

0150-09671-0001

TRANSMITTAL

TO
The Council

DATE

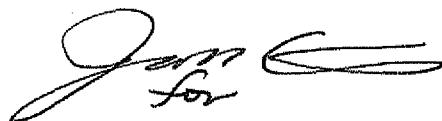
COUNCIL FILE NO.

JUL 13 2012

FROM
The Mayor

COUNCIL DISTRICT

The attached contract amendment with Turner/JGM, a Joint Venture, for Program Management/Construction Management services for the Proposition Q Citywide Public Safety Bond Program is transmitted for your consideration. See City Administrative Officer report attached.



(Janelle Erickson)

MAYOR

MAS:RAS:05120058

Report From

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Analysis of Proposed Contract

(\$25,000 or Greater and Longer than Three Months)

To: The Mayor	Date: 07-02-12	C.D. No. N/A	CAO File No.: 0150-09671-0001
Contracting Department/Bureau: Bureau of Engineering		Contact: Allan Kawaguchi	
Reference: Board of Public Works action on February 17, 2012; referred by the Mayor			
Purpose of Contract: To continue project management/construction management (PM/CM) services for the Proposition Q Program			
Type of Contract: () New contract (X) Amendment		Contract Term Dates: February 18, 2012 to February 18, 2017	
Contract/Amendment Amount: [Click here and type amount]			
Proposed amount \$ 1,500,000+ Prior award(s) \$ 16,500,000 = Total \$ 18,000,000			
Source of funds: Proposition Q – Citywide Public Safety General Obligation Bond Funds			
Name of Contractor: Turner/Jenkins, Martinez, Gale, a Joint Venture (Turner/JGM)			
Address: 555 West 5 th Street, Suite 3700, Los Angeles, CA 90013.			




	Yes	No	N/A*	8. Contractor has complied with:	Yes	No	N/A*
1. Council has approved the purpose	X			a. Equal Employmt. Oppty./Affirm. Action	X		
2. Appropriated funds are available	X			b. Good Faith Effort Outreach**	X		
3. Charter Section 1022 findings completed	X			c. Equal Benefits Ordinance	X		
4. Proposals have been requested	X			d. Contractor Responsibility Ordinance	X		
5. Risk Management review completed	X			e. Slavery Disclosure Ordinance	X		
6. Standard Provisions for City Contracts included	X			f. Bidder Certification CEC Form 50	X		
7. Workforce that resides in the City: 20.7%				*N/A = not applicable ** Contracts over \$100,000			

COMMENTS

In March 2002, the voters approved Proposition Q, authorizing the issuance of \$600 million in General Obligation Bonds to finance the construction and renovation of public safety facilities throughout the City. The bond measure provided for the replacement of five police stations, construction of two new police stations, a new Emergency Operations/Police Operations/Fire Dispatch Center, a new metropolitan jail, two bomb squad facilities and renovation of police and fire facilities Citywide.

In January 2003, the City Council approved a contract with Turner/JGM to provide PM/CM services to the Proposition Q Program (C.F. 02-1153). Turner JGM was selected through a competitive bid process conducted in the Fall of 2002. The initial contract term was for seven years with two one-year renewal options. The City exercised the two one-year renewal options and the Bureau of Engineering (BOE) now requests authority to amend the contract by extending the contract term by five years and adding \$1.5 million to the compensation. The City Attorney has authorized the existing contract to be extended on a month-to-month basis pending approval of the proposed amendment.

All original projects authorized under the Proposition Q Program have been completed. However, the Mayor and Council authorized a new Phase II Program in 2009, funded through program savings and

 MAS:RAS Analyst 0150-09671-0001	 Assistant CAO	 City Administrative Officer
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interest accruals (C.F. 09-0698). The new projects included two new projects at the Los Angeles Police Academy, the renovation of the Old Rampart Police Station (for the Metro Division) and Northeast Police Station. Subsequent Council action in July, 2011 changed the renovation of the Northeast Police Station from a renovation to a new facility (C.F. 11-1008).

BOE indicates that Turner/JGM will continue to assist the City through the life of the Proposition Q Phase II Program and through the closeout of the bond program around 2016-17 on an as-needed basis.

Per the original contract, Turner/JGM has six primary support duties as follows:

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

BOE indicates that Turner/JGM's focus in the amended period will be to provide support such as cost-estimating, constructability reviews, scheduling reviews, document control and overall assistance in project/construction management. These activities are consistent with the original contract scope. In addition, Turner will be utilized to provide public relations services for certain high profile Phase II projects as well as for providing environmental support that was previously provided by BOE staff.

Through May 2012, BOE reports that about \$13.39 million of the \$16.5 million contract ceiling has been expended on the Turner/JGM contract. In the period covered by the amendment, anticipated annual expenditures are expected to be \$1,082,000, \$1,098,000, \$1,220,000, \$1,000,000 and \$192,000 respectively.

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

RECOMMENDATION

That the Council, subject to the approval of the Mayor, approve and authorize the President or two members of the Board of Public Works, to execute Amendment No. 1 to Contract No. C-104390 between the City and Turner/Jenkins, Martinez, Gales, a Joint Venture to extend the contract term for five years through February 18, 2017 in an amount not to exceed \$18,000,000, subject to the approval of the City Attorney.

FISCAL IMPACT STATEMENT

The proposed amendment extends the term of the Program Management/Construction Management contract between the City and the above-referenced consulting firm, with no fiscal impact on the General Fund. The maximum compensation of \$18.0 million for these services are paid by the Proposition Q General Obligation Bond.

MAS:RAS:05120058

CITY OF LOS ANGELES

CALIFORNIA



ANTONIO R. VILLARAIGOSA
MAYOR

BOARD OF PUBLIC WORKS MEMBERS

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OFFICE OF THE BOARD OF PUBLIC WORKS

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LOS ANGELES, CA 90012
(213) 978-0261
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ARLEEN P. TAYLOR
EXECUTIVE OFFICER

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

2012 FEB 21 PM 3:39
CITY ADMINISTRATIVE OFFICER

February 17, 2011

#5 BOE/CON AD

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


Subject: REQUEST FOR AUTHORITY TO EXECUTE AMENDMENT NO. 1 TO
CONTRACT NO. C-104390 WITH TURNER/JGM, A JOINT VENTURE, FOR
PROGRAM AND CONSTRUCTION MANAGEMENT SERVICES FOR THE
PROPOSITION Q, CITYWIDE PUBLIC SAFETY PROGRAM – WORK
ORDER NO. E1700600

As recommended in the accompanying report of the City Engineer and the Director of the Bureau of Contract Administration, which this Board has adopted, the Board of Public Works requests approval and forwarding to the City Council for approval and authorization to execute Amendment No. 1 to the contract between the City of Los Angeles and Turner/JGM, A Joint Venture, to extend the total contract term from February 18, 2012 to February 18, 2017, and increase the total contract ceiling from \$16,500,000 to \$18,000,000, for Program and Construction Management Services for the Proposition Q, Citywide Public Safety Program.

FISCAL IMPACT

There is no direct impact on the General Fund. Funding for this Amendment is provided from the proceeds of the sale of Proposition Q – Public Safety General Obligation Bonds authorized in the March 5, 2002 election.

Respectfully submitted,


Arleen P. Taylor, Executive Officer
Board of Public Works

APT:mp

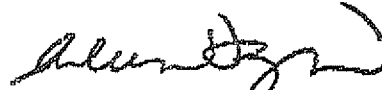


Department of Public Works

Bureau of Engineering
Bureau of Contract Administration
Joint Report No. 5

February 17, 2012
CD Nos. All

ADOPTED BY THE BOARD
PUBLIC WORKS OF THE CITY
of Los Angeles California
AND REFERRED TO THE MAYOR
FEB 17 2012


Executive Officer

REQUEST FOR AUTHORITY TO EXECUTE AMENDMENT NO. 1 TO CONTRACT NO. C-104390 WITH TURNER/JGM, A JOINT VENTURE FOR PROGRAM AND CONSTRUCTION MANAGEMENT SERVICES FOR THE PROPOSITION Q, CITYWIDE PUBLIC SAFETY PROGRAM - WORK ORDER No. E1700600

RECOMMENDATIONS

1. Approve and forward this report with transmittals to the Mayor and City Council requesting the following:
 - a. Approve Amendment No. 1 to the Contract between the City of Los Angeles (City) and Turner/JGM, A Joint Venture (Turner/JGM) to extend the total Contract term from February 18, 2012 to February 18, 2017, and increase the total Contract ceiling from \$16,500,000 to \$18,000,000.
 - b. Authorize the President or two members of the Board of Public Works (Board) to execute Amendment No. 1.
2. Notify the Bureau of Engineering (BOE), Proposition Q, Citywide Public Safety Program, Allan T. Kawaguchi, (213) 485-4687, when this Amendment is ready to be executed by the Board, whereupon five original copies of the Amendment will be delivered to the Executive Officer of the Board for signature.
3. Upon execution, request the City Clerk to attest and certify the five original copies of Amendment No. 1. The City Clerk and the Board will each retain one original copy and three original copies are to be returned to the BOE, Program Manager Allan T. Kawaguchi.
4. Approve the extension of the existing contract with Turner/JGM (C-104390) on a month-to-month basis until the proposed Amendment No. 1 to agreement C-104390 is fully executed.

FISCAL IMPACT STATEMENT

There is no direct impact on the General Fund. Funding for this Amendment is provided from the proceeds of the sale of Proposition Q - Public Safety General Obligation Bonds authorized in the March 5, 2002 election.

