six (6) months after the date of the Closing of a Transaction.

303.4 Maximum Authorized Amount

Notwithstanding any other provision of this Agreement, any changes or additions hereto that shall increase the City's total obligation above the maximum authorized amount set forth in Section 301.1 of this Agreement shall be subject to prior written approval by the City. The City shall not be obligated to pay for work performed by the Consultant for any such changes made in violation of this Agreement.

**ARTICLE IV.
SERVICES TO BE PROVIDED****401. Services to be Provided by the Consultant****401.1 Description of Consultant Services**

The Consultant is engaged by the City, separate and apart from any other financial advisor retained by City, to act as its financial advisor in connection with one or more possible Transactions between the City and any other person or entity (any such person or entity, together with its subsidiaries and affiliates, a "Concessionaire") relating to advising and assisting the City in considering the desirability and feasibility of (i) effecting a Transaction, (ii) including or omitting all or any part of the Off Street Lots, Off Street Structures, or On Street Franchise from the Transaction, (iii) alternative financial structures for the Transaction, including one-time concession payments and/or participation in net or gross cash flows over the life of the Transaction, and (iv) potential ways to address stakeholder concerns such as the cost of parking. Ultimately, the City shall determine in its sole discretion which, if any, Off Street Lots or Off Street Structures, as well as whether all or any portion of the On Street Franchise are included in any Transaction or whether City streets at the locations at which charges are not assessed as of the date of this Agreement shall be included in any Transaction.

In connection with its role as financial advisor, the Consultant shall:

1. Familiarize itself with the financial terms of each proposed project as well as the City's financial, operational and policy goals; and
2. Provide its estimates of value of the proposed transaction, along with sensitivity analysis around key structural terms to demonstrate the impact on value based on historical data provided by the City and projections prepared by independent experts; and
3. Provide its recommendations on optimal structure intended to attract competitive financing terms and achieve City's goals for any proposed transaction; and
4. Identify financial risks of the proposed Transaction along with risk mitigation strategies and an assessment of alternative structures designed to achieve the City's goals; and
5. Assist the City in its communication efforts with potential Concessionaires; and
6. Assist in developing communication strategy and materials for multiple audiences, to include the public, legislators, labor organizations, affected community organizations, affected employees, and senior staff of the City; and
7. Assist with rating agency strategy, including advising with respect to any potential impact on the City's underlying rating and methods of structuring the proposed transaction to attract the most competitive financing terms; and
8. Assist with designing a process to identify, qualify, and select potential Concessionaires; provide input on minimum standards for concessionaire qualifications; and

9. Assist in preparation of necessary and complete disclosure memorandum, describing the proposed Transaction, the Assets, business and financial conditions, data, and information, among other matters (based, where appropriate, on historical information provided by the City and other independent experts or consultants); and
10. Assist in organizing and leading due diligence and informational meetings with potential Concessionaires; and
11. Assist in design and maintenance of any necessary data rooms; and
12. Advise and assist in negotiation of financial contract terms between potential Concessionaire and the City; and
13. Assist the City in effecting the financial aspects of the Transaction from start to completion, including sizing escrows to defease bonds to be verified by independent verification agent; and
14. Assist in the analysis of use of Transaction proceeds.

401.2 Errors and Omissions

Notwithstanding any other provisions of this Agreement, approval by the City of any task or Deliverable, or any part thereof, shall not relieve the Consultant of the responsibility to meet all of the requirements as set forth in this Agreement. The Consultant shall have no claim for additional costs due to correction of its errors or omissions in said previously approved services or any other action that may be necessary to comply with this Agreement, including all Exhibits.

401.3 Industry Standard of Care

The Consultant shall perform the work described herein in accordance with industry standards of care and shall reflect competent professional knowledge and judgment.

402. Consultant Personnel**402.1. Key Consultant Personnel**

Key Consultant personnel to be assigned to this Agreement are identified in the List of Key Consultant Personnel set forth in Exhibit C, which is attached hereto and made a part hereof. Exhibit C, List of Key Consultant Personnel, also contains a description of the Consultant's business location where key personnel are assigned, the position within the Consultant's organizational hierarchy, special expertise of the person, the number of years employed by the Consultant, and the number of years of experience for each person identified in Exhibit C. Key Consultant personnel shall be

available to perform under the terms and conditions of this Agreement immediately upon commencement of the term of this Agreement.

The City considers the services of the Consultant's key personnel listed in Exhibit C, List of Key Consultant Personnel, essential to the Consultant's performance under this Agreement. The Consultant shall use its best efforts to avoid any changes to the Key Consultant Personnel during the term of this Agreement.

402.1.1 Unavailability of Key Personnel

In the event individual key personnel listed in Exhibit C are terminated either by the Consultant or the individual, with or without cause, or if individual key personnel are otherwise unavailable to perform services for the Consultant, the Consultant shall provide to the City written notification detailing the circumstances of the unavailability of the individual key personnel and designating replacement personnel prior to the effective date of individual key personnel termination or unavailability date, to the maximum extent feasible, but no later than five (5) business days after the effective date of the individual key personnel termination or unavailability. The Consultant shall propose replacement personnel that have a level of experience and expertise equivalent to the unavailable individual key personnel for City review and approval.

The City shall review and approve or disapprove any personnel who are designated as key personnel. The City shall act reasonably in exercising its discretion to approve or disapprove any key personnel.

The Consultant recognizes and agrees that early notification of the unavailability of key Consultant personnel and proposed replacement personnel is essential to avoiding delays in completing the services, work, tasks, and Deliverables established in this Agreement because the award of which was predicated upon the competency of the personal services provided.

402.2 Removal of Consultant Personnel

The Consultant agrees to remove personnel from performing work under this Agreement if reasonably requested to do so by the City within 24 hours or as soon thereafter as is practicable.

403. Consultant Use of Subconsultants

It is anticipated that Consultant may desire to engage subconsultants, including legal counsel and other professional advisors. The use of such subconsultants, including but not limited to individuals, contract employees, sole proprietors, firms, and corporations, must be pre-approved in writing by the City pursuant to Section 403.1 below.

Should the Consultant utilize subconsultants, the Consultant shall remain responsible for performing all aspects of this Agreement and for ensuring that all services, work, and tasks are performed in accordance with the terms and conditions of this Agreement.

The City has no obligation to any subconsultant and nothing herein is intended to create any privity between the City and the Consultant's subconsultants.

403.1 City Pre-Approval of Subconsultants

In the event Consultant is seeking to use one or more subconsultants, Consultant must explain why the use of such subconsultant(s) is necessary and how such use may affect this Agreement. This applies to, but is not limited to, individuals, contract employees, sole proprietors, firms, and corporations. City must pre-approve all subconsultants in writing. Oral representations will not have any authority or binding effect.

403.2 Subconsultant Subcontracting

Subconsultant's subcontracting or delegation of services is expressly prohibited unless approved in writing by the City.

403.3 Agreement Provisions Applicable to Subconsultants

Consultant shall require any subcontract entered into pursuant to this Agreement to be subject to Section 403.2, the provisions of Article VI, Ownership, and Article VII, Confidentiality and Restrictions on Disclosure, and, the Standard Provisions for City Contracts of this Agreement.

403.4 Copies of Consultant Subconsultant Contracts

The Consultant shall provide the City with copies of Consultant subconsultant contracts associated with the performance of this Agreement within fifteen (15) working days of execution of such contracts by the Consultant.

The Consultant is solely responsible for ensuring that all subcontracts comply with the provisions and the terms of this Agreement, as applicable.

**ARTICLE V.
MISCELLANEOUS PROVISIONS**

501. Relationship between Lead Advisor and Co-Advisors

Notwithstanding any separate contract(s) executed between the City and Samuel A. Ramirez & Company, Inc. and/or Loop Capital Markets, LLC, the Lead Advisor shall take the lead role among the advisors, coordinate and oversee the work of the Co-Advisors, and advise the City with respect to the Lead Advisor's assessment of the advice rendered to the City by its Co-Advisors. The City agrees that the Consultant shall have no liability to the City for any action or omission of the Co-Advisors, except to the extent that such action or omission was made with the knowledge of the Consultant in its role as Lead Advisor.

502. Accuracy of Information Provided by the City

It is agreed that the Consultant shall not be responsible for the accuracy of the historical information provided by the City concerning the City and Assets contained in the memorandum referred to in Section 401.1 of this Agreement.

503. Financial Advisory Role, Access to Information, and Consultant Advertisements

(a) The City understands that Consultant is acting solely as a financial advisor to the City, is acting as an independent contractor and is not undertaking to provide any legal, accounting or tax advice in connection with its engagement under the Agreement and that Consultant's role in any due diligence will be limited solely to performing such review as it shall deem necessary to support its own advice and analysis and shall not be on behalf of the City.

(b) The City agrees to provide to Consultant all relevant information reasonably requested by Consultant for the purpose of its engagement under the Agreement and also to provide reasonable access to employees of the City and the Asset or Assets. Consultant shall be entitled to reasonably rely upon and assume, without any obligation of independent verification, the accuracy and completeness of all information that is publicly available and of all information that has been furnished to it by the City, the City's agents, or any Concessionaire. Consultant has no obligation to conduct any appraisal of any assets or liabilities or to evaluate the solvency of the City, the Asset or Assets, or any Concessionaire under any state or federal laws relating to bankruptcy, insolvency, or similar matters.

(c) In order to enable the Consultant to bring relevant expertise to bear on its engagement under the Agreement from among its global affiliates, the City agrees that Consultant may share information obtained from the City hereunder in conjunction with its affiliates, and that any Consultant affiliates performing services hereunder shall be entitled to the benefits and subject to the terms of the Agreement. The City agrees that, following Closing of any Transaction, Consultant may, at its option and own expense, place an advertisement or

announcement in such newspapers and periodicals as it may determine describing Consultant's role as financial advisor to the City, provided that the Consultant receives written pre-approval from the City for each specific advertisement or announcement and the City is not held liable for any inaccuracies of any advertisement or announcement placed by the Consultant.

504. Indemnification of the Consultant

(a) The City agrees to the extent permitted by law to indemnify and hold harmless Consultant and its affiliates, and the respective directors, officers, agents, and employees of Consultant and its affiliates (collectively, "JPM"), from and against any legal claims arising after the Closing of a Transaction ("Liabilities") relating to its role as financial advisor in this Agreement, except to the extent the Liabilities have resulted from the bad faith, negligence, or willful misconduct of JPM or one or more of the Co-Advisors.

(b) The City shall not be liable for any settlement of any litigation or proceeding effected without its written consent. Consultant shall not be liable for any settlement of any litigation or proceeding effected without its written consent.

(c) The provisions of this Section 504 shall survive termination of this Agreement.

505. Other Engagements

Consultant agrees and warrants that each of the Consultant's Key Personnel, as identified in Exhibit C attached hereto, shall not work as a financial advisor in any capacity for another government entity for a transaction or potential transaction involving parking assets located in North America prior to the expiration or termination of this Agreement without the prior written consent of the City's authorized representative identified in Section 101.2 (such consent not to be unreasonably withheld).

In addition to the restrictions of Government Code Section 1090, during the term of this Agreement, Consultant and its affiliates ("Morgan") (i) shall not act as a financial advisor to any party (other than the City) in connection with a Transaction and (ii) shall not arrange and/or provide financing to potential Concessionaires specifically in connection with a Transaction. The restrictions in clause (ii) shall not apply to the following (except to the extent any of the following may violate Government Code Section 1090): (A) any credit facilities to which Morgan is a party in effect as of the date hereof or (B) any new credit facility, amendment to an existing credit facility, or debt or equity securities offering the proceeds of which are not restricted, so long as Morgan is not aware that such proceeds will be used for the purpose of financing a Concessionaire specifically in connection with a Transaction or (C) any direct or indirect

principal activities undertaken by any portfolio company in which any Morgan entity engaged in the venture capital, private equity or mezzanine businesses has non-controlling investments or (D) any ordinary course sales and trading activity undertaken by employees who have not had access to the information received by Consultant under the Agreement or (E) any Morgan entity or business engaged in providing private banking or investment management services.

**ARTICLE VI.
OWNERSHIP****601. Ownership Rights**

It is understood and agreed that the Deliverables are being developed by the Consultant for the sole and exclusive use of the City and that the City shall be deemed the sole and exclusive owner of all right, title, and interest therein, including all copyright and proprietary rights relating thereto. All work performed by the Consultant on Deliverables and any supporting documentation therefore shall be considered as "Works-Made-for-Hire" (as such are defined under the U.S. Copyright Laws and international treaties) and, as such, shall be owned by and for the benefit of the City. The City owns any and all trademarks, patents, copyrights, and any other intellectual property rights for any and all Deliverables generated as a result of this Agreement, regardless of the state of completion of said Deliverables.

In the event it should be determined that any of such Deliverables or supporting documentation, or parts thereof, do not qualify as a "Works-Made-for-Hire" the Consultant shall and hereby does transfer and assign to the City for no additional consideration, all right, title, and interest that it may possess in such Deliverables and documentation including, but not limited to, all copyrights to the work and all rights comprised therein, and all proprietary rights relating thereto. Upon request, the Consultant shall take such steps as are reasonably necessary to enable the City to record such assignment. Further, the Consultant shall contractually require all persons performing under this Agreement, including all subconsultants, to assign to the City all rights, title, and interest, including copyrights to all such "Works-Made-for-Hire."

601.1 Use of Deliverables

The City has the right to use or not use the Deliverables and to use, reproduce, re-use, alter, modify, edit, or change the Deliverables (to the extent permitted by law) as it sees fit and for any purpose. If the City determines that a Deliverable, or any part thereof, requires correction prior to City approval, the City has the absolute right to use the Deliverable until such time as the Consultant can remedy the identified deficiency.

601.2 Execution of Ownership Documents

The Consultant shall sign, upon request, any documents needed to confirm that the Deliverables or any portion thereof are "Works-Made-for-Hire" and to effectuate the assignment of its rights to the City.

602. Warrant Against Infringement

The Consultant warrants that the performance of the services by the Consultant or its subconsultants of any tier, pursuant to this Agreement, shall not in any manner constitute an infringement or other violation of any trademark, copyright, patent and/or trade secret of any third party.

603. Subconsultants Subject to This Article VI

Any subcontract entered into pursuant to the terms of this Agreement shall be subject to, and shall incorporate, the provisions of this Article VI, Ownership. The Consultant shall contractually require all persons performing under this Agreement, including all subconsultants, to assign to the City all rights, title, and interest, including copyrights to all Deliverables and other "Works-Made-for-Hire."

604. Survival of Provisions

The provisions of this Article VI, Ownership, shall survive termination and expiration of this Agreement.

**ARTICLE VII.
CONFIDENTIALITY AND RESTRICTIONS ON DISCLOSURE****701. Confidentiality**

The Consultant acknowledges that, during the course of performing services hereunder, the City will be disclosing information to the Consultant related to the City's business, projects, plans and assets, as well as other information (collectively, the "Confidential Information"). All documents, records and information provided by the City to the Consultant, or accessed or reviewed by the Consultant during performance of this Agreement, are deemed Confidential Information. The Consultant agrees that the Confidential Information will be used by the Consultant only in connection with its consulting activities hereunder and shall not be used in any way that is detrimental to the City. All documents, records, and information provided by the City to the Consultant, or accessed or reviewed by the Consultant, during performance of this Agreement shall remain the property of the City, and the Consultant will treat all such Confidential Information as confidential and proprietary property of the City. The Consultant agrees not to disclose, directly or indirectly, the Confidential Information to any third person or entity, other than the affiliates, representatives or agents of the Consultant or legal advisors, expert consultants, and other advisors (collectively, "advisors") utilized by the Consultant in connection with consulting activities hereunder; provided, however, that each such advisor agrees to keep such information confidential and uses it only in connection with such consulting activities. The Consultant may disclose any Confidential Information that is required to be disclosed by law, government regulation, or court or administrative order or process. If disclosure is required, the Consultant will (to the extent permitted by law) provide the City with advance notice so that the City may seek a protective order or take other action reasonable under the circumstances.

The term "Confidential Information" does not include information that (a) was or becomes available to the public other than as a result of disclosure by the Consultant in violation of this Agreement, (b) becomes available to the Consultant from a source not known by the Consultant to be subject to a confidentiality obligation to the City, (c) was in the possession of the City prior to its disclosure in connection with this Agreement, (d) is independently developed by the Consultant without reference to any confidential or proprietary information of the City or (e) is contained in any marketing or disclosure document approved by the City for use in connection with a Transaction or otherwise approved by the City for use in connection with the Transaction.

Notwithstanding anything herein to the contrary (whether expressed or implied) and except as necessary to comply with applicable federal or state securities laws, Consultant (and each of its Representative(s) or other permitted recipient of such Confidential Information in accordance with the terms and conditions of this Agreement) may disclose to any and all persons, without limitation of any kind,

the U.S. federal income tax treatment (as defined in Treas. Reg. § 1-6011.4) and U.S. federal income tax structure (as defined in Treas. Reg. § 1-6011.4) of any Transaction contemplated by this Agreement and any fact that may be relevant to understanding such tax treatment or structure and all materials of any kind (including tax opinions or other tax analyses) that are provided to Consultant relating to such tax treatment and tax structure of a Transaction. However, any information relating to the tax treatment or tax structure shall be kept confidential until the earlier of (i) the date of the public announcement of discussions relating to a potential Transaction or (ii) the date of execution of a definitive agreement to enter into a Transaction, excepting compliance with applicable federal or state securities laws.

Upon termination of this Agreement and subject to Section 701.2 below, the Consultant shall promptly return to the City all materials containing Confidential Information, including without limitation, data, records, reports, notes, and other property furnished by the City to the Consultant or produced by the Consultant in connection with services rendered hereunder.

701.1 Document Access/Control

- A. The Consultant shall make the Confidential Information provided by the City to the Consultant, or accessed or reviewed by the Consultant during performance of this Agreement, available to its employees, directors, officers, agents, affiliates, representatives and /or subconsultants, only on a need-to-know basis. Further, the Consultant shall provide written instructions to all of its employees, directors, officers, agents, affiliates, representatives and subconsultants, with access to the confidential information about the penalties for its unauthorized use or disclosure.
- B. The Consultant shall store and process confidential information in an electronic format in such a way that unauthorized persons cannot retrieve the information by computer, remote terminal or other means.
- C. The Consultant shall not remove documents, records, or information used or reviewed in connection with the Consultant's work for the City from City facilities without prior approval from the City. The Consultant shall not use, other than in direct performance of work required pursuant to the Agreement, or make notes of any home address or home telephone numbers contained in personnel or customer files, confidential information, documents, or records provided by the City that are reviewed during work on this Agreement.

- D. The Consultant shall document and immediately report to the City any unauthorized use or disclosure of confidential information of which the Consultant becomes aware.

701.2 Return of All Documents to the City

The Consultant shall, at the conclusion of this Agreement or at the request of the City, promptly return any and all written materials, notes, documents, records, confidential information, or other information obtained by the Consultant during the course of work under this Agreement to the City, and all paper and electronic copies thereof; provided however, the Consultant may retain duplicates and originals, as appropriate, of Consultant's administrative communications, records, files, and working papers relating to the services provided by the Consultant pursuant to this Agreement, and any additional materials that are required to be retained by applicable legal and regulatory requirements. Consultant shall under no circumstances retain any copies of City financial or City employee or customer confidential data or information; provided that the Consultant may retain any materials required to be retained by applicable legal and regulatory requirements.

701.3 Work Product and Deliverable Confidentiality

Any reports, findings, Deliverables, analyses, studies, notes, information or data generated as a result of this Agreement are to be considered confidential. The Consultant shall not make such information available to any individual, agency, or organization except as provided for in this Agreement or as required by law. Notwithstanding the foregoing, the Consultant may reference its work under this Agreement in general terms in presentations and proposals, provided that in doing so, the Consultant does not disclose any non-public information. The Consultant may not release any information, whether or not such information is public information, to the media without prior written approval from the City.

701.4 Subconsultants Subject to This Article VII

Any subcontract entered into pursuant to the terms of this Agreement shall be subject to, and shall incorporate, the provisions of this Article VII, Confidentiality and Restrictions on Disclosure.

702. Survival of Provisions

The provisions of this Article VII, Confidentiality and Restrictions on Disclosure shall survive termination of this Agreement.

**ARTICLE VIII.
TERMINATION AND SUSPENSION****801. Termination for Convenience**

- A. The City or the Consultant may terminate this Agreement without cause at any time and without liability or continuing obligation to the City or to the Consultant (except for any expenses incurred by Consultant to the date of termination) by giving thirty (30) days written notice to the other Party. .
- B. After receipt of a notice of termination and except as otherwise directed by the City, the Consultant shall:
 - 1. Stop work under the Agreement on the termination effective date and to the extent specified in the notice of termination.
 - 2. Deliver to the City, within ten (10) calendar days after termination, any and all data, reports, other documents, and Deliverables, or portions thereof, if any, prepared pursuant to this Agreement, but not already delivered as well as all other written materials, notes, documents, records, confidential information, and other information pursuant to Section 701.2 above.
 - 3. Transfer title to the City (to the extent that title has not already been transferred) in the manner and at the times and to the extent directed by the City, the work in process, completed work, and other material produced as part of or required in respect to performance of this Agreement.
- C. The amount due Consultant by reason of termination for the City's convenience shall be determined as follows:
 - 1. The Consultant shall be reimbursed for all Eligible Expenses as provided herein.
 - 2. The Consultant shall be paid the Transaction Fee or portion thereof, if any is owed pursuant to the last paragraph of Section 301.1.
- D. No amount shall be due to Consultant by reason of termination for the Consultant's convenience and the Consultant shall repay the City any previously paid Eligible Expenses as provided in Section 302.

802. Termination for Cause

- A. The City may terminate this Agreement for Cause (as defined in Section 104) by giving the Consultant a written notice of breach. Incurable breaches shall be limited to a misrepresentation of a material fact in this Agreement or a violation of Section 1002 or Section 505 herein. In the event of a curable breach, the Consultant shall have ten (10) calendar days from the date of the City's notice of breach to cure, or diligently commence to cure such breach. The City's notice of breach shall include a time and location for the individuals identified in Section 102.1 of this Agreement to meet and discuss the notice of the breach. Such meeting shall be scheduled within ten (10) calendar days of the date of the notice of breach. If the breach is incurable or the Consultant is for whatever reason unable or unwilling to cure, or diligently commence to cure, such breach, or meet within the ten (10) day timeframe, the City may terminate this Agreement anytime thereafter upon providing the Consultant written notice. In any event, if the breach is not actually cured within thirty (30) days of the City's notice of breach, the City may terminate this Agreement anytime thereafter upon providing the Consultant written notice.
- B. If this Agreement is terminated for Cause, the Consultant shall comply with Section 801B above and will not receive any portion of any compensation and shall not be reimbursed for any expenses and the Consultant shall repay the City any previously paid Eligible Expenses as provided in Section 302.

803. Suspension of Work

The City may orally direct the Consultant to suspend, and to subsequently resume performance of all or any of the work. Such City direction shall be confirmed in writing.

**ARTICLE IX.
AMENDMENTS AND CHANGE TO THE AGREEMENT**

901. Amendments

Any change in the terms of this Agreement, including changes in the services to be performed by the Consultant, extension of the term, and any increase or decrease in the amount of compensation authorized in Section 301.1 of this Agreement, agreed to by the Parties, shall be incorporated into this Agreement by a written amendment properly executed and signed by the City and the person(s) authorized to bind the Consultant thereto.

Agreement extensions that result in an Agreement term of greater than three (3) years in the aggregate may require City Council approval pursuant to Section 373 of the Charter of the City of Los Angeles (hereinafter "City Charter").

902. Order of Precedence

In the event of any conflict between the terms of this Agreement and the terms of any exhibit, the terms of the exhibit shall control. In the event of any conflict between the following documents, all of which are hereby incorporated by reference into this Agreement, the order of precedence shall be as follows:

- (a) Latest Amendment
- (b) Agreement
- (c) Latest Change Order

**ARTICLE X.
STANDARD PROVISIONS**

1001. Standard Provisions for City Contracts

The Consultant shall comply with the *Standard Provisions for City of Los Angeles Contracts*, which are attached hereto as Exhibit D, and made a part hereof, with the sole exceptions of PSC-1 (Construction of Provisions and Titles Herein) – third sentence, third clause (“if there shall be more than one...”) and PSC-23 (Discount Terms).

1002. Conflicts of Interest

The Consultant understands that the City is prohibited from waiving any conflicts of interest, regardless of any representations to the contrary.

Officers and employees of the Consultant who perform work for the City pursuant to this Agreement are subject to and shall comply with California Government Code section 1090 relating to conflicts of interests. Government Code section 1090 prohibits, among other things, a contractor from having a financial interest in any contract which results, directly or indirectly, from the services provided by the contractor.

If the Consultant (including its affiliates, officers, and employees) has a possibility of an arrangement for future employment, another business arrangement, or has a financial interest with a prospective bidder to a subsequent City contract has been or is the subject of a previous or current discussion, or if the Consultant has reason to believe such an arrangement may be the subject of future discussion or if the Consultant has reason to believe that any other situation exists which might be viewed as or give the appearance of a conflict of interest, the contractor shall immediately inform the City’s authorized representative identified in Section 101.2 in writing of such situation giving the full details thereof. **The Consultant’s execution of this Agreement shall constitute a representation by the Consultant that at the time of such execution the Consultant knows of no circumstances, present or anticipated, which come within the provisions of this section or which might otherwise be viewed as or give the appearance of a conflict of interest on the Consultant’s part.**

Consultant and its affiliates (collectively, “Morgan”) comprise a full service securities firm and a commercial bank engaged in securities trading and brokerage activities, as well as providing investment banking, asset management, financing, and financial advisory services and other commercial and investment banking products and services to a wide range of corporations and individuals. Notwithstanding the above, Morgan recognizes its responsibility for compliance with federal securities laws in connection with such activities and its responsibility for compliance with State of California laws regarding conflicts of interests, including particularly Government Code Section 1090.

In order to comply with such provisions of California law, the Consultant may be required to exercise its right to terminate the Agreement for convenience. **Nothing in this Agreement shall be deemed to be a determination by the City as to whether any particular relationship or activity described in this Agreement is a conflict of interest within the meaning of the laws of the State of California, including particularly Government Code Section 1090.**

Further, should newly discovered information cause the City to believe that the Consultant may have a conflict of interest in violation of Government Code Section 1090, the City may take appropriate action including termination of this Agreement and such termination shall be deemed to be terminating the Consultant for Cause pursuant to Section 802 herein.

**ARTICLE XI.
ENTIRE AGREEMENT****1101. Complete Agreement**

This Agreement together with the Exhibits hereto completely and exclusively states the agreement of the Parties regarding its subject matter and its terms govern, all prior proposals, agreements, or other communications between the Parties, oral or written, regarding such subject matter. No verbal or written agreement nor conversation with any officer, employee or counsel of any Party nor any or all prior proposals shall affect or modify any of the terms and conditions of this Agreement. Any purported oral amendment to this Agreement shall have no effect.

1102. Number of Pages and Attachments

This Agreement is executed in three (3) duplicate originals, each of which is deemed to be an original. This Agreement includes _____ () pages and _____ () Exhibits identified as Exhibits ____ through ____ consecutively, which constitutes the complete understanding among the Parties.

1103. Represented by Counsel

Each Party acknowledges that it was represented by counsel in the negotiation and execution of this Agreement.

1104. Governing Law; Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of California without reference to principles of conflicts of law. Each of the City and the Consultant irrevocably and unconditionally submits to the exclusive jurisdiction and venue of any court sitting in Los Angeles County over any action, suit or proceeding arising out of or relating to this Agreement. Each of the City and the Consultant irrevocably and unconditionally waives any objection to the laying of venue of any such action brought in any such court and any claim that any such action has been brought in an inconvenient forum.

[Signature page follows].

CONFIDENTIAL

DRAFT

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

Consultant

*Two company executive signatures
for each company are required*

For: THE CITY OF LOS ANGELES

For: J.P. Morgan Securities Inc.

By: _____

By: _____

Date: _____

Date: _____

And: _____

By: _____

Date: _____

City Business Tax Registration Certificate Number:
Internal Revenue Service ID Number:
Agreement Number _____

EXHIBIT A

Off Street Lots and Off Street Structures

CONFIDENTIAL

DRAFT

EXHIBIT B

Approved Budget For Reimbursable Expenses As may be amended from time-to-time

EXHIBIT C**List of Key Consultant Personnel**

The following people are designated as Consultant's Key Personnel:

Name	Project Position	Labor Category	Location	Special Expertise	No. of Years Employed by Consultant/ Experience
Robert Doherty					
Gary Hall					
Paul Ryan					

Exhibit C - List of Key Consultant Personnel

EXHIBIT D**Standard Provisions For
City Contracts****PSC-1. Construction of Provisions and Titles Herein.**

All titles or subtitles appearing herein have been inserted for convenience and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or the **CONSULTANT**. The word "**CONTRACTOR**" or "**CONSULTANT**" herein and in any amendments hereto includes the party or parties identified in the Contract wherein this Exhibit is incorporated by reference; the singular shall include the plural; if there shall be more than one **CONTRACTOR/CONSULTANT** 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.

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. **CONTRACTOR/CONSULTANT** shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Contract.

If any part, term or provision of this Contract shall be 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 the **CONTRACTOR/CONSULTANT** by the person or persons authorized to bind the **CONTRACTOR/CONSULTANT** hereto;
- B. This Contract has been approved by the **CITY'S** 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;
- D. This Contract has been signed on behalf of the **CITY** by the person designated to so sign by the **CITY'S** 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 hereto shall be in writing and signed by the persons authorized to bind the parties thereto.

PSC-7. Excusable Delays.

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

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. Independent CONTRACTOR/CONSULTANT.

The **CONTRACTOR/CONSULTANT** is acting hereunder as an independent contractor and not as an agent or employee of the **CITY**. The **CONTRACTOR/CONSULTANT** 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-11. Prohibition Against Assignment or Delegation.

The **CONTRACTOR/CONSULTANT** may not, unless it has first obtained the written permission of the **CITY**;

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

PSC-12. Permits.

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

PSC-13. Nondiscrimination and Affirmative Action.

The **CONTRACTOR/CONSULTANT** 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, the **CONTRACTOR/CONSULTANT** 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. The **CONTRACTOR/CONSULTANT** shall comply with the provisions of the Los Angeles Administrative Code Sections 10.8 through 10.13, to the extent applicable hereto. The **CONTRACTOR/CONSULTANT** shall also comply with all rules, regulations, and policies of the **CITY'S** Board of Public Works, Office of Contract Compliance relating to nondiscrimination and affirmative action, including the filing of all forms required by said Office. Any subcontract entered into by the **CONTRACTOR/CONSULTANT** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph. Failure of the **CONTRACTOR/CONSULTANT** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject the **CONTRACTOR/CONSULTANT** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR/CONSULTANT'S** contract with the **CITY**.

PSC-14. Claims for Labor and Materials.

The **CONTRACTOR/CONSULTANT** 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 matter produced by the **CONTRACTOR/CONSULTANT** hereunder), against the **CONTRACTOR'S/CONSULTANT'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-15. Current Los Angeles City Business Tax Registration Certificate Required.

The **CONTRACTOR/CONSULTANT** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the **CITY'S** Business Tax Ordinance (Article 1, Chapter 2, sections 21.00 and following, of the Los Angeles Municipal Code). For the term covered by this Contract, the **CONTRACTOR/CONSULTANT** shall maintain, or obtain as necessary, all such Certificates required of it under said ordinance and shall not allow any such Certificate to be revoked or suspended.

PSC-16. Bonds.

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

PSC-17. Indemnification.

Except for the active negligence or willful misconduct of **CITY**, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, **CONTRACTOR/CONSULTANT** undertakes and agrees to defend, indemnify and hold harmless **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S/CONSULTANT'S** employees and agents, or damage or destruction of any property of any party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by the **CONTRACTOR/CONSULTANT** or its **SUBCONTRACTORS** of any tier. The provisions of this paragraph survive expiration or termination of this Contract.

PSC-18. Insurance.**A. General Conditions**

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

B. Modification of Coverage

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

C. Failure to Procure Insurance

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

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

D. Worker's Compensation

By signing this Contract, **CONTRACTOR/CONSULTANT** hereby certifies that it is aware of the provisions of Section 3700 et seq., of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all such times as they may apply during the performance of the work pursuant to this Contract.

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

PSC-19. 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, **CONTRACTOR/CONSULTANT** certifies that it will (1) fully comply with all State and Federal employment reporting requirements applicable to Child Support Assignment Orders; (2) that the principal owner(s) of **CONTRACTOR/CONSULTANT** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (3) fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code section 5230, et seq.; and (4) maintain such compliance throughout the term of this Contract. Pursuant to Section 10.10.b of the Los Angeles Administrative Code, failure of **CONTRACTOR/CONSULTANT** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders and Notices of Assignment or the failure of any principal owner(s) of **CONTRACTOR/CONSULTANT** to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default by the **CONTRACTOR/CONSULTANT** under the terms of this Contract, subjecting this Contract to termination where such failure shall continue for more than ninety (90) days after notice of such failure to **CONTRACTOR/CONSULTANT** by **CITY**. Any subcontract entered into by the **CONTRACTOR/CONSULTANT** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph and shall incorporate the provisions of the Child Support Assignment Orders Ordinance. Failure of the **CONTRACTOR/CONSULTANT** to obtain compliance of its subcontractors shall constitute a default by the **CONTRACTOR/CONSULTANT** under the terms of this Contract, subjecting this Contract to termination where such failure shall continue for more than ninety (90) days after notice of such failure to **CONTRACTOR/CONSULTANT** by the **CITY**.

CONTRACTOR/CONSULTANT shall comply with the Child Support Compliance Act of 1998 of the State of California Employment Development Department. **CONTRACTOR/CONSULTANT** assures that to the best of its knowledge it is fully complying with the earnings assignment orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in subdivision (1) of the Public Contract Code 7110.

PSC-20. Living Wage Ordinance and Service Contractor Worker Retention Ordinance.

- A. Unless otherwise exempt in accordance with the provisions of these Ordinance, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO) Section 10.37 et. seq. of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 et seq., of the Los Angeles Administrative Code, as amended from time to time. The Ordinances require the following:
1. **CONTRACTOR/CONSULTANT** assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of benefits as defined in the LWO.
 2. **CONTRACTOR/CONSULTANT** further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. **CONTRACTOR/CONSULTANT** shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. **CONTRACTOR/CONSULTANT** shall deliver the executed pledges from each such subcontractor to the **CITY** within ninety (90) days of the execution of the subcontract. **CONTRACTOR'S/CONSULTANT'S** delivery of executed pledges from each such subcontractor shall fully discharge the obligation of the **CONTRACTOR/CONSULTANT** with respect to such pledges and fully discharge the obligation of the **CONTRACTOR/CON-SULTANT** to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
 3. The **CONTRACTOR/CONSULTANT**, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the **CITY** with regard to the employer's compliance or anticipated compliance with the LWO, for 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/CON-SULTANT** shall post the Notice of Prohibition Against Retaliation provided by the **CITY**.

4. Any subcontract entered into by the **CONTRACTOR/CONSULTANT** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of PSC-20 and shall incorporate the provisions of the LWO and the SCWRO.
 5. **CONTRACTOR/CONSULTANT** shall comply with all rules, regulations and policies promulgated by the designated administrative agency which may be amended from time to time.
- B. Under the provisions of Section 10.36.3(c) and Section 10.37.5(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR/CONSULTANT** has violated provisions of either the LWO or the SCWRO or both.
- C. Where under the LWO Section 10.37. 6(d), the designated administrative agency has determined (a) that the **CONTRACTOR/CONSULTANT** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the awarding authority in such circumstances may impound monies otherwise due the **CONTRACTOR/CONSULTANT** in accordance with the following procedures. Impoundment shall mean that from monies due the **CONTRACTOR/CONSULTANT**, the awarding authority may deduct the amount determined to be due and owing by the **CONTRACTOR/CONSULTANT** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6 (d) (3) and disposed of under procedures described therein through final and binding arbitration. Whether the **CONTRACTOR/CONSULTANT** is to continue work following an impoundment shall remain in the unfettered discretion of the awarding authority. The **CONTRACTOR/CONSULTANT** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.

Earned Income Tax Credit

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

PSC- 21. Americans with Disabilities Act.

The **CONTRACTOR/CONSULTANT** hereby certifies that it will comply with the Americans with Disabilities Act 42, U.S.C. Section 12101 et seq., and its implementing regulations. The **CONTRACTOR/CONSULTANT** 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. The **CONTRACTOR/CONSULTANT** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by the **CONTRACTOR/CONSULTANT**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

PSC- 22. Retention of Records, Audit and Reports.

CONTRACTOR/CONSULTANT shall maintain 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 the final payment made by the **CITY** hereunder or the termination date of this contract, whichever occurs last. **CONTRACTOR/CONSULTANT** shall provide any reports requested by the **CITY** regarding performance of this Contract.

PSC-23. Discount Terms

CONTRACTOR/CONSULTANT 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 Agreement which meet the discount terms.

PSC-24. Contractor Responsibility Ordinance

Unless otherwise exempt in accordance with the provisions of this Ordinance, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 et seq., of the Los Angeles Administrative Code, which requires **CONTRACTOR/CONSULTANT** to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect **CONTRACTOR'S/CONSULTANT'S** fitness and ability to continue performing the contract. In accordance with the provisions of this Ordinance, by signing this Contract, **CONTRACTOR/CONSULTANT** pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. The **CONTRACTOR/CONSULTANT** further agrees to: 1) notify the awarding authority within thirty calendar days after receiving notification that

any government agency has initiated an investigation which may result in a finding that the **CONTRACTOR/CONSULTANT** is not in compliance with all applicable federal, state and local laws in performance of this contract; 2) notify the awarding authority within thirty calendar days of all findings by a government agency or court of competent jurisdiction that the **CONTRACTOR/CONSULTANT** has violated the provisions of Section 10.40.3(a) of the Ordinance; 3) ensure that its subcontractor(s), as defined in the Ordinance, submit a Pledge of Compliance to awarding authorities; and 4) ensure that its subcontractor(s), as defined in the Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify Awarding Authorities within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Ordinance in performance of the subcontract.

PSC-25. Warranty and Responsibility of CONSULTANT/CONTRACTOR

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

PSC-26. Minority, Women, And Other Business Enterprise Outreach Program

CONTRACTOR/CONSULTANT 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/CONSULTANT** 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/CONSULTANT** shall not change any of these designated subcontractors/subconsultants, nor shall **CONTRACTOR/CONSULTANT** reduce their level of effort, without prior written approval of the **CITY**, provided that such approval shall not be unreasonably withheld.

PSC-27. Ownership

Unless otherwise provided for herein, all documents, material, data, and reports originated and prepared by **CONTRACTOR/CONSULTANT** under this contract shall be and remain the property of the **CITY** for its use in any manner it deems appropriate. The provisions of this paragraph shall survive expiration or termination of this Contract.

PSC-28. Equal Benefits Ordinance.

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

(1) During the performance of the Contract, the **CONTRACTOR/ CONSULTANT** certifies and represents that the **CONTRACTOR/CONSULTANT** will comply with the EBO. The **CONTRACTOR/CONSULTANT** agrees to post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

“During the performance of a Contract with the **CITY** of Los Angeles, the **CONTRACTOR/CONSULTANT** will provide equal benefits to 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 Office of the City Administrative Officer, Contractor Enforcement Section at (213) 978-7650.”

- (2) The failure of the **CONTRACTOR/CONSULTANT** to comply with the EBO will be deemed to be a material breach of the Contract by the Awarding Authority.
- (3) If the **CONTRACTOR/CONSULTANT** fails to comply with the EBO the Awarding Authority may cancel, terminate or suspend the Contract, in whole or in part, and all monies due or to become due under the 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.
- (4) Failure to comply with the EBO may be used as evidence against the **CONTRACTOR/CONSULTANT** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.
- (5) If the City Administrative Officer determines that a **CONTRACTOR/CONSULTANT** has set up or used its Contracting entity for the purpose of evading the intent of the EBO, the Awarding Authority may terminate the Contract on behalf of the **CITY**. Violation of this provision may be used as evidence against the **CONTRACTOR/CONSULTANT** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.

PSC 29 - Slavery Disclosure Ordinance

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

ATTACHMENT 1 TO EXHIBIT D
INSURANCE REQUIREMENTS

(Share this information with your insurance agent or broker.)

PERSON TO CONTACT Direct all correspondence, questions, requests for additional forms, etc., to the contact person listed here or to the department that administers your contract, lease or permit:

NAME	AGENCY
CITY	
ADDRESS	
TEL	FAX

GENERAL INFORMATION

1. **Project ID** All submissions must identify the nature of your business with the CITY. Clearly show any assigned number of a bid, contract, lease, permit, etc. or give the project name and the job site or street address to ensure that your submission will be properly credited. Provide the **types of coverage and dollar amounts** specified on the Insurance Requirements Sheet (Form Gen. 146) included in your CITY documents.

2. **When to submit** Normally, no work or occupancy may begin until a CITY Attorney insurance approval number has been obtained, so documents should be submitted as early as practicable. For **As-needed Contracts**, insurance need not be submitted until a specific job has been awarded. **Design Professionals** coverage for new construction work may be submitted simultaneously with final plans and drawings but before construction commences.

3. **Availability of Insurance** Coverages and limits are subject to availability on the open market at reasonable cost as determined by the CITY. For requirements to be relaxed or waived, your broker or agent must document non-availability or non-affordability in a letter to the CITY. It must show a good faith effort to place the required insurance, must list the names of the insurance carriers contacted and show the declinations or cost indications received from each.

4. **Alternative Programs/Self-Insurance** Risk financing mechanisms such as Risk Retention Groups, Risk Purchasing Groups, off-shore carriers, captive insurance programs and self-insurance programs are subject to separate approval after the CITY has reviewed their financial statements.

ADMINISTRATIVE REQUIREMENTS

5. **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. 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.

6. Aggregate Limits/Impairment If any of the required insurance coverages contain annual aggregate limits, you must give the CITY written notice of any pending claim or lawsuit which may diminish the aggregate within thirty (30) days of knowledge of same. You must take steps to restore the impaired aggregates or provide replacement insurance protection within thirty (30) days 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 CITY'S protection are allowed without CITY'S prior written consent.

7. Signature All submissions must bear the manual autograph in ink of a person with authority to bind coverage. Signatures which are rubber stamped, mechanically reproduced, initialed by others or photocopied are not acceptable.

POLICY CONDITIONS

8. Additional Insured/Loss Payee The CITY must be included as an additional insured in applicable liability policies to cover the CITY'S vicarious liability for the acts or omissions of the named insured. Such coverage is not expected to respond to the active negligence of the CITY. The CITY is to be named a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.

9. Notice of Cancellation You agree contractually to maintain all required insurance in full force for the duration of your business with the CITY. By ordinance, all required insurance must provide at least 30 days' prior notice directly to the CITY by receipted delivery (certified mail, courier or in-person delivery) if your *insurance company* elects to cancel or reduce coverage prior to the policy expiration date. This also applies when the **scope of coverage** which affects the CITY'S interest is to be reduced or when the **dollar limits** of coverage are to be reduced for any reason except impairment of an aggregate limit due to prior claims. Submissions not meeting this requirement will be rejected.

10. Primary Coverage The coverage must be 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.

11. Separation of Insureds (Severability of Interest) In **construction contracts**, the CITY must be able to retain its rights as a potential claimant as well as to be protected as an additional insured for vicarious liability to third party claimants except with respect to the insurance company's limits of liability.

PROCEDURES

12. **Acceptable Evidence and Approval** CITY **Special Endorsement** forms completed by your insurance company or its designee are the preferred form of evidence of insurance. (**Note:** The CITY forms are acceptable to the California Department of Insurance from *any* insurance carrier. They need not be re-filed by individual insurance companies.) Altered forms may not be accepted but the "Other Provisions" box on the CITY forms, may be used, as necessary, to provide pertinent information such as important exclusions, specific provisions or scheduled locations/equipment. Additional pages may be attached for this purpose, as well. If they are, make note of it in this box. An acceptable alternative to the Special Endorsement form is a **certified copy of full insurance policy** which contains a 30-day cancellation notice provision and additional-insured or loss-payee status, when appropriate, for the CITY. **Binders and Cover Notes** are also acceptable as interim evidence for up to 90 days. However, non-binding documents such as broker letters and **Certificates of Insurance are not acceptable as stand-alone evidence of coverage.** Certificates *are* acceptable for the following purposes: 1) supplemental information to accompany endorsements; renewals or extensions of coverage already on file with the CITY; 2) for the naming of third-party, additional insureds; 3) as an indication of compliance with statute, such as Workers' Compensation Law or the California Financial Responsibility Law for Automobile Liability, 4) as proof of coverage beyond CITY requirements or which does not directly relate to the CITY'S interests.

13. **Renewal** When an existing policy is timely renewed, submit a renewal endorsement or a manually-signed Certificate of Insurance. However, if your policy number changes or you use a different underwriting company (insurer) you must submit new evidence which meets the policy conditions listed in Sections 8 through 11 of this information sheet.

COVERAGE INFORMATION

14. **Dollar Limits** of required insurance are sometimes set by statute or ordinance. When there is no specific amount required by law, limits are based on the amount of risk to the CITY from the contractor, vendor or permittee's activities.

15. **General Liability** insurance covering your operations (and products, where applicable) is required whenever the CITY is at risk of third party claims which may arise out of your work or your presence on CITY premises. **Contractual liability** coverage is a required inclusion in this insurance. (See separate information sheet on the CITY'S SPARTA program as an optional source of low-cost insurance which meets all requirements.)

16. **Automobile Liability** insurance is required only where vehicles are used in performing the work of your Contract or where they are driven off-road on CITY premises; it is not required for simple commuting unless CITY is paying mileage. However, compliance with California law requiring auto liability insurance is a contractual requirement.

17. **Errors and Omissions** coverage will be specified on a project-by-project basis if you are working as a licensed professional. The length of the claims discovery period required will vary with the circumstances of the individual job.

18. **Workers' Compensation and Employer's Liability** insurance are not required for single-person contractors. However, under state law these coverages (or a copy of the state's Consent To Self Insure) must be provided if you have any employees at any time during the period of this contract. **Waiver of Subrogation** on the coverage is required only for jobs where your employees are working on CITY premises under hazardous conditions, e.g., uneven terrain, scaffolding, caustic chemicals, toxic materials, power tools, etc.

19. **Property Insurance** is required for persons having exclusive use of premises or equipment owned or controlled by the CITY. **Fire Legal Liability** is required for persons occupying a portion of CITY premises.

20. **Surety** coverage may be required to guarantee performance of work. A **Fidelity bond** may be required to handle CITY funds, high value property and under certain other conditions. **Specialty coverages** may be needed for certain operations.

CONFIDENTIAL

DRAFT

Form Gen 146/IR (rev 1/00)
INSURANCE REQUIREMENTS

Name: _____ Date: _____

Agreement/Reference: _____, 200_

Evidence of coverages checked off below which have as a minimum the limits shown must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSL"). Split limits may be substituted if the total per occurrence equals or exceeds the CSL amount.

L

Workers' Compensation (Statutory Limit)/Employer's Liability \$

☐ Waiver of Subrogation in favor of City

General Liability \$

☐ Premises and Operations

☐ Collapse & Underground

☐ Contractual Liability

☐ Products/Completed Operations

☐ Independent Contractors

☐ Fire Legal Liability

☐

Automobile Liability (if vehicle is used for this contract, other than commuting to/from work) \$

☐ Hired Automobiles

☐ Owned Automobiles

☐ Non-owned Automobiles

☐

Professional Liability (Errors and Omissions) \$

Discovery Period **12 MONTHS AFTER COMPLETION OF WORK OR FROM** DATE OF TERMINATION OF THE AGREEMENT/ CONTRACT.

Property Insurance to cover value of bldg (as determined by city or insurance company)

☐ All Risk Coverage

☐ Boiler and Machinery

\$

☐ Extended Coverage

☐ Debris Removal

☐ Flood

☐

\$

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☐ Earthquake ☐ _____ \$

_____ Pollution Liability \$

_____ ☐ _____

_____ Fidelity Bond _____ Surety Bond \$

_____ \$

_____ ☐ _____ \$

Notes: _____
