

# TRANSMITTAL

To:

**THE COUNCIL**

Date:

NOV 18 2011

From:

**THE MAYOR**

**TRANSMITTED FOR YOUR CONSIDERATION. PLEASE SEE ATTACHED.**



(Matt Karatz)

**ANTONIO R. VILLARAIGOSA**  
Mayor



OFFICE OF THE GENERAL MANAGER  
 Los Angeles Housing Department  
**LAHD**

1200 West 7th Street, 9th Floor, Los Angeles, CA 90017  
 tel 213.808.8808 | fax 213.808.8616  
 lahd.lacity.org



Antonio R. Villaraigosa, Mayor  
 Douglas Guthrie, General Manager

November 9, 2011

CAO File No.:  
 Contact Persons:  
 Greg Kung (213) 808-8403  
 Kim Ly (231) 808-8493

OFFICE OF THE MAYOR  
 RECEIVED  
 2011 NOV 15 AM 11:31  
 CITY OF LOS ANGELES

Honorable Antonio R. Villaraigosa  
 Mayor, City of Los Angeles  
 200 North Spring Street, Room 303  
 Los Angeles, CA 90012

Attention: Pamela Finley, Legislative Coordinator

**REQUEST FOR APPROVAL TO NEGOTIATE AND EXECUTE A CONTRACT WITH RYDEK COMPUTER PROFESSIONALS AND 3Di, INC., SELECTED THROUGH A REQUEST FOR PROPOSALS (RFP) FOR INFORMATION TECHNOLOGY PROFESSIONAL SERVICES DATED AUGUST 15, 2011**

**SUMMARY**

The Los Angeles Housing Department (LAHD) requests approval to execute two new IT professional services contracts selected from the Information Technology Services Request for Proposal (RFP) dated August 15, 2011. Subject to approval and successful contract negotiation, the selected contractors are **RYDEK COMPUTER PROFESSIONALS** and **3Di, INC.** The contract term is one year, with an option to renew for two additional one-year terms, starting January 1, 2012 through December 31, 2012. These contracts will be used to hire contract programmers for the development of the following departmental business systems; 1) The Housing Information Management System (HIMS) is a suite of web applications used to support the Department's Housing Development operations. It manages a housing loan portfolio of about 5,000 loans worth over \$1 billion and track the housing development of hundreds of projects. 2) The Code, Compliance and Rent Information Systems (CCRIS) is also a suite of web applications which supports the Systematic Code Enforcement Program (SCEP) operation and the Rent Stabilization Ordinance (RSO) operation. The CCRIS manages code enforcement inspections of about 750,000 rental units and track the Rent Stabilization cases for 500,000 units in the City of Los Angeles. The system is also responsible for the billing and collections of SCEP and RSO fees worth over \$40 million annually. 3) The Gateway-to-green (G2G) system is a

program module in CCRIS funded by the Energy Efficiency and Conservation Grants (EECBG). It will enable LAHD to collect energy efficiency data from the multifamily properties in the City with the goal of improving energy efficiency in the multifamily housing stock in Los Angeles.

**RECOMMENDATIONS**

The General Manager of the Los Angeles Housing Department (LAHD) respectfully requests that:

1. Your office schedules this transmittal before the appropriate Committee(s) of the City Council at the next available meeting(s), and forwards it to the City Council for consideration and approval immediately thereafter.
2. The City Council, subject to the approval of the Mayor, take the following actions:
  - a. AUTHORIZE the General Manager of LAHD, or designee to execute two new contracts with Rydek Computer Professionals and 3Di, Inc., for IT professional services. Each contract amount not to exceed \$900,000 (Nine Hundred Thousand Dollars). The term of each contract is for one year, starting January 1, 2012 through December 31, 2012, with the option to extend for two additional one-year terms, subject to City Attorney approval.

| <u>Vendor</u>                | <u>Amount</u> |
|------------------------------|---------------|
| Rydek Computer Professionals | \$900,000     |
| 3Di, Inc.                    | \$900,000     |

- b. INSTRUCT the City Clerk to include the Controller's instructions mentioned in number 3 below in the Council Agenda on or immediately after December 1, 2011.
3. AUTHORIZE the City Controller to:
  - A. Establish a new appropriation account within Fund No. 41M, Systematic Code Enforcement Fee, Department 43 as follows:

| <u>Account No.</u> | <u>Account Name</u>                            |
|--------------------|--|
| 43H400             | Foreclosure Registry System - Contractual Svcs |

B. Transfer appropriations within Fund No. 41M, Systematic Code Enforcement Fee, Department 43 as follows:

From:

| <u>Account No.</u> | <u>Account Name</u> | <u>Amount</u> |
|--------------------|---------------------|---------------|
| 43H411             | Unallocated         | \$145,000     |

To:

| <u>Account No.</u> | <u>Account Name</u>                            | <u>Amount</u> |
|--------------------|--|---------------|
| 43H400             | Foreclosure Registry System - Contractual Svcs | \$120,000     |
| 43H410             | Miscellaneous                                  | \$ 25,000     |

C. Transfer appropriations within Fund No. 440, Rent Stabilization Trust, Department 43 as follows:

From:

| <u>Account No.</u> | <u>Account Name</u> | <u>Amount</u> |
|--------------------|---------------------|---------------|
| 43H411             | Unallocated         | \$25,000      |

To:

| <u>Account No.</u> | <u>Account Name</u> | <u>Amount</u> |
|--------------------|---------------------|---------------|
| 43H412             | Service Delivery    | \$ 25,000     |

- D. Expend funds not to exceed \$1,047,271.00 for Budget Fiscal Year 2011-2012 for contract programmers in the development of Code, Compliance and Rent Information Systems (CCRIS) and the Housing Information Management Systems (HIMS) upon proper written demand of the General Manager, or designee on an as needed basis. The funds Expenditures are to be allocated from the following:

| <u>Fund/Dept No.</u> | <u>Account No.</u> | <u>Account Name</u>                               | <u>Amount</u> |
|----------------------|--------------------|---|---------------|
| 815/43               | 43H412             | Service Delivery                                  | \$102,260     |
| 561/43               | 43H412             | Service Delivery                                  | \$102,611     |
| 41M/43               | 43H410             | Miscellaneous                                     | \$239,200     |
| 440/43               | 43H412             | Service Delivery                                  | \$239,200     |
| 41M/43               | 43H400             | Foreclosure Registry System -<br>Contractual Svcs | \$120,000     |
| 52P/43               | 43G255             | Professional Service Contractor                   | \$244,000     |

4. Authorize the General Manager, LAHD, or designee, to prepare Controller instructions and make any necessary technical adjustments consistent with the Mayor and Council action in this matter, subject to the approval of the City Administrative Officer (CAO), and request the Controller to implement these instructions.

## **BACKGROUND**

The Los Angeles Housing Department (LAHD) currently utilizes contract programmers via existing contracts to supplement internal information technology (IT) staff in the development of the departmental business application systems. The use of contract programmers is critical to the operation of the Department as they provide the temporary staffing resource needed to complete systems projects, and they contribute to the projects specialized technical skills that the Department may not have. The existing 3-year contracts are due to expire on December 31, 2011. On August 15, 2011, LAHD released a Request for Proposal (RFP) for as-needed Information Technology (IT) Professional Services. As a result of the RFP, two qualified vendors, 3Di, Inc., and Rydek Computer Professionals, were selected. By selecting more than one vendor, the Department would create competition between them when selecting contract programmers to work on a project.

The purpose of these contracts is to hire IT contract programmers for the development of LAHD's enterprise business systems, the Code, Compliance and Rent Information Systems (CCRIS) and the Housing Information Management Systems (HIMS). CCRIS is a suite of web applications which supports the Systematic Code Enforcement Program (SCEP) operation and the Rent Stabilization Ordinance (RSO) operation. The CCRIS manages code enforcement inspections of about 750,000 rental units and track the Rent Stabilization cases for 500,000 units in the City of Los Angeles. The system is also responsible for the

billing and collections of SCEP and RSO fees worth over \$40 million annually. HIMS is also suite of web applications used to support the Department's Housing Development operations. It manages a housing loan portfolio of about 5,000 loans worth over \$1 billion and track the housing development of hundreds of projects.

The continued development and enhancement of CCRIS and HIMS are critical to the operation of the Department. The contract programmers hired via these contracts provides the temporary programming resource and technical skills LAHD needs to continue these efforts.

In addition to the planned projects (Attachment A) in Fiscal Year 2011-2012, the report findings from the Office of the City Administrative Officer (CAO) Charter Section 1022 Determination has recommended that LAHD be permitted to contract for IT professional services because the requested services would be performed more feasibly by contract than by City employees due to the temporary nature of the projects and that LAHD do not have sufficient in-house staff to perform the required work.

## **REQUEST FOR PROPOSALS (RFP) PROCESS**

On August 15, 2011, LAHD issued and released an RFP for a period of 46 days to solicit applications from interested organizations/firms to provide Information Technology Professional Services. The RFP was advertised through the Los Angeles Business Assistance Virtual Network (LABAVN), several organizations serving minority communities, and the 15 Council District offices. Announcements through the BAVN were delivered to more than 550 registered organizations that can qualify and compete for the RFP. The RFP was tailored to be accepted only from individuals or organizations that meet the following:

1. Have a minimum of five (5) years of direct and/or related experience in administering part or all of the services solicited.
2. Can demonstrate expertise in direct placement of qualified personnel in IT professional services.
3. Can list a modicum of relevant public sector experience.
4. Are qualified to conduct business in the State of California and in good standing with applicable regulatory oversight agencies;
5. If a corporation or limited liability company, the proposer must be in good standing with the California Secretary of State;
6. Have not been determined to be non-responsible or been debarred by the City pursuant to the Contractor Responsibility Ordinance;
7. Have not been debarred by the federal government, State of California or local government;

8. If the proposer has contracted with the State of California or the City of Los Angeles, it does not have an outstanding debt that has not been repaid or for which a repayment agreement plan has not been implemented.

Eleven (11) proposals were received in response to the RFP. During the preliminary review, eight (8) proposals were deemed responsive and submitted to the evaluators for scoring while the remaining three did not pass the threshold screening. The evaluation team consisted of three LAHD staff, which was selected to reflect different perspectives and expertise. Each proposal was evaluated on its own merit for content, responsiveness, clarity, relevance, cost and strict adherence to the instructions in the RFP.

The criteria for evaluating proposals included the following:

| <u>Description</u>  | <u>Percentage</u> |
|---|-------------------|
| 1 <b>QUALITY AND CAPABILITY</b><br>Projects implemented and track record                        | 40%               |
| 2 <b>QUALIFICATIONS OF CONTRACTOR STAFF</b><br>Experienced in administering personnel placement | 30%               |
| 3 <b>BREADTH AND DEPTH OF CONTRACTOR EXPERIENCE</b><br>Number and size of organizations served  | 15%               |
| 4 <b>COSTS</b><br>Direct and Indirect Costs   | 15%               |
| <b>Total Percentage</b>   | <b>100%</b>       |

The table below shows the final scores of the two selected contractors.

| <b>Proposer</b>              | <b>Score<br/>(100% maximum)</b> |
|------------------------------|---------------------------------|
| 3Di, Inc.                    | 93%                             |
| Rydek Computer Professionals | 93%                             |

Both contractors garnered the highest scores and were selected to be awarded the contracts, subject to approval and negotiations. The nine other applicants received letters of non-selection and were invited to participate in future contracting opportunities in the City.

One appeal letter was received from one of the non-awarded proposers. An appeal hearing was conducted by a review panel, which concluded there was not sufficient evidence to warrant a change in the reviewers' original determination.

**FUNDING**

LAHD has a grand total budget of \$1,047,271.00 in Fiscal Year 2011-2012 in contractual services to continue to hire contract programmers for the development of CCRIS and HIMS. The funding source comes from the on-going annual budget of \$683,271 and from special funded projects of \$364,000. The source break-down of \$1,047,271.00 is as follows:

- A. The on-going annual budget funding source break-down of \$683,271 is as follows:

- 1) \$102,611 – Municipal Housing Finance Fund (Fiscal Year 2011-12 Budget, as presented by the Mayor, Schedule 48, page 268)
- 2) \$102,260 – Home Investment Partnerships Program Fund (Fiscal Year 2011-12 Budget, as presented by the Mayor, Schedule 9, page 222)
- 3) \$239,200 – Rent Stabilization Trust Fund (Fiscal Year 2011-12 Budget, as presented by the Mayor, Schedule 23, page 237)
- 4) \$239,200 – Code Enforcement Trust Fund (Fiscal Year 2011-12 Budget, as presented by the Mayor, Schedule 42, page 262)

B. The special funded projects source break-down of \$364,000 is as follows:

- 1) \$120,000 – Foreclosure Registry System (C.F. 10-0600-S60)
- 2) \$244,000 – Gateway to Green Program (C.F. 09-2841)

The funding will allow LAHD to continue the development of CCRIS and HIMS to maintain the current systems as well as to develop new functionalities to meet business operational needs.

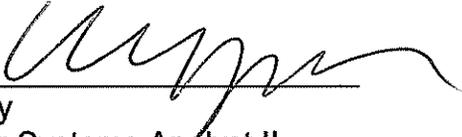
The terms of the contracts do not require LAHD to expend the full amount of the contracts. If the Department is unable to fully fund them due to unplanned budget reduction or any other reasons, the Department may choose to stop using the contracts at any time without penalty.

Based on the above budget authorities, LAHD requests to execute a contract of \$900,000 each with 3Di, Inc., and with Rydek Computer Professionals.

### **FISCAL IMPACT**

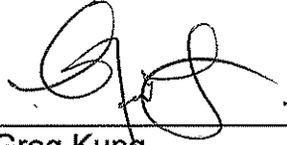
All funding is authorized grant funds or fee funds in LAHD's Fiscal Year 2011-2012 budget, and therefore, there is no impact on the General Fund.

Prepared by:



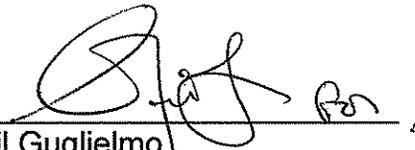
Kim Ly  
Senior Systems Analyst II  
Systems Division

Approved by:



Greg Kung  
Director of Systems  
Systems Division

Reviewed by:



Neil Guglielmo  
Assistant General Manager  
Los Angeles Housing Department

Approved by:



Douglas Guthrie  
General Manager  
Los Angeles Housing Department

DG: NG: GK

## **Attachment A**

The projects identified for FY 2011–12 are the following:

- a) CCRIS – Develop the following modules:
  - i. Damage/Safety assessment module in the event of a disaster.
  - ii. Gateway to Green (G2G) module to measure and report on energy efficiency opportunities.
  - iii. Rent Escrow Account Program (REAP) module to manage the REAP program.
  - iv. Admin module – to manage staffing resource and better capture cost of the service delivery of the SCEP and RSO programs.
  - v. Billings Information Systems (BIMS) – Develop and enhance the following:
    - i. Implement change of ownership account.
    - ii. Implement secondary collection and write-offs.
    - iii. Migrate all RENT statements into the system.
  
- b) HIMS – Develop the following modules:
  - i. Major Project intake module for external and internal application submission.
  - ii. Construction module to monitor project development and to track coordination with other divisions like Accounting and Housing Services on physical construction and financial transactions.
  - iii. Develop Residual Receipts Phase II for both internal and external portals to perform financial analysis and for borrowers to communicate and submit financial statements.
  - iv. Develop a HIMS-IDIS interface for data reconciliation between the HIMS and HUD system for compliance and reporting.
  - v. Enhance the HIMS Participant component to allow management of entities, roles, and contracts for all projects and user functions in one central database.
  
- c) Disaster Recovery – Plan, develop and execute business continuity disaster recovery exercises.

**PROFESSIONAL SERVICE AGREEMENT**

CONTRACTOR: **COMPUTER PROFESSIONALS UNLIMITED, INC. DBA  
RYDEK COMPUTER PROFESSIONALS**

SAID AGREEMENT NUMBER IS \_\_\_\_\_ OF CITY CONTRACTS

**DRAFT**

**TABLE OF CONTENTS**

| <u>Section Number and Table</u>                                      | <u>Page</u> |
|--|-------------|
| <b>1. INTRODUCTION</b> .....   | <b>6</b>    |
| §101 PARTIES TO THE AGREEMENT.....                                   | 6           |
| §102 REPRESENTATIVES OF THE PARTIES AND SERVICE OF NOTICES.....      | 6           |
| §103 INDEPENDENT CONTRACTOR.....                                     | 6           |
| §104 CONDITIONS PRECEDENT TO EXECUTION OF THIS AGREEMENT.....        | 7           |
| <b>2. TERM AND SERVICES TO BE PROVIDED</b> .....                     | <b>7</b>    |
| §201 TIME OF PERFORMANCE .....                                       | 7           |
| §202 SERVICES TO BE PROVIDED BY THE CONTRACTOR.....                  | 7           |
| §203 STATEMENT OF WORK.....  | 8           |
| §204 RESPONSIBILITIES OF THE LAHD.....                               | 13          |
| <b>3. PAYMENT</b> .....  | <b>13</b>   |
| §301 COMPENSATION AND METHOD OF PAYMENT.....                         | 13          |
| <b>4. STANDARD PROVISION</b> .....                                   | <b>16</b>   |
| §401 CONSTRUCTION OF PROVISIONS AND TITLES HEREIN .....              | 16          |
| §402 APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT.....             | 16          |
| §403 INTEGRATED AGREEMENT .....                                      | 16          |
| §404 EXCUSABLE DELAYS .....  | 16          |
| §405 BREACH.....   | 16          |
| §406 WAIVER .....  | 17          |
| §407 PROHIBITION AGAINST ASSIGNMENT OR DELEGATION.....               | 17          |
| §408 PERMITS.....  | 17          |
| §409 NONDISCRIMINATION AND AFFIRMATIVE ACTION .....                  | 17          |
| §410 CLAIMS FOR LABOR AND MATERIALS.....                             | 18          |
| §411 LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE .....    | 18          |
| §412 BONDS.....  | 18          |
| §413 INDEMNIFICATION.....  | 18          |
| §414 INSURANCE.....  | 18          |
| §415 CONFLICT OF INTEREST.....                                       | 20          |
| §416 COMPLIANCE WITH STATE AND FEDERAL STATUTES AND REGULATIONS..... | 22          |
| §417 FEDERAL, STATE AND LOCAL TAXES.....                             | 28          |

|   |           |
|---|-----------|
| §418 INVENTIONS, PATENTS AND COPYRIGHTS .....   | 28        |
| §419 LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER<br>RETENTION ORDINANCE ..... | 34        |
| §420 EARNED INCOME TAX CREDIT .....   | 35        |
| §421 EQUAL BENEFITS ORDINANCE.....  | 35        |
| §422 CONTRACTOR RESPONSIBILITY ORDINANCE.....   | 36        |
| §423 SLAVERY DISCLOSURE ORDINANCE .....   | 36        |
| §424 RESTRICTION ON DISCLOSURES .....   | 37        |
| §425 CHILD SUPPORT ASSIGNMENT ORDERS.....   | 37        |
| §426 COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470(c)(12) ....                 | 37        |
| §427 FIRST SOURCE HIRING ORDINANCE .....  | 38        |
| §428 CONTRACTOR PERSONNEL .....   | 39        |
| §429 WARRANT AN RESPONSIBILITY OF CONTRACTOR.....                                     | 39        |
| <b>5. DEFAULTS, SUSPENSION, TERMINATION, AND AMENDMENTS .....</b>                     | <b>39</b> |
| §501 DEFAULTS.....  | 39        |
| §502 SUSPENSION .....   | 40        |
| §503 TERMINATION.....   | 40        |
| §504 NOTICES OF SUSPENSION OR TERMINATION .....                                       | 40        |
| §505 AMENDMENTS .....   | 40        |
| <b>6. ENTIRE AGREEMENT .....</b>  | <b>41</b> |
| §601 COMPLETE AGREEMENT .....   | 41        |
| §602 NUMBER OF PAGES AND ATTACHMENTS.....   | 41        |
| <b>7. SIGNATURE PAGE.....</b>   | <b>42</b> |

**EXHIBITS**

|           |  |    |
|-----------|--|----|
| Exhibit A | Indemnification and Insurance Requirements.....  | 43 |
| Exhibit B | Certification Regarding Debarment, Suspension, Ineligibility and Voluntary<br>Exclusion Lower Tier Covered Transactions..... | 45 |
| Exhibit C | Certification Regarding Lobbying .....   | 48 |
| Exhibit D | Notice of Prohibition Against Retaliation .....  | 49 |
| Exhibit E | Billing Rate Ranges by Job Title .....   | 50 |

AGREEMENT NUMBER \_\_\_\_\_ OF CITY CONTRACTS  
BETWEEN  
THE CITY OF LOS ANGELES  
AND  
**COMPUTER PROFESSIONALS UNLIMITED, INC. DBA**  
**RYDEK COMPUTER PROFESSIONALS**

THIS AGREEMENT is made and entered into by and between the City of Los Angeles, a municipal corporation, (hereinafter referred to as the "City"), acting by and through the Los Angeles Housing Department and COMPUTER PROFESSIONALS UNLIMITED, INC. DBA, RYDEK COMPUTER PROFESSIONALS., a California corporation (hereinafter referred to as "CONTRACTOR").

RECITALS

WHEREAS, the Los Angeles Housing Department (hereinafter referred to as "LAHD") has been designated by the City to provide for the proper planning, coordination, direction, and management of the City's various affordable housing development, code enforcement and rent stabilization activities; and

WHEREAS, the LAHD cooperates with private organizations, other agencies of the City and agencies of other governmental jurisdictions in carrying out certain functions and programs which are its responsibility; and

WHEREAS, the project which is the subject of this agreement, hereinafter called the Agreement, has been established by the City as one of the above described programs, and has been funded in the LAHD budget by Code and Rent fees, Municipal Housing Finance Fund, and Home Investment Partnerships Program Fund; and

WHEREAS, the LAHD on occasion, does experience difficulty in filling vacant positions in the classifications of Programmer Analyst, Application Programmer, Systems Programmer, Business Intelligence Specialist, Geographic Information Specialist, and Database Architect; and

WHEREAS, the continuing existence of such vacancies impacts accomplishment of the approved work program of LAHD; and

WHEREAS, the occasional provision of specialized contract personnel knowledgeable in the operation of information technology systems to augment regular LAHD staff could greatly assist in accomplishing the approved work program; and

WHEREAS, Contractor has experience and knowledge in providing contract employees experienced in the analysis, design, implementation, and support of data processing systems and the operation of data processing equipment and related operations support of activities on a time and material basis for a specified period of time including an option permitting the City to hire said employees at the end of the Contract period;

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

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

WHEREAS, the LAHD is utilizing the contract authority approved by the Mayor contained in Fiscal Year 2011-12 Budget as presented by the Mayor; and

NOW, THEREFORE, the City and the Contractor agree as follows:

# **1. INTRODUCTION**

## **§101 Parties to the Agreement**

A. The parties to this Agreement are:

1. The City of Los Angeles, a municipal corporation, having its principal office at 200 North Main Street, Los Angeles, California 90012.
2. The Contractor, known as COMPUTER PROFESSIONALS UNLIMITED, INC. DBA RYDEK COMPUTER PROFESSIONALS. having its principal office at Los Angeles, CA.

## **§102 Representatives of the Parties and Service of Notices**

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

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

Douglas Guthrie, General Manager  
Los Angeles Housing Department  
1200 West 7th Street, Ninth Floor  
Los Angeles, CA 90017

With copies to:

Greg Kung, Director of Systems  
Los Angeles Housing Department  
1200 West 7th Street, Ninth Floor  
Los Angeles, CA 90017

2. The representative of the Contractor shall be:

Gracie Garcia  
898 N. Sepulveda Blvd., Suite 465  
Los Angeles, CA 90245

B. Formal notices, demands and communications to be given hereunder by either party shall be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and shall be deemed communicated as of the date of mailing.

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

## **§103 Independent Contractor**

A. The Contractor is acting hereunder as an independent contractor and not as an agent or employee of the City. No employee of the Contractor has been, is, or shall be an employee of the City by virtue of this Agreement, and the Contractor shall so inform each

employee organization and each employee who is hired or retained under this Agreement. Contractor shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the City.

#### **§104 Conditions Precedent to Execution of This Agreement**

- A. Contractor shall provide copies of the following documents to the City:
1. Proof of insurance as required by the City in accordance with Section 413 of this Agreement and attached hereto as Exhibit A and made a part hereof.
  2. Certification Regarding Ineligibility, Suspension and Debarment as required by Executive Orders 12459 and 12689 in accordance with §415.A.12 of this Agreement and attached hereto as Exhibit B and made a part hereof.
  3. Certifications and Disclosures Regarding Lobbying in accordance with §415.4.b of this Agreement and attached hereto as Exhibit C and made a part hereof. Contractor shall also file a Disclosure Form at the end of each calendar quarter in which there occurs any event requiring disclosure or which materially effects the accuracy of the information contained in any Disclosure Form previously filed by Contractor.
  4. A Certification of Compliance with the Living Wage Ordinance Service Contractor Worker Retention and Living Wage Policy in accordance with §418.
  5. A Certification of Compliance With Equal Benefits Ordinance/Reasonable Measures Application for Equal Benefits Ordinance in accordance with §420 of this Agreement and the Slavery Disclosure Ordinance in accordance with §422.
- B. Contractor shall submit a Code of Conduct to the City for approval and that it must meet the requirements of §414 Conflict of Interest of the Agreement.

## **2. TERM AND SERVICES TO BE PROVIDED**

### **§201 Time of Performance**

- A. The term of this Agreement shall commence on January 1, 2012 and end December 31, 2012. Said term is subject to the provisions herein. Performance shall not commence until the Contractor has obtained the City's approval of the insurance required in §413 herein. This is a 1-year contract. The City may agree, at its discretion, to extend the contract for two 1-year terms based upon the availability to the City of State and Federal funds and upon the Contractor's successful performance of all terms of this Agreement. The maximum contract term is three years.

### **§202 Services to be Provided by the Contractor**

- A. The City's primary objective is to obtain the use of contracting personnel with specialized knowledge on an as-needed basis. CONTRACTOR agrees to provide employees possessing technical expertise in specialized software, hardware, network or applications areas to meet the City's objective. The CONTRACTOR's employees shall provide temporary assistance on applications projects, utilizing specialized software, or in transferring/disseminating detailed implementation knowledge to City staff in the use of specialized software. These technical areas could include, among others, the use of application development tools, expert software, data administration, document writing

skills, project management skills, quality assurance skills, server development methodologies, LAN and network security. All work is subject to prior City approval. Failure to receive approval may result in withholding compensation pursuant to §301.

## **§203 Statement of Work**

CONTRACTORS agrees to provide its employees to assist the CITY in performance of this contract. The employees to be provided by CONTRACTOR will have the following job titles and be capable of performing the following duties:

### **A. Application Programmer**

- Primary skill set includes Microsoft Studio.Net, VB.NET, ASP.NET, XML, XSD, XHTML, LDAP, Javascript, Power Designer, Use Case specifications, Structured Query Language, Visual Source Safe, MS-SQL, Web Services
- Experience in housing information systems and/or code information systems
- Analyzes and documents requirements for information systems prepared by project managers
- Develops and/or plans for automated data processing systems from project inception to conclusion, and/or as directed
- Constructs data models and activity/process models as may be required to define system functions
- Analyzes functional business requirements and design specifications for developing programs
  - Develops logical models, block diagrams and logic flow charts
  - Translates detailed design into computer software
  - Tests, debugs, and refines the computer software to produce the required product
  - Prepares required documentation, including both program-level and user-level documentation
  - Enhances software to reduce operating time and/or improve efficiency
- Coordinates closely with other personnel, as needed, to ensure proper development and implementation of program and system specifications
- Develops, in conjunction with functional users, system alternative solutions.
- Provides support for the creation, installation, testing, implementation, and ongoing maintenance of information systems
- Conducts and documents the results of special studies dealing with systems and/or business process issues
- Interpersonal skill set includes strong analytical, problem solving and project management skills, be able to work well with people and possess strong communication skills as needed to mentor others, communicate highly technical information to non-technical and technical users

### **B. Programmer Analyst**

- Primary skill set includes Microsoft Studio.Net, VB.NET, ASP.NET, XML, XSD, XHTML, LDAP, Javascript, Power Designer, Use Case specifications, Structured Query Language, Visual Source Safe, MS-SQL, Web Services

- Experience in housing information systems and/or code information systems
- Analyzes and documents requirements for information systems
- Develops and/or oversees plans for automated data processing systems from project inception to conclusion, and/or as directed
- Constructs data models and activity/process models as may be required to define system functions
- Analyzes functional business requirements and design specifications for developing programs
  - Develops logical models, block diagrams and logic flow charts
  - Translates detailed design into computer software
  - Tests, debugs, and refines the computer software to produce the required product
  - Prepares required documentation, including both program-level and user-level documentation
  - Enhances software to reduce operating time and/or improve efficiency
  - Coordinates closely with IT management, other Programmer Analyst, other Agency management, other Agency personnel, as needed, to ensure proper development and implementation of program and system specifications
- Develops, in conjunction with functional users, system alternative solutions.
- Provides support for the creation, installation, testing, implementation, and ongoing maintenance of information systems
- Conducts and documents the results of special studies dealing with systems and/or business process issues
- a minimum of 2 year of current experience similar or equivalent this job classification
- Interpersonal skill set includes strong analytical, problem solving and project management skills, be able to work well with people and possess strong communication skills as needed to mentor others, communicate highly technical information to non-technical and technical users

### **C. Business Intelligence (BI) Specialist**

- Primary technical skill set includes MicroStrategy Business Intelligence.
- Determines customer's information requirements
- Studies customer's requirements and determines if the business processes for gathering, cleansing, and ensuring the quality of data are adequate
- Analyzes options for preparing a BI solution
- Prepares an analysis document with the recommended solution
- Works with technical and management resources to develop the best solution
- Prepares project and operational cost estimates
- Presents final analysis document and cost estimate to customer for approval
- Interpersonal skill set includes strong analytical, problem solving and project management skills, be able to work well with people and possess strong communication skills as needed to mentor others, communicate highly technical information to non-technical and technical users
- Creates design documents for BI solution based on business analysis document.
- Works closely with database analysts to fine tune the BI solution design including database or data warehouse design

- Presents design documents to State architects as well as other technical and management resources to provide assurance that State is suggesting the best solution
- Presents design documents to customer for approval
- Prototypes the solution as designed and presents to the customer for approval
- Plans and supervises systems and customer acceptance test activities
- Prepares BI application and data warehouse processes for production
- Provides performance tuning of BI application and data warehouse processes.
- Educates and conducts continuous communication with end users throughout the project
- Manages individual BI projects using project management best practices
- Coordinates with project managers responsible for specific projects to ensure that interdependencies between projects are understood and that activities and direction are consistent with the related architecture and standard
- Identifies organizational change management issues and incorporates tasks in project plans to address
- Develops and administers overall project management plans that establish management and reporting requirements for BI projects
- Delegates tasks to other project team members and monitor performance

#### **D. Database Architect**

- Primary technical skill set includes Microsoft SQL RDBMS, Structured Query Language, ODBC, JDBC, XML
- Experience in housing information systems and/or code information systems
- Create and manage database objects according to business requirements
- Performs review and tuning of SQL code
- Performs database tuning and monitoring
- Monitor and audit database access
- Perform capacity planning
- Ensures database integrity; schedules database backup; provides for database recovery
- Supports development databases including refresh from production databases
- Transfers and maintains production program code
- Assists programmers or writes conversion programs to support changes in database structure; applies conversions, and verifies integrity of converted data
- Assists in providing twenty-four hour coverage for database support
- Maintains current procedure manuals for the maintenance of databases on existing systems
- Provides extensive troubleshooting and problem solving of database and application development issues for applications
- Works with vendors in support of database and administration toolsets enhancements that are beneficial to state applications
- Installs new and upgrades existing databases and administration toolsets; coordinates with development on testing and implementing enhancements and new features/functions

- Assists and trains application development and technical staff in database technologies and methods
- Requires four years of experience in this classification in last five years
- Experience in design, implementation, and manipulation of database management systems, data warehouses, and multidimensional databases. Experience with design of relational databases and data manipulation.
- 
- Interpersonal skill set includes strong analytical, problem solving skills, be able to work well with people and possess strong communication skills as needed to mentor others, communicate highly technical information to non-technical and technical users

#### **E. Systems Programmer**

- Primary technical skill set includes Windows, Active Directory, Windows File and Print; Experience with a variety of applications in one or more of the following areas including IIS, SQL Server, Exchange, SAN, VMWare HA, Double-Take, Pancetera, Onbase.
- Experience in housing information systems and/or code information systems
- Performs installation, monitoring, maintenance, trouble shooting, and repairs of infrastructure systems equipment
- Performs server hardware and/or software upgrade
- Supports and maintains user account information including rights, security, and systems groups
- Provides assistance on the use, interface, and integrations of systems, subsystems, and software applications
- Conducts research and evaluates new products
- Provides assistance in the procurement and inventory of hardware or software
- Provides technical assistance and support for applications and hardware problems
- Maintains the necessary security controls for the infrastructure
- Prepares evaluations and reports on system efficiency and utilization
- Requires three years of experience in this classification in last four years
- Technical skill set includes Windows, Active Directory, Windows File and Print; Experience with a variety of applications in one or more of the following areas including IIS, SQL Server, Exchange, SAN, VMWare HA, Double-Take, Pancetera.
- Interpersonal skill set includes strong analytical, problem solving and project management skills, be able to work well with people and possess strong communication skills as needed to mentor others, communicate highly technical information to non-technical and technical users

#### **F. Geographic Information Specialist**

- Primary technical skill set includes ArcView, Archinfo, AcIMS, Google Earth, Microsoft MapPoint.
- Experience in housing information systems and/or code information systems
- Design and coordinate development of integrated GIS databases of spatial data

- Develop, analyses and presentation of data, applying knowledge of geographic information systems and map projections
- Review existing and incoming data for quality and documentation; entry of data into database, application of coordinate geometry, keyboard entry of tabular data, manual digitizing of maps, scanning and automatic conversion to vectors, and conversion of other sources of digital data
- Maintains and updates databases using GIS software
- Image rectification/georeferencing and image manipulation
- Develops and maintains links between various databases
- Determine effective presentation of information and select cartographic elements needed
- Create output, such as maps and graphs, using computer and geographic information system software and related equipment, including plotters
- Compile digital data needed to produce maps; convert data as necessary
- Determine methods to analyze spatial relationships, including adjacency, containment, and proximity; display results of analyses using maps, graphs, and tabular data
- Spatial Analysis/mapping/modeling/reporting
- Provides hands-on vendor-specific and/or customized training to agency staff and/or management. As needed, provides class materials, user guides, and GIS documentation. May be required to utilize agency data in the development of exercises.
- Analyzes and documents requirements for data development related to public sector service delivery for a single or multiple related entities
- Develops and/or oversees data development plans from project inception to conclusion, and/or as directed
- Plans and/or conducts knowledge transfer to agency on data creation techniques, coordination, maintenance, and acquisition
- Constructs data models as may be required to define system
- Develops standards for data development
- Ensures quality standards are met as determined by analysis or Agency direction

All work performed by CONTRACTOR shall be in accordance with specific statements of work that may be issued from time to time. Employees provided by CONTRACTOR under this Contract shall be subject to CITY approval as to qualifications and suitability for performance of the services described herein. CONTRACTOR understands that the CITY will request CONTRACTOR'S services according to the CITY'S requirements and that such services may be required on a full or part-time basis.

The CITY may suspend or terminate the services of an employee provided by CONTRACTOR at the convenience of the CITY and upon one (1) day's written notice.

The CITY may immediately suspend or terminate the services of an employee provided by CONTRACTOR for gross negligence, misconduct, malicious mischief, unfavorable background investigation, or willful disregard of instructions at any time.

If the CITY should decide to hire one of CONTRACTOR'S employees, no advance notice need be provided to CONTRACTOR. Payment of a placement fee, if applicable, shall be in accordance with Section 3 PAYMENT of this Contract.

CONTRACTOR understands that the CITY may have, or subsequently enter into, other contracts with vendors for identical or similar services; therefore, CONTRACTOR agrees that this Contract does not grant an exclusive right to CONTRACTOR to provide all contracted programming and technical personnel.

#### **§204. Responsibilities of the LAHD**

The LAHD Director of Systems or his designated representative shall represent the LAHD in all matters pertaining to this Contract.

The LAHD may provide the following services, facilities and arrangements to CONTRACTOR:

- A. Supervision and guidance to CONTRACTOR personnel relative to the work product required by the LAHD pursuant to this Contract.
- B. Office space, desks, chairs and working materials.
- C. Related support services required for the performance of services under this Contract.

### **3. PAYMENT**

#### **§301 Compensation and Method of Payment**

##### **A. Invoices**

CONTRACTOR shall submit monthly invoices to the CITY as follows:

The specific hourly rate to be charged for CONTRACTOR's personnel shall be determined prior to beginning employment by mutual written agreement between CONTRACTOR and the CITY. The hourly rate shall adhere to the billing rate ranges in Exhibit E (Billing Rate Ranges by Job Title). Payment of invoices shall be subject to approval by the CITY. No payment shall be made for any incidental expense.

CONTRACTOR's invoices must conform to CITY standards and include, at a minimum, the following information:

1. Name and address of CONTRACTOR;
2. Name and address of the CITY department being billed;
3. Date of the invoice and the period covered;
4. Reference to the contract number for this Contract;

5. Reference to the LAHD Written Approval (including the approved project budget) and the Statement of Work authorizing the work performed by CONTRACTOR;
6. Description of the services performed and the amount due for the services;
7. Name(s) of all CONTRACTOR's personnel performing the services for the CITY, the number of hours worked for each person, and the hourly rate for each person;
8. Payment terms, total due and due date;
9. Signed by a duly authorized officer under the penalty of perjury that the invoice is true and correct;
10. Remittance Address (if different from CONTRACTOR's address);
11. CONTRACTOR's State of California Sales and Use Tax Permit Number; and
12. CONTRACTOR's City of Los Angeles Business Tax Registration Certificate Number.

All invoices shall be submitted on CONTRACTOR's letterhead, contain CONTRACTOR's official logo, or contain other unique and identifying information such as name and address of CONTRACTOR. Evidence that tasks have been completed, in the form of a report, brochure, computer printout or photograph, shall be attached to all invoices. Invoices shall be submitted within 30 days of performance of services. Invoices are considered complete when appropriate documentation or services provided are signed off as satisfactory by the City Project Manager.

Invoices and supporting documentation shall be prepared at the sole expense and responsibility of CONTRACTOR. The CITY will not compensate CONTRACTOR for any costs incurred for invoice preparation. The CITY may request, in writing, changes to the content and format of the invoice and supporting documentation at any time. The CITY reserves the right to request additional supporting documentation to substantiate costs at any time.

Failure to adhere to these policies may result in nonpayment or non-approval of demands, pursuant to Charter 262(a), which requires the Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any CITY office or department, and approve demands before they are drawn on the Treasury.

**B. Placement Fee**

Should the CITY hire one (or more) of CONTRACTOR's employees as a regular full-time CITY employee, the following placement fee shall be paid to CONTRACTOR:

If the employee is hired by the CITY within six (6) months of continuous full-time employment under this Contract, the CITY shall pay CONTRACTOR a one time

placement fee of two thousand dollars (\$2,000) per employee hired. CONTRACTOR agrees to refund the placement fee to the CITY if the employee leaves CITY service for any reason within four (4) months from date of hire as a regular CITY employee;

If a CONTRACTOR employee is hired by the CITY after the beginning of the seventh month after beginning continuous employment under this Contract, no placement fee shall apply.

Employment of CONTRACTOR's personnel by the CITY shall be in accordance with regular CITY Civil Service Examination and hiring procedures.

C. Total Contract Expenditure

The CITY's total obligation under this Contract shall not exceed **\$900,000 (Nine Hundred Thousand Dollars)**. The CONTRACTOR further understands and agrees that execution of this Contract does not obligate the City to spend any of the dollar amount in this Contract.

D. Written Approval Required

Before services are provided for LAHD, CONTRACTOR must first receive written approval to proceed by LAHD. The Written Approval must include a detailed Statement of Work defining the scope of services, duration of engagement, and the budget for the project. CONTRACTOR shall not exceed the approved scope or budget for any project, nor shall the CITY be liable for any work or charges exceeding the approved scope or budget unless prior written approval from LAHD is obtained modifying the scope or budget of the project.

E. It is understood that the CITY makes no commitment to fund this Agreement beyond the terms set herein.

F. Funding for all periods of this contract is subject to the continuing availability of federal funds for this program to the CITY. The Contract may be terminated immediately upon written notice to the Contractor of a loss or reduction of federal grant funds.

G. Contractor shall warrant that any applicable discounts have been included in the costs to the CITY.

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

## **4. STANDARD PROVISIONS**

### **§401 Construction of Provisions and Titles Herein**

- A. All titles or subtitles appearing herein have been inserted for convenience and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Agreement shall be construed according to its fair meaning and not strictly for or against the City or the Contractor. The word "Contractor" herein and in any amendments hereto includes the party or parties identified in this Agreement. The singular shall include the plural. If there is more than one Contractor as identified herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used. The word "days" means calendar days, including weekends and holidays, unless otherwise specifically provided.

### **§402 Applicable Law, Interpretation and Enforcement**

- A. Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the City. This Agreement shall be enforced and interpreted under the laws of the State of California and the City.
- B. In an action arising out of this Contract, Contractor consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.
- C. 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.

### **§403 Integrated Agreement**

- A. This Agreement sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous agreements or understandings, whether written or oral, relating thereto. This Agreement may be amended only as provided for herein.

### **§404 Excusable Delays**

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

### **§405 Breach**

- A. Except for excusable delays, 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.

#### **§406 Waiver**

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

#### **§407 Prohibition Against Assignment or Delegation**

The Contractor may not, unless it has first obtained the written permission of the City: Assign or otherwise alienate any of its rights hereunder, including the right to payment; or Delegate, subcontract, or otherwise transfer any of its duties hereunder.

#### **§408 Permits**

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

#### **§409 Nondiscrimination and Affirmative Action**

- A. The Contractor 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 Contractor shall not discriminate in its employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sexual orientation, age, physical handicap, mental disability, marital status, domestic partner status, medical condition, citizenship, and political affiliation or belief. The Contractor shall comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
- B. The Contractor shall comply with the provisions of the Los Angeles Administrative Code §10.8 through 10.13, to the extent applicable hereto. If this Agreement contains a consideration in excess of \$1,000 but not more than \$100,000, the Equal Employment practices provisions of this Agreement shall be the mandatory contract provisions set forth in Los Angeles Administrative Code §10.8.3, in which event said provisions are incorporated herein by this reference. If this Agreement contains a consideration in excess of \$100,000, the Affirmative Action Program of this Agreement shall be the mandatory contract provisions set forth in Los Angeles Administrative Code §10.8.4, in which event said provisions are incorporated herein by this reference. The Contractor 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 City.

- C. Any subcontract entered into by the Contractor relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.
- D. No person shall on the grounds of race, ancestry, color, citizenship, national origin, sex, sexual preference, age, physical handicap, mental disability, medical condition, marital status, domestic partner status, or political affiliation or belief be excluded from participation in, be denied the benefit of, or be subjected to discrimination under this program/project. For purposes of this Section, Title 24 Code of Federal Regulations, Section 570.601(b) defines specific discriminatory actions that are prohibited and corrective action that shall be taken in situation as defined therein.

#### **§410 Claims for Labor and Materials**

- A. The Contractor 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 Contractor hereunder), against the Contractor's rights to payments hereunder, or against the City, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

#### **§411 Los Angeles City Business Tax Registration Certificate**

- A. If applicable, Contractor represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the City's Business Tax Ordinance (Article 1, Chapter 2, Sections 21.00 and following, of the Los Angeles Municipal Code). For the term covered by this Agreement, the Contractor 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.

#### **§412 Bonds**

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

#### **§413 Indemnification**

- A. Except for the active negligence or willful misconduct of City, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, Contractor/Consultant undertakes and agrees to defend, indemnify and hold harmless City and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including Contractor's/Consultant's employees and agents, or damage or destruction of any property of 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 by the Contractor/Consultant or its subcontractors of any tier. The provisions of this paragraph survive expiration or termination of this Agreement.

## §414 Insurance

### A. General Conditions

1. During the term of this Agreement and without limiting Contractor's indemnification of the City, Contractor shall provide and maintain at its own expense a program of insurance having coverage and limits customarily carried and actually arranged by the Contractor but not less than the amounts and types listed on the Required Insurance And Minimum Limits Sheet (Form Gen. 146) in Exhibit A hereto, covering its operations hereunder. Such insurance shall conform to City requirements established by Charter, ordinance or policy, shall comply with instructions set forth on the City of Los Angeles – Instructions And Information On Complying With City Insurance Requirements (Revised 10/09) document, and shall otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. Specifically, such insurance shall: 1) protect City as an Insured or an Additional Interest Party, or a Loss Payee As Its Interest May Appear, respectively, when such status is appropriate and available depending on the nature of applicable coverages; 2) provide City at least thirty (30) days advance written notice of cancellation, material reduction in coverage or reduction in limits when such change is made at option of the insurer; 3) be primary with respect to City's insurance plan. Except when City is a named insured, Contractor's insurance is not expected to respond to claims which may arise from acts or omissions of the City.
2. The standard City of Los Angeles insurance conditions are incorporated into the sample standard subcontract provisions. The specific insurance coverages and limits shall be described by contractor in RFP. These coverages and limits should be tailored to the individual subcontract. For City contracts, **Required Insurance and Minimum Limits** are set by the City Risk Management staff in the Office of the City Administrative Officer of the City of Los Angeles on Form Gen. 146. Electronic submission is the preferred method of submitting your evidence of insurance documents. **Track4LA™** is the City's online insurance compliance system and is designed to make the experience of submitting and retrieving insurance information quick and easy. The system is designed to be used primarily by insurance brokers and agents as they submit client insurance certificates directly to the City. It uses the standard insurance industry form known as the **ACCORD 25 Certificate of Liability Insurance** in electronic format. The easiest and quickest way to obtain approval of your insurance is to have insurance broker or agent access **Track4LA™** at <http://track4la.lacity.org> and follow the instructions to register and submit the appropriate proof of insurance on your behalf. Additional instructions and information on complying with City of Los Angeles insurance requirements can be found at [http://cao.lacity.org/risk/Submitting proof of insurance.pdf](http://cao.lacity.org/risk/Submitting%20proof%20of%20insurance.pdf).

### B. Modification of Coverage

1. City reserves the right at any time during the term of this Agreement to change the amounts and types of insurance required hereunder by giving Contractor/Consultant ninety (90) days advance written notice of such change. If such change should result

in substantial additional cost to the Contractor/Consultant, City agrees to negotiate additional compensation proportional to the increased benefit to City.

C. Failure to Procure Insurance

1. All required insurance must be submitted and approved by the Office of the City Administrative Officer/Risk Management prior to the inception of any operations or tenancy by Contractor/Consultant. The required coverages and limits are subject to availability on the open market at reasonable cost as determined by City. Non-availability or non-affordability must be documented by a letter from Contractor's/Consultant's insurance broker or agent indicating a good faith effort to place the required insurance and showing as a minimum the names of the insurance carriers and the declinations or quotations received from each.
2. 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 Agreement shall constitute a material breach of this Agreement under which City may immediately suspend or terminate this Agreement or, at its discretion, procure or renew such insurance to protect City's interests and pay any and all premiums in connection therewith and recover all monies so paid from Contractor/Consultant.

D. Workers' Compensation

1. By signing this Agreement, Contractor/Consultant hereby certifies that it is aware of the provisions of §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 Agreement.
2. A Waiver of Subrogation in favor of City will be required when work is performed on City premises under hazardous conditions.

**§415 Conflict of Interest**

A. No City-funded Employees as Board Members

1. The City will not execute any Agreements and/or Amendments with Contractors where an employee (an individual who is paid or receives any financial benefit from funds from the Agreement with the City), is a member of the Board of Directors. The Board minutes must reflect this requirement.

B. Conflict of Interest

1. Prior to obtaining the City's approval of any subcontract, the Contractor shall disclose to the City any relationship, financial or otherwise, direct or indirect, of the Contractor or any of its officers, directors or employees or their immediate family with the proposed subcontractor and its officers, directors or employees.
2. The Contractor covenants that none of its directors, officers, employees, or agents shall participate in selecting, or administering any subcontract supported (in whole or in part) by City funds (regardless of source) where such person is a director, officer, employee or agent of the subcontractor; or where the selection of subcontractors is or has the appearance of being motivated by a desire for personal gain for

themselves or others such as family business, etc.; or where such person knows or should have known that:

- a. A member of such person's immediate family, or domestic partner or organization has a financial interest in the subcontract;
- b. The subcontractor is someone with whom such person has or is negotiating any prospective employment; or
- c. The participation of such person would be prohibited by the California Political Reform Act, California Government Code §87100 et seq. if such person were a public officer, because such person would have a "financial or other interest" in the subcontract.

3. Definitions:

- a. The term "immediate family" includes but is not limited to domestic partner and/or those persons related by blood or marriage, such as husband, wife, father, mother, brother, sister, son, daughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law.
  - b. The term "financial or other interest" includes but is not limited to:
    - (1) Any direct or indirect financial interest in the specific contract, including a commission or fee, a share of the proceeds, prospect of a promotion or of future employment, a profit, or any other form of financial reward.
    - (2) Any of the following interests in the subcontractor ownership: partnership interest or other beneficial interest of five percent or more; ownership of five percent or more of the stock; employment in a managerial capacity; or membership on the board of directors or governing body.
  - c. A subcontract is any agreement entered into by Contractor for the purchase of goods or services with any funds provided by this Agreement.
- C. Minutes of Board Meetings must reflect disclosure of transactions where Board Members may have had a direct or indirect interest/benefit in the action.
- D. No director, officer, employee (or agent) of the Contractor may be on the Board of Directors if they receive any financial benefit provided by any City Agreement.
- E. The Contractor further covenants that no officer, director, employee, or agent shall solicit or accept gratuities, favors, anything of monetary value from any actual or potential subcontractor, supplier, a party to a sub agreement, (or persons who are otherwise in a position to benefit from the actions of any officer, employee, or agent).
- F. The Contractor shall not subcontract with a former director, officer, or employee within an one-year period following the termination of the relationship between said person and the Contractor.
- G. For further clarification of the meaning of any of the terms used herein, the parties agree that references shall be made to the guidelines, rules, and laws of the City of Los Angeles, State of California, and Federal regulations regarding conflict of interest.
- H. The Contractor warrants that it has not paid or given and will not pay or give to any third person, any money or other consideration for obtaining this Agreement.

- I. The Contractor covenants that no member, officer or employee of Contractor shall have interest, direct or indirect, in any contract or subcontract or the proceeds thereof for work to be performed in connection with this project during his/her tenure as such employee, member or officer or for one year thereafter.
- J. The Contractor shall incorporate the foregoing subsections of this Section into every agreement that it enters into in connection with this project and shall substitute the term "subcontractor" for the term "Contractor" and "sub-subcontractor" for "Subcontractor".
- K. The Contractor warrants that it has adopted and shall comply with the Code of Conduct, as approved by the City, that meets the foregoing requirements.

**§416 Compliance with State and Federal Statutes and Regulations**

- A. Contractor understands that failure to comply with any of the following assurances may result in suspension, termination or reduction of grant funds, and repayment by Contractor to City of any unlawful expenditures.

- 1. Statutes and Regulations Applicable To All Grant Contracts

- a. Contractor shall comply with all applicable requirements of state, federal, County and City of Los Angeles laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this Agreement. Contractor shall comply with state and federal laws and regulations pertaining to labor, wages, hours, and other conditions of employment. Contractor shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement. These requirements include, but are not limited to:

- (1) Office of Management and Budget (OMB) Circulars

- (a) Contractor shall comply with OMB Circulars, as applicable: OMB Circular A-21 (Cost Principles for Educational Institutions); OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments); OMB Circular A-102 (Grants and Cooperative Agreements with State and Local Governments); OMB Circular A-110 (Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations); OMB Circular A-122 (Cost Principles for Non-Profit Organizations); OMB Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations.)

- (2) Single Audit Act

- (a) If Federal funds are used in the performance of this Agreement, Contractor shall adhere to the rules and regulations of the Single Audit Act, 31 USC Sec. 7501 et seq.; City Council action dated February 4, 1987 (C.F. No. 84-2259-S1); and any administrative regulation or field memos implementing the Act. The provisions of this paragraph survive expiration or termination of this Contract.

- (3) Americans with Disabilities Act

- (a) Contractor hereby certifies that it will comply with the Americans with Disabilities Act 42, USC §§ 12101 *et seq.*, and its implementing regulations and the Americans with Disabilities Act Amendments Act (ADAAA) Pub. L. 110-325 and all subsequent amendments. Contractor will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act and the Americans with Disabilities Act Amendments Act (ADAAA) Pub. L. 110-325 and all subsequent amendments. Contractor will not discriminate against persons with disabilities or against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by the Contractor, relating to this Agreement, to the extent allowed hereunder shall be subject to the provisions of this paragraph.
- (4) Political and Sectarian Activity Prohibited
  - (a) None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office. Neither shall any funds provided under this agreement be used for any purpose designed to support or defeat any pending legislation or administrative regulation. None of the funds provided pursuant to this Agreement shall be used for any sectarian purpose or to support or benefit any sectarian activity.
  - (b) If this Agreement provides for more than \$100,000.00 in grant funds or more than \$150,000 in loan funds, Contractor shall submit to the City a Certification Regarding Lobbying and a Disclosure Form, if required, in accordance with 31 USC 1352. No funds will be released to Contractor until the Certification is filed.
  - (c) Contractor shall file a Disclosure Form at the end of each calendar quarter in which there occurs any event requiring disclosure or which materially affects the accuracy of any of the information contained in any Disclosure Form previously filed by Contractor. Contractor shall require that the language of this Certification be included in the award documents for all subawards at all tiers and that all subcontractors shall certify and disclose accordingly.
- (5) Records Inspection
  - (a) At any time during normal business hours and as often as the City, the U.S. Comptroller General and the Auditor General of the State of California may deem necessary, Contractor shall make available for examination all of its records with respect to all matters covered by this Agreement. The City, the U.S. Comptroller General and the Auditor General of the State of California shall have the authority to audit, examine and make excerpts or transcripts from records,

including all Contractor's invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

- (b) Contractor agrees to provide any reports requested by the City regarding performance of the Agreement.

(6) Records Maintenance

- (a) Records, in their original form, shall be maintained in accordance with requirements prescribed by the City with respect to all matters covered on file for all documents specified in this Agreement. Original forms are to be maintained on file for all documents specified in this agreement. Such records shall be retained for a period of five (5) years after termination of this Agreement and after final disposition of all pending matters. "Pending matters" include, but are not limited to, an audit, litigation or other actions involving records. The City may, at its discretion, take possession of, retain and audit said records. Records, in their original form pertaining to matters covered by this Agreement, shall at all times be retained within the County of Los Angeles unless authorization to remove them is granted in writing by the City.

(7) Subcontracts and Procurement

- (a) Contractor shall comply with the federal and City standards in the award of any subcontracts. For purposes of this Agreement, subcontracts shall include but not be limited to purchase agreements, rental or lease agreements, third party agreements, consultant service contracts and construction subcontracts.
- (b) Contractor shall ensure that the terms of this Agreement with the City are incorporated into all Subcontractor Agreements. The Contractor shall submit all Subcontractor Agreements to the City for review prior to the release of any funds to the subcontractor. The Contractor shall withhold funds to any subcontractor agency that fails to comply with the terms and conditions of this Agreement and their respective Subcontractor Agreement.

(8) Labor

- (a) Contractor shall comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed requirements for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System Personnel Administration (5 C.F.R. 900, Subpart F).
- (b) Contractor shall comply, as applicable, with the provision of the Davis-Bacon Act (40 U.S.C. §§276a-276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

- (c) Contractor shall comply with the Federal Fair Labor Standards Act (29 USC §201) regarding wages and hours of employment.
- (d) None of the funds shall be used to promote or deter Union/labor organizing activities. CA Gov't Code Sec. 16645 *et seq.*
- (e) Contractor shall comply with the Hatch Act (5 USC §§1501-1508 and 7324-7328).

(9) Civil Rights

Contractor shall comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) §504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation act of 1970 (P.L. 91-616) as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 *et seq.*) as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; (j) the requirements of any other nondiscrimination statute(s) which may apply to the application; (k) P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance; (l) Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (42 USC 2000e); (m) the Americans with Disabilities Act, 42 USC §12101 *et seq.*, and the Americans with Disabilities Act Amendments Act, Pub.L.110-325; and (n) the Genetic Information Nondiscrimination Act of 2008 (GINA) P.L. 110-233.

(10) Environmental

- (a) Contractor shall comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real

property acquired for project purposes regardless of Federal participation in purchases.

- (b) Contractor shall comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 *et seq.*); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 *et seq.*); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205); (i) Flood Disaster Protection Act of 1973 §102(a) (P.L. 93-234); and (j) §508 of the Clean Water Act (38 U.S.C. 1368).
- (c) Contractor shall comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 *et seq.*) related to protecting components or potential components of the national wild and scenic rivers system.
- (d) Contractor shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4822 *et seq.*) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures
- (e) Contractor shall comply with the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*) which restores and maintains the chemical, physical and biological integrity of the Nation's waters.
- (f) Contractor shall ensure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of this project are not listed in the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal Grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.
- (g) By signing this Agreement, Contractor ensures that it is in compliance with the California Environmental Quality Act (CEQA), Public Resources Code §21000 *et seq.* and is not impacting the environment negatively.

(11) Preservation.

- (a) Contractor shall comply with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 *et seq.*).
- (12) Suspension and Debarment
- (a) Contractor shall comply with Federal Register, Volume 68, Number 228, regarding Suspension and Debarment, and Contractor shall submit a Certification Regarding Debarment required by Executive Orders 12459 and 12689, and any amendment thereto. Said Certification shall be submitted to the City concurrent with the execution of this Agreement and shall certify that neither Contractor nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department head or agency. Contractor shall require that the language of this Certification be included in the award documents for all sub-award at all tiers and that all subcontractors shall certify accordingly.
- (13) Drug-Free Workplace
- (a) Contractor shall comply with the federal Drug-Free Workplace Act of 1988, 41 USC §701, 28 CFR Part 67; the California Drug-Free Workplace Act of 1990, CA Gov't Code §§ 8350-8357.
- (14) Miscellaneous
- (a) Contractor shall comply with the Laboratory Animal Welfare Act of 1966, as amended (P.L. 89-544, 7 USC §§2131 *et seq.*)
  - (b) Contractor shall assure, pursuant to the Consolidated Appropriations Act of 2008 (P.L. 110-161) grant funds must not be used in contravention of the federal buildings performance and reporting requirements of Executive Order No. 13123, part 3 of title V of the National Energy Conservation Policy Act (42 USC 8251 *et Seq.*) or subtitle A of title I of the Energy Policy Act of 2005 (including the amendments made thereby), nor shall grant funds be used in contravention of section 303 of the Energy Policy Act of 1992 (42 USC 13212).
- (15) Pro-Children Act of 1994
- (a) Contractor must comply with Public Law 103-227, Part C-Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act). This Act requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State and local governments. Federal programs include

grants, cooperative agreements, loans or loan guarantees, and contracts. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug and alcohol treatment.

(b) Contractor further agrees that the above language will be included in any subcontracts that contain provisions for children's services and that all subcontractors shall certify compliance accordingly.

(16) American-Made Equipment/Products

(a) Contractor shall assure, pursuant to Public Law 103-333, §507, to the extent practicable, that all equipment and products purchased with funds made available under this Agreement shall be American made.

(17) Contractor shall administer this Agreement in accordance with OMB requirements contained in the following Circulars: Common Rule, Subpart C, for public agencies, or 2 CFR 215 for nonprofit organizations.

(18) Faith Based Activities

Contractor shall comply with 24 CFR 570.200(j) regarding Faith Based Activities.

B. Statutes and Regulations Applicable To This Particular Grant

1. Contractor shall comply with all applicable requirements of state and federal laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this particular grant program. Contractor shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement. These requirements include, but are not limited to:

The Housing and Community Development Act of 1992 (42 USC §5301 *et seq.*) as amended, 24 CFR parts 84, 85, 500 *et seq.*

Contractor shall comply with the provisions of the California Child Abuse and Neglect Reporting Act, CA Penal Code § 11164 *et seq.* and specifically §§ 11165.7, 11165.9, 11166.

**§417 Federal, State and Local Taxes**

A. Federal, State and local taxes shall be the responsibility of the Contractor as an independent Contractor and not as a City employee.

**§418 Inventions, Patents and Copyrights**

A. Reporting Procedure for Inventions

1. If any project produces any invention or discovery (Invention) patentable or otherwise under Title 35 of the U.S. Code, including, without limitation, processes and business methods made in the course of work under this Agreement, the Contractor shall report the fact and disclose the Invention promptly and fully to the City. The City shall report the fact and disclose the Invention to the Grantor. Unless there is a prior

agreement between the City and the Grantor, the Grantor shall determine whether to seek protection on the Invention. The Grantor shall determine how the rights in the Invention, including rights under any patent issued thereon, will be allocated and administered in order to protect the public interest consistent with the policy ("Policy") embodied in the Federal Acquisition Regulations System which is based on Ch. 18 of title 35 U.S.C. Sections 200 *et seq.* (Pub. L. 95-517, Pub. L. 98-620, 37 CFR part 401); Presidential Memorandum on Government Patent Policy to the Heads of the Executive Departments and Agencies, dated 2/18/1983; and Executive Order 12591, 4/10/87, 52 FR 13414, 3 CFR, 1987 Comp, p. 220 (as amended by Executive Order 12618, 12/22/87, 52 FR 48661, 3 CFR, 1987 Comp., p. 262). Contractor hereby agrees to be bound by the Policy, and will contractually require its personnel to be bound by the Policy.

B. Right to Use Inventions

1. City shall have an unencumbered right, and a non-exclusive, irrevocable, royalty-free license, to use, manufacture, improve upon, and allow others to do so for all government purposes, any Invention developed under this Agreement.

C. Copyright Policy

1. Unless otherwise provided by the terms of the Grantor or of this Agreement, when copyrightable material (Material) is developed under this Agreement, the author or the City, at the City's discretion, may copyright the Material. If the City declines to copyright the Material, the City shall have an unencumbered right, and a non-exclusive, irrevocable, royalty-free license, to use, manufacture, improve upon, and allow others to do so for all government purposes, any Material developed under this Agreement.
2. The Grantor shall have an unencumbered right, and a non-exclusive, irrevocable, royalty-free license, to use, manufacture, improve upon, and allow others to do so for all government purposes, any Material developed under this Agreement or any Copyright purchased under this Agreement.
3. Contractor shall comply with 24 CFR 85.34.

D. Rights to Data

1. The Grantor and the City shall have unlimited rights or copyright license to any data first produced or delivered under this Agreement. "Unlimited rights" means the right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform and display publicly, or permit others to do so; as required by 48 CFR 27.401. Where the data are not first produced under this Agreement or are published copyrighted data with the notice of 17 U.S.C. Section 401 or 402, the Grantor acquires the data under a copyright license as set forth in 48 CFR 27.404(f)(2) instead of unlimited rights. (48 CFR 27.404(a)).

E. Obligations Binding on Subcontractors

1. Contractor shall require all subcontractors to comply with the obligations of this section by incorporating the terms of this section into all subcontracts.

F. Ownership

1. Except where City/State has agreed in a signed writing to accept a license, City/State shall remain, without additional compensation, the sole owner of any and all rights, title and interest in all intellectual property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or City/State and which result directly or indirectly from this Agreement.
2. For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents (whether or not issued), copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know-how, design flows, methodologies, devices, business processes, developments, innovations, good will any data or information maintained, collected or stored in the ordinary course of business by City/State, and all other legal rights protecting intangible proprietary information as may exist now and/or hereafter come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country, jurisdiction.
3. For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter, including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works, including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos, computer software and any other materials of products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. "Works" does not include articles submitted to peer review or reference journals or independent research projects.
4. In the performance of this Agreement, Contractor may exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Contract. In addition, under this Agreement, Contractor may access and utilize certain of City's/State's Intellectual Property in existence prior to the effective date of this Contract. Except as otherwise set forth herein, Contractor shall not use any of City's/State's Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of City/State. Except as otherwise set forth herein, neither Contractor nor City/State shall give any ownership interest in or rights to its Intellectual Property to the other Party. If, during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to City/State, Contractor agrees to abide by all license and confidentiality restrictions applicable to City/State in the third-party's license agreement.
5. Contractor agrees to cooperate with City/State in establishing or maintaining City/State's exclusive rights in the Intellectual Property, and in assuring City's/State's sole rights against third-parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to

perform this Contract, Contractor shall require the terms of agreement(s) to include all Intellectual Property provisions herein. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to City/State all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or City/State and which result directly indirectly from this Contract or any subcontract.

6. The requirement for the Contractor to include all Intellectual Property Provisions in all agreements and subcontracts it enters into with other parties does not apply to agreements or subcontracts that are for customized and on-the-job-training as authorized under 20 CFR 663, 700-730.
7. Contractor further agrees to assist and cooperate with City/State in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony, and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce City's/State's Intellectual Property rights and interests.

#### G. Retained Rights/License Rights

1. Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or City/State and which result directly or indirectly from this Agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Contract. Contractor hereby grants to City/State, without additional compensation, a permanent, non-exclusive, royalty free, paid up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose of Contractor's Intellectual Property with the right to sub-license through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.
2. Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of City/State or third-party, or result in a breach or default of any provisions herein or result in a breach of any provisions of law relating to confidentiality.

#### H. Copyright

1. Contractor agrees that for purposes of copyright law, all works made by or on behalf of Contractor in connection with Contractor's performance of this Contract shall be deemed "works for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Contract will be a "work made for hire", whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act; and (ii) that person shall assign all right, title, and interest to City/State to any

work product made, conceived, derived from or reduced to practice by Contractor or City/State and which result directly or indirectly from this Contract.

2. All materials, including, but not limited to, computer software, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from or reduced to practice by Contractor or City/State and which result directly or indirectly from this Agreement may not be reproduced or disseminated without prior written permission from City/State.

#### I. Patent Rights

With respect to inventions made by Contractor in the performance of this Contract which did not result from research and development specifically included in the Agreement's scope of work, Contractor hereby grants to City/State a license for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement's scope of work, then Contractor agrees to assign to City/State, without additional compensation, all its rights, title and interest in and to such inventions and to assist City/State in securing United States and foreign patents with respect thereto.

#### J. Third Party Intellectual Property

Except as provided herein, Contractor agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of Contractor or third-party without first: (i) obtaining City's/State's prior written approval; and (ii) granting to or obtaining for City's/State's, without additional compensation, a license, as described in §418F.3 above, for any of Contractor's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon these terms is unattainable, and City/State determines that the Intellectual Property should be included in or is required for Contractor's performance of this Agreement, Contractor shall obtain a license under terms acceptable to City/State.

#### K. Warranties

##### 1. Contractor represents and warrants that:

- a. It has secured and will secure all rights and licenses necessary for its performance of this Agreement. Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, its modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or City/State and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There are currently no actual or threatened claims by any such third-party based on an alleged violation of any such right by Contractor.
- b. Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.

- c. It has secured and will secure all rights and licenses necessary for Intellectual Property including, not limited to, consents, waivers or releases from all authors or music or performances used, and talent (radio, television, and motion picture talent), owners of any interest in an to real estate, sites locations, property or props that may be used or shown.
  - d. It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to City/State in this Agreement.
  - e. It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance or computer software in violation of copyright laws.
  - f. It has not knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.
2. City/State make no warranty that the intellectual property resulting from this sub-grant Agreement does not infringe upon any patent, trademark, copyright or the like, now existing or subsequently issued.

L. Intellectual Property Indemnity

1. Contractor shall indemnify, defend and hold harmless City/State and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products ("Indemnities") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third-party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim action, or proceeding, commenced or threatened) to which any of the Indemnities may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to: (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of City's/State's use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or City/State and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the Infringement claim is based on a patent, trademark or copyright registration that was issued after the effective date of this Contract. City/State reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against City/State.
2. Should any Intellectual Property licensed by the Contractor to City/State under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve City's/State's right to use the licensed Intellectual Property in accordance with this

Agreement at no expense to City/State. City/State shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for City/State to continue using the licensed Intellectual Property, or replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, City/State may be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.

3. Contractor agrees that damages alone would be inadequate to compensate City/State for breach of any term of these Intellectual Property provisions herein by Contractor. Contractor acknowledges City/State would suffer irreparable harm in the event of such breach and agrees City/State shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

#### **§419 Living Wage Ordinance and Service Contractor Worker Retention Ordinance.**

- A. Unless otherwise exempt in accordance with the provisions of this Ordinance, this contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), §10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), §10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. The Ordinances require the following:
  1. Contractor/Consultant assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of benefits as defined in the LWO;
  2. Contractor/Consultant further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. Contractor/Consultant shall require each of its Subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. Contractor/Consultant shall deliver the executed pledges from each such subcontractor to the City within ninety (90) days of the execution of the Subcontract. Contractor's/Consultant's delivery of executed pledges from each such Subcontractor shall fully discharge the obligation of the Contractor/Consultant to comply with the provision in the LWO contained in §10.37.6(c) concerning compliance with such federal law.
  3. The Contractor/Consultant, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the City with regard to the employer's compliance or anticipated compliance with the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the

LWO. Contractor/Consultant shall post the Notice of Prohibition Against Retaliation provided by the City.

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

#### **§420 Earned Income Tax Credit**

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

#### **§421 Equal Benefits Ordinance**

- A. Unless otherwise exempted in accordance with the provisions of the Equal Benefits Ordinance (EBO) §10.8.2.1 of the Los Angeles Administrative Code, this Contract is subject to the provisions of the EBO as amended from time to time.
- B. During the performance of the Contract, the Contractor/Consultant certifies and represents that the Contractor/Consultant will comply with the EBO. The Contractor/Consultant agrees to post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

1. "During the performance of a Contract with the City of Los Angeles, the Contractor/Consultant will provide equal benefits to employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles' Equal Benefits Ordinance may be obtained from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance, Equal Employment Opportunities Enforcement Section at (213) 847-1922."
- C. The failure of the Contractor/Consultant to comply with the EBO will be deemed to be a material breach of the Contract by the Awarding Authority.
  - D. If the Contractor/Consultant fails to comply with the EBO the Awarding Authority may cancel, terminate or suspend the Contract, in whole or in part, and all monies due or to become due under the Contract may be retained by the City. The City may also pursue any and all other remedies at law or in equity for any breach.
  - E. Failure to comply with the EBO may be used as evidence against the Contractor/Consultant in actions taken pursuant to the provisions of Los Angeles Administrative Code §10.40 *et seq.*, Contractor Responsibility Ordinance.
  - F. If the Office of Contract Compliance determines that a Contractor/Consultant has set up or used its Contracting entity for the purpose of evading the intent of the EBO, the Awarding Authority may terminate the Contract on behalf of the City. Violation of this provision may be used as evidence against the Contractor/Consultant in actions taken pursuant to the provisions of Los Angeles Administrative Code §10.40 *et seq.*, Contractor Responsibility Ordinance.

#### **§422 Contractor Responsibility Ordinance**

- A. Unless otherwise exempt in accordance with the provisions of the Ordinance, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, §10.40 *et seq.*, of Article 14, Chapter 1 of Division 10 of the Los Angeles Administrative Code, which requires Contractor/Consultant to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect Contractor's/Consultant's fitness and ability to continue performing the contract. In accordance with the provisions of this Ordinance, by signing this Contract, Contractor/Consultant pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this contract, including but not limited to, laws regarding health and safety, labor and employment, wage and hours, and licensing laws which affect employees. The Contractor/Consultant further agrees to: (1) notify the awarding authority within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the Contractor/Consultant is not in compliance with all applicable federal, state and local laws in performance of this contract; (2) notify the awarding authority within thirty calendar days of all findings by a government agency or court of competent jurisdiction that the Contractor/Consultant has violated the provisions of §10.40.3(a) of the Ordinance; (3) ensure that its subcontractor(s), as defined in the Ordinance, submit a Pledge of Compliance to awarding authorities; and (4) ensure that its subcontractor(s), as defined in the Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify Awarding Authorities within thirty calendar days after any

government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated §10.40.3(a) of the Ordinance in performance of the subcontract.

#### **§423 Slavery Disclosure Ordinance**

- A. This contract may be subject to the Slavery Disclosure Ordinance in the future. If so, Contractor will be notified of the applicability by the City.
- B. Unless otherwise exempt in accordance with the provisions of this Ordinance, this Contract is subject to the Slavery Disclosure Ordinance, §10.41 of the Los Angeles Administrative Code, as may be amended from time to time. Contractor/Consultant certifies that it has complied with the applicable provisions of this Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this Agreement.

#### **§424 Restriction on Disclosures**

- A. Any reports, analysis, studies, drawings, information, or data generated as a result of this Agreement are to be considered as confidential. Such information shall not be made available to any individual, agency, or organization except as provided for in this Agreement or as provided by law.

#### **§425 Child support Assignment Orders**

- A. This Contract is subject to §10.10 of the Los Angeles Administrative Code, Child Support Assignment Orders Ordinance. Pursuant to this Ordinance, Contractor/Consultant certifies that it will (1) fully comply with all State and Federal employment reporting requirements applicable to Child Support Assignment Orders; 2) that the principal owner(s) of Contractor/Consultant are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (3) fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code §5230 *et seq.*; and (4) maintain such compliance throughout the term of this Contract. Pursuant to §10.10.b of the Los Angeles Administrative Code, failure of Contractor/Consultant to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders and Notices of Assignment or the failure of any principal owner(s) of Contractor/Consultant to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default by the Contractor/Consultant under the terms of this Contract, subjecting this Contract to termination where such failure shall continue for more than ninety (90) days after notice of such failure to Contractor/Consultant by City. Any subcontract entered into by the Contractor/Consultant relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph and shall incorporate the provisions of the Child Support Assignment Orders Ordinance. Failure of the Contractor/Consultant to obtain compliance of its subcontractors shall constitute a default by the Contractor/Consultant under the terms of this contract, subjecting this Contract to termination where such failure shall continue for more than ninety (90) days after notice of such failure to Contractor/Consultant by the City.
- B. Contractor/Consultant shall comply with the Child Support Compliance Act of 1998 of the State of California Employment Development Department. Contractor/Consultant assures that to the best of its knowledge it is fully complying with the earnings

assignment orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in subdivision (1) of the Public Contract Code 7110.

#### **§426 COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470(c)(12)**

The Contractor, Subcontractors, and their Principals are obligated to fully comply with City of Los Angeles Charter Section 470(c)(12) and related ordinances, regarding limitations on campaign contributions and fundraising for certain elected City officials or candidates for elected City office if the contract is valued at \$100,000 or more and requires approval of a City elected official. Additionally, Contractor is required to provide and update certain information to the City as specified by law. Any Contractor subject to Charter Section 470(c)(12), shall include the following notice in any contract with a subcontractor expected to receive at least \$100,000 for performance under this contract:

##### Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions

As provided in Charter Section 470(c)(12) and related ordinances, you are subcontractor on City of Los Angeles contract #\_\_\_\_\_. Pursuant to City Charter Section 470(c)(12), subcontractor and its principals are prohibited from making campaign contributions and fundraising for certain elected City officials or candidates for elected City office for 12 months after the City contract is signed. Subcontractor is required to provide to contractor names and addresses of the subcontractor's principals and contact information and shall update that information if it changes during the 12 month time period. Subcontractor's information included must be provided to contractor within 5 business days. Failure to comply may result in termination of contract or any other available legal remedies includes fines. Information about the restrictions may be found at the City Ethics Commission's website at <http://ethics.lacity.org/> or by calling 213/978-1960.

Contractor, Subcontractors, and their Principals shall comply with these requirements and limitations. Violation of this provision shall entitle the City to terminate this Agreement and pursue any and all legal remedies that may be available.

#### **§427 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.

#### **§428 CONTRACTOR PERSONNEL**

Contractor shall only assign personnel to this job who are qualified for this assignment by experience and/or education to perform the tasks under this Agreement. In the event anyone is replaced or terminated, Contractor shall notify the City in writing, within five (5) days after termination, and provide information regarding the replacement employees' work and educational experience and qualifications.

#### **§429 WARRANT AND RESPONSIBILITY OF CONTRACTOR**

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

### **5. DEFAULTS, SUSPENSION, TERMINATION, AND AMENDMENTS**

### **§501 Defaults**

- A. Should the Contractor fail for any reason to comply with the contractual obligations of this Agreement within the time specified by this Agreement, the City reserves the right to:
  - 1. Reduce the total budget;
  - 2. Make any changes in the general scope of this Agreement;
  - 3. Suspend project operations in accordance with §502 of this Agreement; or
  - 4. Terminate the Agreement.

### **§502 Suspension**

- A. The City may suspend all or part of the project operations for failure by the Contractor to comply with the terms and conditions of this Agreement by giving written notice, which shall be effective upon receipt.
- B. Said notice shall set forth the specific conditions of noncompliance and the period provided for corrective action.
- C. Within five (5) working days the Contractor shall reply in writing setting forth the corrective actions which will be undertaken, subject to City approval in writing.
- D. Performance under this Agreement shall be automatically suspended without any notice from the City as of the date the Contractor is not fully insured in compliance with §413 (Insurance) herein. Performance shall not resume without the prior written approval of City.

### **§503 Termination**

- A. Either party to this Agreement may terminate this Agreement or any part hereof upon giving the other party at least thirty (30) days written notice prior to the effective date of such termination, which date shall be specified in such notice.
- B. All property, documents, data, studies, reports and records purchased or prepared by the Contractor under this Agreement shall be disposed of according to City directives.
- C. In the event that the Contractor ceases to operate (i.e. dissolution of corporate status, declaration of bankruptcy, etc.) Contractor shall provide to the City copies of all records relating to this Agreement.
- D. Upon satisfactory completion of all termination activities, the City shall determine the total amount of compensation that shall be paid to the Contractor for any unreimbursed expenses reasonably and necessarily incurred in the satisfactory performance of this Agreement.
- E. The City may withhold any payments due to the Contractor until such time as the exact amount of any damages that may be due to the City from the Contractor is determined.
- F. The foregoing Subsection B, C, D, and E shall also apply to activities terminating upon the date specified in §201 or upon completion of the performance of this Agreement.

### **§504 Notices of Suspension or Termination**

- A. In the event that this Agreement is suspended or terminated, the Contractor shall immediately notify all employees and participants and shall notify in writing all other

parties contracted with under the terms of Agreement within five (5) working days of such suspension or termination.

#### **§505 Amendments**

- A. Any change in the terms of this Agreement, including changes in the services to be performed by the Contractor, and any increase or decrease in the amount of compensation which are agreed to by the City and the Contractor shall be incorporated into this Agreement by a written amendment properly executed and signed by the person authorized to bind the parties thereto.
- B. The Contractor agrees to comply with all future City Directives or any rules, amendments or requirements promulgated by the City affecting this Agreement.

### **6. ENTIRE AGREEMENT**

#### **§601 Complete Agreement**

- A. This Agreement contains the full and complete Agreement between the two parties. No verbal agreement nor conversation with any officer or employee of either party shall affect or modify any of the terms and conditions of this Agreement.

#### **§602 Number of Pages and Attachments**

- A. This Agreement is executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement includes Forty-Two (42) pages and Five (5) Exhibits which constitute the entire understanding and agreement of the parties.

**7. SIGNATURE PAGE**

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

APPROVED AS TO FORM:

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2011

CARMEN A. TRUTANICH, City Attorney

For: THE CITY OF LOS ANGELES

DOUGLAS GUTHRIE  
General Manager  
Los Angeles Housing Department

By: \_\_\_\_\_  
Deputy / Assistant City Attorney

By: \_\_\_\_\_

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

ATTEST:

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2011

JUNE LAGMAY, City Clerk

For: COMPUTER PROFESSIONALS  
UNLIMITED, INC. DBA  
RYDEK COMPUTER PROFESSIONALS

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

By: \_\_\_\_\_  
Print name: \_\_\_\_\_  
Title: \_\_\_\_\_

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

(Contractor's Corporate Seal or Notary)

By: \_\_\_\_\_  
Print name: \_\_\_\_\_  
Title: \_\_\_\_\_

City Business License Number: 0000933289-0001-5  
Internal Revenue Service Number: 95-4680364

| CAO/Council FileNo. | Contract/Amendments | Dates      |
|---------------------|---------------------|------------|
| CF 11-0600          |                     | 06-03-2011 |
| CF 10-0600-S60      |                     | 09/09/2011 |
| CF 09-2841          |                     | 07/12/2011 |

Said Agreement is Number \_\_\_\_\_ of City Contracts

Rydek Computer Professionals  
Contract \_\_\_\_\_

**EXHIBIT A**  
**CITY OF LOS ANGELES**  
**INSTRUCTIONS AND INFORMATION**  
**ON COMPLYING WITH CITY INSURANCE REQUIREMENTS**  
*(Share this information with your insurance agent or broker.)*

1. **Agreement/Reference** All evidence of insurance must identify the nature of your business with the CITY. Clearly show any assigned number of a bid, contract, lease, permit, etc. or give the project name and the job site or street address to ensure that your submission will be properly credited. Provide the **types of coverage and minimum dollar amounts** specified on the Required Insurance and Minimum Limits sheet (Form Gen. 146) included in your CITY documents.

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

3. **Acceptable Evidence and Approval** Electronic submission is the preferred method of submitting your documents. **Track4LA™** is the City's online insurance compliance system and is designed to make the experience of submitting and retrieving insurance information quick and easy. The system is designed to be used primarily by insurance brokers and agents as they submit client insurance certificates directly to the City. It uses the standard insurance industry form known as the **ACORD 25 Certificate of Liability Insurance** in electronic format. **Track4LA™** advantages include standardized, universally accepted forms, paperless approval transactions (24 hours, 7 days per week), and security checks and balances. The easiest and quickest way to obtain approval of your insurance is to have your insurance broker or agent access **Track4LA™** at <http://track4la.lacity.org> and follow the instructions to register and submit the appropriate proof of insurance on your behalf.

Insurance industry certificates other than the ACORD 25 may be accepted. **All** Certificates must provide a thirty (30) days' cancellation notice provision (ten (10) days for non-payment of premium) AND an Additional Insured Endorsement naming the CITY an additional insured completed by your insurance company or its designee. If the policy includes an automatic or blanket additional insured endorsement, the Certificate must state the CITY is an automatic or blanket additional insured. An endorsement naming the CITY an Additional Named Insured and Loss Payee as Its Interests May Appear is required on property policies. All evidence of insurance must be authorized by a person with authority to bind coverage, whether that is the authorized agent/broker or insurance underwriter.

**Acceptable Alternatives to Acord Certificates and other Insurance Certificates:**

A **copy of the full insurance policy** which contains a thirty (30) days' cancellation notice provision (ten (10) days for non-payment of premium) and additional insured and/or loss-payee status, when appropriate, for the CITY. **Binders and Cover Notes** are also acceptable as interim evidence for up to 90 days from date of approval. Additional Insured Endorsements DO NOT apply to the following:

- Indication of compliance with statute, such as Workers' Compensation Law.
- Professional Liability insurance.

Completed **Insurance Industry Certificates other than ACORD 25 Certificates** can be sent electronically ([CAO.insurance.bonds@lacity.org](mailto:CAO.insurance.bonds@lacity.org)) or faxed to the Office of the City Administrative Officer, Risk Management (213) 978-7616. Please note that submissions other than through **Track4LA** will delay the insurance approval process as documents will have to be manually processed.

Verification of approved insurance and bonds may be obtained by checking **Track4LA™**, the City's online insurance compliance system, at <http://track4la.lacity.org>.

4. **Renewal** When an existing policy is renewed, have your insurance broker or agent submit a new Acord 25 Certificate through **Track4LA™** at <http://track4la.lacity.org> or submit an Insurance Industry Certificate or a renewal endorsement as outlined in Section 3 above. If your policy number changes you must also submit a new Additional Insured Endorsement with an Insurance Industry Certificate.

5. **Alternative Programs/Self-Insurance** Risk financing mechanisms such as Risk Retention Groups, Risk Purchasing Groups, off-shore carriers, captive insurance programs and self-insurance programs are subject to separate approval after the CITY has reviewed the relevant audited financial statements. To initiate a review of your program, you should complete the Applicant's Declaration of Self Insurance form (<http://cao.lacity.org/risk/InsuranceForms.htm>) to the Office of the City Administrative Officer, Risk Management for consideration.

6. **General Liability** insurance covering your operations (and products, where applicable) is required whenever the CITY is at risk of third-party claims which may arise out of your work or your presence or special event on City premises. **Sexual Misconduct** coverage is a required coverage when the work performed involves minors. **Fire Legal Liability** is required for persons occupying a portion of CITY premises. (Information on two CITY insurance programs, the SPARTA program, an optional source of low-cost insurance which meets the most minimum requirements, and the Special Events Liability Insurance Program, which provides liability coverage for short-term special events on CITY premises or streets, is available at ([www.2sparta.com](http://www.2sparta.com)), or by calling (800) 420-0555.)

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

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

9. **Workers' Compensation and Employer's Liability** insurance are not required for single-person contractors. However, under state law these coverages (or a copy of the state's Consent To Self Insure) must be provided if you have any employees at any time during the period of this contract. Contractors with no employees must complete a Request for Waiver of Workers' Compensation Insurance Requirement (<http://cao.lacity.org/risk/InsuranceForms.htm>). **A Waiver of Subrogation** on the coverage is required only for jobs where your employees are working on CITY premises under hazardous conditions, e.g., uneven terrain, scaffolding, caustic chemicals, toxic materials, power tools, etc. The Waiver of Subrogation waives the insurer's right to recover (from the CITY) any workers' compensation paid to an injured employee of the contractor.

10. **Property Insurance** is required for persons having exclusive use of premises or equipment owned or controlled by the CITY. **Builder's Risk/Course of Construction** is required during construction projects and should include building materials in transit and stored at the project site.

11. **Surety** coverage may be required to guarantee performance of work and payment to vendors and suppliers. A **Crime Policy** may be required to handle CITY funds or securities, and under certain other conditions. **Specialty coverages** may be needed for certain operations. For assistance in obtaining the CITY required bid, performance and payment surety bonds, please see the City of Los Angeles Bond Assistance Program website address at <http://cao.lacity.org/risk/BondAssistanceProgram.pdf> or call (213) 258-3000 for more information

**EXHIBIT B**  
**CERTIFICATION REGARDING**  
**DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**  
**LOWER TIER COVERED TRANSACTIONS**

This certification is required by the regulations implementing Executive Orders 12459 and 12689, Debarment and Suspension, 24 CFR Part 24 Section 24.510, and 29 CFR Parts 97.35 and 98.510, Participants' responsibilities.

**(READ ATTACHED INSTRUCTIONS FOR CERTIFICATION BEFORE COMPLETING)**

1. The prospective recipient of Federal assistance funds certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective recipient of Federal assistance funds is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

AGREEMENT NUMBER \_\_\_\_\_

COMPUTER PROFESSIONALS UNLIMITED, INC. DBA  
RYDEK COMPUTER PROFESSIONALS  
CONTRACTOR/BORROWER/AGENCY

\_\_\_\_\_  
NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

**Exhibit B (cont.)**  
**INSTRUCTIONS FOR CERTIFICATION**

1. By signing and submitting this document, the prospective recipient of Federal assistance funds is providing the certification as set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective recipient of Federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective recipient of Federal assistance funds shall provide immediate written notice to the person to which this agreement is entered, if at any time the prospective recipient of Federal assistance funds learns that its certification was erroneous, when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Orders 12459 and 12689.
5. The prospective recipient of Federal assistance funds agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective recipient of Federal assistance funds further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Procurement or Non-Procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntary excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with

which this transaction originated may pursue available remedies, including suspension and/or debarment.

**EXHIBIT C**  
**CERTIFICATION REGARDING LOBBYING**

**Certification for Contracts, Grants, Loans**  
**and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying" in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352 Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less that \$10,000 and not more than \$100,000 for each such failure.

AGREEMENT NUMBER \_\_\_\_\_

COMPUTER PROFESSIONALS UNLIMITED, INC. DBA  
RYDEK COMPUTER PROFESSIONALS  
CONTRACTOR/BORROWER/AGENCY

\_\_\_\_\_  
NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

**EXHIBIT D**  
**NOTICE OF PROHIBITION AGAINST RETALIATION**

An employer subject to the Living Wage Ordinance shall post in a prominent place in an area frequented by employees a copy of the below notice to employees regarding the LWO prohibition against retaliation (also available in English at [www.lacity.org/BCA/lwo\\_retaliation\\_English.pdf](http://www.lacity.org/BCA/lwo_retaliation_English.pdf) and in Spanish at [www.lacity.org/BCA/lwo\\_retaliation\\_spanish.pdf](http://www.lacity.org/BCA/lwo_retaliation_spanish.pdf). The retaliation notice must be posted by an employer even if the employer has been exempted from the LWO.

**NOTICE TO EMPLOYEES  
WORKING ON CITY CONTRACTS  
RE: LIVING WAGE ORDINANCE AND  
PROHIBITION AGAINST RETALIATION**

"Section 10.37.5 Retaliation Prohibited" of the Living Wage Ordinance (LWO) provides that any employer that has a contractual relationship with the City **may not** discharge, reduce the pay of, or discriminate against his or her employees working under the City contract for any of the following reasons:

1. Complaining to the City if your employer is not complying with the Ordinance.
2. Opposing any practice prohibited by the Ordinance.
3. Participating in proceedings related to the Ordinance, such as serving as a witness and testifying in a hearing.
4. Seeking to enforce your rights under this Ordinance by any lawful means.
5. Asserting your rights under the Ordinance.

Also, you may not be fired, lose pay or be discriminated against for asking your employer questions about the Living Wage Ordinance, or asking the City about whether your employer is doing what is required under the LWO. If you are fired, lose pay, or discriminated against, you have the right to file a complaint with the Equal Employment Opportunities Enforcement Section, as well as file a claim in court.

For more information, or to obtain a complaint form, please call the Equal Employment Opportunities Enforcement Section at (213) 847-1922.

**CITY OF LOS ANGELES  
Department of Public Works  
Bureau of Contract Administration  
Office of Contract Compliance  
1149 S. Broadway Street, 3<sup>rd</sup> Floor  
Los Angeles, CA 90015  
Phone: (213) 847-1922 — Fax: (213) 847-2777**

Rev. 06/06

**EXHIBIT E**

**Billing Rate Ranges by Job Title**

|                                   |                              |
|-----------------------------------|------------------------------|
| Application Programmer            | \$34.75/hour to \$71.28/hour |
| Programmer Analyst                | \$48.13/hour to \$74.67/hour |
| Systems Programmer                | \$51.87/hour to \$66.75/hour |
| Geographic Information Specialist | \$66.75/hour to \$84.37/hour |
| Business Intelligence Specialist  | \$66.75/hour to \$84.37/hour |
| Database Architect                | \$66.75/hour to \$84.37/hour |

**PROFESSIONAL SERVICE AGREEMENT**

CONTRACTOR: **3Di, Inc.**

SAID AGREEMENT NUMBER IS \_\_\_\_\_ OF CITY CONTRACTS

DRAFT

**TABLE OF CONTENTS**

| <u>Section Number and Table</u>                                      | <u>Page</u> |
|--|-------------|
| <b>1. INTRODUCTION</b> .....   | <b>6</b>    |
| §101 PARTIES TO THE AGREEMENT.....                                   | 6           |
| §102 REPRESENTATIVES OF THE PARTIES AND SERVICE OF NOTICES.....      | 6           |
| §103 INDEPENDENT CONTRACTOR.....                                     | 6           |
| §104 CONDITIONS PRECEDENT TO EXECUTION OF THIS AGREEMENT.....        | 7           |
| <b>2. TERM AND SERVICES TO BE PROVIDED</b> .....                     | <b>7</b>    |
| §201 TIME OF PERFORMANCE .....                                       | 7           |
| §202 SERVICES TO BE PROVIDED BY THE CONTRACTOR.....                  | 7           |
| §203 STATEMENT OF WORK.....  | 8           |
| §204 RESPONSIBILITIES OF THE LAHD .....                              | 13          |
| <b>3. PAYMENT</b> .....  | <b>13</b>   |
| §301 COMPENSATION AND METHOD OF PAYMENT .....                        | 13          |
| <b>4. STANDARD PROVISION</b> .....                                   | <b>16</b>   |
| §401 CONSTRUCTION OF PROVISIONS AND TITLES HEREIN .....              | 16          |
| §402 APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT.....             | 16          |
| §403 INTEGRATED AGREEMENT.....                                       | 16          |
| §404 EXCUSABLE DELAYS.....   | 16          |
| §405 BREACH.....   | 16          |
| §406 WAIVER .....  | 17          |
| §407 PROHIBITION AGAINST ASSIGNMENT OR DELEGATION.....               | 17          |
| §408 PERMITS.....  | 17          |
| §409 NONDISCRIMINATION AND AFFIRMATIVE ACTION .....                  | 17          |
| §410 CLAIMS FOR LABOR AND MATERIALS.....                             | 18          |
| §411 LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE .....    | 18          |
| §412 BONDS.....  | 18          |
| §413 INDEMNIFICATION.....  | 18          |
| §414 INSURANCE.....  | 18          |
| §415 CONFLICT OF INTEREST.....                                       | 20          |
| §416 COMPLIANCE WITH STATE AND FEDERAL STATUTES AND REGULATIONS..... | 22          |
| §417 FEDERAL, STATE AND LOCAL TAXES.....                             | 28          |

|   |           |
|---|-----------|
| §418 INVENTIONS, PATENTS AND COPYRIGHTS .....   | 28        |
| §419 LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER<br>RETENTION ORDINANCE ..... | 34        |
| §420 EARNED INCOME TAX CREDIT .....   | 35        |
| §421 EQUAL BENEFITS ORDINANCE.....  | 35        |
| §422 CONTRACTOR RESPONSIBILITY ORDINANCE.....   | 36        |
| §423 SLAVERY DISCLOSURE ORDINANCE .....   | 36        |
| §424 RESTRICTION ON DISCLOSURES .....   | 37        |
| §425 CHILD SUPPORT ASSIGNMENT ORDERS.....   | 37        |
| §426 COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470(c)(12) ....                 | 37        |
| §427 FIRST SOURCE HIRING ORDINANCE.....   | 38        |
| §428 CONTRACTOR PERSONNEL .....   | 39        |
| §429 WARRANT AN RESPONSIBILITY OF CONTRACTOR.....                                     | 39        |
| <b>5. DEFAULTS, SUSPENSION, TERMINATION, AND AMENDMENTS.....</b>                      | <b>39</b> |
| §501 DEFAULTS.....  | 39        |
| §502 SUSPENSION .....   | 40        |
| §503 TERMINATION.....   | 40        |
| §504 NOTICES OF SUSPENSION OR TERMINATION .....                                       | 40        |
| §505 AMENDMENTS .....   | 40        |
| <b>6. ENTIRE AGREEMENT .....</b>  | <b>41</b> |
| §601 COMPLETE AGREEMENT .....   | 41        |
| §602 NUMBER OF PAGES AND ATTACHMENTS.....   | 41        |
| <b>7. SIGNATURE PAGE.....</b>   | <b>42</b> |

**EXHIBITS**

|           |  |    |
|-----------|--|----|
| Exhibit A | Indemnification and Insurance Requirements.....  | 43 |
| Exhibit B | Certification Regarding Debarment, Suspension, Ineligibility and Voluntary<br>Exclusion Lower Tier Covered Transactions..... | 45 |
| Exhibit C | Certification Regarding Lobbying .....   | 48 |
| Exhibit D | Notice of Prohibition Against Retaliation .....  | 49 |
| Exhibit E | Billing Rate Ranges by Job Title .....   | 50 |

AGREEMENT NUMBER \_\_\_\_\_ OF CITY CONTRACTS  
BETWEEN  
THE CITY OF LOS ANGELES  
AND  
3Di, Inc.

THIS AGREEMENT is made and entered into by and between the City of Los Angeles, a municipal corporation, (hereinafter referred to as the "City"), acting by and through the Los Angeles Housing Department and 3Di, Inc., a California corporation (hereinafter referred to as "CONTRACTOR").

RECITALS

WHEREAS, the Los Angeles Housing Department (hereinafter referred to as "LAHD") has been designated by the City to provide for the proper planning, coordination, direction, and management of the City's various affordable housing development, code enforcement and rent stabilization activities; and

WHEREAS, the LAHD cooperates with private organizations, other agencies of the City and agencies of other governmental jurisdictions in carrying out certain functions and programs which are its responsibility; and

WHEREAS, the project which is the subject of this agreement, hereinafter called the Agreement, has been established by the City as one of the above described programs, and has been funded in the LAHD budget by Code and Rent fees, Municipal Housing Finance Fund, and Home Investment Partnerships Program Fund; and

WHEREAS, the LAHD on occasion, does experience difficulty in filling vacant positions in the classifications of Programmer Analyst, Application Programmer, Systems Programmer, Business Intelligence Specialist, Geographic Information Specialist, and Database Architect; and

WHEREAS, the continuing existence of such vacancies impacts accomplishment of the approved work program of LAHD; and

WHEREAS, the occasional provision of specialized contract personnel knowledgeable in the operation of information technology systems to augment regular LAHD staff could greatly assist in accomplishing the approved work program; and

WHEREAS, Contractor has experience and knowledge in providing contract employees experienced in the analysis, design, implementation, and support of data processing systems and the operation of data processing equipment and related operations support of activities on a time and material basis for a specified period of time including an option permitting the City to hire said employees at the end of the Contract period;

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

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

WHEREAS, the LAHD is utilizing the contract authority approved by the Mayor contained in Fiscal Year 2011-12 Budget as presented by the Mayor; and

NOW, THEREFORE, the City and the Contractor agree as follows:

REF

# 1. INTRODUCTION

## §101 Parties to the Agreement

A. The parties to this Agreement are:

1. The City of Los Angeles, a municipal corporation, having its principal office at 200 North Main Street, Los Angeles, California 90012.
2. The Contractor, known as 3Di, Inc., having its principal office at Los Angeles, CA.

## §102 Representatives of the Parties and Service of Notices

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

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

Douglas Guthrie, General Manager  
Los Angeles Housing Department  
1200 West 7th Street, Ninth Floor  
Los Angeles, CA 90017

With copies to:

Greg Kung, Director of Systems  
Los Angeles Housing Department  
1200 West 7th Street, Ninth Floor  
Los Angeles, CA 90017

2. The representative of the Contractor shall be:

Mehir Desai  
3 Point Drive, Suite #307  
Brea, CA 92821

B. Formal notices, demands and communications to be given hereunder by either party shall be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and shall be deemed communicated as of the date of mailing.

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

### **§103 Independent Contractor**

- A. The Contractor is acting hereunder as an independent contractor and not as an agent or employee of the City. No employee of the Contractor has been, is, or shall be an employee of the City by virtue of this Agreement, and the Contractor shall so inform each employee organization and each employee who is hired or retained under this Agreement. Contractor shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the City.

### **§104 Conditions Precedent to Execution of This Agreement**

- A. Contractor shall provide copies of the following documents to the City:
1. Proof of insurance as required by the City in accordance with Section 413 of this Agreement and attached hereto as Exhibit A and made a part hereof.
  2. Certification Regarding Ineligibility, Suspension and Debarment as required by Executive Orders 12459 and 12689 in accordance with §415.A.12 of this Agreement and attached hereto as Exhibit B and made a part hereof.
  3. Certifications and Disclosures Regarding Lobbying in accordance with §415.4.b of this Agreement and attached hereto as Exhibit C and made a part hereof. Contractor shall also file a Disclosure Form at the end of each calendar quarter in which there occurs any event requiring disclosure or which materially effects the accuracy of the information contained in any Disclosure Form previously filed by Contractor.
  4. A Certification of Compliance with the Living Wage Ordinance Service Contractor Worker Retention and Living Wage Policy in accordance with §418.
  5. A Certification of Compliance With Equal Benefits Ordinance/Reasonable Measures Application for Equal Benefits Ordinance in accordance with §420 of this Agreement and the Slavery Disclosure Ordinance in accordance with §422.
- B. Contractor shall submit a Code of Conduct to the City for approval and that it must meet the requirements of §414 Conflict of Interest of the Agreement.

## **2. TERM AND SERVICES TO BE PROVIDED**

### **§201 Time of Performance**

- A. The term of this Agreement shall commence on January 1, 2012 and end December 31, 2012. Said term is subject to the provisions herein. Performance shall not commence until the Contractor has obtained the City's approval of the insurance required in §413 herein. This is a 1-year contract. The City may agree, at its discretion, to extend the contract for two 1-year terms based upon the availability to the City of State and Federal funds and upon the Contractor's successful performance of all terms of this Agreement. The maximum contract term is three years.

## §202 Services to be Provided by the Contractor

- A. The City's primary objective is to obtain the use of contracting personnel with specialized knowledge on an as-needed basis. CONTRACTOR agrees to provide employees possessing technical expertise in specialized software, hardware, network or applications areas to meet the City's objective. The CONTRACTOR's employees shall provide temporary assistance on applications projects, utilizing specialized software, or in transferring/disseminating detailed implementation knowledge to City staff in the use of specialized software. These technical areas could include, among others, the use of application development tools, expert software, data administration, document writing skills, project management skills, quality assurance skills, server development methodologies, LAN and network security. All work is subject to prior City approval. Failure to receive approval may result in withholding compensation pursuant to §301.

## §203 Statement of Work

CONTRACTORS agrees to provide its employees to assist the CITY in performance of this contract. The employees to be provided by CONTRACTOR will have the following job titles and be capable of performing the following duties:

### A. Application Programmer

- Primary skill set includes Microsoft Studio.Net, VB.NET, ASP.NET, XML, XSD, XHTML, LDAP, Javascript, Power Designer, Use Case specifications, Structured Query Language, Visual Source Safe, MS-SQL, Web Services
- Experience in housing information systems and/or code information systems
- Analyzes and documents requirements for information systems prepared by project managers
- Develops and/or plans for automated data processing systems from project inception to conclusion, and/or as directed
- Constructs data models and activity/process models as may be required to define system functions
- Analyzes functional business requirements and design specifications for developing programs
  - Develops logical models, block diagrams and logic flow charts
  - Translates detailed design into computer software
  - Tests, debugs, and refines the computer software to produce the required product
  - Prepares required documentation, including both program-level and user-level documentation
  - Enhances software to reduce operating time and/or improve efficiency
- Coordinates closely with other personnel, as needed, to ensure proper development and implementation of program and system specifications
- Develops, in conjunction with functional users, system alternative solutions.
- Provides support for the creation, installation, testing, implementation, and ongoing maintenance of information systems
- Conducts and documents the results of special studies dealing with systems and/or business process issues

- Interpersonal skill set includes strong analytical, problem solving and project management skills, be able to work well with people and possess strong communication skills as needed to mentor others, communicate highly technical information to non-technical and technical users

## **B. Programmer Analyst**

- Primary skill set includes Microsoft Studio.Net, VB.NET, ASP.NET, XML, XSD, XHTML, LDAP, Javascript, Power Designer, Use Case specifications, Structured Query Language, Visual Source Safe, MS-SQL, Web Services
- Experience in housing information systems and/or code information systems
- Analyzes and documents requirements for information systems
- Develops and/or oversees plans for automated data processing systems from project inception to conclusion, and/or as directed
- Constructs data models and activity/process models as may be required to define system functions
- Analyzes functional business requirements and design specifications for developing programs
  - Develops logical models, block diagrams and logic flow charts
  - Translates detailed design into computer software
  - Tests, debugs, and refines the computer software to produce the required product
  - Prepares required documentation, including both program-level and user-level documentation
  - Enhances software to reduce operating time and/or improve efficiency
  - Coordinates closely with IT management, other Programmer Analyst, other Agency management, other Agency personnel, as needed, to ensure proper development and implementation of program and system specifications
- Develops, in conjunction with functional users, system alternative solutions.
- Provides support for the creation, installation, testing, implementation, and ongoing maintenance of information systems
- Conducts and documents the results of special studies dealing with systems and/or business process issues
- a minimum of 2 year of current experience similar or equivalent this job classification
- Interpersonal skill set includes strong analytical, problem solving and project management skills, be able to work well with people and possess strong communication skills as needed to mentor others, communicate highly technical information to non-technical and technical users

## **C. Business Intelligence (BI) Specialist**

- Primary technical skill set includes MicroStrategy Business Intelligence.
- Determines customer's information requirements
- Studies customer's requirements and determines if the business processes for gathering, cleansing, and ensuring the quality of data are adequate
- Analyzes options for preparing a BI solution
- Prepares an analysis document with the recommended solution

- Works with technical and management resources to develop the best solution
- Prepares project and operational cost estimates
- Presents final analysis document and cost estimate to customer for approval
- Interpersonal skill set includes strong analytical, problem solving and project management skills, be able to work well with people and possess strong communication skills as needed to mentor others, communicate highly technical information to non-technical and technical users
- Creates design documents for BI solution based on business analysis document.
- Works closely with database analysts to fine tune the BI solution design including database or data warehouse design
- Presents design documents to State architects as well as other technical and management resources to provide assurance that State is suggesting the best solution
- Presents design documents to customer for approval
- Prototypes the solution as designed and presents to the customer for approval
- Plans and supervises systems and customer acceptance test activities
- Prepares BI application and data warehouse processes for production
- Provides performance tuning of BI application and data warehouse processes.
- Educates and conducts continuous communication with end users throughout the project
- Manages individual BI projects using project management best practices
- Coordinates with project managers responsible for specific projects to ensure that interdependencies between projects are understood and that activities and direction are consistent with the related architecture and standard
- Identifies organizational change management issues and incorporates tasks in project plans to address
- Develops and administers overall project management plans that establish management and reporting requirements for BI projects
- Delegates tasks to other project team members and monitor performance

#### **D. Database Architect**

- Primary technical skill set includes Microsoft SQL RDBMS, Structured Query Language, ODBC, JDBC, XML
- Experience in housing information systems and/or code information systems
- Create and manage database objects according to business requirements
- Performs review and tuning of SQL code
- Performs database tuning and monitoring
- Monitor and audit database access
- Perform capacity planning
- Ensures database integrity; schedules database backup; provides for database recovery
- Supports development databases including refresh from production databases
- Transfers and maintains production program code
- Assists programmers or writes conversion programs to support changes in database structure; applies conversions, and verifies integrity of converted data
- Assists in providing twenty-four hour coverage for database support

- Maintains current procedure manuals for the maintenance of databases on existing systems
- Provides extensive troubleshooting and problem solving of database and application development issues for applications
- Works with vendors in support of database and administration toolsets enhancements that are beneficial to state applications
- Installs new and upgrades existing databases and administration toolsets; coordinates with development on testing and implementing enhancements and new features/functions
- Assists and trains application development and technical staff in database technologies and methods
- Requires four years of experience in this classification in last five years
- Experience in design, implementation, and manipulation of database management systems, data warehouses, and multidimensional databases. Experience with design of relational databases and data manipulation.
- 
- Interpersonal skill set includes strong analytical, problem solving skills, be able to work well with people and possess strong communication skills as needed to mentor others, communicate highly technical information to non-technical and technical users

#### **E. Systems Programmer**

- Primary technical skill set includes Windows, Active Directory, Windows File and Print; Experience with a variety of applications in one or more of the following areas including IIS, SQL Server, Exchange, SAN, VMWare HA, Double-Take, Pancetera, Onbase.
- Experience in housing information systems and/or code information systems
- Performs installation, monitoring, maintenance, trouble shooting, and repairs of infrastructure systems equipment
- Performs server hardware and/or software upgrade
- Supports and maintains user account information including rights, security, and systems groups
- Provides assistance on the use, interface, and integrations of systems, subsystems, and software applications
- Conducts research and evaluates new products
- Provides assistance in the procurement and inventory of hardware or software
- Provides technical assistance and support for applications and hardware problems
- Maintains the necessary security controls for the infrastructure
- Prepares evaluations and reports on system efficiency and utilization
- Requires three years of experience in this classification in last four years
- Technical skill set includes Windows, Active Directory, Windows File and Print; Experience with a variety of applications in one or more of the following areas including IIS, SQL Server, Exchange, SAN, VMWare HA, Double-Take, Pancetera.
- Interpersonal skill set includes strong analytical, problem solving and project management skills, be able to work well with people and possess strong

communication skills as needed to mentor others, communicate highly technical information to non-technical and technical users

#### **F. Geographic Information Specialist**

- Primary technical skill set includes ArcView, Arcinfo, AcIMS, Google Earth, Microsoft MapPoint.
- Experience in housing information systems and/or code information systems
- Design and coordinate development of integrated GIS databases of spatial data
- Develop, analyses and presentation of data, applying knowledge of geographic information systems and map projections
- Review existing and incoming data for quality and documentation; entry of data into database, application of coordinate geometry, keyboard entry of tabular data, manual digitizing of maps, scanning and automatic conversion to vectors, and conversion of other sources of digital data
- Maintains and updates databases using GIS software
- Image rectification/georeferencing and image manipulation
- Develops and maintains links between various databases
- Determine effective presentation of information and select cartographic elements needed
- Create output, such as maps and graphs, using computer and geographic information system software and related equipment, including plotters
- Compile digital data needed to produce maps; convert data as necessary
- Determine methods to analyze spatial relationships, including adjacency, containment, and proximity; display results of analyses using maps, graphs, and tabular data
- Spatial Analysis/mapping/modeling/reporting
- Provides hands-on vendor-specific and/or customized training to agency staff and/or management. As needed, provides class materials, user guides, and GIS documentation. May be required to utilize agency data in the development of exercises.
- Analyzes and documents requirements for data development related to public sector service delivery for a single or multiple related entities
- Develops and/or oversees data development plans from project inception to conclusion, and/or as directed
- Plans and/or conducts knowledge transfer to agency on data creation techniques, coordination, maintenance, and acquisition
- Constructs data models as may be required to define system
- Develops standards for data development
- Ensures quality standards are met as determined by analysis or Agency direction

All work performed by CONTRACTOR shall be in accordance with specific statements of work that may be issued from time to time. Employees provided by CONTRACTOR under this Contract shall be subject to CITY approval as to qualifications and suitability for performance of the services described herein. CONTRACTOR understands that the CITY will request CONTRACTOR'S services according to the CITY'S requirements and that such services may be required on a full or part-time basis.

The CITY may suspend or terminate the services of an employee provided by CONTRACTOR at the convenience of the CITY and upon one (1) day's written notice.

The CITY may immediately suspend or terminate the services of an employee provided by CONTRACTOR for gross negligence, misconduct, malicious mischief, unfavorable background investigation, or willful disregard of instructions at any time.

If the CITY should decide to hire one of CONTRACTOR'S employees, no advance notice need be provided to CONTRACTOR. Payment of a placement fee, if applicable, shall be in accordance with Section 3 PAYMENT of this Contract.

CONTRACTOR understands that the CITY may have, or subsequently enter into, other contracts with vendors for identical or similar services; therefore, CONTRACTOR agrees that this Contract does not grant an exclusive right to CONTRACTOR to provide all contracted programming and technical personnel.

#### **§204. Responsibilities of the LAHD**

The LAHD Director of Systems or his designated representative shall represent the LAHD in all matters pertaining to this Contract.

The LAHD may provide the following services, facilities and arrangements to CONTRACTOR:

- A. Supervision and guidance to CONTRACTOR personnel relative to the work product required by the LAHD pursuant to this Contract.
- B. Office space, desks, chairs and working materials.
- C. Related support services required for the performance of services under this Contract.

### **3. PAYMENT**

#### **§301 Compensation and Method of Payment**

##### **A. Invoices**

CONTRACTOR shall submit monthly invoices to the CITY as follows:

The specific hourly rate to be charged for CONTRACTOR'S personnel shall be determined prior to beginning employment by mutual written agreement between CONTRACTOR and the CITY. The hourly rate shall adhere to the billing rate ranges in Exhibit E (Billing Rate Ranges by Job Title). Payment of invoices shall be subject to approval by the CITY. No payment shall be made for any incidental expense.

CONTRACTOR's invoices must conform to CITY standards and include, at a minimum, the following information:

1. Name and address of CONTRACTOR;
2. Name and address of the CITY department being billed;
3. Date of the invoice and the period covered;
4. Reference to the contract number for this Contract;
5. Reference to the LAHD Written Approval (including the approved project budget) and the Statement of Work authorizing the work performed by CONTRACTOR;
6. Description of the services performed and the amount due for the services;
7. Name(s) of all CONTRACTOR's personnel performing the services for the CITY, the number of hours worked for each person, and the hourly rate for each person;
8. Payment terms, total due and due date;
9. Signed by a duly authorized officer under the penalty of perjury that the invoice is true and correct;
10. Remittance Address (if different from CONTRACTOR's address);
11. CONTRACTOR's State of California Sales and Use Tax Permit Number; and
12. CONTRACTOR's City of Los Angeles Business Tax Registration Certificate Number.

All invoices shall be submitted on CONTRACTOR's letterhead, contain CONTRACTOR's official logo, or contain other unique and identifying information such as name and address of CONTRACTOR. Evidence that tasks have been completed, in the form of a report, brochure, computer printout or photograph, shall be attached to all invoices. Invoices shall be submitted within 30 days of performance of services. Invoices are considered complete when appropriate documentation or services provided are signed off as satisfactory by the City Project Manager.

Invoices and supporting documentation shall be prepared at the sole expense and responsibility of CONTRACTOR. The CITY will not compensate CONTRACTOR for any costs incurred for invoice preparation. The CITY may request, in writing, changes to the content and format of the invoice and supporting documentation at any time. The CITY reserves the right to request additional supporting documentation to substantiate costs at any time.

Failure to adhere to these policies may result in nonpayment or non-approval of demands, pursuant to Charter 262(a), which requires the Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment

received by any CITY office or department, and approve demands before they are drawn on the Treasury.

B. Placement Fee

Should the CITY hire one (or more) of CONTRACTOR's employees as a regular full-time CITY employee, the following placement fee shall be paid to CONTRACTOR:

If the employee is hired by the CITY within six (6) months of continuous full-time employment under this Contract, the CITY shall pay CONTRACTOR a one time placement fee of two thousand dollars (\$2,000) per employee hired. CONTRACTOR agrees to refund the placement fee to the CITY if the employee leaves CITY service for any reason within four (4) months from date of hire as a regular CITY employee;

If a CONTRACTOR employee is hired by the CITY after the beginning of the seventh month after beginning continuous employment under this Contract, no placement fee shall apply.

Employment of CONTRACTOR's personnel by the CITY shall be in accordance with regular CITY Civil Service Examination and hiring procedures.

C. Total Contract Expenditure

The CITY's total obligation under this Contract shall not exceed **\$900,000 (Nine Hundred Thousand Dollars)**. The CONTRACTOR further understands and agrees that execution of this Contract does not obligate the City to spend any of the dollar amount in this Contract.

D. Written Approval Required

Before services are provided for LAHD, CONTRACTOR must first receive written approval to proceed by LAHD. The Written Approval must include a detailed Statement of Work defining the scope of services, duration of engagement, and the budget for the project. CONTRACTOR shall not exceed the approved scope or budget for any project, nor shall the CITY be liable for any work or charges exceeding the approved scope or budget unless prior written approval from LAHD is obtained modifying the scope or budget of the project.

E. It is understood that the CITY makes no commitment to fund this Agreement beyond the terms set herein.

F. Funding for all periods of this contract is subject to the continuing availability of federal funds for this program to the CITY. The Contract may be terminated immediately upon written notice to the Contractor of a loss or reduction of federal grant funds.

- G. Contractor shall warrant that any applicable discounts have been included in the costs to the CITY.
- H. Contractor acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the City under the False Claims Act (Cal. Gov. Code §§12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

**DRAFT**

## **4. STANDARD PROVISIONS**

### **§401 Construction of Provisions and Titles Herein**

- A. All titles or subtitles appearing herein have been inserted for convenience and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Agreement shall be construed according to its fair meaning and not strictly for or against the City or the Contractor. The word "Contractor" herein and in any amendments hereto includes the party or parties identified in this Agreement. The singular shall include the plural. If there is more than one Contractor as identified herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used. The word "days" means calendar days, including weekends and holidays, unless otherwise specifically provided.

### **§402 Applicable Law, Interpretation and Enforcement**

- A. Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the City. This Agreement shall be enforced and interpreted under the laws of the State of California and the City.
- B. In an action arising out of this Contract, Contractor consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.
- C. 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.

### **§403 Integrated Agreement**

- A. This Agreement sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous agreements or understandings, whether written or oral, relating thereto. This Agreement may be amended only as provided for herein.

### **§404 Excusable Delays**

- A. In the event that performance on the part of any party hereto shall be delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder shall include, but not be limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; epidemics;

quarantine restrictions; strikes, freight embargoes or delays in transportation; to the extent that they are not caused by the party's willful or negligent acts or omissions and to the extent that they are beyond the party's reasonable control.

#### **§405 Breach**

- A. Except for excusable delays, 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.

#### **§406 Waiver**

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

#### **§407 Prohibition Against Assignment or Delegation**

The Contractor may not, unless it has first obtained the written permission of the City: Assign or otherwise alienate any of its rights hereunder, including the right to payment; or Delegate, subcontract, or otherwise transfer any of its duties hereunder.

#### **§408 Permits**

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

#### **§409 Nondiscrimination and Affirmative Action**

- A. The Contractor 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 Contractor shall not discriminate in its employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sexual orientation, age, physical handicap, mental disability, marital status, domestic partner status, medical condition, citizenship, and political affiliation or belief. The Contractor shall comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

- B. The Contractor shall comply with the provisions of the Los Angeles Administrative Code §10.8 through 10.13, to the extent applicable hereto. If this Agreement contains a consideration in excess of \$1,000 but not more than \$100,000, the Equal Employment practices provisions of this Agreement shall be the mandatory contract provisions set forth in Los Angeles Administrative Code §10.8.3, in which event said provisions are incorporated herein by this reference. If this Agreement contains a consideration in excess of \$100,000, the Affirmative Action Program of this Agreement shall be the mandatory contract provisions set forth in Los Angeles Administrative Code §10.8.4, in which event said provisions are incorporated herein by this reference. The Contractor 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 City.
- C. Any subcontract entered into by the Contractor relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.
- D. No person shall on the grounds of race, ancestry, color, citizenship, national origin, sex, sexual preference, age, physical handicap, mental disability, medical condition, marital status, domestic partner status, or political affiliation or belief be excluded from participation in, be denied the benefit of, or be subjected to discrimination under this program/project. For purposes of this Section, Title 24 Code of Federal Regulations, Section 570.601(b) defines specific discriminatory actions that are prohibited and corrective action that shall be taken in situation as defined therein.

#### **§410 Claims for Labor and Materials**

- A. The Contractor 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 Contractor hereunder), against the Contractor's rights to payments hereunder, or against the City, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

#### **§411 Los Angeles City Business Tax Registration Certificate**

- A. If applicable, Contractor represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the City's Business Tax Ordinance (Article 1, Chapter 2, Sections 21.00 and following, of the Los Angeles Municipal Code). For the term covered by this Agreement, the Contractor 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.

#### **§412 Bonds**

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

## §413 Indemnification

- A. Except for the active negligence or willful misconduct of City, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, Contractor/Consultant undertakes and agrees to defend, indemnify and hold harmless City and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including Contractor's/Consultant's employees and agents, or damage or destruction of any property of 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 by the Contractor/Consultant or its subcontractors of any tier. The provisions of this paragraph survive expiration or termination of this Agreement.

## §414 Insurance

### A. General Conditions

1. During the term of this Agreement and without limiting Contractor's indemnification of the City, Contractor shall provide and maintain at its own expense a program of insurance having coverage and limits customarily carried and actually arranged by the Contractor but not less than the amounts and types listed on the Required Insurance And Minimum Limits Sheet (Form Gen. 146) in Exhibit A hereto, covering its operations hereunder. Such insurance shall conform to City requirements established by Charter, ordinance or policy, shall comply with instructions set forth on the City of Los Angeles – Instructions And Information On Complying With City Insurance Requirements (Revised 10/09) document, and shall otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. Specifically, such insurance shall: 1) protect City as an Insured or an Additional Interest Party, or a Loss Payee As Its Interest May Appear, respectively, when such status is appropriate and available depending on the nature of applicable coverages; 2) provide City at least thirty (30) days advance written notice of cancellation, material reduction in coverage or reduction in limits when such change is made at option of the insurer; 3) be primary with respect to City's insurance plan. Except when City is a named insured, Contractor's insurance is not expected to respond to claims which may arise from acts or omissions of the City.
2. The standard City of Los Angeles insurance conditions are incorporated into the sample standard subcontract provisions. The specific insurance coverages and limits shall be described by contractor in RFP. These coverages and limits should be tailored to the individual subcontract. For City contracts, **Required Insurance and Minimum Limits** are set by the City Risk Management staff in the Office of the City Administrative Officer of the City of Los Angeles on Form Gen. 146. Electronic submission is the preferred method of submitting your evidence of insurance documents. **Track4LA™** is the City's online insurance compliance system and is designed to make the experience of submitting and retrieving insurance information

quick and easy. The system is designed to be used primarily by insurance brokers and agents as they submit client insurance certificates directly to the City. It uses the standard insurance industry form known as the **ACCORD 25 Certificate of Liability Insurance** in electronic format. The easiest and quickest way to obtain approval of your insurance is to have insurance broker or agent access **Track4LA™** at <http://track4la.lacity.org> and follow the instructions to register and submit the appropriate proof of insurance on your behalf. Additional instructions and information on complying with City of Los Angeles insurance requirements can be found at [http://cao.lacity.org/risk/Submitting\\_proof\\_of\\_insurance.pdf](http://cao.lacity.org/risk/Submitting_proof_of_insurance.pdf).

B. Modification of Coverage

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

C. Failure to Procure Insurance

1. All required insurance must be submitted and approved by the Office of the City Administrative Officer/Risk Management prior to the inception of any operations or tenancy by Contractor/Consultant. The required coverages and limits are subject to availability on the open market at reasonable cost as determined by City. Non-availability or non-affordability must be documented by a letter from Contractor's/Consultant's insurance broker or agent indicating a good faith effort to place the required insurance and showing as a minimum the names of the insurance carriers and the declinations or quotations received from each.
2. 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 Agreement shall constitute a material breach of this Agreement under which City may immediately suspend or terminate this Agreement or, at its discretion, procure or renew such insurance to protect City's interests and pay any and all premiums in connection therewith and recover all monies so paid from Contractor/Consultant.

D. Workers' Compensation

1. By signing this Agreement, Contractor/Consultant hereby certifies that it is aware of the provisions of §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 Agreement.
2. A Waiver of Subrogation in favor of City will be required when work is performed on City premises under hazardous conditions.

## §415 Conflict of Interest

### A. No City-funded Employees as Board Members

1. The City will not execute any Agreements and/or Amendments with Contractors where an employee (an individual who is paid or receives any financial benefit from funds from the Agreement with the City), is a member of the Board of Directors. The Board minutes must reflect this requirement.

### B. Conflict of Interest

1. Prior to obtaining the City's approval of any subcontract, the Contractor shall disclose to the City any relationship, financial or otherwise, direct or indirect, of the Contractor or any of its officers, directors or employees or their immediate family with the proposed subcontractor and its officers, directors or employees.
2. The Contractor covenants that none of its directors, officers, employees, or agents shall participate in selecting, or administering any subcontract supported (in whole or in part) by City funds (regardless of source) where such person is a director, officer, employee or agent of the subcontractor; or where the selection of subcontractors is or has the appearance of being motivated by a desire for personal gain for themselves or others such as family business, etc.; or where such person knows or should have known that:
  - a. A member of such person's immediate family, or domestic partner or organization has a financial interest in the subcontract;
  - b. The subcontractor is someone with whom such person has or is negotiating any prospective employment; or
  - c. The participation of such person would be prohibited by the California Political Reform Act, California Government Code §87100 et seq. if such person were a public officer, because such person would have a "financial or other interest" in the subcontract.
3. Definitions:
  - a. The term "immediate family" includes but is not limited to domestic partner and/or those persons related by blood or marriage, such as husband, wife, father, mother, brother, sister, son, daughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law.
  - b. The term "financial or other interest" includes but is not limited to:
    - (1) Any direct or indirect financial interest in the specific contract, including a commission or fee, a share of the proceeds, prospect of a promotion or of future employment, a profit, or any other form of financial reward.

- (2) Any of the following interests in the subcontractor ownership: partnership interest or other beneficial interest of five percent or more; ownership of five percent or more of the stock; employment in a managerial capacity; or membership on the board of directors or governing body.
- c. A subcontract is any agreement entered into by Contractor for the purchase of goods or services with any funds provided by this Agreement.
- C. Minutes of Board Meetings must reflect disclosure of transactions where Board Members may have had a direct or indirect interest/benefit in the action.
- D. No director, officer, employee (or agent) of the Contractor may be on the Board of Directors if they receive any financial benefit provided by any City Agreement.
- E. The Contractor further covenants that no officer, director, employee, or agent shall solicit or accept gratuities, favors, anything of monetary value from any actual or potential subcontractor, supplier, a party to a sub-agreement, (or persons who are otherwise in a position to benefit from the actions of any officer, employee, or agent).
- F. The Contractor shall not subcontract with a former director, officer, or employee within an one-year period following the termination of the relationship between said person and the Contractor.
- G. For further clarification of the meaning of any of the terms used herein, the parties agree that references shall be made to the guidelines, rules, and laws of the City of Los Angeles, State of California, and Federal regulations regarding conflict of interest.
- H. The Contractor warrants that it has not paid or given and will not pay or give to any third person, any money or other consideration for obtaining this Agreement.
- I. The Contractor covenants that no member, officer or employee of Contractor shall have interest, direct or indirect, in any contract or subcontract or the proceeds thereof for work to be performed in connection with this project during his/her tenure as such employee, member or officer or for one year thereafter.
- J. The Contractor shall incorporate the foregoing subsections of this Section into every agreement that it enters into in connection with this project and shall substitute the term "subcontractor" for the term "Contractor" and "sub-subcontractor" for "Subcontractor".
- K. The Contractor warrants that it has adopted and shall comply with the Code of Conduct, as approved by the City, that meets the foregoing requirements.

#### **§416 Compliance with State and Federal Statutes and Regulations**

- A. Contractor understands that failure to comply with any of the following assurances may result in suspension, termination or reduction of grant funds, and repayment by Contractor to City of any unlawful expenditures.
1. Statutes and Regulations Applicable To All Grant Contracts

a. Contractor shall comply with all applicable requirements of state, federal, County and City of Los Angeles laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this Agreement. Contractor shall comply with state and federal laws and regulations pertaining to labor, wages, hours, and other conditions of employment. Contractor shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement. These requirements include, but are not limited to:

(1) Office of Management and Budget (OMB) Circulars

(a) Contractor shall comply with OMB Circulars, as applicable: OMB Circular A-21 (Cost Principles for Educational Institutions); OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments); OMB Circular A-102 (Grants and Cooperative Agreements with State and Local Governments); OMB Circular A-110 (Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations); OMB Circular A-122 (Cost Principles for Non-Profit Organizations); OMB Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations.)

(2) Single Audit Act

(a) If Federal funds are used in the performance of this Agreement, Contractor shall adhere to the rules and regulations of the Single Audit Act, 31 USC Sec. 7501 *et seq.*; City Council action dated February 4, 1987 (C.F. No. 84-2259-S1); and any administrative regulation or field memos implementing the Act. The provisions of this paragraph survive expiration or termination of this Contract.

(3) Americans with Disabilities Act

(a) Contractor hereby certifies that it will comply with the Americans with Disabilities Act 42, USC §§ 12101 *et seq.*, and its implementing regulations and the Americans with Disabilities Act Amendments Act (ADAAA) Pub. L. 110-325 and all subsequent amendments. Contractor will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act and the Americans with Disabilities Act Amendments Act (ADAAA) Pub. L. 110-325 and all subsequent amendments. Contractor will not discriminate against persons with disabilities or against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by the Contractor, relating to this Agreement, to the extent allowed hereunder shall be subject to the provisions of this paragraph.

(4) Political and Sectarian Activity Prohibited

- (a) None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office. Neither shall any funds provided under this agreement be used for any purpose designed to support or defeat any pending legislation or administrative regulation. None of the funds provided pursuant to this Agreement shall be used for any sectarian purpose or to support or benefit any sectarian activity.
- (b) If this Agreement provides for more than \$100,000.00 in grant funds or more than \$150,000 in loan funds, Contractor shall submit to the City a Certification Regarding Lobbying and a Disclosure Form, if required, in accordance with 31 USC 1352. No funds will be released to Contractor until the Certification is filed.
- (c) Contractor shall file a Disclosure Form at the end of each calendar quarter in which there occurs any event requiring disclosure or which materially affects the accuracy of any of the information contained in any Disclosure Form previously filed by Contractor. Contractor shall require that the language of this Certification be included in the award documents for all subawards at all tiers and that all subcontractors shall certify and disclose accordingly.

(5) Records Inspection

- (a) At any time during normal business hours and as often as the City, the U.S. Comptroller General and the Auditor General of the State of California may deem necessary, Contractor shall make available for examination all of its records with respect to all matters covered by this Agreement. The City, the U.S. Comptroller General and the Auditor General of the State of California shall have the authority to audit, examine and make excerpts or transcripts from records, including all Contractor's invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.
- (b) Contractor agrees to provide any reports requested by the City regarding performance of the Agreement.

(6) Records Maintenance

- (a) Records, in their original form, shall be maintained in accordance with requirements prescribed by the City with respect to all matters covered on file for all documents specified in this Agreement. Original forms are to be maintained on file for all documents specified in this agreement. Such records shall be retained for a

period of five (5) years after termination of this Agreement and after final disposition of all pending matters. "Pending matters" include, but are not limited to, an audit, litigation or other actions involving records. The City may, at its discretion, take possession of, retain and audit said records. Records, in their original form pertaining to matters covered by this Agreement, shall at all times be retained within the County of Los Angeles unless authorization to remove them is granted in writing by the City.

(7) Subcontracts and Procurement

- (a) Contractor shall comply with the federal and City standards in the award of any subcontracts. For purposes of this Agreement, subcontracts shall include but not be limited to purchase agreements, rental or lease agreements, third party agreements, consultant service contracts and construction subcontracts.
- (b) Contractor shall ensure that the terms of this Agreement with the City are incorporated into all Subcontractor Agreements. The Contractor shall submit all Subcontractor Agreements to the City for review prior to the release of any funds to the subcontractor. The Contractor shall withhold funds to any subcontractor agency that fails to comply with the terms and conditions of this Agreement and their respective Subcontractor Agreement.

(8) Labor

- (a) Contractor shall comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed requirements for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System Personnel Administration (5 C.F.R. 900, Subpart F).
- (b) Contractor shall comply, as applicable, with the provision of the Davis-Bacon Act (40 U.S.C. §§276a-276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
- (c) Contractor shall comply with the Federal Fair Labor Standards Act (29 USC §201) regarding wages and hours of employment.
- (d) None of the funds shall be used to promote or deter Union/labor organizing activities. CA Gov't Code Sec. 16645 *et seq.*
- (e) Contractor shall comply with the Hatch Act (5 USC §§1501-1508 and 7324-7328).

(9) Civil Rights

Contractor shall comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) §504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation act of 1970 (P.L. 91-616) as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.) as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; (j) the requirements of any other nondiscrimination statute(s) which may apply to the application; (k) P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance; (l) Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (42 USC 2000e); (m) the Americans with Disabilities Act, 42 USC §12101 et seq., and the Americans with Disabilities Act Amendments Act, Pub.L.110-325; and (n) the Genetic Information Nondiscrimination Act of 2008 (GINA) P.L. 110-233.

(10) Environmental

- (a) Contractor shall comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
- (b) Contractor shall comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b)

notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 *et seq.*); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 *et seq.*); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205); (i) Flood Disaster Protection Act of 1973 §102(a) (P.L. 93-234); and (j) §508 of the Clean Water Act (38 U.S.C. 1368).

- (c) Contractor shall comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 *et seq.*) related to protecting components or potential components of the national wild and scenic rivers system.
- (d) Contractor shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4822 *et seq.*) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures
- (e) Contractor shall comply with the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*) which restores and maintains the chemical, physical and biological integrity of the Nation's waters.
- (f) Contractor shall ensure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of this project are not listed in the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal Grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.
- (g) By signing this Agreement, Contractor ensures that it is in compliance with the California Environmental Quality Act (CEQA), Public Resources Code §21000 *et seq.* and is not impacting the environment negatively.

(11) Preservation.

- (a) Contractor shall comply with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the

Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 *et seq.*).

(12) Suspension and Debarment

- (a) Contractor shall comply with Federal Register, Volume 68, Number 228, regarding Suspension and Debarment, and Contractor shall submit a Certification Regarding Debarment required by Executive Orders 12459 and 12689, and any amendment thereto. Said Certification shall be submitted to the City concurrent with the execution of this Agreement and shall certify that neither Contractor nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department head or agency. Contractor shall require that the language of this Certification be included in the award documents for all sub-award at all tiers and that all subcontractors shall certify accordingly.

(13) Drug-Free Workplace

- (a) Contractor shall comply with the federal Drug-Free Workplace Act of 1988, 41 USC §701, 28 CFR Part 67; the California Drug-Free Workplace Act of 1990, CA Gov't Code §§ 8350-8357.

(14) Miscellaneous

- (a) Contractor shall comply with the Laboratory Animal Welfare Act of 1966, as amended (P.L. 89-544, 7 USC §§2131 *et seq.*)
- (b) Contractor shall assure, pursuant to the Consolidated Appropriations Act of 2008 (P.L. 110-161) grant funds must not be used in contravention of the federal buildings performance and reporting requirements of Executive Order No. 13123, part 3 of title V of the National Energy Conservation Policy Act (42 USC 8251 *et Seq.*) or subtitle A of title I of the Energy Policy Act of 2005 (including the amendments made thereby), nor shall grant funds be used in contravention of section 303 of the Energy Policy Act of 1992 (42 USC 13212).

(15) Pro-Children Act of 1994

- (a) Contractor must comply with Public Law 103-227, Part C-Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act). This Act requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or

through State and local governments. Federal programs include grants, cooperative agreements, loans or loan guarantees, and contracts. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug and alcohol treatment.

(b) Contractor further agrees that the above language will be included in any subcontracts that contain provisions for children's services and that all subcontractors shall certify compliance accordingly.

(16) American-Made Equipment/Products

(a) Contractor shall assure, pursuant to Public Law 103-333, §507, to the extent practicable, that all equipment and products purchased with funds made available under this Agreement shall be American made.

(17) Contractor shall administer this Agreement in accordance with OMB requirements contained in the following Circulars: Common Rule, Subpart C, for public agencies, or 2 CFR 215 for nonprofit organizations.

(18) Faith Based Activities

Contractor shall comply with 24 CFR 570.200(j) regarding Faith Based Activities.

B. Statutes and Regulations Applicable To This Particular Grant

1 Contractor shall comply with all applicable requirements of state and federal laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this particular grant program. Contractor shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement. These requirements include, but are not limited to:

The Housing and Community Development Act of 1992 (42 USC §5301 *et seq.*) as amended, 24 CFR parts 84, 85, 500 *et seq.*

Contractor shall comply with the provisions of the California Child Abuse and Neglect Reporting Act, CA Penal Code § 11164 *et seq.* and specifically §§ 11165.7, 11165.9, 11166.

**§417 Federal, State and Local Taxes**

A. Federal, State and local taxes shall be the responsibility of the Contractor as an independent Contractor and not as a City employee.

## §418 Inventions, Patents and Copyrights

### A. Reporting Procedure for Inventions

1. If any project produces any invention or discovery (Invention) patentable or otherwise under Title 35 of the U.S. Code, including, without limitation, processes and business methods made in the course of work under this Agreement, the Contractor shall report the fact and disclose the Invention promptly and fully to the City. The City shall report the fact and disclose the Invention to the Grantor. Unless there is a prior agreement between the City and the Grantor, the Grantor shall determine whether to seek protection on the Invention. The Grantor shall determine how the rights in the Invention, including rights under any patent issued thereon, will be allocated and administered in order to protect the public interest consistent with the policy ("Policy") embodied in the Federal Acquisition Regulations System which is based on Ch. 18 of title 35 U.S.C. Sections 200 *et seq.* (Pub. L. 95-517, Pub. L. 98-620, 37 CFR part 401); Presidential Memorandum on Government Patent Policy to the Heads of the Executive Departments and Agencies, dated 2/18/1983; and Executive Order 12591, 4/10/87, 52 FR 13414, 3 CFR, 1987 Comp, p. 220 (as amended by Executive Order 12618, 12/22/87, 52 FR 48661, 3 CFR, 1987 Comp., p. 262). Contractor hereby agrees to be bound by the Policy, and will contractually require its personnel to be bound by the Policy.

### B. Right to Use Inventions

1. City shall have an unencumbered right, and a non-exclusive, irrevocable, royalty-free license, to use, manufacture, improve upon, and allow others to do so for all government purposes, any Invention developed under this Agreement.

### C. Copyright Policy

1. Unless otherwise provided by the terms of the Grantor or of this Agreement, when copyrightable material (Material) is developed under this Agreement, the author or the City, at the City's discretion, may copyright the Material. If the City declines to copyright the Material, the City shall have an unencumbered right, and a non-exclusive, irrevocable, royalty-free license, to use, manufacture, improve upon, and allow others to do so for all government purposes, any Material developed under this Agreement.
2. The Grantor shall have an unencumbered right, and a non-exclusive, irrevocable, royalty-free license, to use, manufacture, improve upon, and allow others to do so for all government purposes, any Material developed under this Agreement or any Copyright purchased under this Agreement.
3. Contractor shall comply with 24 CFR 85.34.

### D. Rights to Data

1. The Grantor and the City shall have unlimited rights or copyright license to any data first produced or delivered under this Agreement. "Unlimited rights" means the right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform and display publicly, or permit others to do so; as required by 48 CFR 27.401. Where the data are not first produced under this Agreement or are published copyrighted data with the notice of 17 U.S.C. Section 401 or 402, the Grantor acquires the data under a copyright license as set forth in 48 CFR 27.404(f)(2) instead of unlimited rights. (48 CFR 27.404(a)).

E. Obligations Binding on Subcontractors

1. Contractor shall require all subcontractors to comply with the obligations of this section by incorporating the terms of this section into all subcontracts.

F. Ownership

1. Except where City/State has agreed in a signed writing to accept a license, City/State shall remain, without additional compensation, the sole owner of any and all rights, title and interest in all intellectual property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or City/State and which result directly or indirectly from this Agreement.
2. For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents (whether or not issued), copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know-how, design flows, methodologies, devices, business processes, developments, innovations, good will any data or information maintained, collected or stored in the ordinary course of business by City/State, and all other legal rights protecting intangible proprietary information as may exist now and/or hereafter come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country, jurisdiction.
3. For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter, including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works, including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos, computer software and any other materials of products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. "Works" does not include articles submitted to peer review or reference journals or independent research projects.

4. In the performance of this Agreement, Contractor may exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Contract. In addition, under this Agreement, Contractor may access and utilize certain of City's/State's Intellectual Property in existence prior to the effective date of this Contract. Except as otherwise set forth herein, Contractor shall not use any of City's/State's Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of City/State. Except as otherwise set forth herein, neither Contractor nor City/State shall give any ownership interest in or rights to its Intellectual Property to the other Party. If, during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to City/State, Contractor agrees to abide by all license and confidentiality restrictions applicable to City/State in the third-party's license agreement.
5. Contractor agrees to cooperate with City/State in establishing or maintaining City/State's exclusive rights in the Intellectual Property, and in assuring City's/State's sole rights against third-parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Contract, Contractor shall require the terms of agreement(s) to include all Intellectual Property provisions herein. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to City/State all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or City/State and which result directly indirectly from this Contract or any subcontract.
6. The requirement for the Contractor to include all Intellectual Property Provisions in all agreements and subcontracts it enters into with other parties does not apply to agreements or subcontracts that are for customized and on-the-job-training as authorized under 20 CFR 663, 700-730.
7. Contractor further agrees to assist and cooperate with City/State in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony, and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce City's/State's Intellectual Property rights and interests.

#### G. Retained Rights/License Rights

1. Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or City/State and which result directly or indirectly from this Agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Contract. Contractor hereby grants to City/State, without additional compensation, a permanent, non-exclusive, royalty free, paid up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose of Contractor's Intellectual Property with the right to sub-license through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.

2. Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of City/State or third-party, or result in a breach or default of any provisions herein or result in a breach of any provisions of law relating to confidentiality.

#### H. Copyright

1. Contractor agrees that for purposes of copyright law, all works made by or on behalf of Contractor in connection with Contractor's performance of this Contract shall be deemed "works for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Contract will be a "work made for hire", whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act; and (ii) that person shall assign all right, title, and interest to City/State to any work product made, conceived, derived from or reduced to practice by Contractor or City/State and which result directly or indirectly from this Contract.
2. All materials, including, but not limited to, computer software, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from or reduced to practice by Contractor or City/State and which result directly or indirectly from this Agreement may not be reproduced or disseminated without prior written permission from City/State.

#### I. Patent Rights

With respect to inventions made by Contractor in the performance of this Contract which did not result from research and development specifically included in the Agreement's scope of work, Contractor hereby grants to City/State a license for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement's scope of work, then Contractor agrees to assign to City/State, without additional compensation, all its rights, title and interest in and to such inventions and to assist City/State in securing United States and foreign patents with respect thereto.

#### J. Third Party Intellectual Property

Except as provided herein, Contractor agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of Contractor or third-party without first: (i) obtaining City's/State's prior written approval; and (ii) granting to or obtaining for City's/State's, without additional compensation, a license, as described in §418F.3 above, for any of Contractor's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon these terms is unattainable, and City/State determines that the Intellectual Property should be included

in or is required for Contractor's performance of this Agreement, Contractor shall obtain a license under terms acceptable to City/State.

K. Warranties

1. Contractor represents and warrants that:

- a. It has secured and will secure all rights and licenses necessary for its performance of this Agreement. Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, its modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or City/State and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There are currently no actual or threatened claims by any such third-party based on an alleged violation of any such right by Contractor.
- b. Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
- c. It has secured and will secure all rights and licenses necessary for Intellectual Property including, not limited to, consents, waivers or releases from all authors or music or performances used, and talent (radio, television, and motion picture talent), owners of any interest in an to real estate, sites locations, property or props that may be used or shown.
- d. It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to City/State in this Agreement.
- e. It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
- f. It has not knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.

2. City/State make no warranty that the intellectual property resulting from this sub-grant Agreement does not infringe upon any patent, trademark, copyright or the like, now existing or subsequently issued.

L. Intellectual Property Indemnity

1. Contractor shall indemnify, defend and hold harmless City/State and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products ("Indemnities") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third-party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim action, or proceeding, commenced or threatened) to which any of the Indemnities may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to: (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of City's/State's use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or City/State and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the Infringement claim is based on a patent, trademark or copyright registration that was issued after the effective date of this Contract. City/State reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against City/State.
2. Should any Intellectual Property licensed by the Contractor to City/State under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve City's/State's right to use the licensed Intellectual Property in accordance with this Agreement at no expense to City/State. City/State shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for City/State to continue using the licensed Intellectual Property, or replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, City/State may be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.
3. Contractor agrees that damages alone would be inadequate to compensate City/State for breach of any term of these Intellectual Property provisions herein by Contractor. Contractor acknowledges City/State would suffer irreparable harm in the event of such breach and agrees City/State shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

#### §419 Living Wage Ordinance and Service Contractor Worker Retention Ordinance.

- A. Unless otherwise exempt in accordance with the provisions of this Ordinance, this contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), §10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), §10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. The Ordinances require the following:
1. Contractor/Consultant assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of benefits as defined in the LWO;
  2. Contractor/Consultant further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. Contractor/Consultant shall require each of its Subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. Contractor/Consultant shall deliver the executed pledges from each such subcontractor to the City within ninety (90) days of the execution of the Subcontract. Contractor's/Consultant's delivery of executed pledges from each such Subcontractor shall fully discharge the obligation of the Contractor/Consultant to comply with the provision in the LWO contained in §10.37.6(c) concerning compliance with such federal law.
  3. The Contractor/Consultant, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the City with regard to the employer's compliance or anticipated compliance with the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. Contractor/Consultant shall post the Notice of Prohibition Against Retaliation provided by the City.
  4. Any Subcontract entered into by the Contractor/Consultant relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of LWO and the SCWRO, and shall incorporate the "Living Wage Ordinance and Service Contractor Worker Retention Ordinance" language.
  5. Contractor/Consultant shall comply with all rules, regulations and policies promulgated by the designated administrative agency, which may be amended from time to time.
- B. Under the provisions of §10.36.3(c) and §10.37.5(c) of the Los Angeles Administrative Code, the City shall have the authority, under appropriate circumstances, to terminate this contract and otherwise pursue legal remedies that may be available if the City determines that the subject Contractor/Consultant has violated provisions of the LWO and the SCWRO.

- c. Where under the LWO §10.37.6(d), the designated administrative agency has determined (a) that the Contractor/Consultant is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the awarding authority in such circumstances may impound monies otherwise due the Contractor/Consultant in accordance with the following procedures. Impoundment shall mean that from monies due the Contractor/Consultant, the awarding authority may deduct the amount determined to be due and owing by the Contractor/Consultant to its employees. Such monies shall be placed in the holding account referred to in LWO §10.37.6(d)(3) and disposed of under procedures there described through final and binding arbitration. Whether the Contractor/Consultant is to continue work following an impoundment shall remain in the unfettered discretion of the awarding authority. The Contractor/Consultant may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.

#### **§420 Earned Income Tax Credit**

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

#### **§421 Equal Benefits Ordinance**

- A. Unless otherwise exempted in accordance with the provisions of the Equal Benefits Ordinance (EBO) §10.8.2.1 of the Los Angeles Administrative Code, this Contract is subject to the provisions of the EBO as amended from time to time.
- B. During the performance of the Contract, the Contractor/Consultant certifies and represents that the Contractor/Consultant will comply with the EBO. The Contractor/Consultant agrees to post the following statement in conspicuous places at its place of business available to employees and applicants for employment:
1. "During the performance of a Contract with the City of Los Angeles, the Contractor/Consultant will provide equal benefits to employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles' Equal Benefits Ordinance may be obtained from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance, Equal Employment Opportunities Enforcement Section at (213) 847-1922."
- C. The failure of the Contractor/Consultant to comply with the EBO will be deemed to be a material breach of the Contract by the Awarding Authority.
- D. If the Contractor/Consultant fails to comply with the EBO the Awarding Authority may cancel, terminate or suspend the Contract, in whole or in part, and all monies due or to become due under the Contract may be retained by the City. The City may also pursue any and all other remedies at law or in equity for any breach.

- E. Failure to comply with the EBO may be used as evidence against the Contractor/Consultant in actions taken pursuant to the provisions of Los Angeles Administrative Code §10.40 *et seq.*, Contractor Responsibility Ordinance.
- F. If the Office of Contract Compliance determines that a Contractor/Consultant has set up or used its Contracting entity for the purpose of evading the intent of the EBO, the Awarding Authority may terminate the Contract on behalf of the City. Violation of this provision may be used as evidence against the Contractor/Consultant in actions taken pursuant to the provisions of Los Angeles Administrative Code §10.40 *et seq.*, Contractor Responsibility Ordinance.

#### **§422 Contractor Responsibility Ordinance**

- A. Unless otherwise exempt in accordance with the provisions of the Ordinance, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, §10.40 *et seq.*, of Article 14, Chapter 1 of Division 10 of the Los Angeles Administrative Code, which requires Contractor/Consultant to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect Contractor's/Consultant's fitness and ability to continue performing the contract. In accordance with the provisions of this Ordinance, by signing this Contract, Contractor/Consultant pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this contract, including but not limited to, laws regarding health and safety, labor and employment, wage and hours, and licensing laws which affect employees. The Contractor/Consultant further agrees to: (1) notify the awarding authority within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the Contractor/Consultant is not in compliance with all applicable federal, state and local laws in performance of this contract; (2) notify the awarding authority within thirty calendar days of all findings by a government agency or court of competent jurisdiction that the Contractor/Consultant has violated the provisions of §10.40.3(a) of the Ordinance; (3) ensure that its subcontractor(s), as defined in the Ordinance, submit a Pledge of Compliance to awarding authorities; and (4) ensure that its subcontractor(s), as defined in the Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify Awarding Authorities within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated §10.40.3(a) of the Ordinance in performance of the subcontract.

#### **§423 Slavery Disclosure Ordinance**

- A. This contract may be subject to the Slavery Disclosure Ordinance in the future. If so, Contractor will be notified of the applicability by the City.
- B. Unless otherwise exempt in accordance with the provisions of this Ordinance, this Contract is subject to the Slavery Disclosure Ordinance, §10.41 of the Los Angeles Administrative Code, as may be amended from time to time. Contractor/Consultant

certifies that it has complied with the applicable provisions of this Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this Agreement.

#### **§424 Restriction on Disclosures**

- A. Any reports, analysis, studies, drawings, information, or data generated as a result of this Agreement are to be considered as confidential. Such information shall not be made available to any individual, agency, or organization except as provided for in this Agreement or as provided by law.

#### **§425 Child support Assignment Orders**

- A. This Contract is subject to §10.10 of the Los Angeles Administrative Code, Child Support Assignment Orders Ordinance. Pursuant to this Ordinance, Contractor/Consultant certifies that it will (1) fully comply with all State and Federal employment reporting requirements applicable to Child Support Assignment Orders; 2) that the principal owner(s) of Contractor/Consultant are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (3) fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code §5230 *et seq.*; and (4) maintain such compliance throughout the term of this Contract. Pursuant to §10.10.b of the Los Angeles Administrative Code, failure of Contractor/Consultant to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders and Notices of Assignment or the failure of any principal owner(s) of Contractor/Consultant to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default by the Contractor/Consultant under the terms of this Contract, subjecting this Contract to termination where such failure shall continue for more than ninety (90) days after notice of such failure to Contractor/Consultant by City. Any subcontract entered into by the Contractor/Consultant relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph and shall incorporate the provisions of the Child Support Assignment Orders Ordinance. Failure of the Contractor/Consultant to obtain compliance of its subcontractors shall constitute a default by the Contractor/Consultant under the terms of this contract, subjecting this Contract to termination where such failure shall continue for more than ninety (90) days after notice of such failure to Contractor/Consultant by the City.
- B. Contractor/Consultant shall comply with the Child Support Compliance Act of 1998 of the State of California Employment Development Department. Contractor/Consultant assures that to the best of its knowledge it is fully complying with the earnings assignment orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in subdivision (1) of the Public Contract Code 7110.

#### **§426 COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470(c)(12)**

The Contractor, Subcontractors, and their Principals are obligated to fully comply with City of Los Angeles Charter Section 470(c)(12) and related ordinances, regarding limitations

on campaign contributions and fundraising for certain elected City officials or candidates for elected City office if the contract is valued at \$100,000 or more and requires approval of a City elected official. Additionally, Contractor is required to provide and update certain information to the City as specified by law. Any Contractor subject to Charter Section 470(c)(12), shall include the following notice in any contract with a subcontractor expected to receive at least \$100,000 for performance under this contract:

#### Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions

As provided in Charter Section 470(c)(12) and related ordinances, you are subcontractor on City of Los Angeles contract #\_\_\_\_\_. Pursuant to City Charter Section 470(c)(12), subcontractor and its principals are prohibited from making campaign contributions and fundraising for certain elected City officials or candidates for elected City office for 12 months after the City contract is signed. Subcontractor is required to provide to contractor names and addresses of the subcontractor's principals and contact information and shall update that information if it changes during the 12 month time period. Subcontractor's information included must be provided to contractor within 5 business days. Failure to comply may result in termination of contract or any other available legal remedies includes fines. Information about the restrictions may be found at the City Ethics Commission's website at <http://ethics.lacity.org/> or by calling 213/978-1960.

Contractor, Subcontractors, and their Principals shall comply with these requirements and limitations. Violation of this provision shall entitle the City to terminate this Agreement and pursue any and all legal remedies that may be available.

#### **§427 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.

#### **§428 CONTRACTOR PERSONNEL**

Contractor shall only assign personnel to this job who are qualified for this assignment by experience and/or education to perform the tasks under this Agreement. In the event anyone is replaced or terminated, Contractor shall notify the City in writing, within five (5) days after termination, and provide information regarding the replacement employees' work and educational experience and qualifications.

#### **§429 WARRANT AND RESPONSIBILITY OF CONTRACTOR**

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

### **5. DEFAULTS, SUSPENSION, TERMINATION, AND AMENDMENTS**

#### **§501 Defaults**

- A. Should the Contractor fail for any reason to comply with the contractual obligations of this Agreement within the time specified by this Agreement, the City reserves the right to:
  1. Reduce the total budget;

2. Make any changes in the general scope of this Agreement;
3. Suspend project operations in accordance with §502 of this Agreement; or
4. Terminate the Agreement.

### **§502 Suspension**

- A. The City may suspend all or part of the project operations for failure by the Contractor to comply with the terms and conditions of this Agreement by giving written notice, which shall be effective upon receipt.
- B. Said notice shall set forth the specific conditions of noncompliance and the period provided for corrective action.
- C. Within five (5) working days the Contractor shall reply in writing setting forth the corrective actions which will be undertaken, subject to City approval in writing.
- D. Performance under this Agreement shall be automatically suspended without any notice from the City as of the date the Contractor is not fully insured in compliance with §413 (Insurance) herein. Performance shall not resume without the prior written approval of City.

### **§503 Termination**

- A. Either party to this Agreement may terminate this Agreement or any part hereof upon giving the other party at least thirty (30) days written notice prior to the effective date of such termination, which date shall be specified in such notice.
- B. All property, documents, data, studies, reports and records purchased or prepared by the Contractor under this Agreement shall be disposed of according to City directives.
- C. In the event that the Contractor ceases to operate (i.e. dissolution of corporate status, declaration of bankruptcy, etc.) Contractor shall provide to the City copies of all records relating to this Agreement.
- D. Upon satisfactory completion of all termination activities, the City shall determine the total amount of compensation that shall be paid to the Contractor for any unreimbursed expenses reasonably and necessarily incurred in the satisfactory performance of this Agreement.
- E. The City may withhold any payments due to the Contractor until such time as the exact amount of any damages that may be due to the City from the Contractor is determined.
- F. The foregoing Subsection B, C, D, and E shall also apply to activities terminating upon the date specified in §201 or upon completion of the performance of this Agreement.

## **§504 Notices of Suspension or Termination**

- A. In the event that this Agreement is suspended or terminated, the Contractor shall immediately notify all employees and participants and shall notify in writing all other parties contracted with under the terms of Agreement within five (5) working days of such suspension or termination.

## **§505 Amendments**

- A. Any change in the terms of this Agreement, including changes in the services to be performed by the Contractor, and any increase or decrease in the amount of compensation which are agreed to by the City and the Contractor shall be incorporated into this Agreement by a written amendment properly executed and signed by the person authorized to bind the parties thereto.
- B. The Contractor agrees to comply with all future City Directives or any rules, amendments or requirements promulgated by the City affecting this Agreement.

## **6. ENTIRE AGREEMENT**

### **§601 Complete Agreement**

- A. This Agreement contains the full and complete Agreement between the two parties. No verbal agreement nor conversation with any officer or employee of either party shall affect or modify any of the terms and conditions of this Agreement.

### **§602 Number of Pages and Attachments**

- A. This Agreement is executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement includes Forty-Two (42) pages and Five (5) Exhibits which constitute the entire understanding and agreement of the parties.

**7. SIGNATURE PAGE**

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

APPROVED AS TO FORM:

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2011

CARMEN A. TRUTANICH, City Attorney

For: THE CITY OF LOS ANGELES

DOUGLAS GUTHRIE  
General Manager  
Los Angeles Housing Department

By: \_\_\_\_\_  
Deputy / Assistant City Attorney

By: \_\_\_\_\_

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

ATTEST:

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2011

JUNE LAGMAY, City Clerk

For: 3Di, Inc.

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

By: \_\_\_\_\_

Print name: \_\_\_\_\_

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

Title: \_\_\_\_\_

(Contractor's Corporate Seal or Notary)

By: \_\_\_\_\_

Print name: \_\_\_\_\_

Title: \_\_\_\_\_

City Business License Number: 0000495437-0002-8

Internal Revenue Service Number: 33-0647719

| CAO/Council FileNo. | Contract/Amendments | Dates      |
|---------------------|---------------------|------------|
| CF 11-0600          |                     | 06-03-2011 |
| CF 10-0600-S60      |                     | 09/09/2011 |
| CF 09-2841          |                     | 07/12/2011 |

Said Agreement is Number \_\_\_\_\_ of City Contracts

3Di, Inc.  
Contract \_\_\_\_\_

**EXHIBIT A**  
**CITY OF LOS ANGELES**  
**INSTRUCTIONS AND INFORMATION**  
**ON COMPLYING WITH CITY INSURANCE REQUIREMENTS**  
*(Share this information with your insurance agent or broker.)*

1. **Agreement/Reference** All evidence of insurance must identify the nature of your business with the CITY. Clearly show any assigned number of a bid, contract, lease, permit, etc. or give the project name and the job site or street address to ensure that your submission will be properly credited. Provide the **types of coverage and minimum dollar amounts** specified on the Required Insurance and Minimum Limits sheet (Form Gen. 146) included in your CITY documents.

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

3. **Acceptable Evidence and Approval** Electronic submission is the preferred method of submitting your documents. **Track4LA™** is the City's online insurance compliance system and is designed to make the experience of submitting and retrieving insurance information quick and easy. The system is designed to be used primarily by insurance brokers and agents as they submit client insurance certificates directly to the City. It uses the standard insurance industry form known as the **ACORD 25 Certificate of Liability Insurance** in electronic format. Track4LA™ advantages include standardized, universally accepted forms, paperless approval transactions (24 hours, 7 days per week), and security checks and balances. The easiest and quickest way to obtain approval of your insurance is to have your insurance broker or agent access **Track4LA™** at <http://track4la.lacity.org> and follow the instructions to register and submit the appropriate proof of insurance on your behalf.

Insurance industry certificates other than the ACORD 25 may be accepted. **All Certificates** must provide a thirty (30) days' cancellation notice provision (ten (10) days for non-payment of premium) AND an Additional Insured Endorsement naming the CITY an additional insured completed by your insurance company or its designee. If the policy includes an automatic or blanket additional insured endorsement, the Certificate must state the CITY is an automatic or blanket additional insured. An endorsement naming the CITY an Additional Named Insured and Loss Payee as Its Interests May Appear is required on property policies. All evidence of insurance must be authorized by a person with authority to bind coverage, whether that is the authorized agent/broker or insurance underwriter.

**Acceptable Alternatives to Acord Certificates and other Insurance Certificates:**

A **copy of the full insurance policy** which contains a thirty (30) days' cancellation notice provision (ten (10) days for non-payment of premium) and additional insured and/or loss-payee status, when appropriate, for the CITY. **Binders and Cover Notes** are also acceptable as interim evidence for up to 90 days from date of approval. Additional Insured Endorsements DO NOT apply to the following:

- Indication of compliance with statute, such as Workers' Compensation Law.
- Professional Liability insurance.

Completed **Insurance Industry Certificates other than ACORD 25 Certificates** can be sent electronically ([CAO.insurance.bonds@lacity.org](mailto:CAO.insurance.bonds@lacity.org)) or faxed to the Office of the City Administrative Officer, Risk Management (213) 978-7616. Please note that submissions other than through Track4LA will delay the insurance approval process as documents will have to be manually processed.

Verification of approved insurance and bonds may be obtained by checking **Track4LA™**, the City's online insurance compliance system, at <http://track4la.lacity.org>.

4. **Renewal** When an existing policy is renewed, have your insurance broker or agent submit a new Acord 25 Certificate through **Track4LA™** at <http://track4la.lacity.org> or submit an Insurance Industry Certificate or a renewal endorsement as outlined in Section 3 above. If your policy number changes you must also submit a new Additional Insured Endorsement with an Insurance Industry Certificate.

5. **Alternative Programs/Self-Insurance** Risk financing mechanisms such as Risk Retention Groups, Risk Purchasing Groups, off-shore carriers, captive insurance programs and self-insurance programs are subject to separate approval after the CITY has reviewed the relevant audited financial statements. To initiate a review of your program, you should complete the Applicant's Declaration of Self Insurance form (<http://cao.lacity.org/risk/InsuranceForms.htm>) to the Office of the City Administrative Officer, Risk Management for consideration.

6. **General Liability** insurance covering your operations (and products, where applicable) is required whenever the CITY is at risk of third-party claims which may arise out of your work or your presence or special event on City premises. **Sexual Misconduct** coverage is a required coverage when the work performed involves minors. **Fire Legal Liability** is required for persons occupying a portion of CITY premises. (Information on two CITY insurance programs, the SPARTA program, an optional source of low-cost insurance which meets the most minimum requirements, and the Special Events Liability Insurance Program, which provides liability coverage for short-term special events on CITY premises or streets, is available at ([www.2sparta.com](http://www.2sparta.com)), or by calling (800) 420-0555.)

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

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

9. **Workers' Compensation and Employer's Liability** insurance are not required for single-person contractors. However, under state law these coverages (or a copy of the state's Consent To Self Insure) must be provided if you have any employees at any time during the period of this contract. Contractors with no employees must complete a Request for Waiver of Workers' Compensation Insurance Requirement (<http://cao.lacity.org/risk/InsuranceForms.htm>). **A Waiver of Subrogation** on the coverage is required only for jobs where your employees are working on CITY premises under hazardous conditions, e.g., uneven terrain, scaffolding, caustic chemicals, toxic materials, power tools, etc. The Waiver of Subrogation waives the insurer's right to recover (from the CITY) any workers' compensation paid to an injured employee of the contractor.

10. **Property Insurance** is required for persons having exclusive use of premises or equipment owned or controlled by the CITY. **Builder's Risk/Course of Construction** is required during construction projects and should include building materials in transit and stored at the project site.

11. **Surety** coverage may be required to guarantee performance of work and payment to vendors and suppliers. A **Crime Policy** may be required to handle CITY funds or securities, and under certain other conditions. **Specialty coverages** may be needed for certain operations. For assistance in obtaining the CITY required bid, performance and payment surety bonds, please see the City of Los Angeles Bond Assistance Program website address at <http://cao.lacity.org/risk/BondAssistanceProgram.pdf> or call (213) 258-3000 for more information



**Exhibit B (cont.)**  
**INSTRUCTIONS FOR CERTIFICATION**

1. By signing and submitting this document, the prospective recipient of Federal assistance funds is providing the certification as set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective recipient of Federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective recipient of Federal assistance funds shall provide immediate written notice to the person to which this agreement is entered, if at any time the prospective recipient of Federal assistance funds learns that its certification was erroneous, when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Orders 12459 and 12689.
5. The prospective recipient of Federal assistance funds agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective recipient of Federal assistance funds further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Procurement or Non-Procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntary excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with

which this transaction originated may pursue available remedies, including suspension and/or debarment.

DATA

**EXHIBIT C**  
**CERTIFICATION REGARDING LOBBYING**

**Certification for Contracts, Grants, Loans**  
**and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying" in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352 Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

AGREEMENT NUMBER \_\_\_\_\_

3Di, Inc.  
CONTRACTOR/BORROWER/AGENCY

\_\_\_\_\_  
NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

002/0008

**EXHIBIT D**  
**NOTICE OF PROHIBITION AGAINST RETALIATION**

An employer subject to the Living Wage Ordinance shall post in a prominent place in an area frequented by employees a copy of the below notice to employees regarding the LWO prohibition against retaliation (also available in English at [www.lacity.org/BCA/lwo\\_retaliation\\_English.pdf](http://www.lacity.org/BCA/lwo_retaliation_English.pdf) and in Spanish at [www.lacity.org/BCA/lwo\\_retaliation\\_spanish.pdf](http://www.lacity.org/BCA/lwo_retaliation_spanish.pdf). The retaliation notice must be posted by an employer even if the employer has been exempted from the LWO.

**NOTICE TO EMPLOYEES**  
**WORKING ON CITY CONTRACTS**  
**RE: LIVING WAGE ORDINANCE AND**  
**PROHIBITION AGAINST RETALIATION**

“Section 10.37.5 Retaliation Prohibited” of the Living Wage Ordinance (LWO) provides that any employer that has a contractual relationship with the City **may not** discharge, reduce the pay of, or discriminate against his or her employees working under the City contract for any of the following reasons:

1. Complaining to the City if your employer is not complying with the Ordinance.
2. Opposing any practice prohibited by the Ordinance.
3. Participating in proceedings related to the Ordinance, such as serving as a witness and testifying in a hearing.
4. Seeking to enforce your rights under this Ordinance by any lawful means.
5. Asserting your rights under the Ordinance.

Also, you may not be fired, lose pay or be discriminated against for asking your employer questions about the Living Wage Ordinance, or asking the City about whether your employer is doing what is required under the LWO. If you are fired, lose pay, or discriminated against, you have the right to file a complaint with the Equal Employment Opportunities Enforcement Section, as well as file a claim in court.

For more information, or to obtain a complaint form, please call the Equal Employment Opportunities Enforcement Section at (213) 847-1922.

**CITY OF LOS ANGELES**  
**Department of Public Works**  
**Bureau of Contract Administration**  
**Office of Contract Compliance**  
**1149 S. Broadway Street, 3<sup>rd</sup> Floor**  
**Los Angeles, CA 90015**  
**Phone: (213) 847-1922 — Fax: (213) 847-2777**

Rev. 06/06

**EXHIBIT E**

**Billing Rate Ranges by Job Title**

|                                   |                         |
|-----------------------------------|-------------------------|
| Application Programmer            | \$65/hour to \$90/hour  |
| Programmer Analyst                | \$65/hour to \$90/hour  |
| Systems Programmer                | \$65/hour to \$90/hour  |
| Geographic Information Specialist | \$70/hour to \$95/hour  |
| Business Intelligence Specialist  | \$75/hour to \$100/hour |
| Database Architect                | \$85/hour to \$110/hour |