TRANSMITTALS

1. Copy of executed Contract No. C-104390 with Turner/JGM for program and construction management services dated February 18, 2003.
2. Copy of Proposed Amendment No. 1.

DISCUSSION

Background

On March 5, 2002, the voters in the City passed Proposition Q, a Citywide Public Safety Bond for \$600 million to improve, renovate, expand, and construct 911, Police, Fire, and paramedic facilities. A contract between the City and Turner/JGM for professional services to provide program and construction management, program control systems, design, and post occupancy support for the Proposition Q - Public Safety General Obligation Bond Program was executed on February 18, 2003 (Transmittal No. 1). The original Contract term was for seven years from the date of execution with two one-year renewal options which have both been exercised.

Upon completion of the Citywide Public Safety Bond's original scope of work, the Management Team realized a savings of approximately \$69 million. On August 28, 2008, the Prop Q Administrative Oversight Committee approved use of these savings/earnings for a Phase II which was comprised of five new projects: The Emergency Operation Center Heating, Ventilation Air Conditioning Retrofit; renovation of the old Rampart Police Station; renovation of the Northeast Police Station; renovation of the Police Academy Administration Building; and a new Training Facility at Elysian Park. On April 21, 2009 the City Council voted to approve use of the savings/interest for these Phase II projects. The Mayor concurred with the Council action on April 29, 2009.

The original Phase II work was scheduled to be completed by 2012; however, due to existing land agreements the Administrative Oversight Committee (AOC) placed the two projects at the Police Academy on hold until the agreements were resolved. In July 2011, the agreements were resolved and the AOC requested that the projects be taken off hold and resumed. In addition, in July 2011, the Council approved a new Northeast Area Police Station, in-lieu of the renovation.

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An extension of the Turner/JGM Contract term and an increase in the ceiling are needed to continue their support of the Program for the Phase II portion of the work. Turner/JGM will be providing support such as cost estimating, constructability reviews, scheduling reviews, document control, and assistance in project management. Turner/JGM has continued to be competitive, and is compensated based on time and material at the rates set in 2003. This Amendment raises the total Contract ceiling amount by \$1,500,000 from \$16,500,000 to \$18,000,000 and extends the existing Contract term through February 18, 2017 (Transmittal No. 2). Turner/JGM is a responsive and responsible consulting firm with knowledge of the program and the needs of the Police Department. It has been providing valuable Project Management/Construction Management services to the Program, and the firm and its subconsultants have responded in a timely and professional manner to all requests of the Project Management Team. The recommended extension would insure continuation of the consulting firm's valuable services to the end of the Program.

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

At the time the Contract with Turner/JGM was executed, the City had set anticipated MBE/WBE participation levels of 23 percent and 7 percent, respectively. Prior to the Contract's execution, Turner/JGM met the MBE/WBE/OBE outreach requirements and submitted a list of potential subconsultants that they pledged to use during the program. As of January 3, 2012, Turner/JGM has achieved 34.70 percent MBE, 12.40 percent WBE, and 14.92 percent OBE. Upon execution of Amendment No. 1, Turner/JGM has pledged 30.74 percent MBE, 10.40 percent WBE, and 13.70 percent OBE.

Since 2002, Turner/JGM has added to their list of potential subconsultants. Anil Verma Associates, Inc.; PMCS Group; Simpson & Simpson, Inc.; and V&V Consulting were added to meet changes in the program's scope of work and to prevent project delays resulting from other subconsultants being unable to perform required work in a timely manner. George G. Dexter (Los Angeles Fire Department Consultant); Greenwood & Associates (Archaeological Monitoring); TestMarcx California, Inc. (Commissioning Services); and William Dolan (Los Angeles Police Department Consultant) were added for their specialty services.

Catalyst Communications (MBE); Construction Cost Consultants (MBE/WBE); Stegeman & Kastner, Inc. (OBE) were listed in Turner/JGM's original list of potential subconsultants but were not utilized; going forward, Turner/JGM does not foresee using these subconsultants.

Under this contract thus far, there have been no complete subconsultant substitutions.

Gender/Ethnicity Codes:

AA = African American
APA = Asian Pacific American
NA = Native American
M = Male

HA = Hispanic American
SAA = Subcontinent Asian American
C = Caucasian
F = Female

As of January 3, 2012, the MBE/WBE/OBE achieved subconsultant participation levels for Turner/JGM are:

Subconsultants	MBE/ WBE/ OBE	Gender/ Ethnicity	(%) of Total Invoiced	(\$) Amount Invoiced To Date
Analytical Planning Services, Inc.	MBE	M/SAA	4.32%	\$ 573,903.06
Anil Verma Associates, Inc.	MBE	M/SAA	0.57%	\$ 76,220.00
D.D.I. Management, Inc.*	MBE/ WBE	F/HA	4.88%	\$ 647,658.46
E2020 Technology, Inc.	MBE	M/APA	3.34%	\$ 444,090.00
Jubany Architecture, Inc.*	MBE/ WBE	F/APA	0.30%	\$ 40,013.91
Simpson & Simpson, CPAs*	MBE/ WBE	F/AA	6.95%	\$ 923,003.40
Viniegra & Viniegra Architecture	MBE	M/APA	13.57%	\$ 1,802,122.30
Yuang Tai Associates, Inc.	MBE	M/APA	0.75%	\$ 100,000.00
Nuntio Consulting**	MBE/ WBE	F/APA	7.69%	\$ 1,020,783.00
V&V Consulting	WBE	F/HA	4.71%	\$ 625,162.20
George G. Dexter	OBE		0.16%	\$ 20,954.28
Greenwood & Associates	OBE		2.15%	\$ 285,205.00
John F. Malloy, Real Estate Consultant	OBE		0.71%	\$ 94,873.00
PMCS Group	OBE		2.85%	\$ 378,144.00
TestMarcx California, Inc.	OBE		1.82%	\$ 241,464.43
William Dolan	OBE		7.23%	\$ 960,072.00
Total MBE Participation			34.70%	\$ 4,607,011.13
Total WBE Participation			12.40%	\$ 1,645,945.20
Total OBE Participation			14.92%	\$ 1,980,712.71
Prime Participation			37.99%	\$ 5,044,745.72
Subtotal Subconsultant Participation			62.01%	\$ 8,233,669.04
Total Invoiced to Date				\$13,278,414.76

* Although this subconsultant is certified as both a MBE and WBE, their subcontract amount was counted towards MBE participation only, to be consistent with what was previously reported the Board report dated 2/16/11.

** Although this subconsultant is certified as both a MBE and WBE, their subcontract amount was counted towards WBE participation only, to be consistent with what was previously reported the Board report dated 2/16/11.

Upon execution of Amendment No. 1, the MBE/WBE/OBE pledged subconsultant participation levels for Turner/JGM are:

Department of Public Works
Bureau of Engineering
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February 17, 2012
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Subconsultants	MBE/ WBE/ OBE	Gender/ Ethnicity	(%) Of Total	Pledged Amount
Analytical Planning Services, Inc.	MBE	M/SAA	4.34%	\$ 781,840.00
Anil Verma Associates, Inc.	MBE	M/SAA	0.42%	\$ 76,220.00
D.D.I. Management, Inc.*	MBE/ WBE	F/HA	4.90%	\$ 882,319.00
E2020 Technology, Inc.	MBE	M/APA	3.30%	\$ 594,095.00
Jubany Architecture, Inc.*	MBE/ WBE	F/APA	0.22%	\$ 40,013.91
Simpson & Simpson, CPAs*	MBE/ WBE	F/AA	6.99%	\$ 1,257,427.00
Viniegra & Viniegra Architecture	MBE	M/APA	10.01%	\$ 1,802,122.30
Yuang Tai Associates, Inc.	MBE	M/APA	0.56%	\$ 100,000.00
Nuntio Consulting**	MBE/ WBE	F/APA	5.67%	\$ 1,020,783.00
V&V Consulting	WBE	F/HA	4.73%	\$ 851,672.00
George G. Dexter	OBE		0.12%	\$ 20,954.28
Greenwood & Associates	OBE		1.58%	\$ 285,205.00
John F. Malloy, Real Estate Consultant	OBE		0.53%	\$ 94,873.00
PMCS Group	OBE		2.86%	\$ 515,154.00
TestMarcx California, Inc.	OBE		1.34%	\$ 241,464.43
William Dolan	OBE		7.27%	\$ 1,307,927.00
Total MBE Participation			30.74%	\$ 5,632,487.30
Total WBE Participation			10.40%	\$ 1,774,004.91
Total OBE Participation			13.70%	\$ 2,465,577.71
Pledged Prime Participation			45.16%	\$ 8,127,930.08
Pledged Subconsultant Participation			54.84%	\$ 9,872,069.92
Total Contract Ceiling				\$18,000,000.00

* Although this subconsultant is certified as both a MBE and WBE, their subcontract amount was counted towards MBE participation only, to be consistent with what was previously reported the Board report dated 2/16/11.

** Although this subconsultant is certified as both a MBE and WBE, their subcontract amount was counted towards WBE participation only, to be consistent with what was previously reported the Board report dated 2/16/11.

The Office of Contract Compliance has verified the above subconsultants' certifications.

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

All Consultants participating in this program are subject to compliance with the following City of Los Angeles Ordinances and Policies: Contractor Responsibility Ordinance; Business Tax Registration Certificate; Non-Discrimination, Equal Employment Practices, and Affirmative Action; Insurance requirements; Equal Benefits Ordinance; Child Support

What company is this

Obligations Ordinance; Americans with Disabilities Act; Service Contractor Worker Retention Ordinance; Living Wage Ordinance; Slavery Disclosure Ordinance; Non-Collusion; First Source Hiring Ordinance; and Discount Terms. Also, Turner/JGM will continue to comply with the requirements of the MBE/WBE/OBE Subcontractor Outreach Program. Failure to comply with all of these requirements may render the Consultant's Contract subject to termination pursuant to the conditions therein.

Businesses are encouraged to locate or remain within the City of Los Angeles to preserve and enhance the economic base and well-being of the City. According to the Los Angeles Residence Information form, Turner/JGM currently staffs 274 employees, of which 72 reside in Los Angeles, or 26 percent of their workforce.

Contractor Performance Evaluation

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

Contractor Responsibility Ordinance

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

Notice of Intent to Contract and Charter Section 1022 Determination

The required Notification of Intent to Contract form was submitted to the City Administrative Officer (CAO) on July 8, 2011. The CAO completed the 1022 Determination on November 17, 2011.

City Attorney Review

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

STATUS OF FUNDING

The increase in the contract amount of \$1,500,000 is available in the Proposition Q General Obligation Bonds, Fund No. 15N, Department 50, Account No. 50T2PM.

The City's liability under this contract shall only be to the extent of the present City appropriation to fund the contract. However, if the City shall appropriate funds for any succeeding years, the City's liability shall be extended to the extent of such appropriation, subject to the terms and conditions of the contract.

Department of Public Works
Bureau of Engineering
Bureau of Contract Administration
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(ATK TSA RMK DJW WFB)

Report reviewed by:

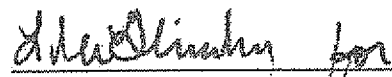
BOE (PAC and ASD)

Report prepared by:

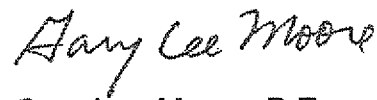
Bond Programs Division

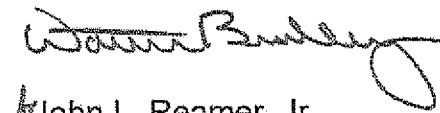
Allan T. Kawaguchi, P.E.
Program Manager
Phone No. (213) 485-4687

Compliance Review performed
and approved by:

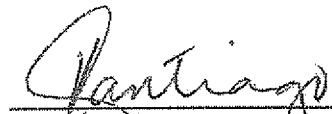

Hannah Choi, Program Manager
Office of Contract Compliance
Bureau of Contract Administration

Respectfully submitted,


Gary Lee Moore, P.E.
City Engineer


John L. Reamer, Jr.
Inspector of Public Works

Statement as to Funds approved by:


Victoria A. Santiago, Director
Office of Accounting
Date: 2/13/2012

ATK/KS/10-2011-0202.BPD.gva

Questions regarding this
report may be referred to:
Kevin Schrock, P.E. Civil Engineer
Phone No. (213) 485-4556
E-mail: Kevin.Schrock@lacity.org

CONTRACT NO. C- 104390

PROGRAM/CONSTRUCTION MANAGEMENT CONSULTANT

SERVICES AGREEMENT

BETWEEN THE

CITY OF LOS ANGELES

AND

TURNER/JGM (A JOINT VENTURE)

FOR

PROPOSITION Q -

CITYWIDE PUBLIC SAFETY BOND PROGRAM

TRANSMITTAL NO. 1

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ORDINANCE

AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES

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

WITNESSETH

WHEREAS, CITY has a need for consulting services for Program and Construction Management of the Proposition Q, Citywide Public Safety Bond Program; and

WHEREAS, eleven firms responded to the Request for Qualification (RFQ) dated May 29, 2002; and

WHEREAS, TURNER/JGM a Joint Venture, was selected to be the most qualified team based on the evaluation criteria set forth in the RFQ; and

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

WHEREAS, the CONSULTANT meets the Federal, State, and Local requirements (as necessary) to perform Program and Construction Management consulting services; and

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

WHEREAS, the CITY desires to retain the CONSULTANT to provide the required services for the PROGRAM as outlined herein;

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

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

All titles, subtitles, and/or section headings appearing herein have been inserted for convenience and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning, intent or construction of any of the terms or provisions hereof. The language of this Agreement shall be construed according to its fair meaning and not strictly for or against the CITY or the CONSULTANT. The singular shall include the plural; if there shall be more than one CONSULTANT herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several; use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used. The number of original texts of this Agreement shall be equal to the number of the parties hereto, one text being retained by each party.

ARTICLE 2 - DEFINITIONS

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

BOARD	The Board of Public Works of the CITY of Los Angeles. The Representative of the CITY of Los Angeles
BUILDING INSPECTOR	Also called the B&S Inspector; authorized representative from the Department of Building & Safety.
BUREAU	Bureau of Engineering, Department of Public Works, CITY of Los Angeles.
CADD	Computer- Aided Design and Drafting
CITY	The CITY of Los Angeles, Board of Public Works or its subordinate bureaus
CITY ENGINEER	The Representative of the Owner/Board.
CONSTRUCTION DOCUMENTS	The complete detail drawings, specifications, notices and addenda, based on the approved Design Development Plans

CONSULTANT	Turner/JGM a Joint Venture
CONTRACTOR	The Construction Company associated with the CITY performing the work or improvements designed by the CONSULTANT.
COST OF CONSTRUCTION	<p>The estimated cost of construction of the PROJECT at mid-point of construction, including all costs, <u>exclusive</u> of the following:</p> <p>The CONSULTANT's fee stipulated in this AGREEMENT, Bureau of Engineering costs, cost of Artwork, cost of soil test, inspection cost, cost of material tests, cost of site survey, CITY Building Permit and other plan checking fees, advertising costs and cost of furniture and equipment not included in the Construction Contract.</p>
CULTURAL AFFAIRS	The Department of Cultural Affairs, which includes the Cultural Affairs Commission, Cultural Heritage Commission and the Public Art Committee
DESIGN PROGRAM	Data indicating space, personnel requirements and functional relationships; list of all required functions, proposed construction budget and any other pertinent data needed for the design of a project with the PROGRAM.
DESIGN SERVICES	All services provided by the Architectural Design Consultant and its subconsultants for each project in the PROGRAM.

ENGINEERING COST INDEX Construction Cost Index, or Building Construction Index for the City of Los Angeles as applicable and published in the "Engineering News Record" by the McGraw-Hill Publishing Company of New York.

EPD City of Los Angeles, Emergency Preparedness Department

EXHIBITS Attachments to this AGREEMENT including the Sample Task Orders.

ITA Refers to the Information Technology Agency; Advises, maintains and installs the CITY's data and communication technology.

INSPECTOR Authorized Representative of the Director, Bureau of Contract Administration

LAFD City of Los Angeles Fire Department

LAPD City of Los Angeles Police Department

LUMP SUM PAYMENT Payment for delivery of completed services of a stipulated scope of work.

MBE/WBE/OBE Minority Business Enterprise/Women Business Enterprise/Other Business Enterprise

PRELIMINARY DESIGN DOCUMENTS PROGRAM	Drawings and written design summary based on building program analysis as described in Exhibit A.
PROGRAM MANAGER	Proposition Q – Citywide Public Safety Bond Program
PROJECT MANAGER	The representative of the City in all matters pertaining to this PROGRAM.
PROJECT TASK ORDER QA/QC	The designated person responsible for the tracking and monitoring of the scope, budget and schedule of a project or projects in the PROGRAM
	Detailed project description and scope of services.
	Quality Assurances/Quality Control
REHABILITATION	The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historic, architectural and cultural values.
REIMBURSABLE EXPENSES	Cost incurred by CONSULTANT directly attributable to the PROGRAM and approved by the City Engineer. Such reimbursable costs shall be

computed on the basis of actual cost or purchase price and on the basis of usual commercial charges for items provided by CONSULTANT. Reimbursable expenses exclude all proposal submittals that were prepared for any Task Orders requested and issued.

SCHEMATIC DESIGN Schematic Drawings and Massing Model based on the approved Preliminary Design for an expansion/renovation project; or based on the program for a new project.

USING AGENCY The Los Angeles Police Department, Los Angeles Fire Department, and Emergency Preparedness Department, who will occupy and operate the facilities affected by the PROGRAM

ARTICLE 3 -PROJECT DESCRIPTION

On March 5, 2002, 67% of the voters in the City of Los Angeles passed Proposition Q, the Citywide Bond Measure for \$600 million dollar to improve, renovate, expand and construction 911-Police-Fire-Paramedic Facilities. Proposition Q is a general obligation bonds that funds the following projects:

PROJECT LIST	SCOPE OF WORK
5 Police Stations (New & Replacement)	Construction of new facility with vehicle
A. Mid-City New Station	maintenance facility and parking structure. Four
B. Valley New Station	projects will require land acquisition and one

C. Hollenbeck replacement Station	project includes demolition of existing facility.
D. Rampart Replacement Station	
E. West Valley Replacement Station	
1 Harbor Replacement Police Station & Jail	Construction of new facility with a jail, vehicle maintenance facility and parking structure.
2 Bomb Squad Facilities (New)	Acquisition of new sites and constructions of two new facilities with parking.
A. Metro	
B. Valley	
1 Metro Jail (New)	Acquisition of new site and construction of new jail facility with parking.
1 EOC/POC/Fire Dispatch (New)	Acquisition of new site and constructions of new Emergency Operations Center, LAPD Operations Center and LAFD Operations & Dispatch with parking.
1 Valley Traffic Division & Valley Bureau Headquarters	Construct a new Police Bureau Headquarters office building.

Renovation Project of Police Facilities

Renovation of multiple existing Police Facilities

Renovation Project of Fire Facilities

Renovation of multiple existing Fire Facilities

The 2002 Proposition Q Bond measure also established a 7-year time frame to complete all the projects in the PROGRAM from March 2002.

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

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

- 4.1 CONSULTANT shall perform the services described in Article 4.4 and 4.5. CONSULTANT shall perform such work with a degree of skill and diligence normally employed by or consultants performing the same or similar services.
- 4.2 CONSULTANT shall provide corrective services without charge to the CITY for services, which fail to meet the above standards, and which are reported to CONSULTANT in writing within sixty days of discovery. Should the CONSULTANT fail or refuse to perform promptly its obligations under this warranty, the CITY may render or undertake the performance thereof and the CONSULTANT shall be liable for any expenses thereby incurred.

4.3 Maintenance of Records

CONSULTANT shall maintain complete and accurate records with respect to all costs incurred under this Agreement, including the records supporting the cost proposals used to enter into this Agreement with CITY. All of the aforementioned records shall be maintained on an industry recognized accounting basis and shall be clearly identifiable. CONSULTANT shall make available to the representative of CITY all of such books and records, and the right to examine and audit the same, and to make transcripts or copies therefrom. CONSULTANT shall maintain and allow inspection of all said books and records, including, but not limited to work data, documents, proceedings, and activities related to this Agreement for a period of three (3) years from the date of final payment under this Agreement. CONSULTANT shall maintain said records in a manner, which will indicate actual time and allowable costs with respect to all work performed hereunder as required by CITY.

4.4 Scope of Services

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

4.5 Consultant Schedule of Services

4.5.1 The CONSULTANT shall prepare and submit to the PROGRAM MANAGER an outline master schedule for assumed duration of major tasks to be accomplished for the program.

This schedule is shown in Exhibit A. The CONSULTANT shall prepare an hourly rate schedule (Exhibit B) required to carry out the consultant services in accordance with the assumed time frames shown in Exhibit A. As the program progresses the consultant will prepare revisions and updates to the master schedule and the estimated staffing plan in a timely manner. The CITY may withhold payment to the CONSULTANT for failure to comply with requirements of this procedure.

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

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

4.5.4 The CONSULTANT may work closely with the CITY to establish whether by lease or otherwise, a joint CITY and CONSULTANT Program Management Team office. The CONSULTANT may also provide the necessary data, communications and equipment to support the Program Management Office.

4.5.5 Program Management Support

- A. The CONSULTANT shall develop a Program-wide program management plan and manual in collaboration with the various CITY departments and provide a core set of policies and procedures for the Program Management Team to function effectively and consistently. This manual shall be published and maintained electronically on the PROGRAM web site.
- B. The CONSULTANT shall evaluate and recommend alternate delivery strategies to streamline or speed the design and construction process.
- C. When specifically requested by the CITY, the CONSULTANT shall provide assistance to enhance and maintain the interests of the PROGRAM and the CITY.

4.5.6 Program Management Control System

- A. The CONSULTANT shall develop program-wide work breakdown structure "WBS" to provide a common means of coding and defining the individual projects and cost categories (i.e. Police Station, council district, funding source, city accounting codes, construction specification institute "CSI" categories, architect, contractor, etc.) for the PROGRAM.
- B. The CONSULTANT shall develop and maintain, a web-based tracking and reporting system to enhance PROGRAM communications among the CITY, CONSULTANT, Architectural Design Consultant's and Contractor's. The CONSULTANT shall also assist in establishing a link between the LAPD and the PROGRAM web site. The web site will provide security controls to limit access

levels to the PROGRAM data.

- C. The CONSULTANT shall review and validate original budget and schedule assumptions utilized for the 2002 Proposition Q Bond Program. Submit a report documenting the findings from the independent assessment and identify variances, if any, from the original budget assumptions and recommend corrective actions and reconciliation measures for the program.
- D. The CONSULTANT shall develop and maintain a Program Master Schedule summarizing important design, approval, bid, construction and occupancy milestones for each of the planned projects. The CONSULTANT shall also review and comment on design schedules submitted by the Architectural Design Consultants and construction schedules submitted by the Contractors.
- E. The CONSULTANT shall prepare an independent estimate of the anticipated construction cost for the schematic design, design development, 50% construction and 100% construction document submittal from the Architectural Design Consultant for each project. It is understood that neither CONSULTANT nor the CITY has control over the cost of labor, materials or equipment, or contractors' methods of determining bid prices or other competitive bidding or negotiating conditions.
- F. The CONSULTANT shall conduct a cost reconciliation between the CONSULTANT's estimates and the Architectural Design Consultant's estimates for each project and prepare a report identifying variances, if any, from the approved budget amounts. Identify cost reduction alternatives as necessary.
- G. The CONSULTANT shall produce a monthly, quarterly and annual report

summarizing the overall status of the PROGRAM specific to the recipient agency. The report shall document the activities completed and costs incurred during the preceding month and compare them to the original budget and master schedule. The report will discuss cost, schedule, and critical issues to be resolved.

- H. The CONSULTANT shall prepare an end of Program Report showing actual schedule and expenditure against the approved Master Schedule and Program Budget.

4.5.7 Design Management Support

- A. The CONSULTANT shall assist in the modification of existing CITY design guidelines for use on the PROGRAM. The guidelines shall include definition of the Schematic Design, Design Development, and Construction Document submittals prepared by The Architectural Design Consultants.
- B. The CONSULTANT shall review CITY specification and special provision language and recommend modifications for the PROGRAM.
- C. The CONSULTANT shall develop sustainable commissioning guidelines.
- D. The CONSULTANT shall review forms of agreement for Architectural Design Consultants and make recommendations relative to design scope of services.
- E. The CONSULTANT shall work with the CITY and Architectural Design Consultants to evaluate and identify long lead procurement, standardization and pre-purchase of CITY supplied furniture, fixtures and equipment.
- F. The CONSULTANT shall perform reviews of the design documents at specific

milestones to provide constructability and value engineering comments with regards to systems, materials, equipment and techniques to allow construction contractors to employ cost-effective construction techniques and minimize the number and cost of change orders.

4.5.8 Construction Management Support

The CONSULTANT shall provide the following construction management and related construction management services:

- A. Assist the CITY in developing a construction document tracking system to track and record construction activities.
- B. Provide advice on construction feasibility, availability of materials & labor, and time requirements for installation and construction.
- C. Recommend contractual language for inclusion in the construction documents that will require submittals and performance by the contractors to support effective cost, schedule and quality control.
- D. Assist the CITY in the pre-qualification of contractors and subcontractors.
- E. Assist the CITY in the bidding of construction contracts, including conducting pre-bid conferences, analyzing bids, reviewing contract preparation and conducting pre-construction conferences.
- F. Advise the CITY regarding the performance of CONTRACTORS in accordance with the obligations under their agreements and the construction documents.
- G. Develop and implement the procedure for review and processing of applications for progress payments and final payments to contractors. Reviewing the

contractors proposed schedules of values for use in processing payments.

- H. Develop and implement procedures for expediting the processing and approval of shop drawings and samples by others.
- I. Conduct and attend regular meetings to monitor the progress of the work.
- J. Maintain Meeting Minutes, current records of contracts, plans, specifications and other related documents.
- K. Develop and implement a system for the preparation, review and processing of change orders.
- L. Determine, in conjunction with the CITY and the Architectural Design Consultant for each PROJECT substantial completion of the construction, construction contracts or designated portions thereof, and assist the Architectural Design Consultant in the preparation of punch lists of incomplete or unsatisfactory work.

Determine, in conjunction with the CITY and the ARCHITECTURAL DESIGN CONSULTANT for each PROJECT final completion of the construction, CONSTRUCTION CONTRACTS and provide written notice to the CITY. Assist in obtaining from the appropriate parties the necessary records, certificates, guarantees, warranties and releases to CITY.
- M. Assist the CITY with the avoidance, analysis and resolution of claims related to the PROGRAM. Work with the CITY and Architectural Design Consultants to develop a pre-construction claims mitigation program to see that scope for each PROJECT is clearly defined and that construction contract documents are coordinated and complete. Also, check to see that specifications establish specific

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

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

4.5.9 Post Occupancy Support

- A. The CONSULTANT shall assist the CITY in resolving post occupancy problems related to construction and building system.
- B. The CONSULTANT shall investigate causes of problems and follow up with appropriate parties for actions to resolve problems that are warranty

related.

- C. The CONSULTANT shall facilitate the CITY in developing solutions for problems that are non-warranty related.
- D. The CONSULTANT shall provide construction support for resolving minor construction problems.

ARTICLE 5 - KEY CONSULTANT PERSONNEL

- 5.1 The CONSULTANT designates the following persons to implement the work:

Ed Cadena, Sr. Project Manager

Additional technical specialists may be assigned subject to the Program Manager's approval.

- 5.2 The CONSULTANT agrees that personnel assigned to these positions at the commencement of services under this Agreement shall serve in these as required by the PROGRAM, and CONSULTANT shall not change personnel assigned to these positions without the written consent and approval of Program Manager, provided such consent shall not be unreasonably withheld.

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

- 6.1 The CITY designates Sam Tanaka as its Program Manager, representing the CITY in all matters within the scope of this Agreement relating to the conduct and approval of the work to be performed. Whenever the term "approval of CITY," "consult with CITY," "confer with CITY," or similar terms are used, they shall refer to the City's

Program Manager. The City's Program Manager may designate an assistant to act in his stead. The Program Manager may be changed at the direction of the City Engineer at any time.

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

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

6.3 The CITY acknowledges that it has or will obtained the services of Architects (which term shall be understood to also include all design professionals utilized in the Project) and Construction Contractors, to whom it has respectively delegated

full, specific project design and construction and safety responsibilities, as well as having obtained the services of others such as testing and inspection agencies, and as such the services of the CONSULTANT intended to afford the CITY assistance in administering the services of others, and are not to include responsibility, in any way, for the work of others or to discover deficiencies in the work of others. In the event an Architect fails to perform its work and/or any Construction Contractors fail to maintain a safe jobsite and/or properly perform their Work, for example, the CITY will not look to the CONSULTANT for the CITY's losses due to the failure of the Architect, the Construction Contractors and/or others to perform their respective obligations.

ARTICLE 7 - TERM OF AGREEMENT AND TIME OF EFFECTIVENESS

7.1 Unless otherwise provided, the term of this Agreement shall begin on the date of full execution of this Agreement and shall expire 7 years after the date of full execution, with one year renewal options for a period of two years, unless terminated as provided under Article 8 or extended by amendment to this Agreement.

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

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

- (b) This Contract has been approved by the CITY's Council or by the board, officer or employee authorized to give such approval;
- (c) The office of the City Attorney has indicated in writing its approval of this Contract as to form and legality;
- (d) This Contract has been signed on behalf of the CITY by the person designated to so sign by the CITY's Council or by the board, officer or employee authorized to enter into this Contract.

ARTICLE 8 - TERMINATION

8.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten (10) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.

8.2 This Agreement may be terminated in whole or in part in writing by the CITY for its convenience, provided that the CONSULTANT is given (1) not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.

8.3 If termination for default is effected by the CITY, an equitable adjustment in the price provided for in this Agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due the CONSULTANT at the time of termination may be adjusted to cover any additional costs to the CITY because of the CONSULTANT'S default.

If termination for default is effected by the CONSULTANT or if termination for convenience is effected by the CITY, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the CONSULTANT for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the CONSULTANT relating to written commitments that were executed prior to the termination.

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

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

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

ARTICLE 9 - SUBCONTRACT APPROVAL

All subcontracts in excess of \$10,000 shall require the approval of the CITY. A copy of all subcontracts shall be submitted to the CITY showing the subconsultant's name and dollar amount of each subcontract. Wholly owned subsidiaries of the CONSULTANT are not considered subconsultants. The following table consists of firms that are CONSULTANT's subconsultants under this Agreement:

FIRM	ROLE/SERVICE PROVIDED	STATUS
Analytical Planning Services, Inc.	Project Controls, scheduling, and construction management related task	MBE
Catalyst Communications	Community Outreach	MBE/WBE
Construction Cost Consultants	Cost Estimating	MBE/WBE

E2020 Technology, Inc.	Website Management	MBE/WBE
DDI Management, Inc.	Administrative Support	MBE/WBE
John Malloy	Site Acquisition	OBE
Jubany Architecture	Design Peer Review	MBE/WBE
Nuntio Consulting	Technical Program Coordinator	WBE
Stegeman & Kastner, Inc.	Project & Construction Management	OBE
Viniegra & Vinegra	Design Standards & Master Specifications production, and Design Peer review	MBE
Yuang Tai, Inc.	Estimating	MBE

Subconsultants may not be added or removed with the written approval of the PROGRAM MANAGER. Substitution requires approval from the BOARD.

ARTICLE 10 - COMPENSATION, INVOICING AND PAYMENT

10.1 Compensation

THE CONTRACT CEILING FOR THIS AGREEMENT IS \$16,500,000.

The CONSULTANT agrees to perform the work specified in Article 4.4 & 4.5, and the CITY shall compensate the CONSULTANT for services completed in accordance with the Program Schedule and Program Services Cost Estimate shown in Exhibit A & B. Any and all revisions to staffing and/or assigned to the PROGRAM and/or hourly rates must have written approval from the Program Manager.

10.1.1 "Billing Hourly Rates" shall be at the rates approved by the Program Manager, to be charged by CONSULTANT for employees' time and subconsultants' time directly chargeable to their performance of the project task work, which includes all direct, indirect, O & P, and mark-ups. The CONSULTANT may request billing hourly rate increases once per year per position and is subject to the approval of the CITY.

10.1.2 The billing hourly rates amount shown for each job classification on Exhibit B are the amounts invoices must be based on and are only subject to change by written approval of the Program Manager.

10.1.3 Exhibit B, Program Services Cost Estimate, attached hereto and incorporated herein by this reference, shall be used to determine the total cost by task, based upon the estimated hours of labor at

hourly labor rates as stipulated in the Schedule.

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

10.2 Reimbursable Expenses

10.2.1 The CITY also agrees to pay the CONSULTANT for Reimbursable Expenses incurred by the CONSULTANT directly attributable to the PROJECT only with prior written approval by the City Engineer. Such Reimbursable Expenses shall be the actual cost or actual amount paid to the vendor or supplier. The CONSULTANT shall not be entitled to any mark-up on all reimbursable expenses. 10.2.1

Total Reimbursable Expenses shall not exceed \$1,175,000, unless approved the City Engineer.

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

10.3 Invoicing and Payment

10.3.1 Once each month, CONSULTANT shall submit to CITY an original and three copies of an invoice in a format acceptable to the CITY which will include all costs for services provided by the CONSULTANT during the preceding month. CITY shall review CONSULTANT's invoice and notify CONSULTANT of exceptions or disputed items and their dollar value within fifteen (15) days of receipt. The total invoice amount, less any exceptions or disputed items shall be considered approved for payment fifteen days after receipt by the CITY. If the CITY does not notify CONSULTANT within fifteen days of receipt, it is agreed that the entire invoice amount shall be deemed approved for payment. CITY will make an effort to pay CONSULTANT all amounts approved for payment within sixty days after invoice is approved for payment.

10.3.2 Invoices shall be prepared in such form and supported by such copies of invoices, payrolls, time sheets, and other documents of proof as may be reasonably required by CITY to establish the amount of such invoices as being allowable. An MBE/WBE/OBE Utilization Profile, Exhibit C, listing MBE/WBE/OBE amounts invoiced shall also be submitted as part of the monthly invoice. All such invoices shall be subject to audit. Support for any other direct cost items less than CONSULTANT need not submit \$25 unless specifically requested by CITY.

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

have specified in such notice an estimated PROGRAM Services Cost Estimate which shall thereupon constitute the cost performance of this Agreement. In the absence of the specified notice, CITY shall not be obligated to reimburse CONSULTANT for any costs in excess of the Project Services Cost Estimate set forth, whether those costs were incurred during the course of the Agreement or as a result of termination.

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

10.3.5 CITY liability under this contract shall only be to the extent of the present appropriation to fund the Agreement. No action, statement, or omission of any officer, agent, or employee of CITY shall impose any obligation upon CITY, such officer, agent, or employee, except to the extent CITY has appropriated funds and otherwise in accordance with the terms of this Agreement. CONSULTANT and CITY agree that no indebtedness for work performed which results in costs under this Agreement shall arise against CITY until and unless there is an appropriation of funds to pay for such work. However, if CITY shall appropriate funds for any successive fiscal years, City's liability shall be extended to the extent of such appropriation subject to the terms and conditions of this Agreement.

ARTICLE 11 - AMENDMENTS, CHANGES OR MODIFICATIONS

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

bind the parties thereto.

ARTICLE 12 - INDEMNIFICATION AND INSURANCE

12.1 INDEMNIFICATION

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

12.2 INSURANCE

A. General Conditions

During the term of this Contract and without limiting CONTRACTOR'S/CONSULTANT'S indemnification of the CITY, CONSULTANT shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by CONSULTANT but not less than the amounts and types listed on the Insurance Requirements Sheet (Form Gen 146/IR) in Exhibit D hereto covering its operations hereunder. Such insurance shall conform to City requirements established by Charter, Ordinance or policy, shall comply

with the instructions set forth on Form General 133 and with the conditions set forth on the applicable City Special Endorsement form(s), copies of which are included in Exhibit D, and shall otherwise be in a form acceptable to the City Attorney. Specifically, such insurance shall:

- 1) protect city as an Insured or an Additional Interest Party, or a Loss Payee As Its Interests May Appear; respectively, when such status is appropriate and available depending on the nature of the applicable coverages; 2) provide City at least thirty (30) days advance notice of cancellation, material reduction in coverage or reduction in limits when such change is made at the option of the insurer; and 3) be primary with respect to City's insurance program. Except when City is a named insured, CONTRACTOR'S/CONSULTANT'S insurance is not expected to respond to claims which may arise from the acts or omissions of the City.

B. Modification of Coverage

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

C. Failure to Procure Insurance

All required insurance must be submitted and approved by the City Attorney prior to the inception of any operations or tenancy by CONSULTANT. The required coverage 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 CONSULTANT'S

insurance broker or agency indicating a good faith effort to place the required insurance and showing as a minimum the names of the insurance carriers and the declinations or quotations received from each.

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

D. Workers Compensation

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

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

ARTICLE 13 -INDEPENDENT CONTRACTORS

CONSULTANT is acting hereunder as an independent contractor and not as an agent or

employee of the CITY. CONSULTANT shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the CITY. CITY shall not represent or otherwise hold itself out or any of its directors, officers, partners, employees or agents to be an agent or employee of CONSULTANT.

ARTICLE 14 - WARRANTY AND RESPONSIBILITY OF CONSULTANT

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

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

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

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

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

ARTICLE 15 - OWNERSHIP OF DATA

15.1 Unless otherwise provided for herein, all documents, material, data, drawings, plans, specifications, computer data files, basis for design calculations, engineering notes, and reports originated and prepared by CONSULTANT under this Agreement shall be and remain the property of the CITY for its use in any manner it deems appropriate. CONSULTANT shall provide two (2) sets of reproducible copies of the above-cited items, except for the computer data files which shall consist of one (1) set in the form described in Article 15.2, below. CONSULTANT shall be permitted to maintain copies of all such data for its own files. Should CITY use these products or data in connection with additions to the work required under this Agreement or for new work, without consultation with and without additional compensation to CONSULTANT, CONSULTANT shall have no liability or responsibility whatsoever in connection with such use.

15.2 Specifically with regard to the computer data files specified in Article 15.1, above, said computer data files (or databases) shall be provided to the CITY by tape or electronically, via an

asynchronous RS-232 protocol, to a CITY provided compatible computer system. With regard to the basis for design calculations and engineering notes, such data shall be provided to the CITY in (a) hard cover post binder(s), appropriately indexed, on thin mylar stock or good quality paper satisfactory for reproduction.

ARTICLE 16 -NONDISCRIMINATION AND AFFIRMATIVE ACTION

The CONSULTANT shall comply with the applicable nondiscrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the CITY. In performing this Agreement, the CONSULTANT shall not discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. The CONSULTANT shall comply with the provisions of the Los Angeles Administrative Code Sections 10.8 through 10.13, to the extent applicable hereto. The CONSULTANT shall also comply with all rules, regulations, and policies of the CITY's Board of Public Works, Office of Contract Compliance relating to nondiscrimination and affirmative action, including the filing of all forms required by said Office. Any subcontract entered into by the CONSULTANT relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph. Failure of the CONSULTANT to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject the CONSULTANT to the imposition of any and all sanctions allowed by law, including but not limited to termination of the CONSULTANT'S Agreement with the CITY.

ARTICLE 17- MINORITY, WOMEN AND OTHER BUSINESS ENTERPRISE

OUTREACH PROGRAM

CONSULTANT agrees and obligates itself to utilize the services of Minority, Women, and Other Business Enterprise (MBE/WBE/OBE) firms on a level so designated in its proposal. CONSULTANT certifies that it has complied with Mayoral Directive 2001-26 regarding the MBE/WBE/OBE Outreach Program for Personal Services Contracts Greater than \$100,000, Attachment A to the Request for Proposal. CONSULTANT shall not change any of these designated subconsultants or reduce their level of effort without prior written approval of the CITY if such approval will not be unreasonably withheld.

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

ARTICLE 18 - SUCCESSORS AND ASSIGNS

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

ARTICLE 19 - CONTACT PERSONS - PROPER ADDRESSES - NOTIFICATION

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

To The CITY:

Contact Person: Sam Tanaka, Program Manager
Address: 911 Wilshire Boulevard, Suite 2200
Los Angeles, California, 90017

To CONSULTANT:

Contact Person: Ed Cadena, Sr. Project Manager
Address: 555 West Fifth Street, Suite 3700
Los Angeles, California, 90013

ARTICLE 20 - FORCE MAJEURE

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

ARTICLE 21 - SEVERABILITY

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

ARTICLE 22 - DISPUTES

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

ARTICLE 23 - ENTIRE AGREEMENT

This Agreement contains all of the agreements, representations, and understandings of the parties hereto and supersedes and/or incorporates any previous understandings, proposals, commitments, or agreements, whether oral or written, and may be modified or amended only as herein provided.

ARTICLE 24 - APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the City of Los Angeles including but not limited to laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This Agreement shall be governed by, enforced, and interpreted under the laws of the State of California and the City of Los Angeles. CONSULTANT shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance

of this Agreement.

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

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

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

ARTICLE 26 - BONDS

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

ARTICLE 27 - CHILD SUPPORT ASSIGNMENT ORDERS

This contract is subject to Section 10.10, Article 1, Chapter 1, Division 10 of the Los Angeles Administrative Code Child Support Assignment Orders. CONSULTANT is required to complete a Certification of Compliance with Child Support Obligations, which is attached hereto as Exhibit E and incorporated herein by this reference. Pursuant to this Section, CONSULTANT (and any subcontractor providing services to City under this Contract) shall (1) fully comply with all State and Federal employment reporting requirements for CONSULTANT or CONSULTANT's subcontractor's employees applicable to Child Support Assignment Orders; (2) certify that the principal owner(s) of CONSULTANT and applicable subcontractors are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (3) fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code section 5230, et seq; and (4) maintain such compliance throughout the Term of this Contract. Pursuant to Section 10.10b of the Los Angeles Administrative Code, failure of CONSULTANT or an applicable subcontractor to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders and Notice of Assignment or the failure of any principal owner(s) of CONSULTANT or applicable subcontractors to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default of this contract subjecting this Contract to termination where such failure shall continue for more than ninety (90) days after notice of such failure to CONSULTANT by City.

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

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

ARTICLE 28 - COMPLIANCE WITH YEAR 2000

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

ARTICLE 29 - 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) Section 10.37 et seq. of the Los Angeles Administrative Code, as amended from time to time. and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 et.seq., of the Los Angeles Administrative Code, as amended from time to time.

1. Payment of a minimum initial wage 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 subcontractor to the City within ninety days of the execution of the subcontract. CONTRACTOR'S/CONSULTANT'S delivery of executed pledges from each such subcontractor shall fully discharge the obligation of the CONTRACTOR/CONSULTANT with respect to such pledges and fully discharge the obligation of the CONTRACTOR/CONSULTANT to comply with the provision in the LWO contained in Section 10.37.6c 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 with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO.

CONTRACTOR/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 contract, to the extent allowed hereunder, shall be subject to the provisions of this Article 29 and shall incorporate the provisions of the LWO and the SCWRO.
 5. CONTRACTOR/CONSULTANT shall comply with all rules, regulations and policies promulgated by the designated administrative agency, which may be amended from time to time.
- B. Under the provisions of Section 10.36.3(c) and Section 10.37.5(c) of the Los Angeles Administrative Code, the CITY shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the CITY determines that the subject CONTRACTOR/CONSULTANT has violated provisions of the LWO and the SCWRO.
- C. Where under the LWO Section 10.37.6 (d), the designated administrative agency has determined (a) that the CONTRACTOR/CONSULTANT is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the awarding authority in such circumstances may impound monies otherwise due the CONTRACTOR/CONSULTANT in accordance with the following procedures. Impoundment shall mean that from monies due the CONTRACTOR/CONSULTANT, the awarding authority may deduct the amount determined to be due and owing by the CONTRACTOR/ CONSULTANT to its employees. Such monies shall be placed in the

holding account referred to in LWO Section 10.37.6 (d) (3) and disposed of under procedures 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.

Earned Income Tax Credit

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

ARTICLE 30 - AMERICANS WITH DISABILITIES ACT

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

ARTICLE 31 - EQUAL BENEFITS ORDINANCE.

Unless otherwise exempt in accordance with the provisions of this Ordinance, this Contract is

subject to the Equal Benefits Ordinance, Section 10.8.2.1 of Article 1, Chapter 1 of Division 10 of the Los Angeles Administrative Code.

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

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

2. The CONSULTANT shall permit access to and may be required to provide certified copies of all its records pertaining to employment and to its employment practices to the awarding authority or the City Administrative Officer, for the purpose of investigation to ascertain compliance with the Equal Benefits Provisions of this contract, and on their or either of their request to provide evidence that it has complied or will comply therewith.

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

4. Upon a finding duly made that the CONSULTANT has breached the Equal Benefits Provisions of this contract, this contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said CONSULTANT is an irresponsible bidder pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such CONSULTANT shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until it shall establish and carry out a program in conformance with the provisions hereof.

5. Notwithstanding any other provisions of this contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.

6. Nothing contained in this contract shall be construed in any manner to require or permit any act, which is prohibited by law.

7. The equal benefits requirements of this section shall not apply to collective bargaining agreements in effect prior to the effective date of Section 10.8.2.1 of the Los Angeles Administrative Code. Amendments, extensions or other modifications of such collective bargaining agreements, occurring subsequent to the effective date of that section, shall incorporate the equal benefits requirements of that section.

8. All CONSULTANTS subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the City and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the CONSULTANT. Failure of the CONSULTANT to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the CONSULTANT to the imposition of any and all sanctions allowed by law, including but not limited to termination of the CONSULTANT's contract with the City.

ARTICLE 32 - WAIVER

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

ARTICLE 33 - PROHIBITION AGAINST ASSIGNMENT OR DELEGATION

The CONSULTANT may not, unless it has first obtained the written permission of the CITY.

- (a) Assign or otherwise alienate any of its rights hereunder, including the right of payment; or
- (b) Delegate, subcontract, or otherwise transfer any of its duties hereunder.

ARTICLE 34 - PERMITS

The CONSULTANT and its officers, agents and employees shall obtain and maintain all permits and licenses necessary for the CONSULTANT's performance hereunder and shall pay

any fees required therefore. CONSULTANT certifies to immediately notify the CITY of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

ARTICLE 35 - CLAIMS FOR LABOR AND MATERIALS

The CONSULTANT shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this Agreement, so as to prevent any lien or other claim under any provision of law from arising against any CITY property (including reports, documents, and other tangible matter produced by the CONSULTANT hereunder), against the CONSULTANT's rights to payments hereunder, or against the CITY, and shall pay all amounts due under the Unemployment Insurance act with respect to such labor.

ARTICLE 36 - DISCOUNTS

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

ARTICLE 37 - CONTRACTOR RESPONSIBILITY ORDINANCE

Unless otherwise exempt in accordance with the provisions of the Ordinance, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 et seq., of Article 14, Chapter 1 of Division 10 of the Los Angeles Administrative Code, which requires CONSULTANT to update its responses to the responsibility questionnaire within thirty calendar days after any change would affect CONSULTANT'S fitness and ability to continue

performing the contract. In accordance with the provisions of this Ordinance, by signing this Contract, CONSULTANT pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. The CONSULTANT further agrees to: 1) notify the awarding authority within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the CONSULTANT is not in compliance with all applicable federal, state, and local laws in performance of this contract; 2) notify the awarding authority within thirty calendar days of all findings by a government agency or court of competent jurisdiction that the CONSULTANT has violated the provisions of Section 10.40.3(a) of the Ordinance; 3) ensure that its subcontractor(s), as defined in the Ordinance, submit a Pledge of Compliance to awarding authorities; and 4) ensure that its subcontractor(s) as defined in the Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify Awarding Authorities within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Ordinance in performance of the subcontract.

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

APPROVED AS TO FORM:
Rockard J. Delgadillo, City Attorney

By: Christina M. West
Title: Assistant City Attorney
Date: 12/12/02

CONSULTANT
Turner/JGM (A Joint Venture)

By: H. H. Cook
Title: VICE PRESIDENT
GENERAL MANAGER

By: TJR
Title: PRESIDENT

CITY OF LOS ANGELES

Vitaly B. Troyan
Vitaly B. Troyan, City Engineer
Department of Public Works

Valerie Lynne Shaw
Valerie Lynne Shaw, President
Board of Public Works

ATTEST
J. Michael Carey, City Clerk



By: Vera Mendez
Date: 2-18-03
C-104390

28 OCT 02
Date

28 OCT 02
Date

2/13/03
Date

14 13/0
Date

AMENDMENT NO. 1

to

Contract No. C-104390

for the

PROPOSITION Q – CITYWIDE PUBLIC SAFETY BOND PROGRAM

Between

CITY OF LOS ANGELES

and

TURNER/JGM (A JOINT VENTURE)

TRANSMITTAL NO. 2

AMENDMENT NO. 1 TO CONTRACT NO. C-104390, FOR PROGRAM MANAGEMENT AND CONSTRUCTION MANAGEMENT (PM/CM) SERVICES BETWEEN THE CITY OF LOS ANGELES AND TURNER/JGM (A JOINT VENTURE).

This Amendment modifies Contract No. C-104390 dated February 18, 2003, between the City of Los Angeles (hereinafter referred to as "CITY") and Turner/JGM (hereinafter referred to as "CONSULTANT").

WITNESSETH

WHEREAS, Bureau of Engineering issued a Request for Qualifications (RFQ) on May 29, 2002 to provide PM/CM services for the Proposition Q, Citywide Public Safety Bond Program and CONSULTANT submitted a proposal in response; and

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

WHEREAS, the CONSULTANT is currently providing PM/CM services for the Public Safety Bond Program and has the capacity and the experienced personnel to continue to provide the required services; and

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

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

WHEREAS, the Contract will expire on February 18, 2012; and it is desired that this Contract be extended to February 18, 2017; and

WHEREAS, the BUREAU has determined that the total funding previously allocated, is insufficient to complete the services described in the Contract and additional funding in the amount of \$1,500,000 is required, increasing the amount of this Contract from \$16,500,000 to \$18,000,000; and

NOW, THEREFORE, in consideration of the foregoing and of the benefits which will accrue to the parties hereto in carrying out the conditions of this Contract, No. C-104390, the Contract is hereby amended as follows:

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

No Change

ARTICLE 2 **DEFINITIONS**

No Change

ARTICLE 3 **PROJECT DESCRIPTION**

Article 3 is hereby amended as follows:

Add: Upon completion of Prop Q's original program/scope, the Management Team realized a Prop Q savings from the original budget. On August 28, 2008, the Prop Q Administrative Oversight Committee, the City Council and the Mayor approved use of the savings for Phase II which includes four (4) new projects: renovation of the old Rampart Police Station, a new Northeast Police Station, renovation of the Police Academy Administration Building/Cafe and Shooting Ranges, and a new Training Facility at Elysian Park. The new projects in this PROGRAM will be completed by the year 2017.

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

No change

ARTICLE 5 **KEY CONSULTANT PERSONNEL**

Article 5.1 is hereby amended as follows:

From: Ed Cadena, Senior Project Manager

To: John Hook, Project Executive

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

Article 6.1 is hereby amended as follows:

From: "CITY designates Sam Tanaka as its PROGRAM MANAGER, representing the CITY in all matters within the scope of this Agreement relating to the conduct and approval of the work to be performed."

To: "CITY designates Allan Kawaguchi as its PROGRAM MANAGER, representing the CITY in all matters within the scope of this Agreement relating to the conduct and approval of the work to be performed."

ARTICLE 7

TERM OF AGREEMENT AND TIME OF EFFECTIVENESS

Article 7.1 is hereby amended as follows:

From: "Unless otherwise provided, the term of this Agreement shall begin on the date of full execution of this Agreement and shall expire 7 years after the date of full execution, with one year renewal options for a period of 2 years, unless terminated as provided under Article 8 or extended by amendment to this Agreement."

To: "Unless otherwise provided, the term of this Agreement shall begin on the date of full execution of this Agreement and shall expire on February 18, 2017 unless terminated as provided under Article 8 or extended by amendment to this Agreement."

ARTICLE 8

TERMINATION

Articles 8.1 and 8.2 are hereby amended in their entirety to read as follows:

8.1 Termination for Convenience

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

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

8.2 Termination for Breach of Contract

8.2.1 Except for excusable delays as provided in Article 20, if CONSULTANT fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, the CITY may give CONSULTANT written notice of such default. If CONSULTANT does not cure such default or provide a plan to cure such default which is acceptable to the CITY within the time permitted by the CITY, then the CITY may terminate this Contract due to CONSULTANT'S breach of this Contract.

8.2.2 If a federal or state proceeding for relief of debtors is undertaken by or against CONSULTANT, or if CONSULTANT makes an assignment for the benefit of creditors, then the CITY may immediately terminate this Contract.

8.2.3 If CONSULTANT engages in any dishonest conduct related to the performance or administration of this Contract or violates the CITY'S lobbying policies, then the CITY may immediately terminate this Contract.

8.2.4 In the event the CITY terminates this Contract as provided in this Section, the CITY may procure, upon such terms and in such manner as the CITY may deem appropriate, services similar in scope and level of effort to those so terminated, and CONSULTANT shall be liable to the CITY for all of its costs and damages, including, but not limited, any excess costs for such services.

8.2.5 All finished and unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become CITY property upon date of such termination. CONSULTANT agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY'S ownership of

rights provided herein.

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

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

ARTICLE 9

SUBCONTRACT APPROVAL

Article 9 is hereby amended in its title and first paragraph to read as follows:

SUBCONSULTANT APPROVAL

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

The table of Subconsultants shall include Anil Verma Associates, Inc, George G. Dexter, Greenwood & Associates, PMCS Group, Simpson & Simpson, TestMarcx California, Inc., V&V Consulting, and William Dolan

ARTICLE 10

COMPENSATION, INVOICING AND PAYMENT

Article 10.1 is hereby amended as follows:

From: **THE CONTRACT CEILING FOR THIS AGREEMENT IS**

\$16,500,000

To: **THE CONTRACT CEILING FOR THIS AGREEMENT IS
\$18,000,000**

ARTICLE 11 **AMENDMENTS, CHANGES OR MODIFICATIONS**

No Change

ARTICLE 12 **INDEMNIFICATION AND INSURANCE**

No Change

ARTICLE 13 **INDEPENDENT CONTRACTORS**

No Change

ARTICLE 14 **WARRANTY AND RESPONSIBILITY OF CONSULTANT**

No Change

ARTICLE 15 **OWNERSHIP OF DATA**

Article 15 is hereby amended in its title and content to read as follows:

OWNERSHIP OF DATA AND INTELLECTUAL PROPERTY

15.1 Ownership of Data and License

15.1.1 Unless otherwise provided for herein, all Work Products originated and prepared by CONSULTANT or its subconsultants of any tier under this Contract shall be and remain the exclusive property of the CITY for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas matters and combinations thereof, and all forms of intellectual property. CONSULTANT hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual

property rights worldwide in any Work Products originated and prepared by CONSULTANT under this Contract. CONSULTANT further agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY'S ownership of rights provided herein.

- 15.1.2 With regard to the basis for design calculations and engineering notes, such data shall be provided to the CITY in (a) hard cover post binder(s), appropriately indexed, on thin Mylar stock or good quality paper satisfactory for reproduction.
- 15.1.3 For all Work Products delivered to the CITY that are not originated or prepared by CONSULTANT or its subconsultants of any tier under this Contract, CONSULTANT hereby grants a non-exclusive perpetual license to use such Work Products for any CITY purposes.
- 15.1.4 CONSULTANT shall not provide or disclose any Work Products to any third party without prior written consent of the City.
- 15.1.5 All documents, information and pre-existing materials provided by CITY to CONSULTANT and its subconsultants arising out of or related to this Contract shall remain the property of the CITY. The CONSULTANT may not use, distribute or otherwise make public in any manner, either for profit or not for profit, any of the information, documentation, or procedures developed for the CITY hereunder without the prior written consent of the CITY. CONSULTANT further agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY'S ownership of rights.
- 15.1.6 Any subcontract entered into by CONSULTANT relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subconsultants performing work under this Contract such that the CITY'S ownership and license rights of all Work Products are preserved and protected as intended herein. Failure of CONSULTANT to comply with this requirement or to obtain the compliance of its subconsultants with such obligations shall subject CONSULTANT to the imposition of any and all

sanctions allowed by law, including but not limited to termination of CONSULTANT'S Contract with the CITY.

15.2 Intellectual Property Warranty

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

15.3 Intellectual Property Indemnification

15.3.1 CONSULTANT, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the CITY, and any of its Boards, officers, agents, employees, assigns, and successors in interest from and against all suits and causes of action, claims, losses, demands and expenses, including but not limited to, attorney's fees (both in-house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the CITY, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information right (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by CONSULTANT, or its subconsultants of any tier, in performing the work under this Contract; or (2) as a result of the CITY'S actual or intended use of any Work Product furnished by CONSULTANT, or its subconsultants of any tier, under the Agreement. Rights and remedies available to the CITY under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the CITY. The provisions of Article 15 shall survive expiration or termination of this Contract.

15.3.2 In CONSULTANT'S defense of the CITY Defendants, negotiation, compromise, and settlement of any such infringement action, the Los Angeles City Attorney's Office shall retain discretion in and control of the litigation,

negotiation, compromise, settlement, and appeals therefrom, as required by the Los Angeles City Charter, particularly Article II, Sections 271, 272 and 273 thereof.

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

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

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

ARTICLE 16

NONDISCRIMINATION AND AFFIRMATIVE ACTION

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

NONDISCRIMINATION

Unless otherwise exempt, this Contract is subject to the nondiscrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The CONSULTANT shall comply with the applicable nondiscrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the CITY. In performing this Contract, CONSULTANT shall not discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. The CONSULTANT shall also comply with all rules, regulations, and policies of the CITY'S Board of Public Works, Office of Contract Compliance relating to nondiscrimination and affirmative action, including the filing of all forms required by said Office. Any subcontract entered into by CONSULTANT, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of CONSULTANT to comply with this requirement or to obtain the

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

ARTICLE 17

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

No Change

ARTICLE 18

SUCCESSORS AND ASSIGNS

No Change

ARTICLE 19

CONTACT PERSONS – PROPER ADDRESSES – NOTIFICATION

Article 19 is hereby amended as follows:

From: To The CITY:

Contact Person: Sam Tanaka, Program Manager

Address: 911 Wilshire Boulevard, Suite 2200
Los Angeles, CA 90017

To CONSULTANT:

Contact Person: Ed Cadena, Sr. Project Manager

Address: 555 west fifth Street, Suite 3700
Los Angeles, CA 90013

To: To The CITY:

Contact Person: Allan Kawaguchi, Program Manager

Address: Bureau of Engineering
Bond Programs
1149 S. Broadway, Suite 800
Los Angeles, CA 90015

To CONSULTANT:

Contact Person: John Hook, Project Executive

Address: Turner/JGM (A Joint Venture)
555 S. Flower, Suite 4220
Los Angeles, CA 90071

ARTICLE 20 **FORCE MAJEURE**

No Change

ARTICLE 21 **SEVERABILITY**

No Change

ARTICLE 22 **DISPUTES**

No Change

ARTICLE 23 **ENTIRE AGREEMENT**

No Change

ARTICLE 24 **APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT**

No Change

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

No Change

ARTICLE 26 **BONDS**

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

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

ARTICLE 27 **CHILD SUPPORT ASSIGNMENT ORDERS**

No Change

ARTICLE 28 **COMPLIANCE WITH YEAR 2000**

No Change

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

No Change

ARTICLE 30 **AMERICANS WITH DISABILITIES ACT**

No Change

ARTICLE 31 **EQUAL BENEFITS ORDINANCE**

No Change

ARTICLE 32 **WAIVER**

No Change

ARTICLE 33 **PROHIBITION AGAINST ASSIGNMENT OR DELEGATION**

No Change

ARTICLE 34 **PERMITS**

No Change

ARTICLE 35 **CLAIMS FOR LABOR AND MATERIALS**

No Change

ARTICLE 36 **DISCOUNTS**

No Change

ARTICLE 37 **CONTRACTOR RESPONSIBILITY ORDINANCE**

No Change

The Contract is hereby amended to include the following Articles:

ARTICLE 38 **SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt in accordance with the provisions of this Ordinance, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as may be amended from time to time.

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

ARTICLE 39

AFFIRMATIVE ACTION

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

- A. During the performance of a CITY contract, CONSULTANT certifies and represents that CONSULTANT and each subconsultant hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
 - 1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
 - 2. Nothing in this Section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 - 3. CONSULTANT shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the CITY'S supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, CONSULTANT shall certify on an electronic or hard copy form to be supplied, that CONSULTANT has not discriminated in the performance of CITY contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. CONSULTANT shall permit access to and may be required to

provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of CITY contracts, and on their or either of their request to provide evidence that it has or will comply therewith.

- E. The failure of any CONSULTANT to comply with the Affirmative Action Program provisions of CITY contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to CONSULTANT.
- F. Upon a finding duly made that CONSULTANT has breached the Affirmative Action Program provisions of a CITY contract, the Contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the CITY. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said CONSULTANT is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such CONSULTANT shall be disqualified from being awarded a contract with the CITY for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that CONSULTANT has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a CITY contract, there may be deducted from the amount payable to CONSULTANT by the CITY under the Contract, a penalty of ten dollars (\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a CITY contract.
- H. Notwithstanding any other provisions of a CITY contract, the CITY shall have any and all other remedies at law or in equity for any breach hereof.

- I. Intentionally blank.
- J. Nothing contained in CITY contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. CONSULTANT shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the CITY. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the Contract. The awarding authority may also require consultants and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this Section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, CONSULTANT may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, CONSULTANT must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the Contract is awarded.
 - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
 - 2. CONSULTANT may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the CITY with a list of consultants and suppliers who have developed Affirmative Action Programs. For each consultant and supplier, the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and CONSULTANT.

- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
 2. Classroom preparation for the job when not apprenticeable;
 3. Pre-apprenticeship education and preparation;
 4. Upgrading training and opportunities;
 5. Encouraging the use of consultants, subconsultants and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the CONSULTANT, subconsultant or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the consultant's, subconsultant's, or supplier's geographical area for such work;
 6. The entry of qualified women, minority and all other journeymen into the industry; and
 7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the CONSULTANT'S or supplier's work force to achieve the requirements of the CITY'S Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be

publicized by the CONSULTANT at his or her discretion. Approved Affirmative Action Agreements become the property of the CITY and may be used at the discretion of the CITY in its Contract Compliance Affirmative Action Program.

- P. Intentionally blank.
- Q. All consultants subject to the provisions of this Section shall include a like provision in all subcontracts awarded for work to be performed under the Contract with the CITY and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subconsultants as are applicable to the CONSULTANT. Failure of the CONSULTANT to comply with this requirement or to obtain the compliance of its subconsultants with all such obligations shall subject the CONSULTANT to the imposition of any and all sanctions allowed by law, including but not limited to termination of the CONSULTANT'S Contract with the CITY.

ARTICLE 40

FALSE CLAIMS ACT

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

ARTICLE 41

EQUAL EMPLOYMENT PRACTICES

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

- A. During the performance of this Contract, CONSULTANT agrees and represents that it will provide equal employment practices and CONSULTANT and each subconsultant hereunder will ensure that in his or her employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
 - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
 - 2. Nothing in this Section shall require or prohibit the establishment of new classifications of employees in any

given craft, work or service category.

3. CONSULTANT agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
 - C. As part of the CITY'S supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, CONSULTANT shall certify in the specified format that he or she has not discriminated in the performance of CITY contracts against any employee or applicant for employment on the basis or because of race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.
 - D. CONSULTANT shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of CITY contracts. On their or either of their request CONSULTANT shall provide evidence that he or she has or will comply therewith.
 - E. The failure of any CONSULTANT to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of CITY contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice, and an opportunity to be heard has been given to CONSULTANT.
 - F. Upon a finding duly made that CONSULTANT has failed to comply with the Equal Employment Practices provisions of a CITY contract, the Contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the

CITY. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the CONSULTANT is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, CONSULTANT shall be disqualified from being awarded a contract with the CITY for a period of two years, or until CONSULTANT shall establish and carry out a program in conformance with the provisions hereof.

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

ARTICLE 42

FIRST SOURCE HIRING ORDINANCE

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

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

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

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

EXCEPT AS EXPRESSLY MODIFIED herein, the Contract dated February 18, 2003 remains unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 on the day and year written below.

TURNER/JGM (A JOINT VENTURE)

By:

Title:

Date:

CITY OF LOS ANGELES

By:

Title: President, Board of Public Works

Date:

By:

Date:

ATTEST:

JUNE LAGMAY, City Clerk

By:

Date:

APPROVED AS TO FORM:

CARMEN A. TRUTANICH, City Attorney

By:

Title: Assistant City Attorney

Date: