


0150-09548-0001

TRANSMITTAL

TO The Council	DATE OCT 28 2011	COUNCIL FILE NO.
FROM The Mayor		COUNCIL DISTRICT

The Attached contract amendment with Lend Lease (US) Construction, Inc. (formerly known as Bovis Lend Lease, Inc.) for Program and Construction Management services for the Proposition F Fire Bond Program transmitted for your consideration. See City Administrative Officer report attached.

 (Janelle Erickson)
for

MAYOR

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

To: The Mayor	Date: 10-21-11	C.D. No.	CAO File No.: 0150-09548-0001				
Contracting Department/Bureau: Bureau of Engineering		Contact: Allan Kawaguchi					
Reference: Board of Public Works action dated October 5, 2011; referred by the Mayor							
Purpose of Contract: To provide program and construction management services to the Bureau of Engineering on an as-needed basis for the Proposition F – Fire Facilities Bond Program							
Type of Contract: () New contract (X) Amendment		Contract Term Dates: October 1, 2012 to October 1, 2017					
Contract/Amendment Amount: \$3,340,000							
Proposed amount \$ 3,340,000+ Prior award(s) \$ 17,860,000= Total \$ 21,200,000							
Source of funds: Proposition F General Obligation Bond funds							
Name of Contractor: Lend Lease (US) Construction, Inc. (formerly known as Bovis Lend Lease, Inc.)							
Address: 11755 Wilshire Boulevard, Suite 2450, Los Angeles, CA 90025							
	Yes	No	N/A*	8. Contractor has complied with:	Yes	No	N/A*
1. Council has approved the purpose	X			a. Equal Employmt. Oppty./Affirm. Action	X		
2. Appropriated funds are available	X			b. Good Faith Effort Outreach**	X		
3. Charter Section 1022 findings completed	X			c. Equal Benefits Ordinance	X		
4. Proposals have been requested	X			d. Contractor Responsibility Ordinance	X		
5. Risk Management review completed	X			e. Slavery Disclosure Ordinance	X		
6. Standard Provisions for City Contracts included	X			f. Bidder Certification CEC Form 50	X		
7. Workforce that resides in the City: %				*N/A = not applicable ** Contracts over \$100,000			

COMMENTS

In November 2000, the voters approved Proposition F, which authorized the issuance of \$532.6 million in General Obligation Bonds to finance the construction of eight animal shelters and 20 fire facilities throughout the City. Of the \$532.6 million approved by the voters, \$378.5 million was approved for fire facilities.

Lend Lease (US) Construction, Inc. (Lend Lease), formerly known as Bovis Lend Lease, Inc., was originally selected through a request-for-proposals process in 2001. The City Council initially approved a contract with Bovis in January 2002 (C.F. 01-2526) for a term through October 1, 2006 with two one-year renewal options with a contract ceiling of \$13.3 million. In March 2008, the Council approved the first amendment to the contract with the contractor through October 1, 2012 and increased the contract ceiling amount by \$4.56 million, to \$17.86 million (C.F. 08-0484). The Bureau of Engineering (BOE) now requests to extend the contract five years, through October 1, 2017 and to increase the contract ceiling by \$3.34 million, to \$21.2 million. The purpose of the contract is to provide Program Management/Construction Management (PM/CM) to the Fire Facilities Bond Program.

		
MAS:RAS Analyst 0150-09548-0001	Assistant CAO	City Administrative Officer

Nineteen of the original 20 fire facilities projects have been completed. The last original project is expected to be completed around October, 2012. Using program savings and accrued interest, the Mayor and Council have authorized two new projects to replace Fire Stations 7 and 39, in the San Fernando Valley. Fire Station 7 is in design and is expected to be completed in 2013-14. Fire Station 39 is in the land acquisition stage. Depending on land acquisition progress, Fire Station 39 would be completed in 2013-14 or 2014-15. BOE indicates that Lend Lease will be available to provide services through the completion of these two new projects and Program close-out expected by 2017.

As PM/CM consultants, Lend Lease has six primary support duties as follows:

1. Program Management Support—Developing a program delivery strategy to streamline and/or speed the design and construction process.
2. Program Management Control Systems—Developing a program-wide work breakdown structure to provide a common means of coding and defining individual projects and cost categories; reviewing and validating original budget and schedule assumptions; developing and maintaining a master program schedule summarizing key design, approval, bid, construction and occupancy milestones for projects; and, preparing independent construction cost estimates from schematic design to design development through to construction documents.
3. Design Management Support—Assisting in the update of existing City design guidelines; and, performing reviews of design documents at specific milestones to provide constructability and value engineering comments.
4. Construction Management Support—Developing a construction document tracking system to track and record all construction management activities; assisting in the bidding of construction contracts; and, developing a change order tracking system.
5. Post Occupancy Support—Assisting in resolving any post-occupancy problems related to construction and building systems; and, providing construction support for resolving minor construction-related problems.
6. Program Management Plan—Assisting in the creation of a program management plan to define roles and responsibilities of each of the stakeholders, define the goals and objectives for the Bond Program.

Through August 2011, BOE reports that \$17.69 million of the \$17.86 million contract ceiling has been expended on the Bovis contract and expects to expend an additional \$140,000 through December, 2011. In the five years covered by the amendment, anticipated annual expenditures are expected to be \$780,000, \$657,000, \$945,000, \$525,000, \$360,000 and \$60,000 respectively.

There is a need for Council approval because the contract term, as amended, would exceed five years from the date of execution of the initial contract, and the estimated or actual annual payments by the City exceed \$100,000, adjusted annually in accordance with the consumer price index (Los Angeles Administrative Code, Section 10.5 (c) 2).

RECOMMENDATION

That the Council, subject to the approval of the Mayor, approve and authorize the President or two members of the Board of Public Works, to execute Amendment No 2 to Contract No. C-102634 between the City and Lend Lease (US) Construction, Inc. to extend the contract term for five years through October 1, 2017 in an amount not to exceed \$21,200,000, subject to the approval of the City Attorney.

FISCAL IMPACT STATEMENT

The proposed amendment extends the term of the Program Management/Construction Management contract between the City and the above-referenced consulting firm, with no fiscal impact on the General Fund. The maximum compensation of \$21.2 million for these services are paid by the Proposition F General Obligation Bond.

MAS:RAS:05120042

CITY OF LOS ANGELES

CALIFORNIA



ANTONIO R. VILLARAIGOSA
MAYOR

October 5, 2011

OFFICE OF THE BOARD OF PUBLIC WORKS

200 NORTH SPRING STREET
ROOM 361, CITY HALL
LOS ANGELES, CA 90012
(213) 978-0261
(213) 978-0278 Fax

WILLIAM P. WEEKS
EXECUTIVE OFFICER

<http://www.bpw.lacity.org>

2011 OCT 11 AM 7:36
CITY ADMINISTRATIVE OFFICE

BOARD OF PUBLIC WORKS MEMBERS

ANDREA A. ALARCÓN
PRESIDENT

JERILYN LÓPEZ MENDOZA
VICE PRESIDENT

JOHN J. CHOI
PRESIDENT PRO TEMPORE

STEVEN T. NUTTER
COMMISSIONER

VALERIE LYNNE SHAW
COMMISSIONER

#5 BOE/BCA

Mayor Antonio R. Villaraigosa
Room No. 305
City Hall
Attn: Pamela Finley

Subject: REQUEST AUTHORITY TO EXECUTE AMENDMENT NO. 2 TO CONTRACT NO. C-102634 WITH LEND LEASE (US) CONSTRUCTION, INC., FORMERLY KNOWN AS BOVIS LEND LEASE, INC. (LEND LEASE), FOR PROGRAM AND CONSTRUCTION MANAGEMENT (PM/CM) SERVICES FOR THE PROPOSITION F- FIRE/PARAMEDIC, AIR OPERATIONS FACILITIES

As recommended in the accompanying report of the City Engineer and the Director of the Bureau of Contract Administration, which this Board has adopted, the Board of Public Works requests approval and forwarding to the City Council for approval and authorization to execute Amendment No. 2 to the contract between the City of Los Angeles and Lend Lease (formerly known as Bovis Lend Lease, Inc.) to extend the total contract term from October 1, 2012 to October 1, 2017, and increase the total contract ceiling from \$17,860,000 to \$21,200,000 for program and construction management services for the Proposition F – Fire/Paramedic, Air Operations Facilities.

FISCAL IMPACT

Funding for Amendment No. 2 is available from the proceeds of the sale of Proposition F – Public Safety General Obligation Bonds approved by voters in the November 7, 2000 election. There is no fiscal impact to the General Fund.

Respectfully submitted,

William P. Weeks, Executive Officer
Board of Public Works

WPW:mp



Department of Public Works
Bureau of Engineering
Bureau of Contract Administration
Joint Report No. 5

October 5, 2011
CD Nos. All

ADOPTED BY THE BOARD
PUBLIC WORKS OF THE CITY
of Los Angeles California
AND REFERRED TO THE MAYOR
OCT - 5 2011



Executive Officer

REQUEST FOR AUTHORITY TO EXECUTE AMENDMENT NO. 2 TO CONTRACT NO. C-102634 WITH LEND LEASE (US) CONSTRUCTION, INC., FORMERLY KNOWN AS BOVIS LEND LEASE, INC. (LEND LEASE), FOR PROGRAM AND CONSTRUCTION MANAGEMENT (PM/CM) SERVICES FOR THE PROPOSITION F - FIRE/PARAMEDIC, AIR OPERATIONS FACILITIES

RECOMMENDATIONS

1. Approve and forward this report with transmittals to the Mayor and City Council requesting the following:
 - a. Approve Amendment No. 2 to the contract between the City of Los Angeles (City) and Lend Lease to extend the total contract term from October 1, 2012 to October 1, 2017 and increase the total contract ceiling from \$17,860,000 to \$21,200,000.
 - b. Authorize the President or two members of the Board of Public Works (Board) to execute Amendment No. 2.
2. Notify the Bureau of Engineering (BOE), Bond Programs Division, Program Manager Allan Kawaguchi at (213) 485-4687 when this amendment is ready to be executed by the Board, whereupon five original copies of the amendment will be delivered to the Executive Officer of the Board for signature.
3. Upon execution, request the City Clerk to attest and certify the five original copies of Amendment No. 2. The City Clerk and the Board will each retain one original copy and three original copies are to be returned to the BOE, Program Manager Allan Kawaguchi.

FISCAL IMPACT STATEMENT

Funding for Amendment No. 2 is available from the proceeds of the sale of Proposition F - Public Safety General Obligation Bonds approved by voters in the November 7, 2000 election. There is no fiscal impact on the General Fund.

TRANSMITTALS

1. Copy of executed Contract No. C-102634 with Lend Lease for PM/CM services for the Proposition F - Fire/Paramedic, Air Operations Facilities dated February 11, 2002.
2. Copy of executed Amendment No. 1, executed April 4, 2008.

3. Copy of proposed Amendment No. 2.

DISCUSSION

Background

Contract No. C-102634 was executed between the City and Lend Lease to provide PM/CM services for the Proposition F Fire Facilities Bond Program on February 11, 2002 (Transmittal No. 1). The contract had a ceiling of \$13,300,000 and an expiration date of October 1, 2006 with two one-year extension options, which were exercised, and extended the term of the contract through October 1, 2008.

On February 20, 2008, the Board approved Amendment No. 1 to extend the contract term for an additional four years through October 1, 2012 and increase the contract ceiling by \$4,560,000 to \$17,860,000 (Transmittal No. 2).

Upon awarding the last construction contract of the original Proposition F Fire Facilities Bond Program for Fire Station 82, the BOE reported a savings of approximately \$70,000,000. In April 2009 and September 2009, the Mayor and Council respectively approved two new projects (Phase II) using accrued interest and project savings: Fire Stations 7 and 39. Due to the Phase II projects and land acquisition delays, the Proposition F Master Schedule has been extended and final completion of the program is now estimated for 2017. Amendment No. 2 is needed in order to extend the contract term for five years to October 1, 2017.

Funds in the contract authorized under Amendment No. 1 will be exhausted before construction of Fire Station 82 is completed. Lend Lease has been providing support for this project since the inception of the program, and is familiar with the Fire Bond Program and Los Angeles Fire Department operational requirements. Amending Lend Lease's contract will ensure continuous uninterrupted support such as estimating, scheduling and specialty services including Leadership in Energy and Environmental Design commissioning, and web-based data collaboration construction management services for Fire Station 82 and to the Fire Bond Program. Also, due to accrued interest and project savings, the Fire Bond Program has been authorized to reallocate funding for Phase II projects, Fire Stations 7 and 39. It is recommended that the technical staff of Lend Lease continue to support the remaining construction project, as well as the Phase II projects. Additionally, Lend Lease has continued to be very responsive to services requested by the Fire Bond Program. As a result, Amendment No. 2 is needed to add \$3,340,000 to the original contract in order to increase the total contract ceiling amount from \$17,860,000 to \$21,200,000, to ensure that sufficient funding will be available under the contract (Transmittal No. 3).

Minority Business Enterprise/Women Business Enterprise/Other Business Enterprise (MBE/WBE/OBE) Subcontractor Outreach Program

At the time of the distribution of the original Request for Qualifications for this contract, the City had established an MBE/WBE/OBE Subcontractor Outreach Program for this project with anticipated MBE and WBE participation levels of 18 and 4 percent, respectively. As of Amendment No. 1, Lend Lease pledged participation levels of 2.98 percent MBE, 3.95

Department of Public Works
 Bureau of Engineering
 Bureau of Contract Administration
 Joint Report No. 5

October 5, 2011
 Page 3

percent WBE, and 21.36 percent OBE. The actual participation levels achieved on the work performed as of May 2011 are 3.09 percent MBE, 9.16 percent WBE, and 31.43 percent OBE. Upon approval of this amendment, Lend Lease has pledged participation levels of 3.68 percent MBE, 11.12 percent WBE, and 30 percent OBE.

Since Amendment No. 1, Lend Lease has added five subconsultants. ABE Office provided used modular and conventional furniture. Arcadis (formerly Pinnacle One) was utilized for scheduling and contract interpretation. Daly America was utilized for site logistics and construction scheduling. Irving Selden performed third party review of the electrical drawings. Landmark Electric reviewed and designed electrical plans. No outreach was conducted prior to the utilization of these subconsultants due to time constraint or the small size of the assigned task.

Gender/Ethnicity Codes:

- | | |
|------------------------------|-----------------------------------|
| AA = African American | HA = Hispanic American |
| APA = Asian Pacific American | SAA = Subcontinent Asian American |
| NA = Native American | C = Caucasian |
| M = Male | F = Female |

As of May 2011, the MBE/WBE/OBE subconsultant participation for Lend Lease was as follows:

Subconsultants	MBE/ WBE/ OBE	Gender/ Ethnicity	(%) of Total Invoiced	Amount Invoiced to Date
ACG Environments	MBE	F/HA	0.93%	\$ 155,877.10 ^L
Analytical Planning Services, Inc.	MBE	M/SAA	0.00%	\$ 760.00
Catalyst Communications, Inc.	MBE	M/HA	0.66%	\$ 109,956.28 ^L
E2020 Technology, Inc.*	MBE	M/APA	0.05%	\$ 8,224.00
King R. Woods & Associates, Inc.	MBE	M/AA	0.33%	\$ 54,696.49 ^L
Kosmont Realty Corp.	MBE	M/HA	0.14%	\$ 24,248.36
Ming Yang Yeh & Associates, Inc.	MBE	M/APA	0.98%	\$ 164,281.24
Dugan & Associates	WBE	F/C	3.61%	\$ 603,534.05
Harris & Company	WBE	F/C	0.01%	\$ 1,079.67
Integrated Engineering Management	WBE	F/C	0.02%	\$ 2,551.47
Melendrez Associates, dba, Melendrez	WBE	F/C	0.02%	\$ 2,775.00
Murakawa Communications	WBE	F/APA	3.76%	\$ 628,651.29
Myra L. Frank & Associates, Inc.	WBE	F/C	0.07%	\$ 11,760.66 ^L
O'Connor Construction	WBE	F/C	1.69%	\$ 282,632.15
7 Group	OBE		0.03%	\$ 4,800.00 ^L
AAA Flag and Banner	OBE		0.05%	\$ 7,951.61 ^L
ABE Office	OBE		0.03%	\$ 5,161.00
Advanced Surveillance	OBE		0.32%	\$ 52,779.23 ^L
Arcadis US (formerly Pinnacle 1)	OBE		0.06%	\$ 10,000.00

Barghausen Consulting Engineers	OBE		0.24%	\$ 40,659.26
Black & Veatch	OBE		12.55%	\$ 2,101,192.18
Bridgett Duffy Fine Artist	OBE		0.06%	\$ 10,000.00
Carter & Burgess	OBE		3.94%	\$ 660,024.48
City Spaces, Inc.	OBE		0.23%	\$ 38,618.12 ¹
CTG Energetics, Inc.	OBE		1.65%	\$ 275,585.05
Daly America	OBE		0.02%	\$ 3,960.00
E2020 Technology, Inc.	OBE		2.52%	\$ 422,376.00
Geoffrey R. Martin	OBE		0.12%	\$ 19,300.00 ¹
Irving Selden	OBE		0.01%	\$ 2,240.00
James Marsh	OBE		0.03%	\$ 4,950.00 ¹
John F. Malloy Real Estate Consultant	OBE		1.15%	\$ 192,003.14 ¹
Jones & Stokes	OBE		0.11%	\$ 17,863.13 ¹
JPL Zoning Services	OBE		0.02%	\$ 2,974.40 ¹
Landmark Electric	OBE		0.03%	\$ 5,300.00
Larry Larsen	OBE		0.02%	\$ 3,000.00 ¹
Parkcenter Realty Advisors	OBE		1.18%	\$ 197,200.00 ¹
PMCS Group, Inc.	OBE		6.85%	\$ 1,145,778.00
Rachlin Architects	OBE		0.08%	\$ 12,628.97
Rider Hunt Levett	OBE		0.13%	\$ 21,250.00 ¹
TDL Engineers, Inc.	OBE		0.02%	\$ 3,840.00 ¹
Total MBE Participation			3.09%	\$ 518,043.47
Total WBE Participation			9.16%	\$ 1,532,984.29
Total OBE Participation			31.43%	\$ 5,261,434.57
Total Invoiced Less Reimbursables¹				\$16,738,174.92

* E2020 Techonology , Inc. was certified as an MBE on 12/16/10

¹ The prime contractor's mark up had been incorrectly included in the subconsultant's participation levels. Therefore, these invoiced amounts are lower than what had been reported in Amendment No. 1.

¹ Total Invoiced (\$17,515,953.92) less Reimbursables (\$777,779.00) which included reprographics, US Green Building Council, carrier service, storage room, office furniture, California Landscaping, and Sterling Planet.

Revised contract pledged participation (including Amendment No. 2):

Pledged Subconsultants	MBE/ WBE/ OBE	Gender/ Ethnicity	(%) of Total Contract	Amount of Amended Contract
ACG Environments	MBE	F/HA	0.77%	\$ 155,877
Analytical Planning Services, Inc.	MBE	M/SAA	0.00%	\$ 760
Catalyst Communications, Inc.	MBE	M/HA	0.54%	\$ 109,956
E2020 Technology, Inc.	MBE	M/APA	0.69%	\$ 139,389
King R. Woods & Associates, Inc.	MBE	M/AA	0.38%	\$ 78,100
Kosmont Realty Corp.	MBE	M/HA	0.12%	\$ 24,248
Ming Yang Yeh & Associates, Inc.	MBE	M/APA	1.18%	\$ 239,599
Dugan & Associates	WBE	F/C	5.66%	\$ 1,149,721
Harris & Company	WBE	F/C	0.01%	\$ 1,080
Integrated Engineering Management	WBE	F/C	0.01%	\$ 2,551
Melendrez Associates, dba, Melendrez	WBE	F/C	0.01%	\$ 2,775

Department of Public Works
 Bureau of Engineering
 Bureau of Contract Administration
 Joint Report No. 5

October 5, 2011
 Page 5

Murakawa Communications	WBE	F/APA	3.45%	\$ 700,000
Myra L. Frank & Associates, Inc.	WBE	F/C	0.06%	\$ 11,760
O'Connor Construction Management, Inc.	WBE	F/C	1.92%	\$ 390,632
7 Group	OBE		0.02%	\$ 4,800
AAA Flag and Banner	OBE		0.06%	\$ 11,400
ABE Office	OBE		0.03%	\$ 5,161
Advanced Surveillance	OBE		0.26%	\$ 52,779
Arcadis US (Formerly Pinnacle 1)	OBE		0.25%	\$ 50,000
Barghausen Consulting Engineers	OBE		0.29%	\$ 58,223
Black & Veatch	OBE		12.88%	\$ 2,615,535
Bridgett Duffy Fine Artist	OBE		0.05%	\$ 10,000
Carter & Burgess	OBE		3.62%	\$ 734,800
City Spaces, Inc.	OBE		0.19%	\$ 38,618
CTG Energetics, Inc.	OBE		1.80%	\$ 365,968
Daly America	OBE		0.02%	\$ 3,960
E2020 Technology, Inc.	OBE		2.08%	\$ 422,376
Geoffrey R. Martin	OBE		0.10%	\$ 19,300
Irving Selden	OBE		0.01%	\$ 2,240
James Marsh	OBE		0.02%	\$ 4,950
John F. Malloy Real Estate Consultant	OBE		0.95%	\$ 192,003
Jones & Stokes	OBE		0.09%	\$ 17,863
JPL Zoning Services	OBE		0.01%	\$ 2,974
Landmark Electric	OBE		0.03%	\$ 5,300
Larry Larsen	OBE		0.01%	\$ 3,000
Parkcenter Realty Advisors	OBE		0.97%	\$ 197,200
PMCS Group	OBE		6.04%	\$ 1,225,982
Rachlin Architects	OBE		0.06%	\$ 12,629
Rider Hunt Levett	OBE		0.15%	\$ 29,738
TDL Engineers, Inc.	OBE		0.02%	\$ 3,840
Total MBE Pledged Participation			3.68%	\$ 747,929
Total WBE Pledged Participation			11.12%	\$ 2,258,519
Total OBE Pledged Participation			30.00%	\$ 6,090,639
Total Contract Amount less Reimbursables*				\$20,302,534

* Total Contract Amount (\$21,200,000.00) less reimbursables (\$897,466.00) which includes reprographics, US Green Building Council, carrier service, storage room, office furniture, California Landscaping, and Sterling Planet.

Compliance with City Policies and with the Board of Public Works' Policy

All consultants participating in this program are subject to compliance with the following City of Los Angeles Ordinances and policies: Contractor Responsibility Ordinance; Business Tax Registration Certificate; Non-Discrimination, Equal Employment Practices, and Affirmative

Action; Insurance requirements; Equal Benefits Ordinance; Child Support Obligations Ordinance; Americans with Disabilities Act; Service Contractor Worker Retention Ordinance; Living Wage Ordinance; Slavery Disclosure Ordinance; Non-Collusion; First Source Hiring Ordinance; and Discount Terms. Failure to comply with all requirements will render the Consultant's Contract subject to termination pursuant to the conditions therein.

Businesses are encouraged to locate or remain within the City of Los Angeles to preserve and enhance the economic base and well-being of the City. According to the Los Angeles Residence Information form, Lend Lease currently staffs 44 employees, with the number and percentage of employees residing in the City of Los Angeles being 6 and 13.64 percent, respectively.

Contractor Performance Evaluation

The quality of the work performed by Lend Lease will be monitored in accordance with the Contractor Evaluation Ordinance No. 173018 (Division 10, Chapter 1, Article 13 of the Los Angeles Administrative Code (L.A.A.C.) and the Rules for the Evaluation of Service Contractors which require Departments to prepare performance evaluations upon completion of all service contracts over \$25,000 and at least three months in duration. The critiques are kept on file in the Bureau of Contract Administration, Special Research & Investigation Section for reference by other City Departments and agencies.

Contractor Responsibility Ordinance

All contractors participating in this program are subject to compliance with the requirements specified in the City of Los Angeles' Contractor Responsibility Ordinance No. 173677 (Article 14, Chapter 1, Division 10, L.A.A.C.). Failure to comply with all requirements specified in the ordinance may render this bidder's contract subject to termination pursuant to the conditions expressed therein.

Notice of Intent to Contract and Charter Section 1022 Determination

The required Notification of Intent to Contract form was submitted to the City Administrative Officer (CAO) on December 15, 2010. In compliance with Charter Section 1022, on April 12, 2011 the CAO determined that it was more feasible to continue the services of Lend Lease than to utilize City staff.

City Attorney Review

The proposed Amendment has been reviewed and approved as-to-form by the City Attorney's Office.

STATUS OF FINANCING

Funding for the \$3,340,000 to be added to the contract is available in the following funds and accounts: \$2,750,000 from Fund No. 15T, Department 50, Account No. 50V2PM and \$590,000 from Fund No. 16D, Department 50, Account No. 50Y2PM.

Department of Public Works
Bureau of Engineering
Bureau of Contract Administration
Joint Report No. 5

October 5, 2011

Page 7

(TSA RMK DJW WFB)

Report reviewed by:

Respectfully submitted,

BOE (ASD and PAC)

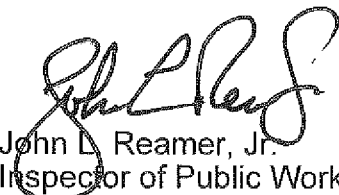
Report prepared by:



Bond Programs Division

Gary Lee Moore, P.E.
City Engineer

Allan T. Kawaguchi, P.E.
Program Manager
Phone No. (213) 485-4687



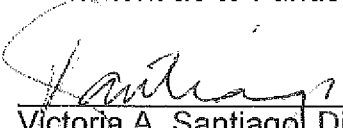
John L. Reamer, Jr.
Inspector of Public Works

Compliance Review performed
and approved by:



Hannah Choi, Program Manager
Office of Contract Compliance
Bureau of Contract Administration

Statement as to Funds approved by:



Victoria A. Santiago, Director
Office of Accounting
Date 9/26/11

ATK/06-2011-0116.BPD.klc

Questions regarding this
report may be referred to:
Allan Kawaguchi, P.E., Program Manager
Phone No. (213) 485-4687
E-mail: Allan.Kawaguchi@lacity.org

C-102634

STANDARD CONSULTANT AGREEMENT
FOR
PROFESSIONAL SERVICES

TRANSMITTAL NO. 1



CONTRACT NO. C-_____

PROGRAM/CONSTRUCTION MANAGEMENT
SERVICES AGREEMENT

CITY OF LOS ANGELES

BOVIS LEND LEASE, INC.

PROPOSITION F
FIRE/PARAMEDIC, AIR OPERATIONS FACILITIES

M

TABLE OF CONTENTS

<u>RECITALS</u>	<u>PAGE NO.</u>
<u>ARTICLE 1- SECTION HEADINGS</u>	<u>2</u>
<u>ARTICLE 2- DEFINITIONS</u>	<u>3</u>
<u>ARTICLE 3- PROJECT DESCRIPTION</u>	<u>3</u>
<u>ARTICLE 4- RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY</u> <u>THE CONSULTANT</u>	<u>4</u>
<u>ARTICLE 5- KEY CONSULTANT PERSONNEL</u>	<u>14</u>
<u>ARTICLE 6- RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY</u> <u>THE CITY</u>	<u>15</u>
<u>ARTICLE 7- TERM OF AGREEMENT</u>	<u>16</u>
<u>ARTICLE 8- TERMINATION</u>	<u>17</u>
<u>ARTICLE 9- SUBCONTRACT APPROVAL</u>	<u>19</u>

<u>ARTICLE 10- COMPENSATION, INVOICING AND PAYMENT</u>	<u>20</u>
<u>ARTICLE 11 - AMENDMENTS, CHANGES OR MODIFICATIONS</u>	<u>24</u>
<u>ARTICLE 12 - INDEMNIFICATION AND INSURANCE</u>	<u>24</u>
<u>ARTICLE 13 - INDEPENDENT CONTRACTORS</u>	<u>27</u>
<u>ARTICLE 14 - WARRANTY AND RESPONSIBILITY OF CONSULTANT</u>	<u>28</u>
<u>ARTICLE 15 - OWNERSHIP OF DATA</u>	<u>29</u>
<u>ARTICLE 16 - NONDISCRIMINATION AND AFFIRMATIVE ACTION</u>	<u>30</u>
<u>ARTICLE 17 - MINORITY, WOMEN AND OTHER BUSINESS ENTERPRISE</u>	
<u>OUTREACH PROGRAM</u>	<u>31</u>
<u>ARTICLE 18 - SUCCESSORS AND ASSIGNS</u>	<u>32</u>
<u>ARTICLE 19 - CONTACT PERSONS - PROPER ADDRESSES -</u>	
<u>NOTIFICATION</u>	<u>32</u>
<u>ARTICLE 20 - FORCE MAJEURE</u>	<u>33</u>

M

<u>ARTICLE 21 - SEVERABILITY</u>	<u>33</u>
<u>ARTICLE 22 - DISPUTES</u>	<u>33</u>
<u>ARTICLE 23 - ENTIRE AGREEMENT</u>	<u>33</u>
<u>ARTICLE 24 - APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT</u> .	<u>34</u>
<u>ARTICLE 25 - LOS ANGELES CITY BUSINESS TAX REGISTRATION</u>	
<u>CERTIFICATE REQUIRED</u>	<u>34</u>
<u>ARTICLE 26 - BONDS</u>	<u>35</u>
<u>ARTICLE 27 - CHILD SUPPORT ASSIGNMENT ORDERS</u>	<u>35</u>
<u>ARTICLE 28 - COMPLIANCE WITH YEAR 2000</u>	<u>36</u>
<u>ARTICLE 29 - SERVICE CONTRACTOR WORKER RETENTION ORDINANCE</u>	
<u>AND LIVING WAGE ORDINANCE</u>	<u>37</u>
<u>ARTICLE 30 - AMERICANS WITH DISABLITIES ACT</u>	<u>39</u>

ARTICLE 31 - EQUAL BENEFITS ORDINANCE 39

ARTICLE 32 - WAIVER 42

ARTICLE 33 - PROHIBITION AGAINST ASSIGNMENT OR DELEGATION 42

ARTICLE 34 - PERMITS 42

ARTICLE 35 - CLAIMS FOR LABOR AND MATERIALS 42

ARTICLE 36 - DISCOUNTS 43

ARTICLE 37 - CONTRACTOR PERFORMANCE EVALUATION..... 43



EXHIBITS

- EXHIBIT A - PROJECT SCHEDULE (SAMPLE BAR CHART)
- EXHIBIT B - PROJECT SERVICES COST ESTIMATE
- EXHIBIT C - MBE/ WBE/ OBE UTILIZATION PROFILE
- EXHIBIT D - INSURANCE REQUIREMENTS
- EXHIBIT E - CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT
OBLIGATIONS
- EXHIBIT F - SERVICE CONTRACT WORKERS RETENTION ORDINANCE
AND LIVING WAGE ORDINANCE-DECLARATION OF
COMPLIANCE
- EXHIBIT G - CERTIFICATION REGARDING AMERICANS WITH
DISABILITIES ACT
- EXHIBIT H - CERTIFICATION REGARDING COMPLIANCE WITH EQUAL
BENEFITS ORDINANCE
- EXHIBIT I - CHILD CARE POLICY STATEMENT

AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES

This Agreement is made and entered into by and between the CITY OF LOS ANGELES, California, a municipal corporation acting by order of and through its Board of Public Works, hereinafter referred to as the "CITY", AND Bovis Lend Lease, hereinafter referred to as the "CONSULTANT", and is set forth as follows:

WITNESSETH

WHEREAS, CITY has a need for consulting services for Program/Construction Management of the Proposition F, Fire/Paramedic, Air Operations Facilities; and

WHEREAS, eleven responded to the Request for Qualification (RFQ) dated December 11, 2000; and

WHEREAS, Bovis Lend Lease, Inc., was selected to be the most qualified by city staff based on the evaluation criteria set forth in the RFQ; and

WHEREAS, CONSULTANT has demonstrated qualifications to perform said services; and

WHEREAS, CONSULTANT meets the State requirements to perform consulting services for Program/Construction Management ; and

WHEREAS, services to be provided by CONSULTANT are temporary and occasional in character; and

WHEREAS, CITY desires to retain CONSULTANT to provide the required services in connection with the Project as outlined herein;

NOW, THEREFORE, in consideration of the promises, covenants, and agreements hereinafter set forth, the parties hereby agree as follows:

ARTICLE 1 -SECTION HEADINGS AND CONSTRUCTION OF PROVISIONS AND TITLES HEREIN

All titles, subtitles, and/or section headings appearing herein have been inserted for convenience and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning, intent or construction of any of the terms or provisions hereof. The language of this Agreement shall be construed according to its fair meaning and not strictly for or against the CITY or the CONSULTANT. The singular shall include the plural; use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

ARTICLE 2 - DEFINITIONS

It is understood that the following words and phrases are used herein; each shall have the meaning set forth opposite the same:

BOARD	The Board of Public Works of the City of Los Angeles.
CITY	The City of Los Angeles, Board of Public Works or its subordinate bureaus.
CONSULTANT	Bovis Lend Lease, Inc.
ENGINEER	The City Engineer or his designated representative.
MBE/WBE/OBE	Minority/Women/Other Business Enterprise.
PROJECT	Proposition F, Fire/Paramedic, Air Operations Facilities
QA / QC	Quality Assurance / Quality Control (Program)

ARTICLE 3 - PROJECT DESCRIPTION

On November 7, 2000, the voters of the City of Los Angeles approved "Proposition F" - Public Safety General Obligation Bond. This proposition authorized bond funding for Fire Stations/Paramedic/Air Operations Facilities. Proposition F will provide general obligation bond funds to acquire land and build 1 new and 18 replacement fire/paramedic stations: 10 regional stations, 8 standard stations and 1 new satellite station. Additional fire stations will be built, based on priorities set by the Fire Department, if there is any funding remaining.

**ARTICLE 4 - RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY THE
CONSULTANT**

The CONSULTANT shall provide Program and Construction Management Services on an "as-needed" basis. The Consultant shall not proceed on any task without the prior written authorization of the City's Project Manager. The details of SERVICES cost to be provided by the CONSULTANT will be, but not be limited to:

- 4.1 CONSULTANT shall perform the services described in Article 4.4 and 4.5.
CONSULTANT shall perform such work with a degree of skill and diligence normally employed by or consultants performing the same or similar services.
- 4.2 CONSULTANT shall provide corrective services without charge to the CITY for services which fail to meet the above standards and which are reported to CONSULTANT in writing within sixty days of discovery. Should the CONSULTANT fail or refuse to perform promptly its obligations under this warranty, the CITY may render or undertake the performance thereof and the CONSULTANT shall be liable for any expenses thereby incurred.
- 4.3 Maintenance of Records
CONSULTANT shall maintain complete and accurate records with respect to all costs incurred under this Agreement, including the records supporting the cost proposals used to enter into this Agreement with CITY. All of the aforementioned records shall be maintained on an industry recognized accounting basis and shall be clearly identifiable.

CONSULTANT shall make available to the representative of CITY all of such books and records, and the right to examine and audit the same, and to make transcripts or copies therefrom. CONSULTANT shall maintain and allow inspection of all said books and records, including, but not limited to work data, documents, proceedings, and activities related to this Agreement for a period of three (3) years from the date of final payment under this Agreement. CONSULTANT shall maintain said records in a manner which will indicate actual time and allowable costs with respect to all work performed hereunder as required by CITY.

4.4 Scope of Services

Furnish a staff for the overall performance of the duties set forth in this Article. The number of persons and specific individuals assigned by CONSULTANT to the PROGRAM shall be subject to the CITY's approval and shall take into account the CITY's cost objectives as made known to CONSULTANT.

4.5 Consultant Schedule of Services

4.5.1 The CONSULTANT shall prepare and submit to the ENGINEER an outline master schedule for assumed durations of major tasks to be accomplished for the program. This schedule is shown in Exhibit A. The CONSULTANT shall prepare an estimated staffing plan (Exhibit B) required to carry out the consultant services in accordance with the assumed time frames shown in Exhibit A. AS the program progresses the consultant will prepare revisions and updates to the master schedule and the estimated staffing plan in a timely manner The CITY may

withhold payment to the CONSULTANT for failure to comply with requirements of this procedure.

4.5.2 The CONSULTANT shall submit a progress report monthly. This will consist of a monthly narrative progress report. The purpose of the report is to provide a brief description of the status of the work and to acknowledge any problems and open issues that may affect timely completion.

4.5.3 The CONSULTANT shall participate in Progress meetings with the Project Manager. These meetings shall be held monthly at the discretion of the Project Manager. All meetings are to be comprehensively documented by the CONSULTANT and related documentation distributed to attendees.

4.5.4 Program Management Support

- (a) Work closely with the CITY to establish whether by lease or otherwise, and at CITY's sole cost and expense, a joint CITY and CONSULTANT Program Management Team "PMT" offices and develop the required communications interfaces to provide the necessary tools for the PMT. CITY's undertakes and agrees to indemnify, defend and hold harmless CONSULTANT, its officers, directors, agents and employees from and against all suits, causes of action, claims, losses, demands and expenses, including reasonably attorney's fees, collectively "Claims" arising out of or relating to the procurement and establishment of such joint offices,

including but not limited to claims for rental and/or premature termination of any lease agreement executed by CONSULTANT. The terms of the indemnification shall survive expiration or termination of this Agreement.

- (b) Develop a PROGRAM wide program management plan and manual "PMP". The PMP will be developed in concert with the various CITY departments and the Fire Department Staff and provide a core set of policies and procedures for the PMT to function effectively and consistently. The PMP shall be published and maintained an electronic manual on the PROGRAM web site.
- (c) Evaluate and recommend alternate delivery strategies to streamline or speed the design and construction process.
- (d) When specifically requested by the CITY, provide assistance to enhance and maintain the interests of the PROGRAM and the CITY.

4.5.5 Program Management Control Systems

- (a) Develop PROGRAM wide work breakdown structure "WBS" to provide a common means of coding and defining the individual projects and cost categories (i.e. Fire Station, council district, funding source, city accounting codes, construction specification institute "CSI" categories, architect, contractor, etc.) for the PROGRAM.

- (b) Develop and maintain, at CITY's cost and expense, a web based tracking and reporting system to enhance PROGRAM communications among the CITY, CONSULTANT, DESIGN CONSULTANT's and CONTRACTOR's. Assist in establishing a link between the Fire Department and the PROGRAM web site. The web site will provide security controls to limit access levels to the PROGRAM data.
- (c) Review and validate original budget and schedule assumptions utilized for the 2000 Proposition F Bond Program. Submit a report documenting the findings from the independent assessment and identify variances, if any, from the original budget assumptions and recommend corrective actions and reconciliation measures for the program.
- (d) Develop and maintain a Program Master Schedule summarizing key design, approval, bid, construction and occupancy milestones for each of the planned PROJECTs. Review and comment on design schedules submitted by the DESIGN CONSULTANTS and construction schedules submitted by the CONTRACTORS.
- (e) Prepare an independent estimate of the anticipated construction cost for the 100% schematic design, 100% design development, 50% construction and 100% construction document submittal from the DESIGN CONSULTANT for each Fire Station PROJECT. It is recognized, however, that neither CONSULTANT nor the CITY has control over the cost of

labor, materials or equipment, over contractors' methods of determining bid prices or other competitive bidding or negotiating conditions.

- (f) Conduct a cost reconciliation between the CONSULTANT's estimates and the DESIGN CONSULTANT's estimates for each PROJECT and prepare a report identifying variances, if any, from the approved budget amounts. Identify cost reduction alternatives as necessary.
- (g) Produce a monthly, quarterly and annual report summarizing the overall status of the PROGRAM specific to the recipient agency. The report shall document the activities completed and costs incurred during the preceding month and compare them to the original budget and master schedule. The report will discuss cost, schedule, and critical issues to be resolved.
- (h) End of PROGRAM report showing actual schedule and budget versus planned.

4.5.6 Design Management Support

- (a) Assist in the modification of existing CITY design guidelines for use on the PROGRAM. The guidelines shall include definition of the SCHEMATIC DESIGN, DESIGN DEVELOPMENT, AND CONSTRUCTION DOCUMENT submittals by the DESIGN CONSULTANTS.
- (b) Review CITY specification and special provision language and

recommend modifications for the PROGRAM.

- (c) Develop sustainable commissioning guidelines.
- (d) Review forms of agreement for DESIGN CONSULTANTS and make recommendations relative to design scope of services.
- (e) Work with the CITY and DESIGN CONSULTANTS to evaluate and identify long lead procurement, standardization and pre-purchase of CITY supplied furniture, fixtures and equipment.
- (f) Perform reviews of the design documents at specific milestones to provide constructability and value engineering comments with regards to systems, materials, equipment and techniques to allow construction contractors to employ cost-effective construction techniques and minimize the number and cost of change orders.

4.5.7 Construction Management Support

- (a) Assist the CITY in developing a construction document tracking system to track and record construction activities.
- (b) Provide advice on construction feasibility, availability of materials & labor, and time requirements for installation and construction.

- (c) Recommend contractual language for inclusion in the construction documents that will require submittals and performance by the CONTRACTORS to support effective cost, schedule and quality control.
- (d) Assist the CITY in the pre-qualification of CONTRACTORS and subcontractors.
- (e) Assist the CITY in the bidding of construction contracts, including conducting pre-bid conferences, analyzing bids, reviewing contract preparation and conducting pre-construction conferences.
- (f) Advise the CITY regarding the performance of CONTRACTORS in accordance with the obligations under their agreements and the construction documents.
- (g) Develop and implement the procedure for review and processing of applications for progress payments and final payments to CONTRACTORS. Reviewing the CONTRACTORS proposed schedules of values for use in processing payments.
- (h) Develop and implement procedures for expediting the processing and approval of shop drawings and samples by others.
- (i) Conduct and attend regular meetings to monitor the progress of the work.

- (j) Maintain meeting minutes, current records of contracts, plans, specifications and other related documents.
- (k) Develop and implement a system for the preparation, review and processing of change orders.
- (l) Determine, in conjunction with the CITY and the DESIGN CONSULTANT for each PROJECT substantial completion of the construction, construction contracts or designated portions thereof, and assist the DESIGN CONSULTANT in the preparation of punch lists of incomplete or unsatisfactory work.
- (m) Determine, in conjunction with the CITY and the DESIGN CONSULTANT for each PROJECT final completion of the construction, CONSTRUCTION CONTRACTS and provide written notice to the CITY. Assist in obtaining from the appropriate parties the necessary records, certificates, guarantees, warranties and releases to CITY.
- (n) Assist the CITY with the avoidance, analysis and resolution of claims related to the PROGRAM. Work with the CITY and DESIGN CONSULTANTS to develop a pre-construction claims mitigation program to see that scope for each PROJECT is clearly defined and that construction contract documents are coordinated and complete. Also, check to see that specifications establish specific times for submission and

review of schedules, submittals, and requests for information or clarification. During construction carefully review all requests for change and act on them immediately. Keep field reports and up-to-date files. See that as-built schedules are prepared as the work progresses. Whenever possible, negotiate the costs and delays associated with change orders before the work begins.

- (o) Commission the facility based on sustainable guidelines to determine if the sustainable guidelines have been achieved.
- (p) Assist the CITY in requiring the construction contractors to implement a safety program that recognizes the CITY and the CONSULTANT's requirements for safe construction sites. The CONSULTANT shall advise the CITY on any recommended changes to the CITY's standard construction safety program that the CONSULTANT would advise be made in order to bring the CITY's safety program up to a the level normally required by the CONSULTANT on similar projects, if any deficiencies are noted by the CONSULTANT in the CITY's safety program. The CITY will endeavor to incorporate these recommendations to the extent allowed by CITY ordinances.

4.5.8 Post Occupancy Support

- (a) Assist the CITY in resolving post occupancy problems related to

construction and building system.

- (b) Investigate causes of problems and follow up with appropriate parties for actions to resolve problems that are warranty related.
- (c) Assist the CITY in developing solutions for problems that are non-warranty related.
- (d) Provide construction support for resolving minor construction problems.

ARTICLE 5 - KEY CONSULTANT PERSONNEL

5.1 CONSULTANT designates the following persons to implement the work:

Richard Puezkowski, Project Manager

Additional technical specialists shall be assigned subject to the CITY Project Manager's approval.

5.2 CONSULTANT agrees that personnel assigned to these positions at the commencement of services under this Agreement shall serve in these positions as long as required by the Project, and CONSULTANT shall not change personnel assigned to these positions without the consent and approval of CITY's Project Manager, provided such consent shall not be unreasonably withheld.

ARTICLE 6 - RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY CITY

CITY designates Allan T. Kawaguchi as its Project Manager, representing the CITY in all matters within the scope of this Agreement relating to the conduct and approval of the work to be performed. Whenever the term "approval of CITY," "consult with CITY," "confer with CITY," or similar terms are used, they shall refer to the CITY's Project Manager. The CITY's Project Manager may designate an assistant to act in his stead. The Project Manager may be changed at the direction of the City Engineer at any time.

The CITY shall furnish, without charge, all standard plans and specifications and any other information which the CITY now has in its files that may be of use to CONSULTANT. The CITY shall also furnish the CONSULTANT with the following information to define the requirements of the project:

- Concept Report
- Applicable Bureau of Engineering Standard Plans
- City of Los Angeles' Standard Form General Conditions/ General Requirements
- City of Los Angeles' Master Technical Specification Index and applicable Sections (Applicable Master Specifications Sections are to be requested by the CONSULTANT and modified to suit the project involved.)
- Applicable Procedural Memoranda
- Graphic Standards Manual

ARTICLE 7 - TERM OF AGREEMENT AND TIME OF EFFECTIVENESS

Unless otherwise provided, the term of this Agreement shall begin on the date of full execution of this Agreement and shall expire on October 1, 2006, with one year renewal options for a period of two years, unless terminated as provided under Article 8 or extended by amendment or change order to this Agreement.

The date of full execution is defined as the date when all of the following events have occurred:

- (a) This Contract has been signed on behalf of the CONSULTANT by the person or persons authorized to bind the 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 and legality;
- (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.

ARTICLE 8 - TERMINATION

- 8.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten (10) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.
- 8.2 This Agreement may be terminated in whole or in part in writing by the CITY for its convenience, provided that the CONSULTANT is given (1) not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.
- 8.3 If termination for default is effected by the CITY, an equitable adjustment in the price provided for in this Agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due the CONSULTANT at the time of termination may be adjusted to cover any additional costs to the CITY because of the CONSULTANT'S default.

If termination for default is effected by the CONSULTANT or if termination for convenience is effected by the CITY, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination

shall provide for payment to the CONSULTANT for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the CONSULTANT relating to written commitments that were executed prior to the termination.

8.4 Upon receipt of a termination action under Articles 8.1 or 8.2 above, the CONSULTANT shall (1) promptly discontinue all affected work (unless the notice directs otherwise), and (2) deliver or otherwise make available to the CITY all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the CONSULTANT in performing this Agreement, whether completed or in process.

8.5 Upon termination under Articles 8.1 or 8.2 above, the CITY may take over the work and may award another party an Agreement to complete the work under this Agreement.

8.6 If, after the termination for failure of the CONSULTANT to fulfill contractual obligations, it is determined that the CONSULTANT had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the CITY. In such event, adjustment of the Agreement price shall be made as provided in Article 8.3 of this article.

ARTICLE 9 - SUBCONTRACT APPROVAL

All subcontracts in excess of \$5,000 shall require the prior approval of the CITY. A copy of all subcontracts shall be submitted to the CITY showing the subconsultant's name and dollar amount of each subcontract. Wholly owned subsidiaries of CONSULTANT shall not be considered subconsultants.

CONSULTANT plans to subcontract with these firms listed below for which the CITY hereby gives approval:

ACG Environments

Aegir Systems

Analytical Planning Services, Inc.

Dugan & Associates

Harris & Company

Kosmont & Associates

Ming Yang Yeh & Associates, Inc.

Storms & Lowe Consulting Engineers

Catalyst Communications, Inc.

Michael Green Realty & Investment

Lang & Murakawa

CTG Energetics

John Malloy

Law Crandall

Jenkins/Gales & Martinez, Inc.

This listing is not exclusive and additional subconsultants may be added with the approval of the Project Engineer.

ARTICLE 10 - COMPENSATION, INVOICING AND PAYMENT

10.1 Definitions

"Cost" as used herein is defined as the sum of: (1) Billing Hourly Rates; (2) Other Direct Cost with no markup; and (3) Subcontract Expenses with seven percent markup as defined below.

10.1.1 "Billing Hourly Rates" shall be at the rates approved by the CITY's Project Manager, to be charged by CONSULTANT for employees' time directly chargeable to their performance of the project work. Billing hourly rate increases are limited to once per year per employee and are subject to the approval of the CITY.

10.1.2 The billing hourly rates amount shown for each job classification on Exhibit B are the amounts invoices must be based on and are only subject to change by written approval of the CITY's Project Manager. The contract ceiling for this Agreement is of \$13,300,000.

10.1.3 Exhibit B, Project Services Cost Estimate, attached hereto and incorporated herein by this reference, shall be used to estimate the total cost by task, based upon the estimated hours of labor at direct hourly labor rates, and other direct costs with no

mark up.

10.1.4 "Other Direct Cost" includes those costs of CONSULTANT directly identifiable to or incurred in the performance of services hereunder, including but not limited to reproduction, freight, messenger service, travel (in accordance with established CITY's policies), equipment owned or rented by CONSULTANT (any equipment purchased and paid for under this project shall become the property of the CITY), auto mileage charges (based on IRS allowable amounts), supplies used in the work, communication expenses, cost of office lease space, equipment, and supplies furnished to CITY personnel at CITY's location.

10.1.5 "Subcontract Expenses" shall be the actual amount paid by CONSULTANT to subconsultant for their services to the CITY plus an administrative fee of seven percent.

10.1.6 Costs incurred by the CONSULTANT prior to the actual date of full execution of this AGREEMENT shall only be payable to CONSULTANT if said costs were incurred in completing any task specifically authorized by this AGREEMENT and said costs are reviewed and approved by the CITY and said approval for payment occurs after this AGREEMENT is fully executed.

10.2 Compensation

CONSULTANT agrees to perform the work specified in Article 4.4 & 4.5, and CITY

shall compensate CONSULTANT, with payment to be made in accordance with the Schedule of Hourly Rates and Project Services Cost Estimate shown in Exhibit B. Individuals who CONSULTANT wishes to add to the project must have their compensation rate approved by the CITY's Project Manager.

10.3 Invoicing and Payment

10.3.1 Once each month, CONSULTANT shall submit to CITY an original and three copies of an invoice in a format acceptable to the CITY which will include all costs and a proportionate amount of profit due CONSULTANT for services provided during the preceding month. CITY shall review CONSULTANT's invoice and notify CONSULTANT of exceptions or disputed items and their dollar value within fifteen (15) days of receipt.

The total invoice amount, less any exceptions or disputed items shall be considered approved for payment fifteen days after receipt by the CITY. If the CITY does not notify CONSULTANT within fifteen days of receipt, then the entire invoice amount shall be deemed approved for payment. CITY shall pay CONSULTANT all amounts approved for payment within sixty days after CITY's Project Manager receives CONSULTANT's invoice.

10.3.2 Invoices shall be prepared in such form and supported by such copies of invoices, payrolls, time sheets, and other documents of proof as may be reasonably required by CITY to establish the amount of such invoices as being allowable. An MBE/WBE/OBE Utilization Profile, Exhibit C, listing MBE/WBE/OBE amounts

invoiced shall also be submitted as part of the monthly invoice. All such invoices shall be subject to audit. Support for any other direct cost items less than \$25 need not be submitted by CONSULTANT unless specifically requested by CITY.

10.3.3 CITY shall not be obligated to reimburse CONSULTANT for costs incurred in excess of the total estimated not-to-exceed cost set forth. CONSULTANT shall not be obligated to continue performance (including actions under the temporary stop work or termination clauses) or otherwise incur costs in excess of the Project Services Cost Estimate unless and until CITY shall have notified CONSULTANT in writing that such Project Services Cost Estimate has been increased and shall have specified in such notice an estimated Project Services Cost Estimate which shall thereupon constitute the cost performance of this Agreement.

In the absence of the specified notice, CITY shall not be obligated to reimburse CONSULTANT for any costs in excess of the Project Services Cost Estimate set forth, whether those costs were incurred during the course of the Agreement or as a result of termination.

10.3.4 When and to the extent that the Project Services Cost Estimate has been increased, any costs incurred by CONSULTANT in excess of the Project Services Cost Estimate, Exhibit B, prior to such increase, shall be allowable to the same extent as if such costs had been incurred after the increase.

10.3.5 CITY liability under this contract shall only be to the extent of the present

appropriation to fund the Agreement. No action, statement, or omission of any officer, agent, or employee of CITY shall impose any obligation upon CITY, such officer, agent, or employee, except to the extent CITY has appropriated funds and otherwise in accordance with the terms of this Agreement.

CONSULTANT and CITY agree that no indebtedness for work performed which results in costs under this Agreement shall arise against CITY until and unless there is an appropriation of funds to pay for such work. However, if CITY shall appropriate funds for any successive fiscal years, CITY's liability shall be extended to the extent of such appropriation subject to the terms and conditions of this Agreement.

ARTICLE 11 - AMENDMENTS, CHANGES OR MODIFICATIONS

Amendments, changes or modifications in the terms of this Agreement may be made at any time by mutual written agreement between the parties hereto and shall be signed by the persons authorized to bind the parties thereto.

ARTICLE 12 - INDEMNIFICATION AND INSURANCE

12.1 INDEMNIFICATION

Except for the active negligence or willful misconduct of CITY, CONSULTANT undertakes and agrees to defend, indemnify and hold harmless CITY and any and all of CITY's Boards, Officers, Agents, Employees, Assigns and Successors in Interest from and against all suits and causes of actions, claims, losses, demands and expenses, including but not limited to attorney's fees and costs of litigation, damage or liability of

any nature whatsoever, for death or injury to any person, including CONSULTANT's employees and agents, or damage of or destruction to any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement on the part of CONSULTANT or its subconsultants of any tier.

12.2 INSURANCE

A. General Conditions

During the term of this Contract and without limiting CONTRACTOR'S/CONSULTANT'S indemnification of the CITY, CONSULTANT shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by CONSULTANT but not less than the amounts and types listed on the Insurance Requirements Sheet (Form Gen 146/IR) in Exhibit D hereto covering its operations hereunder. Such insurance shall conform to City requirements established by Charter, Ordinance or policy, shall comply with the instructions set forth on Form General 133 and with the conditions set forth on the applicable City Special Endorsement form(s), copies of which are included in Exhibit D, 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 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 **CONSULTANT** ninety (90) days advance written notice of such change. If such change should result in substantial additional cost to the **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 **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 agency 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 CONSULTANT.

D. Workers Compensation

By signing this Contract, CONSULTANT hereby certifies that 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.

ARTICLE 13 -INDEPENDENT CONTRACTORS

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

ARTICLE 14 - WARRANTY AND RESPONSIBILITY OF CONSULTANT

14.1 CONSULTANT warrants that the services hereunder shall be completed in a manner consistent with professional standards practiced among those firms within CONSULTANT's profession, doing the same or similar work under the same or similar circumstances.

14.2 CONSULTANT shall be responsible for technical accuracy, timely completion of reports, and other services furnished by CONSULTANT under this Agreement. CONSULTANT shall, at no additional cost to CITY, correct or revise any errors, omissions, or other deficiencies in its reports, calculations, and other services.

14.3 The CONSULTANT shall exhibit proper professional judgement in the use of information furnished by CITY in Article 6. In the event that said information is not delivered timely or that it is discovered to be incorrect or misleading, CONSULTANT will notify the CITY in a reasonable manner after the discovery of such tardiness or incorrect or misleading information and promptly make a determination of its costs and schedule impact on this Agreement, as well as recommendations for the correction of such incorrect or misleading information.

14.4 CONSULTANT shall perform such professional services as may be necessary to accomplish the work required to be performed under this Agreement in accordance with this Agreement.

14.5 Except as specified in Article 12 and as otherwise provided in this Agreement, the CONSULTANT shall be and shall remain liable, in accordance with applicable law, for all damages to CITY caused by CONSULTANT's negligent performance of any of the services furnished under this Agreement, except for errors, omissions, or other deficiencies to the extent attributable to CITY, CITY-furnished data, or any third party.

ARTICLE 15 - OWNERSHIP OF DATA

15.1 All nonproprietary drawings, plans, specifications, computer data files, basis for design calculations, and engineering notes, as prepared hereunder, shall become the property of CITY. CONSULTANT shall provide two (2) sets of reproducible copies of the above-cited items, except for the computer data files which shall consist of one (1) set in the form described in Article 15.2, below. CONSULTANT shall be permitted to maintain copies of all such data for its own files. Should CITY use these products or data in connection with additions to the work required under this Agreement or for new work, without consultation with and without additional compensation to CONSULTANT, CONSULTANT shall have no liability or responsibility whatsoever in connection with such use.

15.2 Specifically with regard to the computer data files specified in Article 15.1, above, said computer data files (or databases) shall be provided to the CITY by tape or electronically, via an asynchronous RS-232 protocol, to a CITY provided compatible computer system. With regard to the basis for design calculations and engineering notes, such data shall be

provided to the CITY in (a) hard cover post binder(s), appropriately indexed, on thin mylar stock or good quality paper satisfactory for reproduction.

ARTICLE 16 - NONDISCRIMINATION AND AFFIRMATIVE ACTION

The CONSULTANT shall comply with the applicable nondiscrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the CITY. In performing this Agreement, the 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 CONSULTANT shall comply with the provisions of the Los Angeles Administrative Code Sections 10.8 through 10.13, to the extent applicable hereto. If this Agreement contains a consideration in excess of \$500 but not more than \$5,000, the Equal Employment practices provisions of this Agreement shall be the mandatory contract provisions set forth in Los Angeles Administrative Code Section 10.8.3, in which event said provisions are incorporated herein by this reference. If this Agreement contains a consideration in excess of \$5,000, the Affirmative Action Program of this Agreement shall be the mandatory contract provisions set forth in Los Angeles Administrative Code Section 10.8.4, in which event said provisions are incorporated herein by this reference. The 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 CONSULTANT relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph. Failure of the CONSULTANT to comply with this requirement

or to obtain the compliance of its subcontractors with such obligations shall subject the CONSULTANT to the imposition of any and all sanctions allowed by law, including but not limited to termination of the CONSULTANT'S Agreement with the CITY.

ARTICLE 17- MINORITY, WOMEN AND OTHER BUSINESS ENTERPRISE

OUTREACH PROGRAM

CONSULTANT agrees and obligates itself to utilize the services of Minority, Women, and Other Business Enterprise (MBE/WBE/OBE) firms on a level so designated in its proposal. CONSULTANT certifies that it has complied with Mayoral Directive 1-C regarding the MBE/WBE/OBE Outreach Program for Personal Services Contracts Greater than \$100,000, Attachment A to the Request for Proposal. CONSULTANT shall not change any of these designated subconsultants or reduce their level of effort without prior written approval of the CITY provided that such approval will not be unreasonably withheld.

An MBE/WBE/OBE Utilization Profile, Exhibit C, listing MBE/WBE/OBE amounts invoiced versus planned expenditures shall be submitted by CONSULTANT as part of the invoicing procedures as described in Article 10.3.2 Supra. CONSULTANT shall provide an expenditure plan projection including the MBE/WBE/OBE usage within the period of this Agreement.

ARTICLE 18 - SUCCESSORS AND ASSIGNS

All of the terms, conditions, and provisions hereof shall insure to the benefit of and be binding upon the parties hereto and their respective successors and assigns provided, however, that no assignment of the contract shall be made without written consent of the parties to this Agreement as required under Article 33.

ARTICLE 19 - CONTACT PERSONS - PROPER ADDRESSES - NOTIFICATION

All notices shall be made in writing and may be given by personal delivery or by mail. Such notices sent by mail should be registered or certified and sent to the designated contact person for each party and addressed as follows:

To The CITY:

Contact Person: Allan T. Kawaguchi, Project Manager

Address: 650 South Spring Street, Suite 1100

Los Angeles, California, 90014

To CONSULTANT:

Contact Person: Tom Miller, Senior Vice President

Address: 11755 Wilshire Boulevard, Suite 2450

Los Angeles, California, 90025

ARTICLE 20 - FORCE MAJEURE

Notwithstanding any other provisions hereof, neither CONSULTANT nor the CITY shall be held responsible or liable for failure to meet their respective obligations under this Agreement if such failure shall be due to causes beyond CONSULTANT's or the CITY's control. Such causes include but are not limited to: strikes, fire, flood, civil disorder, acts of God or of the public enemy, acts of the federal government, or any unit of state or local government in either sovereign or contractual capacity, epidemics, quarantine restrictions, 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.

ARTICLE 21 - SEVERABILITY

Should any portion of this Agreement be determined to be void or unenforceable, such shall be severed from the whole and the Agreement will continue as modified.

ARTICLE 22 - DISPUTES

Should a dispute or controversy arise concerning provisions of this Agreement or the performance of work hereunder, the parties may elect to submit such to a court of competent jurisdiction.

ARTICLE 23 - ENTIRE AGREEMENT

This Agreement contains all of the agreements, representations, and understandings of the parties hereto and supersedes and/or incorporates any previous understandings, proposals,

commitments, or agreements, whether oral or written, and may be modified or amended only as herein provided.

ARTICLE 24 - 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 of Los Angeles including but not limited to laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This Agreement shall be governed by, enforced, and interpreted under the laws of the State of California and the City of Los Angeles. CONSULTANT shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement.

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

**ARTICLE 25 - CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION
CERTIFICATE REQUIRED**

CONSULTANT represents that it has obtained and presently holds the Business Tax Registration Certification(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 Agreement, the 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.

ARTICLE 26 - 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 Municipal Code Sections 11.47 through 11.56.

ARTICLE 27 - CHILD SUPPORT ASSIGNMENT ORDERS

This contract is subject to Section 10.10, Article 1, Chapter 1, Division 10 of the Los Angeles Administrative Code Child Support Assignment Orders. CONSULTANT is required to complete a Certification of Compliance with Child Support Obligations which is attached hereto as Exhibit E and incorporated herein by this reference. Pursuant to this Section, CONSULTANT (and any subcontractor providing services to City under this Contract) shall (1) fully comply with all State and Federal employment reporting requirements for CONSULTANT or CONSULTANT's subcontractor's employees applicable to Child Support Assignment Orders; (2) certify that the principal owner(s) of CONSULTANT and applicable subcontractors 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 10.10b of the Los Angeles Administrative Code, failure of CONSULTANT

or an applicable subcontractor to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders and Notice of Assignment or the failure of any principal owner(s) of CONSULTANT or applicable subcontractors to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default 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 CONSULTANT by City.

CONSULTANT shall comply with the Child Support Compliance Act of 1998 of the State of California Employment Development Department. 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.

ARTICLE 28 - COMPLIANCE WITH YEAR 2000

CONSULTANT assures that all hardware, software, and other computer-related products and/or services purchased or leased for the City under this Agreement shall be Year 2000 compliant. These systems/products shall be able to accurately process date/data, including calculating and/or comparing data between the twentieth and twenty-first centuries, years 2000, and leap year calculations to the extent that other information technology used in combination is compatible.

ARTICLE 29 - SERVICE CONTRACTOR WORKER RETENTION ORDINANCE
AND LIVING WAGE ORDINANCE

A. This contract is subject to the applicable provisions of the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 et.seq., of the Los Angeles Administrative Code and the Living Wage Ordinance Section (LWO) 10.37 et. seq. of the Los Angeles Administrative Code in accordance with the Certification attached hereto as **Exhibit F** and incorporated herein by this reference. The ordinances require that unless specific exemptions apply, all employers (as defined) under contracts primarily for the furnishing of services to or for the City and that involve an expenditure or receipt in excess of Twenty Five Thousand Dollars (\$25,000) and a contract term of at least three (3) months, lessees; licensees; or certain recipients of City financial assistance, generally shall provide the following:

1. Retention by a successor CONSULTANT for a ninety (90) day transition period, the employees who have been employed for the preceding twelve (12) months or more by the terminated CONSULTANT or subcontractor, earning less than Fifteen Dollars (\$15.00) per hour in salary or wage, as provided for in the SCWRO;
2. Payment of a minimum initial wage rate to employees as defined in the LWO of Seven Dollars and Ninety-Nine Cents (\$7.99) per hour with health benefits of at least One Dollar and Twenty Five Cents ((\$1.25) per hour; or, otherwise, Nine Dollars and Twenty Four Cents (\$9.24) per hour adjusted annually (refer to LWO

for updated rates to be applied to this contract);

3. Provision for at least twelve (12) compensated days off per year for sick leave, vacation or personal necessity at the employees' request, and at least ten (10) additional days per year of uncompensated time off for sick leave.
4. CONSULTANT further pledges that it will comply with federal law proscribing retaliation for union organizing.
5. 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 CONSULTANT, lessee, licensee, or financial assistance recipient violated the provisions of the referenced code sections.

Earned Income Tax Credit

This contract is subject to the provisions of Section 10.37.4 of 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.

ARTICLE 30 - AMERICANS WITH DISABILITIES ACT

The CONSULTANT shall comply with the Americans with Disabilities Act 42 U.S.C. Section 12101 et seq. and with the provisions of the Certification Regarding Compliance with the Americans with Disabilities Act which is attached hereto as Exhibit G and incorporated herein by this reference.

ARTICLE 31 - EQUAL BENEFITS ORDINANCE

- A. CONSULTANT shall comply with the Equal Benefits Ordinance. During the performance of this contract, the CONSULTANT certifies and represents that the CONSULTANT will provide equal benefits to its employees with spouses and its employees with domestic partners. CONSULTANT shall complete the Certification Regarding Compliance with the Equal benefits Ordinance which is attached hereto as Exhibit H and made a part thereof.

The CONSULTANT agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.

1. The CONSULTANT shall permit access to and may be required to provide certified copies of all its records pertaining to employment and to its employment practices to the awarding authority or the City Administrative Officer, for the purpose of investigation to ascertain compliance with the Equal Benefits

Provisions of this contract, and on their or either of their request to provide evidence that it has complied or will comply therewith.

2. The failure of any CONSULTANT to comply with the Equal Benefits Provisions of this contract may be deemed to be a material breach hereof. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the City Administrative Officer. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the CONSULTANT.

3. Upon a finding duly made that the CONSULTANT has breached the Equal Benefits Provisions of this contract, this contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said CONSULTANT is an irresponsible bidder pursuant to the provisions of Section 386 of the Los Angeles City Charter. In the event of such determination, such CONSULTANT shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until it shall establish and carry out a program in conformance with the provisions hereof.

4. Notwithstanding any other provisions of this contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.
5. Nothing contained in this contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
6. The equal benefits requirements of this section shall not apply to collective bargaining agreements in effect prior to the effective date of Section 10.8.2.1 of the Los Angeles Administrative Code. Amendments, extensions or other modifications of such collective bargaining agreements, occurring subsequent to the effective date of that section, shall incorporate the equal benefits requirements of that section.
7. All CONSULTANTS subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the City and shall impose the same obligations, on the subcontractors as are applicable to the CONSULTANT. Failure of the CONSULTANT to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the CONSULTANT to the imposition of any and all sanctions allowed by law, including but not limited to termination of the CONSULTANT's contract with the City.

ARTICLE 32 - WAIVER

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

ARTICLE 33 - PROHIBITION AGAINST ASSIGNMENT OR DELEGATION

The 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 of payment; or
- (b) Delegate, subcontract, or otherwise transfer any of its duties hereunder.

ARTICLE 34 - PERMITS

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

ARTICLE 35 - CLAIMS FOR LABOR AND MATERIALS

The CONSULTANT shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this Agreement, so as to prevent any lien or other claim under any provision of law from arising against any CITY property (including reports,

documents, and other tangible matter produced by the CONSULTANT hereunder), against the 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.

ARTICLE 36 - DISCOUNTS

CONSULTANT agrees to offer the CITY any discount terms that are offered to its best customers for the goods and services to be provided herein, and apply such discounts to payments made under this Agreement which meet the discount terms.

ARTICLE 37 - CONTRACTOR PERFORMANCE EVALUATION

In accordance with Article 13 of the City of Los Angeles Administrative Code, the appropriate City personnel responsible for the quality control of this personal services contract shall submit a Contractor Performance Evaluation to the Office of the City Administrative Officer (CAO) upon completion of the contract.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year written below.

APPROVED AS TO FORM:

Rockard J. Delgadillo, City Attorney

By: *Christoph M. ...*

Title: Assistant City Attorney

Bovis Lend Lease, Inc.

Tom Miller

By: *T.M. Miller*

Title: Senior Vice President

CITY OF LOS ANGELES

By: *Rick ...*

Title: President, Board of Public Works

Date: _____

Janice Wood

ATTEST

J. Michael Carey, City Clerk

By: *Lera ...*

Title: Deputy City Clerk

Date: 2-11-02

C-102634



M

EXHIBIT A - SAMPLE PROJECT SCHEDULE

EXHIBIT B- PROJECT SERVICES COST ESTIMATE

City of Los Angeles, Dept. of Public Works - 2000 Prop F - Fire/Paramedics/Air Ops Facilities Program

Consultant & Subconsultants - Hourly Rates

Name and Address of Subconsultant Firm	Proposed Position	Current Hourly Rate (\$) (as of 09/2001)
Bovis Lend Lease, Inc. 11755 Wilshire Boulevard, Suite 2450 Los Angeles, CA 90025 (310) 312-1550 (p) (310) 312-0155 (f) Construction Management	P-I-C/Director of Operations	210.00
	Project Executive	140.00
	Senior Project Manager	135.00
	Construction Manager	110.00
	Senior I.T. Manager	115.00
	Assistant I.T. Manager	85.00
	Estimator	109.00
	Project Accountant	65.00
	Field Secretary	46.00
ACG Environments 1750 - 14th Street, Suite C Santa Monica, CA 90404 (310) 450-5228 (p) (310) 392-6342 (f) Arch./Hist./Special Projects	Contract Manager	95.00
	Engineer/Architect	95.00
	Public Relations	90.00
	Construction Inspection	80.00
	Project Controls	90.00
Dugan & Associates 6350 Laurel Canyon Blvd., Suite 406 North Hollywood, CA 91606 (818) 752-7970 (p) (818) 752-7976 (f) Document Control Specialist	Principal	117.64
	Document Control	42.38
	Project Manager	111.04
	Asst. Project Manager	101.44
	Sr. Estimator/Scheduler	96.04
	Scheduler	88.84
	Estimator	88.84
	Senior Secretary	43.23
Secretary	40.60	
Jenkins/Gales & Martinez, Inc. 5933 West Century Boulevard Los Angeles, CA 90045 (310) 645-0581(p) (310) 670-8721(f) Cost Control	Principal (Mark Colopy)	60.06
	Cost Control	26.23
Ming Yang Yeh & Associates, Inc. 131 W. Green Street Pasadena, CA 91105 (626) 449-9886 (p) (626) 449-9086 (f) Structural Engineer	Principal	150.00
	Senior Engineer	130.00
	Associate Engineer	110.00
	Assistant Engineer	75.00
	Drafter	65.00
	Clerical/Word Processor	35.00
Storms & Lowe Consulting Engineers 5777 W. Century Blvd., #1595 Los Angeles, CA 90045 (310) 665-0600 (p) (310) 665-0606 (f) MEP	Principal	150.00
	Project Manager	110.00
	Project Engineer	95.00
	Staff Engineer	80.00
	Senior Draftsman (CAD)	70.00
	Draftsman (CAD)	60.00

Scheduler 7/1/02
M - 113.36
Doc. Control
T. 55.00
See IT - Julia
\$119.60

City of Los Angeles, Dept. of Public Works – 2000 Prop F – Fire/Paramedics/Air Ops Facilities Program

Subconsultants – Hourly Rates

Name and Address of Subconsultant Firm	Proposed Position	Current Hourly Rate (\$) (as of 09/2001)
Kosmont Realty Corp. 601 S. Figueroa Street, Ste. 3550 Los Angeles, CA 90017 (213) 623-8484 (p) (213) 623-8288 (f) <i>Real Estate Acquisition</i>	President & CEO	185.00
	Partner/COO	185.00
	Partner	160.00
	Senior Vice President	150.00
	Sr. Consultant/Project Mgr.	150.00
	Vice President/Associate	125.00
	Project Analyst	90.00
	GIS Mapping/Research	85.00
	Graphics Support	75.00
	Clerical Support	55.00
Michael Green Investments 22900 Ventura Blvd., Suite 300 Woodland Hills, CA 91364 (818) 563-0571 (p) (818) 773-0118 (f) <i>Real Estate Acquisition</i>	Real Estate Acquisition Liaison	29.00
Murakawa Communications 2110 Artesia Blvd., #B354 Redondo Beach, CA 90278 (310) 376-2236 (p) (310) 379-3953 (f) <i>Community Outreach</i>	Principal (Trisha Murakawa)	135.00
	Comm. Outreach Liaison (Lawrence Garcia)	115.00
	Comm. Outreach Liaison (Yolanda Novak)	75.00
Harris & Company P.O. Box 72237 Davis, CA 95617 (530) 758-2100 (p) (213) 749-2265 (f) <i>Community Outreach</i>	Principal	135.00
	Comm. Outreach Liaison	75.00
	Senior Project Manager	75.00
	Graphics	50.00
	Bilingual Project Manager	45.00
Administration	40.00	
Catalyst Communications, Inc. 12814 Newton Street Los Angeles, CA 91342 (818) 361-7477 (p) (818) 361-7042 (f) <i>Community Outreach</i>	Principal	135.00
	Associate	75.00
	Administration Manager	40.00
Analytical Planning Services, Inc. 15707 Rockfield, Suite 225 Irvine, CA 92618 (949) 707-5966 (p) (949) 707-5953 (f) <i>Scheduling</i>	Principal	140.00
	Project Scheduler	95.00

M

City of Los Angeles, Dept. of Public Works -- 2000 Prop F -- Fire/Paramedics/Air Ops Facilities Program

Subconsultants -- Hourly Rates

Name and Address of Subconsultant Firm	Proposed Position	Current Hourly Rate (\$) (as of 09/2001)
Aegir Systems, Inc. 2051 N. Solar Drive, Suite 200 Oxnard, CA 93030 (805) 485-4888 (p) (805) 485-4235 (f) <i>Security Design</i>	Security Design Manager	88.15
Law Grandall 200 Citadel Drive Los Angeles, CA 90040 (323) 889-5300 (p) (323) 721-6700 (f) <i>Geotechnical</i>	Architect, Engineer, Geologist, Scientist - Staff I Level - Staff II Level - Project Level - Senior Level - Principal Level Technician Associate Technician Project Technician Senior Technician Word Processor Administrative Assistant Drafter CADD Operator Technical Writer	65.00 92.00 116.00 139.00 155.00 55.00 65.00 80.00 90.00 57.00 64.00 67.00 72.00 85.00
John F. Malloy Real Estate Consultant 10022 Reseda Boulevard, #5 Northridge, CA 91342 (818) 701-0489 (phone and fax) (310) 213-4948 (cell) <i>Real Estate Consultant</i>	Real Estate Consultant	90.00
CTG Energetics 2016 Technology Drive, Suite 109 Irvine, CA 92618-2323 (949) 790-0010 (p) (949) 790-0020 (f) <i>Sustainable Consulting and Commissioning Services</i>	Principal (Dr. Malcolm Lewis) Registered Engineers Technical Support Staff Research Associate Clerical Support	225.00 115.00-150.00 85.00-120.00 60.00 45.00

AMENDMENT NO. 1

CONTRACT NO. C-102634

BETWEEN

THE CITY OF LOS ANGELES

AND

BOVIS LEND LEASE, INC.

FOR

**PROGRAM AND CONSTRUCTION MANAGEMENT
CONSULTANT SERVICES**

FOR

**THE PROPOSITION F FIRE FACILITIES BOND PROGRAM,
FIRE/PARAMEDIC, AIR OPERATIONS FACILITIES**

AMENDMENT NO. 1 TO THE PROGRAM AND CONSTRUCTION MANAGEMENT CONSULTANT SERVICES AGREEMENT BETWEEN THE CITY OF LOS ANGELES AND BOVIS LEND LEASE, INC. FOR THE PROPOSITION F FIRE FACILITIES BOND PROGRAM -- FIRE/PARAMEDIC, AIR OPERATIONS FACILITIES.

This Amendment modifies the Agreement executed on February 11, 2002 between the City of Los Angeles, Department of Public Works (hereinafter referred to as "CITY") and Bovis Lend Lease, Inc. (hereinafter referred to as "CONSULTANT").

WITNESSETH

WHEREAS, after conducting a competitive selection process, the CITY entered into a Program and Construction Management Consultant Services Agreement with the CONSULTANT on February 11, 2002; and

WHEREAS, the CONSULTANT is currently providing Program and Construction Management Consultant Services for the Fire/Paramedic, Air Operations Facilities of the Proposition F Fire Facilities Bond Program, hereinafter referred to as the PROGRAM; and

WHEREAS, the Bureau of Engineering of the City of Los Angeles, Department of Public Works (hereinafter referred to as "BUREAU"), is the Program Manager, and oversees the CONSULTANT'S performance of this Agreement; and

WHEREAS, the CITY has identified the need for program and construction management services for the PROGRAM; and

WHEREAS, the CITY has been satisfied with the services rendered by CONSULTANT during the term of the Agreement; and

WHEREAS, the existing Agreement contains one year renewal options for a period of two years that were exercised by the CITY, thus extending the Agreement from October 1, 2006 to October 1, 2008; and

WHEREAS, the Agreement will expire on October 1, 2008, and it is desired that this Agreement be extended to October 1, 2012, due to land acquisition issues that have extended the program; and

WHEREAS, the BUREAU has acknowledged that due to the difficulty in recruiting technical support staff from schools to fill authorized CITY positions, the program has been forced to use a higher level of CONSULTANT'S technical staff in order to support the program; and

WHEREAS, the BUREAU and the CONSULTANT have acknowledged that due to market conditions in the Los Angeles area, experienced technical support staff are in demand, and command salaries that are higher than anticipated; and

WHEREAS, the BUREAU has determined that as a result of the high salaries for CONSULTANT'S technical support staff, the total contract amount of the existing Agreement is insufficient to complete the services described in the Agreement and an additional amount of \$4,560,000 is required for fees, increasing the amount of fees for this Agreement from \$13,300,000 to \$17,860,000; and

WHEREAS, the CITY desires the continued services from the CONSULTANT to provide the required program and construction management services for the PROGRAM; and

WHEREAS, the CONSULTANT has signified its willingness to perform professional consulting services necessary for the PROGRAM in accordance with applicable Federal, State and Local Laws, Ordinances and Regulations; and

WHEREAS, the services to be performed by the CONSULTANT are of an expert and technical nature and are temporary and occasional in character and can be performed more feasibly by the CONSULTANT than by City of Los Angeles employees;

NOW THEREFORE, in consideration of the foregoing and of the benefits which will accrue to the parties hereto in carrying out the conditions of this Agreement No. C-102634, the Agreement is amended as follows:

ARTICLE 1 - SECTION HEADINGS

No Change

ARTICLE 2 - DEFINITIONS

No Change

ARTICLE 3 - PROJECT DESCRIPTION

No Change

ARTICLE 4 - RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY THE CONSULTANT

Exhibit B of Article 4 is hereby amended. (Attached hereto as **Exhibit B** and incorporated herein by this reference.)

All other information under Article 4 will remain the same.

ARTICLE 5 - KEY CONSULTANT PERSONNEL

No Change

ARTICLE 6 - RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY THE CITY

No Change

ARTICLE 7 - TERM OF AGREEMENT AND TIME OF EFFECTIVENESS

The first paragraph of Article 7 is hereby amended to read as follows:

Unless otherwise provided, the termination date of this Agreement is hereby extended for four years from October 1, 2008 to **October 1, 2012**, unless terminated sooner as provided under Article 8 or extended by future amendment to this Agreement.

All other information under Article 7 will remain the same.

ARTICLE 8 - TERMINATION

No Change

ARTICLE 9 - SUBCONTRACT APPROVAL

No Change

ARTICLE 10 - COMPENSATION, INVOICING AND PAYMENT

Paragraph 10.1.2 is hereby amended to read as follows:

The billing hourly rates amount shown for each job classification on Exhibit B are the amounts invoices must be based on and are only subject to change by written approval of the CITY's Program Manager. The contract ceiling for this Agreement is increased by \$4,560,000, from \$13,300,000 to \$17,860,000.

All other information under Article 10 will remain the same.

ARTICLE 11 - AMENDMENTS, CHANGES OR MODIFICATIONS

No Change

ARTICLE 12 - INDEMNIFICATION AND INSURANCE

No Change

ARTICLE 13 - INDEPENDENT CONTRACTORS

No Change

ARTICLE 14 - WARRANTY AND RESPONSIBILITY OF CONSULTANT

No Change

ARTICLE 15 - OWNERSHIP OF DATA

Article 15 is hereby amended in its entirety to read as follows:

ARTICLE 15 – OWNERSHIP OF DATA AND INTELLECTUAL PROPERTY

15.1 Ownership of Data

15.1.1 Unless otherwise provided for herein, all documents, material, data, drawings, plans, specifications, computer data files, basis for design calculations, engineering notes, and reports originated and prepared by CONSULTANT under this Contract shall be

and remain the property of the CITY for its use in any manner it deems appropriate. CONSULTANT shall provide two (2) sets of reproducible of the above-cited items, except for the computer data files which shall consist of one (1) set in the form described in Article 15.2, below. CONSULTANT shall be permitted to maintain copies of all such data for its own files. Should CITY use these products or data in connection with additions to the work required under this Contract or for new work, without consultation with and without additional compensation to CONSULTANT, CONSULTANT shall have no liability or responsibility whatsoever in connection with such use.

15.1.2 Specifically with regard to the computer data files specified in Article 15.1, above, said computer data files (or databases) shall be provided to the CITY by tape or electronically, via an asynchronous RS-232 protocol, to a CITY provided compatible computer system. With regard to the basis for design calculations and engineering notes, such data shall be provided to the CITY in (a) hard cover post binder(s), appropriately indexed, on thin mylar stock or good quality paper satisfactory for reproduction.

15.2 Intellectual Property

Titles in Work Products and Pre-existing Materials

15.2.1 The CITY shall own all titles, rights and interests in all Work Products created by CONSULTANT and its subconsultants under this Contract. Work Products are all materials, tangible or not, created in whatever medium under this Contract, including without limitation, reports, manuals, specifications, drawings and sketches, schematics, marks, logos, graphic designs, notes, databases, programs, methods, designs and analyses, and all forms of intellectual property.

15.2.2 CONSULTANT agrees that the Work Products are created for the sole benefit of the CITY, which is the intended intellectual property rights owner to the Work Products.

15.2.3 Further, CONSULTANT hereby assigns and shall contractually require all persons performing work under this Contract (including subconsultants) to assign to the CITY, all titles, rights and interests, including copyrights in such Work Products. Upon request by the CITY to perfect CITY's titles, rights, or interests, CONSULTANT shall promptly execute and cause its personnel (including subconsultants) to execute documents (including assignments) presented by the CITY to perfect the titles, rights, and interests of the CITY in the Work Products with no additional charges to the CITY beyond that identified in this Contract or subsequent change orders. The CITY, however, shall pay all filing fees required for the assignment, transfer, recording, and/or application.

15.2.4 All documents, information and pre-existing materials provided by CITY to CONSULTANT and its subconsultants arising out of or related to this Contract shall remain the property of the CITY. The CONSULTANT may not use, distribute or otherwise make public in any manner, either for profit or not for profit, any of the information, documentation, or procedures developed for the CITY hereunder without the prior written consent of the CITY.

15.2.5 CONSULTANT hereby grants to CITY and CITY's Consultants a royalty free, non-assignable, perpetual and non-exclusive license to use CONSULTANT's pre-existing proprietary materials included or embodied in the Work Products delivered by CONSULTANT under this Contract. Consultants as used in this paragraph are non-CITY personnel authorized by the CITY to use the Work Products for CITY's benefits or businesses.

15.2.6 Before performing any work under this Contract, CONSULTANT agrees to incorporate Articles 15.2.1, 15.2.2, 15.2.3, 15.2.4 and 15.2.5 above, and other related covenants herein to contractually bind or otherwise oblige its subconsultants and

personnel performing work under this Contract such that the CITY's titles, rights, and interests in Work Products are preserved and protected as intended.

Indemnification for Third-Party Intellectual Property Infringement

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

15.2.8 CONSULTANT will defend at its expense and hold harmless in any infringement claim, demand, proceeding, suit or action ("Action" hereinafter) against the CITY, its commissioners, officers, directors, agents, employees, or affiliates ("CITY Defendants") for any infringement or violation, actual or alleged, direct or contributory, intentional or otherwise, of any intellectual property rights, including patents, copyrights, trade secrets, trade marks, service marks, ideas, concepts, themes, methods, algorithms and other proprietary information or rights (collectively "Intellectual Property rights" hereinafter), (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by the CONSULTANT in performing the work under this Contract; or (2) as a result of the CITY's actual or intended use of any Work Product furnished by CONSULTANT under the Contract.

CONSULTANT also shall indemnify the CITY against all reasonable attorneys' fees, losses, costs, expenses, liability, and damages awarded against the CITY or settlement as a consequence of such Action.

15.2.9 In CONSULTANT's defense of the CITY Defendants, negotiation, compromise, and settlement of any such infringement Action, the Los Angeles City Attorney's Office shall retain discretion in and control of the litigation, negotiation, compromise, settlement, and appeals therefrom, as required by the Los Angeles City Charter, particularly Article II,

Sections 271, 272 and 273 thereof.

15.2.10 Where any Work Product furnished by CONSULTANT (a) becomes the subject of an Action, (b) is adjudicated as infringing a third party's Intellectual Property right, or (c) has its use enjoined or license terminated; CONSULTANT shall, with the CITY's consent, do one of the following immediately. CONSULTANT shall at its expense either:

- i) procure for the City the right or license to continue using the Work Product; or
- ii) replace the Work Product with a functionally equivalent, non-infringing product.

Exercise of any of the above-mentioned options shall not cause undue business interruption to the CITY or diminish the intended benefits and use of the Work Product by the CITY under this Contract.

15.2.11 Rights and remedies available to the CITY hereinabove shall survive the expiration or other termination of this Contract. Further, the rights and remedies are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the City of Los Angeles.

Survivability

15.2.12 Articles 15.2.1 through 15.2.11 shall survive the expiration or other termination of this Contract.

ARTICLE 16 - NONDISCRIMINATION AND AFFIRMATIVE ACTION

No Change

ARTICLE 17 - MINORITY, WOMEN AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM

No Change

ARTICLE 18 - SUCCESSORS AND ASSIGNS

No Change

ARTICLE 19 - CONTACT PERSONS - PROPER ADDRESSES - NOTIFICATION

Information on the City contact person is hereby amended to read as follows:

Contact Person: Allan T. Kawaguchi, Program Manager

Address: 221 N. Figueroa St., Suite 1550

Los Angeles, CA 90012

Information on the Consultant contact person is hereby amended to read as follows:

Contact Person: Todd C. Pennington, Executive Vice President

Address: 800 W. 6th St., Suite 1250

Los Angeles, CA 90017

All other information under Article 19 will remain the same.

ARTICLE 20 - FORCE MAJEURE

No Change

ARTICLE 21 - SEVERABILITY

No Change

ARTICLE 22 - DISPUTES

No Change

ARTICLE 23 - ENTIRE AGREEMENT

No Change

ARTICLE 24 - APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT

No Change

ARTICLE 25 - LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED

No Change

ARTICLE 26 - BONDS

No Change

ARTICLE 27 - CHILD SUPPORT ASSIGNMENT ORDERS

No Change

ARTICLE 28 - COMPLIANCE WITH YEAR 2000

No Change

ARTICLE 29 - SERVICE CONTRACTOR WORKER RETENTION ORDINANCE AND LIVING WAGE ORDINANCE

No Change

ARTICLE 30 - AMERICANS WITH DISABILITIES ACT

No Change

ARTICLE 31 - EQUAL BENEFITS ORDINANCE

No Change

ARTICLE 32 - WAIVER

No Change

ARTICLE 33 - PROHIBITION AGAINST ASSIGNMENT OR DELEGATION

No Change

ARTICLE 34 - PERMITS

No Change

ARTICLE 35 - CLAIMS FOR LABOR AND MATERIALS

No Change

ARTICLE 36 - DISCOUNTS

No Change

ARTICLE 37 - CONTRACTOR PERFORMANCE EVALUATION

No Change

ARTICLES 38, 39, AND 40 are hereby added to read as follows:

ARTICLE 38 - BREACH

Except for force majeure, 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.

ARTICLE 39 - 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. 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. (Compliance attached hereto as Exhibit J and incorporated herein by this reference.)

ARTICLE 40 - 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 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 CONSULTANT's fitness and ability to continue performing the Contract. In accordance with the provisions of this Ordinance, by signing this Contract, 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 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 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 CONSULTANT has violated the provisions of Section 10.40.3(a) of the Ordinance;

3. Ensure that its subconsultant(s) working on the CONSULTANT's CITY Contract submit a pledge of Compliance to awarding authorities; and

4. Ensure that its subconsultant(s) working on CONSULTANT'S CITY Contract 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 subconsultant has violated Section 10.40.3(a) of the Ordinance in performance of the subcontract.

IN WITNESS WHEREOF, the parties hereto have executed this AMENDMENT NO. 1 on the date written below.

CONSULTANT:
Bovis Lend Lease, Inc.

By: Mr. Richard Puczkowski

Date 3/10/08

Title: PROJECT EXECUTIVE

THE CITY OF LOS ANGELES:

Cynthia M. Ruiz
Cynthia M. Ruiz, President
Board of Public Works

Date 4/2/08

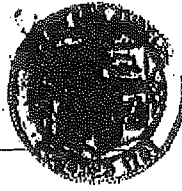
APPROVED AS TO FORM
Rockard J. Delgadillo, City Attorney

By: Christal M. Worthy
Assistant City Attorney

Date 3/13/08

ATTEST:
Frank T. Martinez, City Clerk

By: Vera Mendez



Date 4-4-08

GLM/BMS/ATK:ln

C-102634-1

City of Los Angeles, Dept. of Public Works – 2000 Prop F – Fire/Paramedics/Air Ops Facilities Program

Subconsultants – Hourly Rates

Name and Address of Subconsultant Firm	Proposed Position	Current Hourly Rate (\$) (as of 07/2007)
Bovis Lend Lease, Inc. 800 E. 6 th Street, 16 th Floor Los Angeles, CA 90017 (213) 430-4660 (p) (213) 430-4699 (f) <i>Construction Management</i>	P-I-C/Director of Operations	210.00
	Project Executive	157.48
	Senior Project Manager	135.00
	Senior Construction	173.68
	Manager	129.36
	Senior I.T. Manager	85.00
	Assistant I.T. Manager	136.64
	Estimator	73.11
	Project Accountant	57.20
	Administrative Assistant	51.74
	Doc. Control Asst.	51.74
	Project Field Asst.	73.12
	Graphics	81.12
	Project Engineer	129.36
	Project Manager MEP	157.48
	Tech Services Director	123.74
Construction Manager	129.36	
Project Manager Electrical	36.40	
Field Office Clerk	46.00	
Field Secretary		
ACG Environments 1750 – 14 th Street, Suite C Santa Monica, CA 90404 (310) 450-5220 (p) (310) 392-6342 (f) <i>Arch./Hist./Special Projects</i>	Contract Manager	95.00
	Engineer/Architect	95.00
	Public Relations	90.00
	Construction Inspection	80.00
	Project Controls	90.00
Dugan & Associates 6350 Laurel Canyon Blvd., Suite 406 North Hollywood, CA 91606 (818) 752-7970 (p) (818) 752-7976 (f) <i>Document Control Specialist/Estimating</i>	Principal	117.64
	Document Control	42.38
	Project Manager	111.04
	Asst. Project Manager	101.44
	Scheduler	88.84
	Estimator	96.09-120.10
	Senior Secretary	43.23
Secretary	40.60	
Black & Veatch P.O. Box 803823 Kansas City, MO 64180 (213) 312-3300(p) (213) 312-3399(f) <i>Construction Management</i>	Assistant Construction Mgr.	115.00
	Engineering Technician	99.00

City of Los Angeles, Dept. of Public Works – 2000 Prop F – Fire/Paramedics/Air Ops Facilities Program

Subconsultants – Hourly Rates

Name and Address of Subconsultant Firm	Proposed Position	Current Hourly Rate (\$) (as of 09/2001)
Kosmont Realty Corp. 601 S. Figueroa Street, Ste. 3550 Los Angeles, CA 90017 (213) 623-8484 (p) (213) 623-8288 (f) <i>Real Estate Acquisition</i>	President & CEO	185.00
	Partner/COO	185.00
	Partner	160.00
	Senior Vice President	150.00
	Sr. Consultant/Project Mgr.	150.00
	Vice President/Associate	125.00
	Project Analyst	90.00
	GIS Mapping/Research	85.00
	Graphics Support	75.00
	Clerical Support	55.00
King R. Woods 3699 Wilshire Blvd., Suite 601 Los Angeles, CA 90010 (909) 398-9193 (p) (909) 860-2553 (f) <i>Land Use Entitlements</i>	Principal	150.00
	Project Manager	95.00
	Assistant Project Manager	75.00
	Administrative Assistant	60.00
	Technical Staff (CAD)	50.00
Murakawa Communications 2110 Artesia Blvd., #B354 Redondo Beach, CA 90278 (310) 378-2236 (p) (310) 379-3953 (f) <i>Community Outreach</i>	Principal	150.00
	Senior Associate	150.00
	Associate	78.00
Harris & Company P.O. Box 72237 Davis, CA 95617 (530) 758-2100 (p) (213) 749-2265 (f) <i>Community Outreach</i>	Principal	135.00
	Comm. Outreach Liaison	75.00
	Senior Project Manager	75.00
	Graphics	50.00
	Bilingual Project Manager	45.00
	Administration	40.00
Catalyst Communications, Inc. 12814 Newton Street Los Angeles, CA 91342 (818) 361-7477 (p) (818) 361-7042 (f) <i>Community Outreach</i>	Principal	146.00
	Associate	124.00
	Administration Manager	43.00
Analytical Planning Services, Inc. 15707 Rockfield, Suite 225 Irvine, CA 92618 (949) 707-5956 (p) (949) 707-5953 (f) <i>Scheduling</i>	Principal	140.00
	Project Scheduler	95.00

City of Los Angeles, Dept. of Public Works -- 2000 Prop F -- Fire/Paramedics/Air Ops Facilities Program

Subconsultants -- Hourly Rates

Name and Address of Subconsultant Firm	Proposed Position	Current Hourly Rate (\$) (as of 09/2001)
O'Connor Construction Mgmt. 8851 Research Drive Irvine, CA 92618 (949) 476-2094 (p) (949) 476-8294 (f) Scheduling	Senior Scheduler	104.00
	Scheduler	96.04
Parkcenter Realty Advisors 801 North Parkcenter Dr., Ste. 210 Santa Ana, CA 92705 (714) 547-1733 (p) (714) 972-1492 (f) Appraisal Services	Staff Appraisers	N/A -- Lump sum per site
John F. Malloy Real Estate Consultant 10022 Reseda Boulevard, #5 Northridge, CA 91342 (818) 701-0489 (phone and fax) (310) 213-4946 (cell) Real Estate Consultant	Real Estate Consultant	90.00
CTG Energetics 2016 Technology Drive, Suite 109 Irvine, CA 92618-2323 (949) 790-0010 (p) (949) 790-0020 (f) Sustainable Consulting and Commissioning Services	Principal (Dr. Malcolm Lewis)	225.00
	Registered Engineers	115.00-150.00
	Technical Support Staff	85.00-120.00
	Research Associate	60.00
	Clerical Support	45.00
Carter Burgess 600 Wilshire Blvd., #1000 Los Angeles, CA 90017 (213) 239-1300 (p) (213) 239-1367 (f) Commissioning/Construction Mgmt	Project Manager	188.48
	Staff Commissioning	105.00-170.00
PMCS Group 18761 Winnwood Lane Santa Ana, CA 92705 (213) 272-4254 (p) (714) 833-2322 (f) Construction Manager	Senior Construction Mgr.	115.00
Rider Hunt Levett & Bailey 300 South Grand Ave., Ste 2025 Los Angeles, CA 90071 (213) 689-1103 (p) (213) 624-0949 (f) Estimating	Principal	165.00
	Manager/Associate	135.00
	MEP Estimator	125.00
	Sr. Quantity Surveyor/Est.	115.00
	Quantity Surveyor/Estimator	95.00

City of Los Angeles, Dept. of Public Works – 2000 Prop F – Fire/Paramedics/Air Ops Facilities Program

Subconsultants – Hourly Rates

Name and Address of Subconsultant Firm	Proposed Position	Current Hourly Rate (\$) (as of 09/2001)
City Spaces 836 S. Arroyo Pkwy. Pasadena, CA 91105 (626) 449-6222 (p) (626) 449-2775 (f) Space Planning	N/A	N/A – Lump Sum
Ming Yang Yeh 131 W. Green St. Pasadena, CA 91105 (626) 449-8886 (p) (626) 449-9086 (f) Engineering Services	Principal Senior Engineer Associate Engineer Assistant Engineer Drafter Clerical/Word Processor	182.00 140.40 118.80 81.00 70.20 37.80

Exhibit J
Slavery Disclosure Ordinance - Affidavit

CITY OF LOS ANGELES - SLAVERY DISCLOSURE ORDINANCE

Unless otherwise exempt from the Slavery Disclosure Ordinance (SDO), a Company entering into a Contract with the City must complete an Affidavit disclosing any and all records of Participation or Investment in, or Profits derived from Slavery, including Slaveholder Insurance Policies, during the Slavery Era. The Company must complete and submit the Affidavit and any attachments to the Awarding Authority. This is required only of the Company actually selected for award of a Contract. It must be done before the Contract or Contract amendment can be executed. Questions regarding the Affidavit may be directed to the Department of Public Works, Office of Contract Compliance located at 600 South Spring Street, Suite 1300, Los Angeles, California 90012. Phone: (213) 847-8480; Fax: (213) 847-5566.

City Department Awarding Agreement Public Works/Engineering Department Contact Person ALLAN KAWAGUCHI

AFFIDAVIT DISCLOSING SLAVERY ERA PARTICIPATION, INVESTMENTS, OR PROFITS

- I, Todd C. Pennigton, am authorized to bind contractually the Company identified below.
- Information about the Company entering into a Contract with the City is as follows:

<u>Bovis Lend Lease</u>	<u>213-430-4660</u>	<u>213-430-4699</u>
Company Name	Phone	Fax
<u>800 West 6th Street, Suite 1250</u>	<u>Los Angeles</u>	<u>CA</u>
Street Address	City	State
		<u>90017</u>
		Zip
- Has the Company submitted the SDO Affidavit previously? NO YES Date of prior submission: 05/27/2005
If "NO," complete Section 4, 5, and 6. If "YES," list the date of prior submission and skip to Section 6 and execute the form.
- The Company came into existence in _____ (year).
- The Company has searched its records and those of any Predecessor Companies for information relating to Participation or Investments in, or Profits derived from Slavery or Slaveholder Insurance Policies. Based on that research, the Company represents that:

_____ The Company found no records that the Company or any of its Predecessor Companies had any Participation or Investments in, or derived Profits from, Slavery or Slaveholder Insurance Policies during the Slavery Era.

_____ The Company found records that the Company or its Predecessor Companies Participated or Invested in, or derived Profits from Slavery during the Slavery Era. The nature of that Participation, Investment, or Profit is described on the attachment to this Affidavit and incorporated herein.

_____ The Company found records that the Company or its Predecessor Companies bought, sold, or derived Profits from Slaveholder Insurance Policies during the Slavery Era. The names of any Enslaved Persons or Slaveholders under the Policies are listed on the attachment to this Affidavit and incorporated herein.

- I declare under penalty of perjury under the laws of the State of California that the representations made herein are true and correct to the best of my knowledge.

Executed on MAY 29 2006 at Los Angeles, CA
(Date) (City) (State)

Signature: [Signature] Title: Executive Vice President

DEFINITIONS

Awarding Authority means a subordinate or component entity or person of the City, such as a City Department or Board of Commissioners, that has the authority to enter into a Contract or agreement for the provision of goods or services on behalf of the City of Los Angeles.

Company means any person, firm, corporation, partnership, or combination of these.

Contract means any agreement, franchise, lease or concession including an agreement for any occasional professional or technical personal services, the performance of any work or service, the provision of any materials or supplies or rendering of any service to the City of Los Angeles or the public, which is let, awarded or entered into with or on behalf of the City of Los Angeles or any Awarding Authority of the City.

Designated Administrative Agency (DAA) means the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance.

Enslaved Person means any person who was wholly subject to the will of another and whose person and services were wholly under the control of another and who was in a state of enforced compulsory service to another during the Slavery Era.

Investment means to make use of an Enslaved Person for future benefits or advantages.

Participation means having been a Slaveholder during the Slavery Era.

Predecessor Company means an entity whose ownership, title and interest, including all rights, benefits, duties and liabilities were acquired in an uninterrupted chain of succession by the Company.

Profits means any economic advantage or financial benefit derived from the use of Enslaved Persons.

Slavery means the practice of owning Enslaved Persons.

Slavery Era means that period of time in the United States of America prior to 1865.

Slaveholder means holders of Enslaved Persons, owners of business enterprises using Enslaved Persons, owners of vessels carrying Enslaved Persons or other means of transporting Enslaved Persons, merchants or financiers dealing in the purchase, sale or financing of the business of Enslaved Persons.

Slaveholder Insurance Policies means policies issued to or for the benefit of Slaveholders to insure them against the death of, or injury to, Enslaved Persons.

Affidavit means the form developed by the DAA and may be updated from time to time. The Affidavit need not be notarized but must be signed under penalty of perjury.

AMENDMENT NO. 2

to

Contract No. C-102634

for the

PROPOSITION F BOND PROGRAM
FIRE/PARAMEDIC, AIR OPERATIONS FACILITIES

Between

CITY OF LOS ANGELES

and

LEND LEASE (US) CONSTRUCTION INC.
(Formerly known as BOVIS LEND LEASE, INC.)

TRANSMITTAL NO. 3

AMENDMENT NO. 2 TO CONTRACT NO. C-102634, FOR PROGRAM MANAGEMENT AND CONSTRUCTION MANAGEMENT (PM/CM) SERVICES BETWEEN THE CITY OF LOS ANGELES AND LEND LEASE (US) CONSTRUCTION, INC.

This Amendment modifies Contract No. C-102634 dated February 11, 2002, as amended on April 4, 2008, between the City of Los Angeles (hereinafter referred to as "CITY") and Lend Lease (US) Construction, Inc. (hereinafter referred to as "CONSULTANT").

WITNESSETH

WHEREAS, Bureau of Engineering issued a Request for Qualifications (RFQ) on December 11, 2000 for the Proposition F – Public Safety General Obligation Bond, Fire/Paramedic, Air Operations Facilities and CONSULTANT submitted a proposal in response; and

WHEREAS, CONSULTANT demonstrated qualifications to perform said services and was selected to perform the PM/CM services by City staff based on the evaluation criteria set forth in the RFQ; and

WHEREAS, the CONSULTANT is currently providing PM/CM services for the Fire/Paramedic, Air Operations Facilities Program and has the capacity and the experienced personnel to continue to provide the required services; and

WHEREAS, the Bureau of Engineering of the City of Los Angeles, Department of Public Works, (hereinafter referred to as "BUREAU"), is the Program Manager and oversees the CONSULTANT'S performance of this Contract; and

WHEREAS, the CITY and CONSULTANT have identified concerns with unforeseen circumstances which delayed the construction and/or renovation of Fire/Paramedic and Air Operations facilities and as a result, an extension of the CONSULTANT'S contract is required to deliver the outstanding projects; and

WHEREAS, the Contract will expire on October 1, 2012, and it is desired that this Contract be extended to October 1, 2017; and

WHEREAS, the BUREAU has determined that the total funding previously allocated is insufficient to complete the services described in the Contract and additional funding in the amount of \$3,340,000 is required, increasing the amount of this Contract from \$17,860,000 to \$21,200,000; and

NOW, THEREFORE, in consideration of the foregoing and of the benefits which will accrue to the parties hereto in carrying out the conditions of this Contract, No. C-102634, the Contract is hereby amended as follows:

ARTICLE 1

**SECTION HEADINGS AND CONSTRUCTION OF PROVISIONS
AND TITLES HEREIN**

No Change

ARTICLE 2

DEFINITIONS

Article 2 is hereby amended in its definition of consultant to read as follows:

From: Bovis Lend Lease, Inc.

To: Lend Lease (US) Construction Inc.

ARTICLE 3

PROJECT DESCRIPTION

No Change

ARTICLE 4

**RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY
THE CONSULTANT**

Article 4 is hereby amended in its first paragraph to read as follows:

From: The Consultant shall provide Program and Construction Management Services on an "as-needed," basis. The Consultant shall not proceed on any task without the prior written authorization of the City's Project Manager. The SERVICES cost to be provided by the CONSULTANT will be, but not limited to:

To: The Consultant shall provide Program and Construction Management Services on an "as-needed," basis. The Consultant shall not proceed on any task without the prior written authorization of the City's Project Manager. *The City's approval of the Consultants Monthly Invoice, is verification that the services expected from the Consultant have been received and current, as of that date.* The SERVICES cost to be provided by the CONSULTANT will be, but not limited to:

All other information under Article 4 will remain the same.

ARTICLE 5

KEY CONSULTANT PERSONNEL

No Change

ARTICLE 6

RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY CITY

No Change

ARTICLE 7

TERM OF AGREEMENT AND TIME OF EFFECTIVENESS

Article 7 is hereby amended in its first paragraph to read as follows:

From: "Unless otherwise provided, the termination date of this Agreement is hereby extended for four years from October 1, 2008 to October 1, 2012, unless terminated sooner as provided under Article 8 or extended by future amendment to this Agreement."

To: "Unless otherwise provided, the termination date of this Agreement is hereby extended for five years from October 1, 2012 to October 1, 2017, unless terminated sooner as provided under Article 8 or extended by future amendment to this Agreement."

All other information under Article 7 will remain the same.

ARTICLE 8

TERMINATION

Article 8 is hereby amended in its entirety to read as follows:

8.1 Termination for Convenience

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

become CITY property upon the date of such termination. CONSULTANT agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY'S ownership of rights provided herein.

8.2 Termination for Breach of Contract

- 8.2.1 Except for excusable delays as provided in Article 20, if CONSULTANT fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, the CITY may give CONSULTANT written notice of such default. If CONSULTANT does not cure such default or provide a plan to cure such default which is acceptable to the CITY within the time permitted by the CITY, then the CITY may terminate this Contract due to CONSULTANT'S breach of this Contract.
- 8.2.2 If a federal or state proceeding for relief of debtors is undertaken by or against CONSULTANT, or if CONSULTANT makes an assignment for the benefit of creditors, then the CITY may immediately terminate this Contract.
- 8.2.3 If CONSULTANT engages in any dishonest conduct related to the performance or administration of this Contract or violates the CITY'S lobbying policies, then the CITY may immediately terminate this Contract.
- 8.2.4 In the event the CITY terminates this Contract as provided in this Section, the CITY may procure, upon such terms and in such manner as the CITY may deem appropriate, services similar in scope and level of effort to those so terminated, and CONSULTANT shall be liable to the CITY for all of its costs and damages, including, but not limited, any excess costs for such services.
- 8.2.5 All finished and unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become CITY property upon date of such termination. CONSULTANT agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY'S ownership of rights provided herein.

8.2.6 If, after notice of termination of this Contract under the provisions of this Section, it is determined for any reason that CONSULTANT was not in default under the provisions of this Section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination has been issued pursuant to Article 8.1 Termination for Convenience.

8.2.7 The rights and remedies of the CITY provided in this Section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

ARTICLE 9

SUBCONTRACT APPROVAL

Article 9 is hereby amended in its title and first paragraph to read as follows and to include Integrated Engineering Management, Black & Veatch Corp., Jacobs Engineering Group, Inc., PMCS Group, Rider Hunt Levett, King R. Woods & Associates, Inc., Myra L. Frank & Associates, Inc., Jones & Stokes, Rachlin Architects, Melendrez, James Marsh, O'Connor Construction, E2020 Technology, Inc., 7Group, CTG Energetics, Inc., John F. Malloy Real Estate Consultant, Larry Larsen, Parkcenter Realty Advisors, Barghausen Consulting Engineers, JPL Zoning Services, Geoffrey R. Martin, TDL Engineers, Inc., AAA Flag and Banner, Advanced Surveillance, and City Spaces, Inc. as potential subconsultant firms:

SUBCONSULTANT APPROVAL

CONSULTANT shall not use subconsultants to assist in performance of this Contract without the prior written approval of the CITY. If the CITY permits the use of subconsultants, CONSULTANT shall remain responsible for performing all aspects of this Contract. The CONSULTANT is required to provide the CITY a list of all subconsultants including the name and address of the firms. The CITY has the right to approve CONSULTANT'S subconsultants and the CITY reserves the right to request replacement of subconsultants. The CITY does not have any obligation to pay CONSULTANT'S subconsultants and nothing herein creates any privity between the CITY and the subconsultants. Wholly-owned subsidiaries of CONSULTANT shall not be considered subconsultants.

ARTICLE 10

COMPENSATION, INVOICING AND PAYMENT

Article 10.1.2 is hereby amended to read as follows:

From:

10.1.2 The billing hourly rates amount shown for each job classification on Exhibit B are the amounts invoices must be based on and are only subject to change by written approval of the CITY's Program Manager. The contract ceiling for this Agreement is increased by \$4,560,000, from \$13,300,000 to \$17,860,000.

To:

10.1.2 The billing hourly rates amount shown for each job classification on Exhibit B are the amounts invoices must be based on and are only subject to change by written approval of the CITY's Program Manager. The contract ceiling for this Agreement is increased by \$3,340,000, from \$17,860,000 to \$21,200,000.

All other information under Article 10 will remain the same.

ARTICLE 11

AMENDMENTS, CHANGES OR MODIFICATIONS

No Change

ARTICLE 12

INDEMNIFICATION AND INSURANCE

No Change

ARTICLE 13

INDEPENDENT CONTRACTORS

No Change

ARTICLE 14

WARRANTY AND RESPONSIBILITY OF CONSULTANT

No Change

ARTICLE 15

OWNERSHIP OF DATA AND INTELLECTUAL PROPERTY

Article 15 is hereby amended in its entirety to read as follows:

15.1 Ownership of Data and License

- 15.1.1 Unless otherwise provided for herein, all Work Products originated and prepared by CONSULTANT or its subconsultants of any tier under this Contract shall be and remain the exclusive property of the CITY for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas matters and combinations thereof, and all forms of intellectual property. CONSULTANT hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by CONSULTANT under this Contract. CONSULTANT further agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY'S ownership of rights provided herein.
- 15.1.2 With regard to the basis for design calculations and engineering notes, such data shall be provided to the CITY in (a) hard cover post binder(s), appropriately indexed, on thin Mylar stock or good quality paper satisfactory for reproduction.
- 15.1.3 For all Work Products delivered to the CITY that are not originated or prepared by CONSULTANT or its subconsultants of any tier under this Contract, CONSULTANT hereby grants a non-exclusive perpetual license to use such Work Products for any CITY purposes.
- 15.1.4 CONSULTANT shall not provide or disclose any Work Products to any third party without prior written consent of the City.
- 15.1.5 All documents, information and pre-existing materials provided by CITY to CONSULTANT and its subconsultants arising out of or related to this Contract shall remain the property of the CITY. The CONSULTANT may not use, distribute or otherwise make public in any manner, either for profit or not for profit, any of the information, documentation, or procedures

developed for the CITY hereunder without the prior written consent of the CITY. CONSULTANT further agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY'S ownership of rights.

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

15.2 Intellectual Property Warranty

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

15.3 Intellectual Property Indemnification

15.3.1 CONSULTANT, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the CITY, and any of its Boards, officers, agents, employees, assigns, and successors in interest from and against all suits and causes of action, claims, losses, demands and expenses, including but not limited to, attorney's fees (both in-house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the CITY, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information right (1) on or in any design, medium, matter, article, process, method,

application, equipment, device, instrumentation, software, hardware, or firmware used by CONSULTANT, or its subconsultants of any tier, in performing the work under this Contract; or (2) as a result of the CITY'S actual or intended use of any Work Product furnished by CONSULTANT, or its subconsultants of any tier, under the Agreement. Rights and remedies available to the CITY under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the CITY. The provisions of Article 15 shall survive expiration or termination of this Contract.

15.3.2 In CONSULTANT'S defense of the CITY Defendants, negotiation, compromise, and settlement of any such infringement action, the Los Angeles City Attorney's Office shall retain discretion in and control of the litigation, negotiation, compromise, settlement, and appeals therefrom, as required by the Los Angeles City Charter, particularly Article II, Sections 271, 272 and 273 thereof.

15.3.3 Where any Work Product furnished by CONSULTANT (a) becomes the subject of an action, (b) is adjudicated as infringing a third party's Intellectual Property right, or (c) has its use enjoined or license terminated; CONSULTANT shall, with the CITY'S consent, do one of the following immediately. CONSULTANT shall at its expense either:

- i) procure for the CITY the right or license to continue using the Work Product; or
- ii) replace the Work Product with a functionally equivalent, non-infringing product.

Exercise of any of the above-mentioned options shall not cause undue business interruption to the CITY or diminish the intended benefits and use of the Work Product by the CITY under this Contract.

ARTICLE 16

NONDISCRIMINATION AND AFFIRMATIVE ACTION

Article 16 is hereby amended in its title and content to read as follows:

NONDISCRIMINATION

Unless otherwise exempt, this Contract is subject to the nondiscrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The CONSULTANT shall comply with the applicable nondiscrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the CITY. In performing this Contract, 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 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 CONSULTANT, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

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

ARTICLE 17

**MINORITY, WOMEN AND OTHER BUSINESS ENTERPRISE
OUTREACH PROGRAM**

No Change

ARTICLE 18

SUCCESSORS AND ASSIGNS

No Change

ARTICLE 19

CONTACT PERSONS – PROPER ADDRESSES - NOTIFICATION

Article 19 is hereby amended as follows:

From:

To The CITY:

Contact Person: Allan T. Kawaguchi, Program Manager

Address: 221 N. Figueroa St., Suite 1550
Los Angeles, CA 90012

To CONSULTANT:

Contact Person: Todd C. Pennington, Executive Vice President

Address: 800 W. 6th St., Suite 1250
Los Angeles, CA 90017

To:

To The CITY:

Contact Person: Allan T. Kawaguchi, Program Manager

Address: 1149 S. Broadway St., Suite 820
Los Angeles, CA 90015

To The CONSULTANT:

Contact Person: Michael Concannon, Vice President

Address: 800 W. 6th St., 16th Floor
Los Angeles, CA 90017

All other information under Article 19 will remain the same.

ARTICLE 20

FORCE MAJEURE

No Change

ARTICLE 21

SEVERABILITY

No Change

ARTICLE 22

DISPUTES

No Change

ARTICLE 23

ENTIRE AGREEMENT

No Change

ARTICLE 24

APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT

No Change

ARTICLE 25

**CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION
CERTIFICATE REQUIRED**

No Change

ARTICLE 26

BONDS

Article 26 is hereby amended in its entirety to read as follows:

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

ARTICLE 27

CHILD SUPPORT ASSIGNMENT ORDERS

No Change

ARTICLE 28

COMPLIANCE WITH YEAR 2000

No Change

ARTICLE 29

**SERVICE CONTRACTOR WORKER RETENTION ORDINANCE
AND LIVING WAGE ORDINANCE**

No Change

ARTICLE 30

AMERICANS WITH DISABILITIES ACT

No Change

ARTICLE 31

EQUAL BENEFITS ORDINANCE

No Change

ARTICLE 32

WAIVER

No Change

ARTICLE 33

PROHIBITION AGAINST ASSIGNMENT OR DELEGATION

No Change

ARTICLE 34 **PERMITS**

No Change

ARTICLE 35 **CLAIMS FOR LABOR AND MATERIALS**

No Change

ARTICLE 36 **DISCOUNTS**

No Change

ARTICLE 37 **CONTRACTOR PERFORMANCE EVALUATION**

No Change

ARTICLE 38 **BREACH**

No Change

ARTICLE 39 **SLAVERY DISCLOSURE ORDINANCE**

No Change

ARTICLE 40 **CONTRACTOR RESPONSIBILITY ORDINANCE**

No Change

The Contract is hereby amended to include the following Articles:

ARTICLE 41 **AFFIRMATIVE ACTION**

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

- A. During the performance of a CITY contract, CONSULTANT certifies and represents that CONSULTANT and each subconsultant hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
 2. Nothing in this Section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 3. CONSULTANT shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the CITY'S supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, CONSULTANT shall certify on an electronic or hard copy form to be supplied, that CONSULTANT has not discriminated in the performance of CITY contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. CONSULTANT shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of CITY contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any CONSULTANT to comply with the Affirmative Action Program provisions of CITY contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to CONSULTANT.

- F. Upon a finding duly made that CONSULTANT has breached the Affirmative Action Program provisions of a CITY contract, the Contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the CITY. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said CONSULTANT is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such CONSULTANT shall be disqualified from being awarded a contract with the CITY for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that CONSULTANT has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a CITY contract, there may be deducted from the amount payable to CONSULTANT by the CITY under the Contract, a penalty of ten dollars (\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a CITY contract.
- H. Notwithstanding any other provisions of a CITY contract, the CITY shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in CITY contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. CONSULTANT shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the CITY. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the Contract. The awarding authority may also require consultants and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative

Action Plan. Affirmative Action Programs developed pursuant to this Section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, CONSULTANT may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, CONSULTANT must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the Contract is awarded.

1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
 2. CONSULTANT may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the CITY with a list of consultants and suppliers who have developed Affirmative Action Programs. For each consultant and supplier, the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and CONSULTANT.
- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
 2. Classroom preparation for the job when not apprenticeable;

3. Pre-apprenticeship education and preparation;
 4. Upgrading training and opportunities;
 5. Encouraging the use of consultants, subconsultants and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the CONSULTANT, subconsultant or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the consultant's, subconsultant's, or supplier's geographical area for such work;
 6. The entry of qualified women, minority and all other journeymen into the industry; and
 7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the CONSULTANT'S or supplier's work force to achieve the requirements of the CITY'S Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the CONSULTANT at his or her discretion. Approved Affirmative Action Agreements become the property of the CITY and may be used at the discretion of the CITY in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.
- Q. All consultants subject to the provisions of this Section shall include a like provision in all subcontracts awarded for work to be performed under the Contract with the CITY and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subconsultants as are applicable to the CONSULTANT. Failure of the CONSULTANT to comply with

this requirement or to obtain the compliance of its subconsultants with all such obligations shall subject the CONSULTANT to the imposition of any and all sanctions allowed by law, including but not limited to termination of the CONSULTANT'S Contract with the CITY.

ARTICLE 42

FALSE CLAIMS ACT

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

ARTICLE 43

EQUAL EMPLOYMENT PRACTICES

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

- A. During the performance of this Contract, CONSULTANT agrees and represents that it will provide equal employment practices and CONSULTANT and each subconsultant hereunder will ensure that in his or her employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
 - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
 - 2. Nothing in this Section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 - 3. CONSULTANT agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

- C. As part of the CITY'S supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, CONSULTANT shall certify in the specified format that he or she has not discriminated in the performance of CITY contracts against any employee or applicant for employment on the basis or because of race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.
- D. CONSULTANT shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of CITY contracts. On their or either of their request CONSULTANT shall provide evidence that he or she has or will comply therewith.
- E. The failure of any CONSULTANT to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of CITY contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice, and an opportunity to be heard has been given to CONSULTANT.
- F. Upon a finding duly made that CONSULTANT has failed to comply with the Equal Employment Practices provisions of a CITY contract, the Contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the CITY. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the CONSULTANT is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, CONSULTANT shall be disqualified from being awarded a contract with the CITY for a period of two years, or until CONSULTANT shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the CITY

shall have any and all other remedies at law or in equity for any breach hereof.

- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the CITY, or when an individual bid or proposal is submitted, CONSULTANT shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of CITY Contracts.
- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
 - 1. Hiring practices;
 - 2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
 - 3. Training and promotional opportunities; and
 - 4. Reasonable accommodations for persons with disabilities.
- L. Any subcontract entered into by CONSULTANT, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of CONSULTANT to comply with this requirement or to obtain the compliance of its subconsultants with all such obligations shall subject CONSULTANT to the imposition of any and all sanctions allowed by law, including but not limited to termination of the CONSULTANT'S Contract with the CITY.

ARTICLE 44

FIRST SOURCE HIRING ORDINANCE

Unless otherwise exempt in accordance with the provisions of this Ordinance, this Contract is subject to the applicable provisions of the First Source Hiring Ordinance (FSHO), Section 10.44 et seq. of the Los Angeles Administrative Code, as amended from time to time.

1. CONTRACTOR/CONSULTANT shall, prior to the execution of the contract, provide to the DAA a list of anticipated employment opportunities that CONTRACTOR/CONSULTANT estimate they will need to fill in order to perform the services under the Contract.
2. CONTRACTOR/CONSULTANT further pledges that it will, during the term of the Contract, shall a) At least seven business days prior to making an announcement of a specific employment opportunity, provide notifications of that employment opportunity to the Community Development Department (CDD), which will refer individuals for interview; b) Interview qualified individuals referred by CDD; and c) Prior to filling any employment opportunity, the CONTRACTOR/CONSULTANT shall inform the DAA of the names of the Referral Resources used, the names of the individuals they referred, the names of the referred individuals who the CONTRACTOR/CONSULTANT interviewed and the reasons why referred individuals were not hired.
3. Any Subcontract entered into by the CONTRACTOR/CONSULTANT relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of FSHO, and shall incorporate the FSHO.
4. CONTRACTOR/CONSULTANT shall comply with all rules, regulations and policies promulgated by the designated administrative agency, which may be amended from time to time.

Where under the provisions of Section 10.44.13 of the Los Angeles Administrative Code the designated administrative agency has determined that the CONTRACTOR/CONSULTANT intentionally violated or used hiring practices for the purpose of avoiding the article, the determination must be documented in the Awarding Authority's Contractor Evaluation, required under Los Angeles Administrative Code Section 10.39 et seq., and must be documented in each of the Contractor's subsequent Contractor Responsibility Questionnaires submitted under Los Angeles Administrative Code Section 10.40 et seq. This measure does not limit the CITY'S authority to act under this article.

Under the provisions of Section 10.44.8 of the Los Angeles Administrative Code, the Awarding Authority shall, under appropriate circumstances, terminate this contract and otherwise pursue legal remedies that may be available if the designated administrative agency determines that the subject CONTRACTOR/CONSULTANT has violated provisions of the FSHO.

EXCEPT AS EXPRESSLY MODIFIED herein, the Contract dated February 11, 2002 as amended on April 4, 2008, remains unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 2 on the day and year written below.

LEND LEASE (US) CONSTRUCTION, INC.

By:

Title:

Date:

CITY OF LOS ANGELES

By:

Title: President, Board of Public Works

Date:

By:

Date:

ATTEST:

JUNE LAGMAY, City Clerk

By:

Date:

APPROVED AS TO FORM:

CARMEN A. TRUTANICH, City Attorney

By:

Title: Assistant City Attorney

Date: