

0150-07173-0009

**TRANSMITTAL**

TO The Council	DATE SEP 03 2013	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT All	

**Supplemental Agreement to Contract No. 116625 with Duke's Root Control, Inc.  
For Sewer Chemical Root Control Treatment Services**

Approved and forwarded for consideration.  
See the City Administrative Officer report attached.



(Ana Guerrero)

MAYOR

MAS:WKP:06140018t

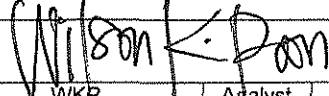
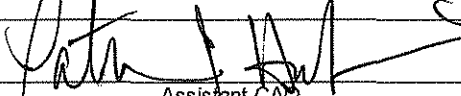
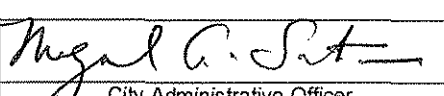
**Report From**  
**OFFICE OF THE CITY ADMINISTRATIVE OFFICER**  
**Analysis of Proposed Contract**  
(\$25,000 or Greater and Longer than Three Months)

To: The Mayor	Date: 08-20-13	C.D. No. All	CAO File No.: 0150-07173-0009
Contracting Department/Bureau: Public Works/Sanitation		Contact: Carmelo Martinez, (323) 342-6040	
Reference: Transmittal from the Board of Public Works dated July 31, 2013; referred for report on July 31, 2013.			
Purpose of Contract: To provide chemical root control services for City sewers.			
Type of Contract: ( ) New contract (X) Amendment		Contract Term Dates: Two years, retroactively from December 30, 2012 through December 29, 2014.	
Contract/Amendment Amount: \$5,000,000			
Proposed amount \$5,000,000 + Prior award(s) \$5,700,000 = Total \$10,700,000			
Source of funds: Sewer Construction and Maintenance Fund No. 760			
Name of Contractor: Duke's Root Control, Inc.			
Address: 1020 Hiawatha Blvd., West Syracuse, NY 13204			
	Yes	No	N/A*
1. Council has approved the purpose	X		
2. Appropriated funds are available	X		
3. Charter Section 1022 findings completed	X		
4. Proposals have been requested	X		
5. Risk Management review completed	X		
6. Standard Provisions for City Contracts included	X		
7. Workforce that resides in the City: 0%			
			*N/A = not applicable ** Contracts over \$100,000

**COMMENTS**

In accordance with Executive Directive No. 3, the Board of Public Works (Board), on behalf of the Bureau of Sanitation (Bureau), is requesting authority to execute the proposed Supplemental Agreement to Contract No. 116625 with Duke's Root Control, Inc. (Duke's) to provide chemical root abatement and control services for City sewers. The Supplemental Agreement will extend the term of the contract by an additional two years, from December 30, 2012 through December 29, 2014, and increase the maximum allowable compensation by \$5,000,000, from \$5,700,000 to \$10,700,000. In accordance with Los Angeles Administrative Code Section 10.5 (a), Council approval is required to execute the proposed Supplemental Agreement as the term of the contract exceeds three years.

The City of Los Angeles' wastewater collection system consists of 6,700 miles of sewers that service more than four million residential and commercial customers. In 2002, the City implemented the chemical root control program to abate root infestation, which is responsible for approximately 60 percent of sewer spills, primarily in small line sewers six to 12 inches in diameter. Over the past ten years, the program has reduced the number of sewer spills caused directly by root infestation by 81 percent, from 613 spills in 2002-03 to 116 spills in 2011-12. The City requires chemical root control treatment services to reduce sewer spills and comply with the court mandated Collection Systems Settlement Agreement. Reapplication of root abatement agents is required every two years.

 WKP	Analyst	06140018	 Assistant CAO	 City Administrative Officer
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In accordance with Charter Section 1022, on October 21, 2008, this Office determined that it was more feasible to perform the work with contractors rather than City forces as City employees do not possess the expertise, licenses, or equipment to apply restricted root control pesticides. Through a competitive bid process, the Bureau selected Duke's and effective December 29, 2009, the Bureau executed Contract No. 116625 to provide chemical root abatement and control services for City sewers at a cost not to exceed \$7.5 million over a three year term. The Bureau reports total expenditures of \$5.7 million under this contract. This contract expired on December 30, 2012 and to prevent disruption to critical services, execution of the Supplemental Agreement is required to extend the term of the contract until a new contract can be awarded. The Bureau is in the process of awarding a new three-year contract and the Supplemental Agreement will be terminated once a new contract has been executed. At the request of the Bureau, Duke's has continued to provide services after the expiration of the contract and execution of the Supplemental Agreement is required to ratify the services that have been provided to date.

The proposed Supplemental Agreement does not add to or change the scope of work in the original contract, but extends the term of the contract by an additional two years, increases the maximum allowable compensation by \$5.0 million, and incorporates new contracting Ordinances which were adopted by the Council after the execution of the original contract. Duke's has been exempted from the Good Faith Effort requirements as the work to be contracted is highly specialized and does not lend itself to subcontracting opportunities. Duke's has continued to comply with all remaining City contracting requirements and sufficient funds are available within the Sewer Construction and Maintenance Fund to support the first year costs of the Supplemental Agreement. Funding for the second year of the Supplemental Agreement will be provided through the City's annual budget process and subject to Mayor and Council approval.

## **RECOMMENDATION**

That the Council authorize the Board of Public Works, on behalf of the Bureau of Sanitation, to execute the proposed Supplemental Agreement with Duke's Root Control, Inc. to provide chemical root control services for a term of two years, retroactively from December 30, 2012 through December 29, 2014, at a cost not to exceed \$5,000,000, subject to City Attorney approval as to form.

## **FISCAL IMPACT STATEMENT**

There is no General Fund impact and sufficient funds are available within the Sewer Construction and Maintenance Fund to support the first year costs of the proposed Supplemental Agreement. Funding for the second year will be provided through the City's annual budget process and subject to Mayor and Council approval. The recommendation in this report complies with the City's Financial Policies as ongoing revenue will support ongoing expenditures.

# CITY OF LOS ANGELES

CALIFORNIA



ERIC GARCETTI  
MAYOR

## OFFICE OF THE BOARD OF PUBLIC WORKS

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

ARLEEN P. TAYLOR  
EXECUTIVE OFFICER

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

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CITY ADMINISTRATIVE OFFICER

July 31, 2013

#2 BOS/BCA

Mayor Eric Garcetti  
Room No. 305  
City Hall  
Attn: Mandy Morales

Subject: AUTHORITY TO EXECUTE A SUPPLEMENTAL AGREEMENT TO PERSONAL SERVICES CONTRACT C-116625 BETWEEN THE CITY OF LOS ANGELES AND DUKE'S ROOT CONTROL, INC. FOR SEWER CHEMICAL ROOT CONTROL TREATMENT

As recommended in the accompanying report of the Directors of the Bureaus of Sanitation and 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 a Supplemental Agreement to Personal Services Contract C-116625 with Duke's Root Control, Inc. to extend the contract for an additional two years and increase the contract ceiling to \$10,700,000 for sewer chemical root control treatment.

### FISCAL IMPACT

The cost ceiling for the contract shall not exceed \$10,700,000. The FY 2012-2013, the division was budgeted \$2,000,000 in Contractual Services Account, Chemical Root Control, Department 50, Fund 761, Appropriation Unit 50JX82, Department Object 30400, Line Item #143. Funds for FY 2013-2014 and FY 2014-2015 will be made available through the normal budgetary process.

Respectfully submitted,

  
Arleen P. Taylor, Executive Officer  
Board of Public Works

APT:mp

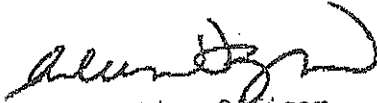


DEPARTMENT OF PUBLIC WORKS

BUREAU OF SANITATION  
BUREAU OF CONTRACT ADMINISTRATION  
JOINT BOARD REPORT NO. 2  
JULY 31, 2013

CD: ALL

ADOPTED BY THE BOARD  
PUBLIC WORKS OF THE CITY  
of Los Angeles California  
AND REFERRED TO THE MAYOR  
JUL 31 2013

  
Executive Officer

AUTHORITY TO EXECUTE A SUPPLEMENTAL AGREEMENT TO PERSONAL SERVICES CONTRACT C-116625 BETWEEN THE CITY OF LOS ANGELES (CITY) AND DUKE'S ROOT CONTROL, INC. FOR SEWER CHEMICAL ROOT CONTROL TREATMENT

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RECOMMENDATIONS

1. Approve and forward this report with transmittals to the Mayor and City Council, with the request that the Board of Public Works (Board) be authorized to execute a Supplemental Agreement Personal Services Contract C-116625 with DUKE'S ROOT CONTROL INC. to extend the contract for an additional two(2) years and increase the contract ceiling to \$10,700,000.
2. Upon the Mayor's and the Council's approval, the President or two (2) members of the Board will execute the Supplemental Agreement;
3. Return the executed Supplemental Agreement to the Bureau of Sanitation (Bureau) for further processing. (Contact John Park at 323-342-6033 to arrange for pick up.)

TRANSMITTALS

1. Copy of the Personal Service Contract C-116625 with Duke's Root Control, Inc. for Sewer Chemical Root Control Services.
2. Copy of the Supplemental Agreement to Personal Service Contract C-116625 between the City and Duke's Root Control Inc.
3. Copy of the approved MBE/WBE/OBE Subcontractor Outreach Program Waiver that was issued by the Mayor's Office on Economic Development on August 30, 2008.

DISCUSSION

Background

On December 30, 2012, Personal Services Contract C-116625, between Duke's Root Control Inc. and the City of Los Angeles, for Sewer Root Control Treatment was expired. (Transmittal No.1) To avoid a lapse of critical services, the Department in cooperation with the City Controller's Office developed a process to continue with required contractual work, such as

chemical root control treatment. The process entails securing an Authority for Expenditure (AE) and Letter of Agreement (LOA) for work that is to be completed within 6 months of the contract expiration and also developing a Supplemental Agreement for service to be provided beyond the six(6) months of the contract expiration and also developing a Supplemental Agreement is, therefore, deemed necessary to maintain the current level of root treatment in City sewers without interruption.(Transmittal No.2)

The City of Los Angeles (City) provides over 6,500 miles of sewers to serve more than four (4) million residential and business customers. These sewers are connected to the City's four (4) wastewater and water reclamation plants that process an average of 550 million gallons per day (MGD). The City must continually monitor and maintain the sewer system to ensure that the health of the public and the environment are protected from sewage spills.

The City has experienced sewage spills in the conveyance and treatment elements of the wastewater system. Sewage spills are a violation of the National Discharge Elimination System (NPDES) permits for these facilities, and are prohibited by various Federal and State governing regulatory requirements and codes. Sewer spills are mainly caused by the following activities or events:

- Mechanical failure;
- Electrical failure;
- Blockage from grease, tree root infestation, and debris build-up;
- Structural failure;
- Under designed and overtaxed systems;
- Severe wet weather conditions;
- Construction activities;
- Actions from third parties; and
- Vandalism

Of these causes, root infestation comprises approximately 50% of the spills in the collection system, mainly in small line sewers 6 to 12 inches in diameter. Although the City has made key improvements to its operation, maintenance, and inspection program, the current mechanical method of clearing roots needs to be complemented with an aggressive chemical root treatment program to better address continuing root-related spills.

Since the inception of the program in September 2002, chemical root treatments have been very successful. Over the past 11 years, the City has experienced an 81% reduction in sewer spills that are directly caused by root infestation. The total number of all spills also decreased from 613 spills in FY 02/03 to 116 spills in FY 11/12.

**Scope of Services**

Work entails applying a pesticide to sewer pipes that are infested with roots. The pesticide is applied by inserting a nozzle through the sewer and applying a foam, which consists of a root killing agent and a root growth inhibitor. The Bureau targets approximately 400 miles of sewer per year for chemical root control treatment.

**MBE/WBE/OBE Subcontractor Outreach Program**

The Mayor's Office of Economic Development (Transmittal No. 3) waived the MBE/WBE/OBE Subcontractor Outreach Program on August 30, 2008 due to lack of subcontracting opportunities.

**Other Policies and Compliance**

Duke's shall be required to comply with all of the City's requirements including:

- Non-Discrimination/Equal Employment Practices/Affirmative Action
- Child Support Obligations Ordinance
- Equal Benefits Ordinance
- Service Contractor Worker Retention and Living Wage Ordinances
- Slavery Disclosure Ordinance
- Business Tax Registration Certificate
- Municipal Lobbying Ordinance
- Los Angeles Residence Information
- Non-Collusion Affidavit
- Americans With Disabilities Act
- Contract History
- Insurance and Performance Bond Requirements
- First Source Hiring Ordinance
- Contract Bidder Campaign Contribution and Fund Restrictions
- Prevailing Wages

**Term and Value of Contracts**

The term of the Supplemental Agreement with DUKE'S ROOT CONTROL INC. shall extend Contract C-116625 for additional two (2) years, effective DECEMBER 30, 2012 to DECEMBER 29, 2014. The term of the Supplemental Agreement may be terminated by the City if a new contract for similar services is fully executed before DECEMBER 29, 2014.

The contract ceiling of Contract C-116625 will be increased to \$10,700,000 This amount includes the cost of two additional years of service (estimated \$2,500,000 per year) and the previous total contract expenditures to date (\$5,700,000).

**Contractor Responsibility Ordinance**

Contractor is subject to compliance with the requirements specified in the City of Los Angeles' Contractor Responsibility Ordinance #173677, [Article 14, Chapter 1, Division 10, L.A.C.C.]. Failure to comply with requirements specified in this Ordinance will render the bidder's contract subject to termination pursuant to the conditions expressed therein.

**Contractor Performance Evaluation Ordinance**

In accordance with Article 13, Chapter 1, Division 10 of the City of Los Angeles Administrative Code, the appropriate City Personnel responsible for the quality control of this Personal Services Contract shall submit Contractor Performance Evaluation Reports to the City Administrative Officer (CAO) upon completion of this contract.

**Peak Hour Construction and Right-Of-Way Obstruction Regulations**

All contractors are to comply with the requirements specified in the Los Angeles Municipal Code (L.A.M.C) Section 62.61 related to peak hour traffic restrictions, unless an Exemption from the Peak Traffic Prohibition is approved.

**Contract Administration**

Responsibility for administration of this contract will be with the Wastewater Collection Systems Division, Bureau of Sanitation.

**Headquarters and Work Force Information**

The headquarters of Duke's Root Control Inc. is in 1020 Hiawatha Blvd. West, Syracuse New York 13204, and 0% of its workforce resides in the City of Los Angeles.

**City Attorney Review**

The proposed supplemental agreement has been approved as to form by the Office of City Attorney.

**STATUS OF FINANCING**

The cost ceiling for the contract will not exceed \$10,700,000. In FY 12-13, the division was budgeted \$2,000,000 in Contractual Services Account, Chemical Root Control, Department 50, Fund 760, Appropriation Unit 50JX82, Department Object 30400, Line Item #143. Funds for FY 13-14 and FY 14-15 will be made available through the normal budgetary process.

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.



Bureau of Sanitation  
Bureau of Contract Administration  
Joint Board Report No. 2  
July 31, 2013

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Respectfully submitted



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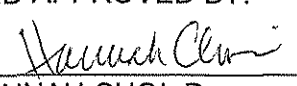
ENRIQUE C. ZALDIVAR, Director  
Bureau of Sanitation



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JOHN L. REAMER, JR., Director  
Bureau of Contract Administration

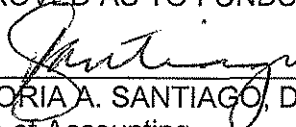
COMPLIANCE REVIEW PERFORMED  
AND APPROVED BY:



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HANNAH CHOI, Program Manager  
Office of Contract Compliance  
Bureau of Contract Administration

APPROVED AS TO FUNDS:



---

VICTORIA A. SANTIAGO, Director  
Office of Accounting  
Date: 7/23/13

Prepared By: John Park, WCSD  
(323) 342-6033

CONTRACT NO. C- 116625

SERVICE AGREEMENT

BETWEEN

THE CITY OF LOS ANGELES

AND

DUKE'S ROOT CONTROL, INC.

FOR

SEWER ROOT CONTROL TREATMENT

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SERVICE AGREEMENT  
BETWEEN  
THE CITY OF LOS ANGELES  
AND  
DUKE'S ROOT CONTROL, INC.  
FOR  
SEWER ROOT CONTROL TREATMENT

This AGREEMENT is made and entered into this \_\_\_ day of \_\_\_\_\_, 2009 by and between the City of Los Angeles, California , a municipal corporation acting by order of and through its Board of Public Works, hereinafter called the "CITY", and "Duke's Root Control, Inc." hereinafter referred to as the "CONTRACTOR"; and is set forth as follows:

**WITNESSETH**

WHEREAS, the CITY has a need for services for chemically treating and controlling root infestation in various sewers, which are owned, operated, and maintained by the CITY; and

WHEREAS, sewer pipe overflows have been reduced by 64% since the inception of the Chemical Root Control Program; and

WHEREAS, the CITY has a continued need for services for chemically treating and controlling root infestation at substantially increased levels to reduce sewage related overflows; and

WHEREAS, the CITY is fully committed to reducing root-related overflows to the greatest practical extent; and

WHEREAS, on November 7, 2008, the Board of Public Works (BOARD) authorized the Bureau of Sanitation (BUREAU) to distribute a Request for Proposals (RFP) for Sewer Root Control Treatment; and

WHEREAS, on January 7, 2009, the CITY received three (3) proposals in response to the RFP; and

WHEREAS, Duke's Root Control, Inc. was selected as the most qualified proposer as determined by CITY staff based on the evaluation criteria as set forth in the RFP ; and

WHEREAS, the CONTRACTOR has demonstrated experience, expertise, and qualifications to perform said services; and

WHEREAS, the CONTRACTOR meets all federal, state and local requirements to perform root control services; and

WHEREAS, the root control services to be provided by CONTRACTOR are of an expert and technical nature; and

WHEREAS, the CITY desires to retain the CONTRACTOR to provide the required professional and technical services in accordance with all applicable laws, rules, regulations and other requirements of federal, state, and local governments in connection with the Project as outlined herein; and

NOW, THEREFORE, in consideration of the foregoing and of the benefits which will accrue to the parties hereto in carrying out the terms and conditions of this AGREEMENT, it is understood and agreed by and between the parties hereto 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 CONTRACTOR. The singular shall include the plural; use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

**ARTICLE 2 – DEFINITIONS**

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

ACTIVE INGREDIENT	The chemical or chemicals in a product responsible to reduce pesticidal activity.
AGREEMENT/CONTRACT	This contractual agreement between the CITY and DUKE’S ROOT CONTROL, INC.
BOARD	The Board of Public Works of the CITY of Los Angeles.
BUREAU	Bureau of Sanitation, Department of Public Works, CITY of Los Angeles.
CDPR	California Department of Pesticide Regulation

CITY	The CITY of Los Angeles, Board of Public Works or its subordinate Bureaus. The term CITY may also refer to the geographic area known as the City of Los Angeles, the City Council, City of Los Angeles Recycling Wasteshed, other Departments of the City of Los Angeles, or any person employed by the City of Los Angeles who is authorized to represent the City of Los Angeles in matters concerning this CONTRACT.
COMMERCIAL APPLICATOR	A person who applies pesticides for hire. California requires commercial applicators to be certified applicators.
CONTRACTOR	DUKE'S ROOT CONTROL, INC.
CONTRACTOR SERVICES	All services to be provided by the CONTRACTOR specified in this AGREEMENT
DIRECTOR	Director of the Bureau of Sanitation
EASTMENT/ RIGHT OF WAY	The location of sewer line in backyards, parks, public lands, off-road locations, or other areas which are typically more difficult to access than sewers located beneath street surfaces. Also, the right of utility companies and municipal agencies to access MH and sewer lines which are located on private property.
FIFRA	The Federal Insecticide, Fungicide, and Rodenticide Act. The federal law that empowers the US EPA to regulate pesticides in the United States
HOLIDAYS	New Year's Day, Independence Day, Labor Day, Thanksgiving, Christmas, and other holidays officially designated and observed as such by the CITY.
MBE/WBE/OBE	Minority/Women/Other Business Enterprise
MH	Sewer Maintenance Hole



PESTICIDE From the Code of Federal Regulations, Title 40: "any substance or mixture of substances intended for preventing, destroying, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant (162.3.ff)" including "root control herbicides intended to prevent the growth of, or kill roots in certain sites such as sewer lines and drainage tiles (162.3.ff.9.iv)."

PROJECT MANAGER/  
PROJECT ENGINEER The CITY's representative in all matters within the scope of the AGREEMENT.

RESTRICTED-USE A pesticide, usually in toxicity Category 1, as defined by the USEPA can only be used by Pesticide commercial applicators who have a valid Qualified Pesticide Applicator license or certificate or private applicators who have demonstrated to the local agricultural commissioner that they understand the proper methods of handling, using and disposing of these materials.

USDOT United States Department of Transportation

USEPA United States Environmental Protection Agency. The federal agency responsible for regulating and enforcing the registration, sale, and use of pesticides.

### **ARTICLE 3 – PROJECT DESCRIPTION**

The CONTRACTOR shall chemically treat and control root infestation in various sewers, which are owned, operated, and maintained by the CITY. The CONTRACTOR must be licensed by the California Department of Pesticide Control. The CONTRACTOR must use proven and reliable technologies that would effectively control roots in the sewer system and offer a long-term solution to prevent sanitary sewer overflows. The chemical product used shall be a restricted use sewer root control foam product described in Article 4.2. The CITY shall manage the contracts and evaluate the productivity, application, and effectiveness of the root control pesticide application. The anticipated time to complete the application effort is three (3) years commencing on the executed and stipulated contract start date.

**ARTICLE 4 – RESPONSIBILITIES OF AND SERVICES TO BE PERFORMED  
BY THE CONTRACTOR**

4.1 The CONTRACTOR shall perform the services described in Article 4.4. The CONTRACTOR shall perform such work with a degree of skill and diligence normally employed by CONTRACTORS performing the same or similar services.

4.2 The CONTRACTOR shall provide corrective services without charge to the CITY for work which fails to meet the above standards and the specific guarantee requirements set forth in Articles 4.9 and 4.10. In the event the CONTRACTOR fails or refuses to perform promptly its obligations under this AGREEMENT, the CITY may render or undertake the performance thereof and the CONTRACTOR shall be liable for any expenses thereby incurred.

4.3 Maintenance of Records

CONTRACTOR shall maintain all records, including records of financial transactions, pertaining to the performance of this CONTRACT, in their original form, in accordance with requirements prescribed by the CITY. These records shall be retained for a period of no less than three (3) years following final payment made by the CITY hereunder or the expiration date of this CONTRACT, whichever occurs last. Said records shall be subject to examination and audit by authorized CITY personnel or by the CITY'S representative at any time during the term of this CONTRACT or within the three (3) years following final payment made by the CITY hereunder or the expiration date of this CONTRACT, whichever occurs last. CONTRACTOR shall provide any reports requested by the CITY regarding performance of this CONTRACT. Any subcontract entered into by CONTRACTOR, to the extent allowed hereunder, shall include a like provision for work to be performed under this CONTRACT.

4.4 SCOPE OF SERVICES

4.4.1 Project Location

The sewers to be treated range from 6-inches to 18-inches in diameter and are made from varying materials such as vitrified clay, concrete, plastic pipe, etc. The sewers are located anywhere within CITY boundaries, underneath CITY streets and rights-of-way. The CITY shall provide a listing of sewers to be treated to the CONTRACTOR on a monthly or a quarterly basis. The list of sewer reaches/sections shall be organized into drainage areas called sewershed basins.

4.4.2 Composition of Chemical Root Control Material

The chemical root control agent shall contain:

- a) (anhydrous) Sodium Methylthiocarbamate (Metam-Sodium), an active component for destroying roots in sanitary sewer lines; and 2,6-Dichlorobenzonitrile (Dichlobenil) formulated as a wettable powder, as an active ingredient for inhibiting re-growth, or;
- b) Diquat, an active component for destroying roots and inhibiting root growth in sanitary sewer lines;
- c) In addition to a) or b) listed above, a foaming surfactant system designed to deliver the herbicidal agents to the root tissue, and to cut through the grease and debris typically found on sewer roots.

The chemical root control agent shall be registered with the USEPA and the CDPR. The CONTRACTOR must not use chemicals, which are designed to be poured down, or blown in the pipe, as dust. The CONTRACTOR shall submit specimen product label(s) and Material Safety Data Sheets (MSDS), upon commencement of the work. The chemical root control agent is composed of three types of materials: inert ingredients, root killing agent, and the root re-growth inhibitor. A description of these materials used in the application is detailed below.

*Inert Ingredients:* The root control material shall be formulated with foaming agents and surfactants sufficient to produce a stable, small bubble, dense foam capable of sustaining its shape and thus remaining on the treated roots for approximately thirty (30) minutes. The foaming surfactants shall strip grease that typically clings to sewer root masses. The foaming agents shall be formulated such that one part of aqueous solution of the mixed material will convert into twenty parts foam.

*Root Killing Agent:* The active component for destroying intruding roots in sanitary sewer lines shall be a potent, non-systemic toxin which kills contacted roots at low concentrations but which will not permanently affect parts of the plant distant from the treated roots. Natural chemical or biochemical processes must spontaneously detoxify the active ingredient in a relatively short interval following its use. The active ingredient for destroying root intrusions shall be Sodium Methylthiocarbamate or Diquat.

*Root Re-growth Inhibitor:* The active ingredient for inhibiting re-growth of root intrusions in sanitary sewer lines shall inhibit root cell growth on contact, but shall not be transported so as to damage other portions of the parent plant. The material shall bind firmly to the soil in the vicinity of openings in pipe joints so as to form a persistent chemical barrier suppressing the growth of root tips. The material shall be sufficiently stable under the conditions of

use to provide protection for twelve months or longer, but shall be subject to decomposition in wastewater treatment plants without disturbing the treatment plant processes. The root growth-inhibiting agent shall be 2,6-Dichlorobenzonitrile (Dichlobenil) or Diquat.

The chemical root control agent shall be registered with the USEPA and CDPH, and shall be labeled for use in sewers to control tree roots. Only materials whose label instructions conform to these specifications shall be accepted. All application procedures must be in strict conformance with these specifications and label instructions. Use of any root control herbicide in a manner inconsistent with labeled instructions is a violation of Federal law.

The active ingredient shall not adversely affect the performance of the wastewater treatment plant when applied properly in accordance with manufacturer's recommendations.

Compounds containing copper and/or other known priority pollutants, as defined by the Federal EPA, shall be disallowed.

#### 4.4.3 Substitutes and Proven Equivalents

The CITY shall consider the use of any substitute or equivalent technologies, procedures, methods or materials. In the event the CONTRACTOR wishes to use any type of material other than as specified herein, the CONTRACTOR shall submit complete descriptive literature to the CITY for review, which contains the name of the proposed substitution, the manufacturer and the method of application. The CITY shall retain the right to approve or reject any proposed substitution or equivalents.

#### 4.4.4 Manner of Application

The CONTRACTOR shall apply the chemical root control agent by foaming in accordance with the best recommended practice for conditions present in the sewer line under treatment. The CONTRACTOR shall follow all foaming procedures in strict accordance with the instruction on the container label. The CONTRACTOR shall insert a foam discharge hose throughout the entire length of the sewer section to be treated. To avoid injury to plant tissue that would reduce the effectiveness of the treatments, the CONTRACTOR shall not use hydraulic or mechanical sewer cleaning machines on any sewer section scheduled for treatment for a period of at least sixty (60) days prior to the treatment. The CONTRACTOR shall not use hydraulic or mechanical sewer cleaning machines to convey the foam discharge hose through the sewer section, or to convey ropes or cables through the sewer section. The CONTRACTOR shall use the following acceptable methods of conveying the foam discharge hose

through the sewer section: 1) manually or mechanically shoving the foam discharge hose through the section, or 2) floating a rope through the sewer section and slinging the rope to pull the foam discharge hose in the section. In the event cleaning of the sewer section is required prior to treatment, the CONTRACTOR shall immediately notify the CITY. A minimum waiting period of sixty (60) days between the cleaning operation and the treatment operation is also required.

Filling of a chemical mixing tank shall be done with an air gap. The CONTRACTOR shall only draw water from public water supplies at designated locations by following approved procedures of the CITY. Public water supplies stem directly from CITY water mains, and are generally accessible at fire hydrants.

The CONTRACTOR shall use equipment to discharge foam at a discharge pressure that meets industry standards, for this type of application, to force foam up through connecting lateral sewers, approximately 10 – 15 feet, in small diameter pipe. The CONTRACTOR shall time hose retrieval rates to evenly distribute the full quantity of foam throughout the entire area of treatment. The CONTRACTOR shall use a sufficient quantity of foam to completely fill the entire volume of the main sewer, plus an additional 10% to allow for the penetration of material up lateral sewer, and for the loss in MHs. The CONTRACTOR shall not interrupt sewer service to homeowners. The CONTRACTOR shall be aware that excessive discharge pressure and/or excessive quantities of material may cause foam to enter houses, or travel up towards the clean-out and onto lawns. The CONTRACTOR shall make every effort to prevent this from occurring. The CONTRACTOR must not use any chemicals that are labeled to be poured down MHs or sprayed on to roots.

The CONTRACTOR shall not interrupt sewage service to any customer in the CITY. The CONTRACTOR must control sewage within the pipeline at all times. The CONTRACTOR shall seal all MHs after service to prevent odor from escaping and extraneous water from entering. The CONTRACTOR shall notify and request the CITY for assistance, if needed, in connection with removal, dismantling, and replacement of any special equipment such as flow monitors or diversion gates within the MH structures.

The CONTRACTOR shall not remove trees, plants, shrubs, or ornamental vegetation without the written consent of the CITY.

The CONTRACTOR shall respect the rights of the property owner and obtain permission from the owner of the property before entering any private properties. The CITY has a small percentage of the sewer pipes located in easements that are difficult to access. The CONTRACTOR shall treat all pipes

identified for treatment, regardless of where the pipes are located, or provide written documentation explaining why they were not treated.

Should any chemical root control agent spill on the ground, the CONTRACTOR shall remove and safely dispose the chemical and the affected soil immediately. The CONTRACTOR shall restore the area to a condition equal to or better than before the spill. The CONTRACTOR shall be responsible for any damage to vegetation resulting from misuse of the chemical root control agent.

#### 4.5 SCHEDULING OF SERVICES AND COSTS

The CONTRACTOR shall inform the PROJECT MANAGER of the work schedule of specific sewer reaches they intend to treat during the week prior to beginning work on Monday of each week. The work schedule shall give a breakdown on a day-by-day basis. The CONTRACTOR shall not perform root control treatment unless the CITY has received this schedule and has given its authorization to proceed. The CONTRACTOR shall schedule all work for each listed sewer, which begins at the most upstream end and proceeds in a downstream direction until all work on that sewer shed/basin is completed. The CONTRACTOR shall perform treatment only on sewers with a flow level of 50% or less of the pipe diameter. The CONTRACTOR shall schedule work in an orderly manner at appropriate times, not to interfere excessively with the normal routine of the neighborhood. The CONTRACTOR shall be responsible for the job site, the scope of work of this CONTRACT, and subject to the directions of the CITY and/or PROJECT ENGINEER.

The CONTRACTOR shall perform all work during normal business hours of the CITY. The CONTRACTOR shall obtain permission from the CITY for work during other hours, weekends, or HOLIDAYS observed by the CITY. The CONTRACTOR shall not perform work during rain or right before or after rain. The CITY reserves the rights to inspect all work as it is performed, and to reject any work that the CITY considers as defective in workmanship and materials. In the event the CONTRACTOR schedules work, which inconveniences the CITY with respect to the inspection of work, the CITY may require the CONTRACTOR to halt or delay the work, reduce the number of crews on the job, or take any other steps necessary to enable the CITY to exercise the right to inspect. The CITY reserves the right to modify the CONTRACTOR's schedule as needed to accommodate emergency work or other activity in sewers, scheduled to be treated.

#### 4.6 PROGRESS REPORTS

The CONTRACTOR shall submit narrative progress reports on a monthly basis. The report shall provide a brief description of the status of the work and to acknowledge any problems and identify issues that may affect timely completion.

The CONTRACTOR shall participate in progress meetings with the PROJECT MANAGER. These meetings shall be held at the discretion of the PROJECT MANAGER. The CONTRACTOR shall document all meetings and distribute related documentation to all attendees.

#### 4.7 PROPERTY DAMAGE CAUSED BY THE CONTRACTOR

Should any damages be caused to the public or private property by the CONTRACTOR or his employees or agents, the CONTRACTOR shall be required to make repairs immediately. The CITY may, however, elect to make repairs or replacements of damaged property and deduct the cost of such from monies due or to become due to the CONTRACTOR under this or any other contract with the CITY. The CONTRACTOR shall make all repairs and/or replacements to the satisfaction of the CITY.

#### 4.8 PROTECTION OF WASTEWATER TREATMENT PLANT AND RECEIVING WATERS

The CONTRACTOR shall take all the necessary steps to prevent any adverse effects on the wastewater treatment plant processes. The CONTRACTOR shall attest, through the proposal submittal, or through signing of the CONTRACT, that the CONTRACTOR is an expert in this type of work, and recognizes and understands the risks posed by this type of work on wastewater treatment plant processes. The CONTRACTOR shall not rely on the CITY for guidance in this regard.

Introduction of any materials in any wastewater treatment plant must be with the approval of the Wastewater Treatment Plant Manager (Plant Manager) or superintendent for that plant. The CONTRACTOR shall immediately notify the Plant Manager/Superintendent of any wastewater treatment plant that may be affected by the CONTRACTOR's performance of the CONTRACT, of the date and time of all intended work, and provide the data or other information, as requested by the Plant Manager/Superintendent, including specimen product labels and Material Safety Data Sheets (MSDS), for any materials introduced to the collection system.

The CONTRACTOR shall provide the Plant Manager/Superintendent with the names and phone numbers of individuals in a position to notify the CONTRACTOR's crews of the need to stop work immediately, including the names and phone numbers of the CONTRACTOR's on-site supervisor, and the hotel or other local phone numbers where the CONTRACTOR's representatives may be contacted. The CONTRACTOR shall maintain daily communications with the Plant Manager/Superintendent to assure that the chemical root control treatments are not having any adverse effects on wastewater treatment plant processes. In the event that a wastewater treatment plant experiences any reduction in operating efficiency during the execution of the CONTRACT, whether the result of chemical treatments or not, the CONTRACTOR shall immediately suspend all applications, and notify the CITY. The CONTRACTOR shall resume operations only after problems at the wastewater treatment plant have been

corrected, and the CONTRACTOR has taken appropriate steps to prevent recurrence of any problems at the wastewater treatment plant that may be the result of chemical applications to the satisfaction of the CITY and the Plant Manager/Superintendent.

The CONTRACTOR shall be financially responsible for any adverse effects on wastewater treatment plant processes, which are directly or indirectly, caused by the chemical application, including but not limited to the following: damages to plant processes or equipment, clean-up and restoration costs, fines imposed on the CITY or on the operator of the wastewater treatment plant by State or Federal agencies, pollution of receiving water, and civil suits. The CONTRACTOR shall further indemnify and hold harmless the CITY, including the operator of the wastewater treatment plant, against all costs, including legal expenses, relating to treatment plant failure or other damages or pollution caused, directly or indirectly, by the applications of chemicals by the CONTRACTOR.

#### 4.9 GUARANTEE (6-MONTH)

For each sewer section (MH to MH) that is treated under the CONTRACT, the CONTRACTOR shall guarantee to eradicate all the roots and to eliminate main line stoppages caused by live tree roots. In the event live roots are found in a sewer within six (6) months after application, or a treated sewer experiences stoppages and surcharges due to tree roots during the guarantee period (Section 4.10), the CONTRACTOR shall re-treat that section at the CONTRACTOR's sole expense. The decision of the CITY as to the cause of the stoppage is binding.

The guarantee shall apply only to sewer stoppages caused by live tree roots. It shall not apply to stoppages caused by grease or other foreign matter; flat, collapsed or deformed pipe; or flooding caused by a surcharged or plugged sewer section downstream from a guaranteed sewer section. The guarantee shall apply to treated main line sewers only.

#### 4.10 GUARANTEE PERIOD (2-YEAR)

The CONTRACTOR shall guarantee that any section of the treated sewer will not experience stoppages or surcharge due to tree root obstructions for a period of two (2) years. The guarantee period shall begin on the date of treatment, and end two (2) years after the date of treatment.

#### 4.12 EXTENDED GUARANTEE WITH REPEAT TREATMENTS

In the event the CONTRACTOR performs a repeat application to a section of sewer within six (6) months of the initial guarantee, the CONTRACTOR shall extend the guarantee for an additional three (3) years. The CONTRACTOR shall perform re-treatments at no charge in honor of the guarantee, but these additional re-treatments shall not extend the expiration date of the guarantee.



#### 4.13 BLOCKAGES AND SURCHARGES

In the event a sewer section is surcharged due to a blockage, the CONTRACTOR shall notify the CITY immediately per Section 4.17. The CITY shall take full responsibility of clearing the blockage until the surcharge condition is relieved. The treatment of this reach shall be re-scheduled. The CONTRACTOR shall provide treatment only on sewers with a flow level of 50% or less of the pipe diameter.

The CONTRACTOR shall be fully responsible for preventing sewage spillage, containing any sewage spillage, recovering and disposing of any spilled sewage, and for any fines, penalties, claims and liability arising from negligently causing a sewage spillage, and any violation of any law, ordinance, code, order, or regulation as a result of the spillage.

The CONTRACTOR, in case of sewage spill, shall act immediately without instructions from the CITY, to control the spill and take all appropriate steps to contain it. The CONTRACTOR shall immediately notify the CITY of the spill and all actions taken. The CONTRACTOR shall wait at least sixty (60) days after any cleaning work is performed in order to allow root tissues to recover, prior to treating the sewer line.

#### 4.14 INACCESSIBLE MAINTENANCE HOLES

In the event an MH cannot be located or is inaccessible, the CONTRACTOR shall move to the next MH where work can be performed. The CONTRACTOR shall notify the CITY of the problem on the next working day and the CITY shall initiate an investigation. The CONTRACTOR shall be required to return to the site to complete any unfinished root control treatments after the problem has been rectified.

#### 4.15 DOCUMENTATION SUBMISSION

Upon completing chemical root control treatment of a sewer, the CONTRACTOR shall submit documentation (Article 4.16) within ten (10) days of treatment. The CONTRACTOR shall submit the reports to:

John Park, PROJECT ENGINEER  
CITY of Los Angeles  
Bureau of Sanitation/Wastewater Collection System Division  
2714 Media Center Drive  
Los Angeles, CA 90065  
Phone: (323) 342-6033  
Fax: (323) 342-6013

#### 4.16 CHEMICAL TREATMENT DOCUMENTATION

Upon completing each chemical root control treatment of a sewer, the CONTRACTOR shall prepare a report of the completed work. The CONTRACTOR shall submit an

electronic copy of the report in Excel or other acceptable database format. The reports shall contain, at a minimum, the following information:

- i. Report Date
- ii. Pipe ID
- iii. Sewershed Basin ID
- iv. Date of treatment
- v. Upstream and downstream MH numbers
- vi. Pipe diameter
- vii. Pipe material
- viii. Footage
- ix. Amount of chemical used in each sewer reach
- x. Special conditions or observations found by application crew
- xi. Date the guarantee expires on each sewer reach
- xii. Reasons for not treating a targeted pipe

#### 4.17 EMERGENCY NOTIFICATION

The CONTRACTOR shall immediately notify the CITY, whenever a surcharged sewer or a partial or total pipe blockage is discovered. The CONTRACTOR shall contact the CITY at (213) 485-7575 during normal work hours (7:00 am to 12:00 am) Monday through Friday, except HOLIDAYS, and contact the CITY's emergency phone number at (310) 822-0777 at all other times. The CONTRACTOR shall indicate the location, the nature of the problem, and when the problem was first detected. The CONTRACTOR may continue working, but shall stay onsite or nearby until CITY staff arrive, unless otherwise instructed by the PROJECT MANAGER.

#### 4.18 SAFETY

The CONTRACTOR shall comply with all Federal, State, and local safety regulations and all applicable Cal-OSHA requirements.

If confined space entry into a live sewer is necessary, the CONTRACTOR shall provide continuous ventilation and monitoring of the MH atmosphere for hydrogen sulfide, combustibles, and oxygen concentration during MH entry. The CONTRACTOR shall operate and maintain safety equipment at all times and be responsible for all safety training of its crew. The CONTRACTOR must never leave an open MH unattended.

The CONTRACTOR shall remove all equipment from the sewer at the end of each work session. The CONTRACTOR shall perform all work in the safest possible manner. The CITY may make unannounced inspections to ensure compliance with safety requirements. In the event the CONTRACTOR is deemed to be working in an unsafe manner by the CITY, the CONTRACT may be terminated.

The CONTRACTOR shall be responsible for cleanup and disposal of any spill of herbicide that occurs during the work. The CONTRACTOR's vehicle and equipment shall comply with all federal and state regulations for use and transportation of herbicides. The CONTRACTOR shall comply with all spill regulations, including reporting requirements.

**4.19 TRAFFIC CONTROL**

The CONTRACTOR shall obtain all necessary permits and observe all standard rules of safety for pedestrian and traffic control in accordance with local laws and accepted practice.

The CONTRACTOR shall be responsible for all costs for labor, equipment, and materials required for establishing traffic control. The CONTRACTOR shall establish traffic control, which conforms to requirements of the current "Manual of Traffic Controls for Construction and Maintenance Work Zones", issued by the State of California Department of Transportation, or the current "Work Area Traffic Control Handbook (WATCH)". The CONTRACTOR shall use arrow boards and an extensive traffic control setup at sewers in heavy traffic areas.

**ARTICLE 5 – KEY CONTRACTOR PERSONNEL**

5.1 CONTRACTOR designates the following persons to implement the work:

Name	License Number	Years of Service	Footage Treated
William Baunee	QL36377	16	8,466,231
Rick Yazel	QL35074	8	6,845,214
Thomas Edwards, Manager	AA04205	6	N/A
Mark Lawler	QL37359	21	16,211,225
Gary Roberts	QL38164	17	12,213,004
Jon Dean	QL51314	5	5,213,566

The CONTRACTOR may add additional technical specialists, subject to the CITY Project Manager's approval.

5.2 The CONTRACTOR shall agree that personnel assigned to these positions at the

commencement of services under this AGREEMENT shall serve in these positions as long as required by the CONTRACT, and the CONTRACTOR shall not change personnel assigned to these positions without the consent and approval of the PROJECT MANAGER.

Unless otherwise provided or approved by the CITY, the CONTRACTOR shall use its own employees to perform the services described in this CONTRACT. The CITY shall have the right to review and approve any personnel who are assigned to work under this CONTRACT. The CONTRACTOR agrees to remove personnel from performing work under this CONTRACT if requested to do so by the CITY.

The CONTRACTOR shall not use subcontractors to assist in performance of this CONTRACT without the prior written approval of the CITY. If the CITY permits the use of subcontractors, the CONTRACTOR shall remain responsible for performing all aspects of this CONTRACT. The CITY has the right to approve CONTRACTOR'S subcontractors, and the CITY reserves the right to request replacement of subcontractors. The CITY does not have any obligation to pay CONTRACTOR'S subcontractors, and nothing herein creates any privity between the CITY and the subcontractors.

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

The CITY designates John Park as its PROJECT ENGINEER to represent the CITY in all matters within the scope of the AGREEMENT relating to the conduct and approval of the work to be performed. Whenever the term "approval of the CITY," "consult with the CITY," "confer with the CITY," or similar terms are used, they shall refer to the CITY's PROJECT ENGINEER. The PROJECT ENGINEER may designate an assistant to act in his behalf. The CITY may designate another CITY employee to succeed John Park as PROJECT ENGINEER. The CONTRACTOR will be notified in writing in such event.

The CITY shall provide a listing of sewers to be treated to the CONTRACTOR on a monthly or a quarterly basis. The list of sewer reaches/sections shall be organized into drainage areas called sewershed basins. The CITY shall manage the contracts and evaluate the productivity, application, and effectiveness of the root control pesticide application. The CITY shall furnish, without charge, facilities and resources available to the CONTRACTOR as deemed reasonably necessary and appropriate by the CITY.

#### **ARTICLE 7 – TERM OF AGREEMENT AND TIME OF EFFECTIVENESS**

Unless otherwise provided, the term of this AGREEMENT shall begin on the date of full execution of this AGREEMENT and shall expire in three (3) years unless terminated as provided under Article 8 or extended by an amendment to this AGREEMENT.

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

- (a) This CONTRACT has been signed on behalf of the CONTRACTOR by the person or persons authorized to bind the CONTRACTOR 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.
- (e) This CONTRACT has been attested by the City Clerk.

#### 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 CONTRACTOR 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. Upon receipt of said written notice, CONTRACTOR shall immediately take action not to incur any additional obligations, cost or expense, except as may be reasonably necessary to terminate its activities.
- 8.3 This AGREEMENT may be immediately terminated in writing by the CITY if (1) a federal or state proceeding for relief of debtors is undertaken by or against CONTRACTOR, or if CONTRACTOR makes an assignment for the benefit of creditors or (2) CONTRACTOR engages in any dishonest conduct related to the performance or administration of this AGREEMENT or violates the CITY'S

lobbying policies.

- 8.4 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 CONTRACTOR at the time of termination may be adjusted to cover any additional costs to the CITY because of the CONTRACTOR'S default.

If termination for default is effected by the CONTRACTOR 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 CONTRACTOR for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the CONTRACTOR relating to written commitments that were executed prior to the termination. Thereafter, CONTRACTOR shall have no further claims against the CITY under this AGREEMENT.

- 8.5 Upon receipt of a termination action under Articles 8.1, 8.2 or 8.3 above, the CONTRACTOR shall (1) promptly discontinue all affected work (unless the notice directs otherwise), and (2) deliver or otherwise make available to the CITY all finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, which shall become CITY property upon date of such termination. CONTRACTOR agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY'S ownership of rights provided herein.
- 8.6 Upon termination under Articles 8.1, 8.2 or 8.3 above, the CITY may take over the work and may award another party an AGREEMENT to complete the work under this AGREEMENT.
- 8.7 If, after the termination for failure of the CONTRACTOR to fulfill contractual obligations, it is determined that the CONTRACTOR 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 8.4 of this article.
- 8.8 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**

If the need to subcontract should arise, the CONTRACTOR shall obtain written approval from the CITY, and submit a copy of all subcontracts to the CITY showing the subcontractor's name and dollar amount of each subcontract. Wholly-owned subsidiaries of the CONTRACTOR shall not be considered subcontractors.

## ARTICLE 10 - COMPENSATION, INVOICING, AND PAYMENT

### 10.1 CITY LIMITED TO OBLIGATION OF PRESENT APPROPRIATION

CITY liability under the 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 the CITY shall impose any obligation upon the CITY, such officer, agent or employee, except to the extent of the CITY has appropriated funds in accordance with the terms of this AGREEMENT. No work shall create an immediate indebtedness and indebtedness shall not arise against the CITY for said work until and unless there is an appropriation of funds to pay for said work. The CONTRACTOR and CITY agree that no indebtedness for work performed which results in costs under this agreement shall arise against the CITY until and unless there is an appropriation of funds to pay for such work.

### 10.2 COST CEILING

The cost ceiling for this CONTRACT shall not exceed \$7,500,000 or as modified by the CITY. The CITY shall not be obligated to reimburse the CONTRACTOR for costs incurred in excess of the cost ceiling. CONTRACTOR 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 cost ceiling unless and until CITY shall have notified CONTRACTOR in writing that such cost ceiling has been increased and shall have specified in such notice an estimated cost ceiling which shall thereupon constitute the cost performance of this AGREEMENT. In the absence of the specified notice, CITY shall not be obligated to reimburse CONTRACTOR for any costs in excess of the cost ceiling set forth, whether those costs were incurred during the course of the AGREEMENT or as a result of termination. When and to the extent that the cost ceiling has been increased, any costs incurred by the CONTRACTOR in excess of the cost ceiling prior to such increase shall be allowable to the same extent as if such costs had been incurred after the increase.

### 10.3 COMPENSATION

The CONTRACTOR shall be compensated for all services provided as described herein in accordance with the applicable rate schedules as indicated in **Exhibit A** and/or as follows for the following pipe diameters and associated cost.

6-inch	\$1.02 / linear foot
8-inch	\$1.03 / linear foot
10-inch	\$1.03 / linear foot
12-inch	\$1.24 / linear foot
14-inch	\$1.52 / linear foot
15-inch	\$1.75 / linear foot
18-inch	\$2.29/ linear foot

The CONTRACTOR agrees to perform the work specified in Articles 3 and 4, and the CITY shall compensate the CONTRACTOR on a linear foot basis for sewer root control treatment actually completed.

#### 10.4 COSTS INCURRED PRIOR TO FULL EXECUTION OF THIS AGREEMENT

Costs incurred by the CONTRACTOR prior to the actual date of full execution of this AGREEMENT shall only be payable to the CONTRACTOR, 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 the AGREEMENT is fully executed.

#### 10.5 INVOICE PROCEDURES

The CONTRACTOR shall prepare an invoice either on a monthly basis or at the completion of each sewershed basin. The CONTRACTOR is responsible for the preparation of a complete and accurate invoice. Invoices shall be prepared in such form and supported by such copies of invoices, time sheets and other documents of proof as may be reasonably required by the CITY to establish the amount of such invoices as being allowable. Invoices and associated documentation shall be prepared at the sole expense and responsibility of the CONTRACTOR. The CITY will not compensate the CONTRACTOR for any costs incurred for invoice preparation.

##### 10.5.1 INVOICE SUBMITTAL

The CONTRACTOR shall submit all invoices to:

Mr. John Park  
 Sewer Root Control Program  
 CITY of Los Angeles, Bureau of Sanitation  
 Wastewater Collection Systems Division  
 2714 Media Center Drive  
 Los Angeles, CA 90065



Clearly indicate on the outside of the envelope, the fact that the envelope contains invoices for the Sewer Root Control Program, to insure prompt processing. The CITY may change the submittal address, in writing, at any time.

#### 10.5.2 INVOICE SUBMITTAL DEADLINE

The CITY will not be responsible for payment of invoices or supplemental invoices submitted to the CITY more than one year after the date of expiration of this AGREEMENT.

#### 10.5.3 INVOICE APPROVAL AND PROCESSING

Payments will be made upon the submission of a complete and accurate invoice. The CITY will review the CONTRACTOR'S invoice and attachments and notify CONTRACTOR of exceptions or disputed items within fifteen (15) days of receipt of the invoice. If an invoice is not properly submitted, then a new fifteen (15) day review period will begin upon receipt of a corrected invoice by the CITY. Once approved by the CITY, the CITY will make a good faith effort to process payments in thirty (30) days. No expedition of payment or explanation of payment progress will be made within the total forty-five (45) day processing period. To expedite the approval process, CONTRACTORS are encouraged to submit draft invoices for review, prior to submitting of a final invoice.

#### 10.5.4 DISCOUNTS

The CITY will consider a shorter payment schedule should the CONTRACTOR offer a discount for more immediate payment. However, such discount shall not be considered in the preparation or evaluation of the rate schedules included as **Exhibit A**.

#### 10.5.5 LATE CHARGES

The CITY shall not pay late penalties or interest on outstanding invoices. The CITY shall not be responsible for the payment of any interest, late charges or penalties incurred by the CONTRACTOR from any subcontractor or supplier for any item provided under the CONTRACT.

#### 10.5.6 DISPUTES

In the event that a dispute arises over an invoice, the CITY shall pay any undisputed portion of the amount due within the time period required for such payment, and any required payment of the disputed amount in accordance with existing CITY practices.

#### 10.5.7 RATE ADJUSTMENTS DUE TO CHANGES IN REGULATIONS

If state or federal regulations are changed in a manner which may affect the rates described in the AGREEMENT, then the CITY and the CONTRACTOR shall enter into negotiations to modify the affected rates. All adjustments shall be based on direct evidence that the regulatory change has affected the unit rate or percent mark-up as currently stated.

#### 10.6 INVOICING AND PAYMENT

10.6.1 At the conclusion of each task milestone, the CONTRACTOR shall submit to the CITY an original and three (3) copies of an invoice in a format acceptable to the CITY. The CITY will review CONTRACTOR'S invoice in accordance with Article 10.5.3. The total invoice amount, less any exceptions or disputed items shall be considered approved for payment fifteen (15) days after receipt by the CITY. If the CITY does not notify the CONTRACTOR within fifteen (15) days of receipt, then the entire invoice amount shall be deemed approved for payment. The CITY will pay the CONTRACTOR all amounts approved for payment within sixty (60) days after the CITY's Project Manager receives the CONTRACTOR'S invoice.

10.6.2 Invoices shall be prepared in such form and supported by such documentation as may be reasonably required by the CITY to establish the amount of such invoices as being allowable. All such invoices shall be subject to audit.

10.7 The CONTRACTOR acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the CITY under the California 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 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 the CITY, the CONTRACTOR 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), damage or liability of any nature whatsoever, for death or injury to any person, including the CONTRACTOR's employees and agents or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this AGREEMENT by the CONTRACTOR or its subcontractors of any tier. Rights and remedies available to the CITY under this provision are cumulative of those provided for elsewhere in this AGREEMENT and those allowed under the laws of the United States, the State of California, and the CITY. The provisions of this paragraph survive expiration or termination of this AGREEMENT.

## 12.2 INSURANCE

During the term of this CONTRACT and without limiting the CONTRACTOR'S indemnification of the CITY, the CONTRACTOR shall provide and maintain at its own expense during the term of this CONTRACT a program of insurance having the coverage and limits customarily carried and actually arranged by CONTRACTOR but not less than the amounts and types listed on the Insurance Requirements Sheet (Form Gen 146/IR), in EXHIBIT C hereto, covering its operations hereunder. Such insurance shall conform to CITY requirements as established by charter, ordinance, or policy and shall comply with the instructions set forth, in EXHIBIT C, and which can also be found at the BOARD'S website: [www.lacity.org/bpw/Secretariat/Insurance.html](http://www.lacity.org/bpw/Secretariat/Insurance.html), in the form Instructions and Information on Complying with City Insurance Requirements, rev 9/06, and shall otherwise be in a form acceptable to the City Administrative Officer, Risk Management. The CONTRACTOR shall comply with all insurance Contractual Requirements shown on EXHIBIT C hereto. EXHIBIT C is hereby incorporated by reference and made a part of this CONTRACT.

A Performance Bond shall be required in accordance with Article 28 – Bonds. The Performance Bond is attached hereto as **Exhibit N**.

## **ARTICLE 13 – INDEPENDENT CONTRACTORS**

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

#### **ARTICLE 14 – WARRANTY AND RESPONSIBILITY OF CONTRACTOR**

- 14.1 CONTRACTOR warrants that the work hereunder shall be completed in a manner consistent with professional standards practiced among those firms within CONTRACTOR'S profession, doing the same or similar work under the same or similar circumstances.
- 14.2 CONTRACTOR shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by CONTRACTOR under this AGREEMENT. CONTRACTOR shall, at no additional cost to CITY, correct or revise any errors, omissions, or other deficiencies in its designs, drawings, specifications, reports, calculations, and other services.
- 14.3 The CONTRACTOR shall exhibit proper professional judgment 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, CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR shall be and shall remain liable, in accordance with applicable law, for all damages to CITY caused by CONTRACTOR'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 AND LICENSE**

Unless otherwise provided for herein, all Work Products originated and prepared by CONTRACTOR or its subcontractors of any tier under this AGREEMENT 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 AGREEMENT 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. CONTRACTOR hereby assigns, and agrees to assign, all goodwill, copyright, trademarks, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by CONTRACTOR under this AGREEMENT. CONTRACTOR further agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY's ownership of rights provided herein.

For all Work Products delivered to the CITY that are not originated or prepared by the CONTRACTOR or its subcontractors of any tier under this AGREEMENT, the CONTRACTOR hereby grants a non-exclusive perpetual license to use such Work Products for any CITY purpose.

The CONTRACTOR shall not provide or disclose any Work Product to any third party without prior written consent of the CITY.

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

## **ARTICLE 16 - INTELLECTUAL PROPERTY INDEMNIFICATION**

The CONTRACTOR, as 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, or 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 the CONTRACTOR, or its subcontractors of any tier, in performing the work under this AGREEMENT; or (2) as a result of the CITY's actual or intended use of any Work Product furnished by the CONTRACTOR, or its subcontractors 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 AGREEMENT and those allowed under the laws of the United States, the State of California, and the CITY. The provisions of this paragraph shall survive expiration or termination of this AGREEMENT.

#### **ARTICLE 17 - INTELLECTUAL PROPERTY WARRANTY**

The CONTRACTOR represents and warrants that its performance of all obligations under this AGREEMENT 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.

#### **ARTICLE 18 – NONDISCRIMINATION, EQUAL EMPLOYMENT PRACTICES, AND AFFIRMATIVE ACTION**

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

**ARTICLE 19 – MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE  
OUTREACH PROGRAM**

The Good Faith Effort Waiver Form is attached hereto as **Exhibit B** and incorporated herein by reference.

CONTRACTOR has stipulated that it does not engage any subcontractor to perform the work described in this AGREEMENT and that all services described herein are performed by employees of CONTRACTOR. The Board of Public Works has been advised of this stipulation and a waiver has been obtained from the Mayor’s Office.

**ARTICLE 20 – SUCCESSORS AND ASSIGNS**

All of the terms, conditions, and provisions hereof shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns provided, however, that no assignment of the AGREEMENT shall be made without written consent of the parties to this AGREEMENT as required under Article 34, Prohibition Against Assignment or Delegation.

**ARTICLE 21 – 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: **John Park, Project Engineer**  
Address: **Sewer Root Control Program  
CITY of Los Angeles, Bureau of Sanitation  
Wastewater Collection Systems Division  
2714 Media Center Drive  
Los Angeles, CA 90065**

To CONTRACTOR:

Contact Person: **Mike Hogan**  
Address: **Duke's Root Control, Inc.  
1020 Hiawatha Blvd. West  
Syracuse, New York 13204**

**ARTICLE 22 – FORCE MAJEURE**

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of party shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to: strikes, fires, floods, earthquakes, 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, freight embargos 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 23 – 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 24 – 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 25 – 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 26 – APPLICABLE LAW, INTERPRETATION, AND ENFORCEMENT**

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the CITY including but not limited to laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This AGREEMENT shall be enforced, and interpreted under the laws of the State of California without regard to conflict of law principles. CONTRACTOR shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this AGREEMENT.



In any action arising out of this AGREEMENT, the CONTRACTOR consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

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 parts, terms or provisions shall not be affected thereby.

#### **ARTICLE 27 – CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED**

If applicable, CONTRACTOR 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 CONTRACTOR shall maintain, or obtain as necessary, all such Certificates required of it under said the Business Tax Ordinance and shall not allow any such Certificate to be revoked or suspended. Should any such certificate(s) become suspended or revoked, it is the CONTRACTOR'S responsibility to report the matter immediately to the PROJECT MANAGER.

#### **ARTICLE 28 – BONDS**

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

Upon execution of this AGREEMENT, the CONTRACTOR shall furnish a performance bond or equivalent security in the amount of 100% percent of the total contract amount in a format acceptable to the CITY. The term of the bond shall be for a one-year term, and is to be renewed every year to cover the following two-years of this Agreement. The CITY may terminate the contract, at any time, if the performance bond is not renewed after the initial one-year term. The Performance Bond is attached hereto as **Exhibit N**.

#### **ARTICLE 29 – CHILD SUPPORT ASSIGNMENT ORDERS**

This AGREEMENT is subject to the Child Support Assignment Orders Ordinance, Section

10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, the CONTRACTOR will fully comply with all applicable state and federal employment reporting requirements for the CONTRACTOR'S employees. The CONTRACTOR shall also certify (1) that the Principal Owner(s) of the CONTRACTOR are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that the CONTRACTOR will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, et seq. of the California Family Code; and (3) that the CONTRACTOR will maintain such compliance throughout the term of this AGREEMENT.

Pursuant to Section 10.10 (b) of the Los Angeles Administrative Code, the failure of the CONTRACTOR to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of the CONTRACTOR to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the CONTRACTOR under this AGREEMENT, subjecting this AGREEMENT to termination if such default shall continue for more than ninety (90) days after notice of such default to the CONTRACTOR by the CITY.

Any subcontract entered into by the CONTRACTOR, to the extent allowed hereunder, shall include a like provision for work to be performed under this AGREEMENT. Failure of the CONTRACTOR to obtain compliance of its subcontractors shall constitute a default by the CONTRACTOR under this AGREEMENT, subjecting this AGREEMENT to termination where such default shall continue for more than ninety (90) days after notice of such default to the CONTRACTOR by the CITY.

The CONTRACTOR certifies 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 Section 7110 (b) of the California Public Contract Code.

### **ARTICLE 30 – LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE**

A. Unless otherwise exempt in accordance with the provisions of this Ordinance, this AGREEMENT 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, which is attached hereto as **Exhibit G** and incorporated herein by this reference, 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. These Ordinances require the following:

1. CONTRACTOR assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of benefits as defined in the LWO.
  2. CONTRACTOR 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 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 shall receive and retain on file the executed pledges from each such Subcontractor within ninety (90) days of the execution of the Subcontract. CONTRACTOR'S delivery of executed pledges from each Subcontractor shall fully discharge the obligation of the CONTRACTOR with respect to such pledges and fully discharge the obligation of the CONTRACTOR to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
  3. The CONTRACTOR, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the CITY with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. CONTRACTOR shall post the Notice of Prohibition Against Retaliation provided by the CITY.
  4. Any Subcontract entered into by the CONTRACTOR relating to this AGREEMENT, to the extent allowed hereunder, shall be subject to the provisions of LWO and the SCWRO, and shall incorporate the LWO and the SCWRO.
  5. CONTRACTOR shall comply with all rules, regulations and policies promulgated by the CITY's Designated Administrative Agency, which may be amended from time to time.
- B. Under the provisions of Section 10.36.3(c) and Section 10.37.6(c) of the Los Angeles Administrative Code, the CITY shall have the authority, under appropriate circumstances, to terminate this AGREEMENT and otherwise pursue legal remedies that may be available if the CITY determines that the subject CONTRACTOR has violated provisions of either the LWO or the SCWRO or both.

- C. Where under the LWO Section 10.37.6(d), the CITY's Designated Administrative Agency has determined (a) that the CONTRACTOR 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 CITY in such circumstances may impound monies otherwise due the CONTRACTOR in accordance with the following procedures. Impoundment shall mean that from monies due the CONTRACTOR, the CITY may deduct the amount determined to be due and owing by the CONTRACTOR 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 is to continue work following an impoundment shall remain in the sole discretion of the CITY. The CONTRACTOR 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.
- D. The CONTRACTOR shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). The CONTRACTOR shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from the CONTRACTOR.

#### **ARTICLE 31 – AMERICANS WITH DISABILITITES ACT**

The CONTRACTOR hereby certifies that it will comply with the Americans with Disabilities Act 42 U.S.C. Section 12101 et seq. and its implementing regulations. The CONTRACTOR will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. The CONTRACTOR will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by the CONTRACTOR, relating to this AGREEMENT, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

#### **ARTICLE 32 – EQUAL BENEFITS ORDINANCE**

Unless otherwise exempted, this AGREEMENT is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time, which is attached hereto as **Exhibit D** and incorporated herein by this reference.

1. During the performance of the AGREEMENT, the CONTRACTOR certifies and represents that the CONTRACTOR will comply with the EBO.

2. The failure of the CONTRACTOR to comply with the EBO will be deemed to be a material breach of the AGREEMENT by the CITY.
3. If the CONTRACTOR fails to comply with the EBO the CITY may cancel, terminate or suspend the AGREEMENT, in whole or in part, and all monies due or to become due under the AGREEMENT may be retained by the CITY. The CITY may also pursue any and all other remedies at law or in equity for any breach.
4. Failure to comply with the EBO may be used as evidence against the CONTRACTOR in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.
5. If the CITY's Designated Administrative Agency determines that a CONTRACTOR has set up or used its Contracting entity for the purpose of evading the intent of the EBO, the CITY may terminate the AGREEMENT. Violation of this provision may be used as evidence against the CONTRACTOR in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.

The CONTRACTOR agrees to post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

"During the performance of a Contract with the CITY of Los Angeles, the CONTRACTOR will provide equal benefits to employees with spouses and its employees with domestic partners. Additional information about the CITY of Los Angeles' Equal Benefits Ordinance may be obtained from the Bureau of Contract Administration, Office of Contract Compliance at (213) 847-2625."

**ARTICLE 33 – WAIVER**

A waiver of a default of any term of this AGREEMENT 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 34 – PROHIBITION AGAINST ASSIGNMENT OR DELEGATION**

The CONTRACTOR 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 under this AGREEMENT.

### **ARTICLE 35 – PERMITS**

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

### **ARTICLE 36 – DISCOUNTS**

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

### **ARTICLE 37 – CONTRACTOR RESPONSIBILITY ORDINANCE**

Contractor Responsibility Ordinance is attached hereto as **Exhibit H** and incorporated herein by this reference. Unless otherwise exempt in accordance with the provisions of the Ordinance, this AGREEMENT is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 et seq. of the Los Angeles Administrative Code, which requires CONTRACTOR to update its responses to the responsibility questionnaire within thirty (30) calendar days after any change to the responses previously provided if such change would affect CONTRACTOR's fitness and ability to continue performing the AGREEMENT.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this AGREEMENT, CONTRACTOR pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this AGREEMENT, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. The CONTRACTOR further agrees to:

1. Notify the awarding authority within thirty (30) calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the CONTRACTOR is not in compliance with all applicable federal, state and local laws in performance of this AGREEMENT;

2. Notify the CITY within thirty (30) calendar days of all findings by a government agency or court of competent jurisdiction that the CONTRACTOR has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance;
3. Unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the CITY; and
4. Unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the CITY within thirty (30) 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 Contractor Responsibility Ordinance in performance of the subcontract.

#### **ARTICLE 38 – BREACH**

Except for force majeure, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

#### **ARTICLE 39 – SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt in accordance with the provisions of this Ordinance, this AGREEMENT is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as may be amended from time to time, which is attached hereto as **Exhibit E** and incorporated herein by this reference. CONTRACTOR certifies that it has complied with the applicable provisions of this Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this AGREEMENT.

#### **ARTICLE 40 – CONTRACTOR PERFORMANCE EVALUATION ORDINANCE**

At the end of this AGREEMENT, the CITY will conduct an evaluation of the CONTRACTOR's performance. The CITY may also conduct evaluations of the CONTRACTOR's performance during the term of the AGREEMENT. As required by Section 10.39.2 of the Los Angeles Administrative Code, evaluations will be based on a number of criteria, including the quality of the work product or service performed, the

timeliness of performance, financial issues, and the expertise of personnel that the CONTRACTOR assigns to the AGREEMENT. A CONTRACTOR who receives a "Marginal" or "Unsatisfactory" rating will be provided with a copy of the final CITY evaluation and allowed 14 calendar days to respond. The CITY will use the final CITY evaluation, and any response from the CONTRACTOR, to evaluate proposals and to conduct reference checks when awarding other service contracts.

#### **ARTICLE 41 – MUNICIPAL LOBBYING ORDINANCE**

Any CONTRACTOR for the CITY shall submit a certification, on a form prescribed by the CITY Ethics Commission, that the CONTRACTOR acknowledges and agrees to comply with the disclosure requirements and prohibitions established in the Los Angeles Municipal Lobbying Ordinance, **Exhibit M**, if the CONTRACTOR qualifies as a lobbying entity under the Ordinance. The exemptions contained in Los Angeles Administrative Code Section 10.40.4 shall not apply to this subsection.

#### **ARTICLE 42 - CLAIMS FOR LABOR AND MATERIALS**

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



If a crew worker has unused comp days on December 31, the company will pay out in a check the unused comp days based on the employees salary/day. In the event that a crew worker has a deficit of comp days on December 31, the employee will not be "charged" and Duke's will absorb that extra time.



1020 Hiawatha Blvd., West  
Syracuse, NY 13204-1131  
1-800-44-ROOTS  
(315) 472-4781  
FAX (315) 475-4203

## HOLIDAYS

All full-time employees (including those in the initial employment period) are eligible for 11-16 paid holidays per year as follows:

New Year's Day  
Memorial Day  
Independence Day (1-3 days)  
Labor Day  
Thanksgiving (2 days)  
Christmas (5-10 days)

At the end of each year the holiday schedule for the coming year will be posted on the Bulletin Board. Where a holiday falls on a weekend, it will be observed on either the preceding Friday or following Monday. In addition, based on the date Christmas falls, every Duke's employee will receive 5-10 days of paid vacation.

**EXHIBIT H – CONTRACTOR RESPONSIBILITY ORDINANCE**

CITY OF LOS ANGELES

PLEDGE OF COMPLIANCE WITH CONTRACTOR RESPONSIBILITY ORDINANCE

Los Angeles Administrative Code (LAAC) Section 10.40 et seq. (Contractor Responsibility Ordinance) provides that, unless specifically exempt, City contractors working under service contracts of at least \$25,000 and three months, contracts for the purchase of goods and products of at least \$100,000, contracts for the purchase of garments of at least \$25,000, and construction contracts of any amount; public lessees; public licensees; and certain recipients of City financial assistance or City grant funds, shall comply with all applicable provisions of the Ordinance. Upon award of a City contract, public lease, public license, financial assistance or grant, the contractor, public lessee, public licensee, City financial assistance recipient, or grant recipient, and any its subcontractor(s), shall submit this Pledge of Compliance to the awarding authority.

The contractor agrees to comply with the Contractor Responsibility Ordinance and the following provisions:

- (a) To comply with all federal, state, and local laws in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws, which affect employees.
- (b) To notify the awarding authority within 30 calendar days after receiving notification that any governmental agency has initiated an investigation which may result in a finding that the contractor did not comply with any federal, state, or local law in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws, which affect employees.
- (c) To notify the awarding authority within 30 calendar days of all findings by a governmental agency or court of competent jurisdiction that the contractor has violated any federal, state, or local law in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws which affect employees.
- (d) If applicable, to provide the awarding authority, within 30 calendar days, updated responses to the Responsibility Questionnaire if any change occurs which would change any response contained within the Responsibility Questionnaire and such change would affect the contractor's fitness and ability to continue the contract.
- (e) To ensure that subcontractors working on the City agreement (including contractors or subcontractors of a public lessee, licensee, sublessee, or sublicensee that perform or assist in performing services on the leased or licensed premises) shall comply with all federal, state, and local laws in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws, which affect employees.
- (f) To ensure that subcontractors working on the City agreement (including contractors or subcontractors of a public lessee, licensee, sublessee, sublicensee that perform or assist in performing services on the leased or licensed premises) submit a Pledge of Compliance.
- (g) To ensure that subcontractors working on the City agreement (including contractors or subcontractors of a public lessee, licensee, sublessee, or sublicensee that perform or assist in performing services on the leased or licensed premises) shall comply with paragraphs (b) and (c).

Failure to complete and submit this form to the Awarding Authority may result in withholding of payments by the City Controller, or contract termination.

Duke's Root Control, Inc. 1020 Hawthorn Blvd W Syracuse, NY 315-472-4881  
Company Name, Address and Phone Number

[Signature] 12/15/08  
Signature of Officer or Authorized Representative Date

Michael S. Hogan President  
Print Name and Title of Officer or Authorized Representative

Public Works Bureau of Sanitation 6940  
Awarding City Department Contract Number

CITY OF LOS ANGELES  
RESPONSIBILITY QUESTIONNAIRE

RESPONSES TO THE QUESTIONS CONTAINED IN THIS QUESTIONNAIRE MUST BE SUBMITTED ON THIS FORM.  
In responding to the Questionnaire, neither the City form, nor any of the questions contained therein, may be retyped, recreated, modified, altered, or changed in any way, in whole or in part. Bidders or Proposers that submit responses on a form that has been retyped, recreated, modified, altered, or changed in any way shall be deemed non-responsive.

The signatory of this Questionnaire guarantees the truth and accuracy of all statements and answers to the questions herein. Failure to complete and return this questionnaire, any false statements, or failure to answer (a) question(s) when required, may render the bid/proposal non-responsive. All responses must be typewritten or printed in ink. Where an explanation is required or where additional space is needed to explain an answer, use the Responsibility Questionnaire Attachments. Submit the completed form and all attachments to the awarding authority. Retain a copy of this completed form for future reference. Contractors must submit updated information to the awarding authority if changes have occurred that would render any of the responses inaccurate in any way. Updates must be submitted to the awarding authority within 30 days of the change(s).

A. CONTACT INFORMATION

CITY DEPARTMENT INFORMATION

Public Works Bureau of Sanitation      Carmelo Martinez      323-342-6040  
City Department/Division Awarding Contract      City Contact Person      Phone  
RFP - Sewer Root Control Treatment  
City Bid or Contract Number (if applicable) and Project Title

BIDDER/CONTRACTOR INFORMATION

Duke's Root Control, Inc.  
Bidder/Proposer Business Name  
1020 Hawatha Blvd West      Syracuse      NY      13204  
Street Address      City      State      Zip  
Michael S. Hogan President      315-472-4781      475-4203  
Contact Person, Title      Phone      Fax

TYPE OF SUBMISSION:

The Questionnaire being submitted is:

- An initial submission of a completed Questionnaire.
- An update of a prior Questionnaire dated 10 / 6 / 05.
- No change. I certify under penalty of perjury under the laws of the State of California that there has been no change to any of the responses since the last Responsibility Questionnaire dated \_\_\_\_/\_\_\_\_/\_\_\_\_ was submitted by the firm. Attach a copy of that Questionnaire and sign below.

Michael S. Hogan President      [Signature]      12/12/08  
Print Name, Title      Signature      Date

TOTAL NUMBER OF PAGES SUBMITTED, INCLUDING ALL ATTACHMENTS: 8

**B. BUSINESS ORGANIZATION/STRUCTURE**

Indicate the organizational structure of your firm. "Firm" includes a sole proprietorship, corporation, joint venture, consortium, association, or any combination thereof.

**Corporation:** Date incorporated: 3 / 15 / 2002 State of incorporation: New York

List the corporation's current officers.

President: Michael S. Hogan

Vice President: William Anderson

Secretary: Connie Wozniak

Treasurer: Connie Wozniak

Check the box only if your firm is a publicly traded corporation.

List those who own 5% or more of the corporation's stocks. Use Attachment A if more space is needed. Publicly traded corporations need not list the owners of 5% or more of the corporation's stocks.

\_\_\_\_\_  
\_\_\_\_\_

**Limited Liability Company:** Date of formation: \_\_\_\_/\_\_\_\_/\_\_\_\_ State of formation: \_\_\_\_\_

List members who own 5% or more of the company. Use Attachment A if more space is needed.

\_\_\_\_\_  
\_\_\_\_\_

**Partnership:** Date formed: \_\_\_\_/\_\_\_\_/\_\_\_\_ State of formation: \_\_\_\_\_

List all partners in your firm. Use Attachment A if more space is needed.

\_\_\_\_\_  
\_\_\_\_\_

**Sole Proprietorship:** Date started: \_\_\_\_/\_\_\_\_/\_\_\_\_

List any firm(s) that you have been associated with as an owner, partner, or officer for the last five years. Use Attachment A if more space is needed. Do not include ownership of stock in a publicly traded company in your response to this question.

\_\_\_\_\_  
\_\_\_\_\_

**Joint Venture:** Date formed: \_\_\_\_/\_\_\_\_/\_\_\_\_

List: (1) each firm that is a member of the joint venture and (2) the percentage of ownership the firm will have in the joint venture. Use Attachment A if more space is needed. **Each member of the Joint Venture must complete a separate Questionnaire for the Joint Venture's submission to be considered as responsive to the invitation.**

\_\_\_\_\_  
\_\_\_\_\_

**C. OWNERSHIP AND NAME CHANGES**

1. Is your firm a subsidiary, parent, holding company, or affiliate of another firm?

Yes     No

If **Yes**, explain on Attachment A the relationship between your firm and the associated firms. Include information about an affiliated firm only if one firm owns 50% or more of another firm, or if an owner, partner or officer of your firm holds a similar position in another firm.

2. Has any of the firm's owners, partners, or officers operated a similar business in the past five years?

Yes     No

If **Yes**, list on Attachment A the names and addresses of all such businesses, and the person who operated the business. Include information about a similar business only if an owner, partner or officer of your firm holds a similar position in another firm.

3. Has the firm changed names in the past five years?

Yes     No

If **Yes**, list on Attachment A all prior names, addresses, and the dates they were used. Explain the reason for each name change in the last five years.

4. Are any of your firm's licenses held in the name of a corporation or partnership?

Yes     No

If **Yes**, list on Attachment A the name of the corporation or partnership that actually holds the license.

**Bidders/Contractors must continue on to Section D and answer all remaining questions contained in this Questionnaire.**

**The responses to the remaining questions in this Questionnaire will not be posted on the internet but will be made available to the public for review upon request. Contact the appropriate Designated Administrative Agency.**

**D. FINANCIAL RESOURCES AND RESPONSIBILITY**

5. Is your firm now, or has it ever been at any time in the last five years, the debtor in a bankruptcy case?  
 Yes  No

If Yes, explain on Attachment B the circumstances surrounding each instance.

6. Is your company in the process of, or in negotiations toward, being sold?  
 Yes  No

If Yes, explain the circumstances on Attachment B.

**E. PERFORMANCE HISTORY**

7. How many years has your firm been in business? 65 Years.

8. Has your firm ever held any contracts with the City of Los Angeles or any of its departments?  
 Yes  No

If Yes, list on an Attachment B all contracts your firm has had with the City of Los Angeles for the last 10 years. For each contract listed in response to this question, include: (a) entity name; (b) purpose of contract; (c) total cost; (d) starting date; and (e) ending date.

9. List on Attachment B all contracts your firm has had with any private or governmental entity (other than the City of Los Angeles) over the last five years that are similar to the work to be performed on the contract for which you are bidding or proposing. For each contract listed in response to this question, include: (a) entity name; (b) purpose of contract; (c) total cost; (d) starting date; and (e) ending date.  
 Check the box if you have not had any similar contracts in the last five years

10. In the past five years, has a governmental or private entity or individual terminated your firm's contract prior to completion of the contract?  
 Yes  No

If Yes, explain on Attachment B the circumstances surrounding each instance.

11. In the past five years, has your firm used any subcontractor to perform work on a government contract when you knew that the subcontractor had been debarred by a governmental entity?  
 Yes  No

If Yes, explain on Attachment B the circumstances surrounding each instance.

12. In the past five years, has your firm been debarred or determined to be a non-responsible bidder or contractor?  
 Yes  No

If Yes, explain on Attachment B the circumstances surrounding each instance.



**F. DISPUTES**

13. In the past five years, has your firm been the defendant in court on a matter related to any of the following issues? For parts (a) and (b) below, check **Yes** even if the matter proceeded to arbitration without court litigation. For part (c), check **Yes** only if the matter proceeded to court litigation. If you answer **Yes** to any of the questions below, explain the circumstances surrounding each instance on Attachment B. You must include the following in your response: the name of the plaintiffs in each court case, the specific causes of action in each case; the date each case was filed; and the disposition/current status of each case.

(a) Payment to subcontractors?

Yes  No

(b) Work performance on a contract?

Yes  No

(c) Employment-related litigation brought by an employee?

Yes  No

14. Does your firm have any outstanding judgements pending against it?

Yes  No

If **Yes**, explain on Attachment B the circumstances surrounding each instance.

15. In the past five years, has your firm been assessed liquidated damages on a contract?

Yes  No

If **Yes**, explain on Attachment B the circumstances surrounding each instance and identify all such projects, the amount assessed and paid, and the name and address of the project owner.

**G. COMPLIANCE**

16. In the past five years, has your firm or any of its owners, partners or officers, ever been investigated, cited, assessed any penalties, or been found to have violated any laws, rules, or regulations enforced or administered, by any of the governmental entities listed on Attachment C (Page 9)? For this question, the term "owner" does not include owners of stock in your firm if your firm is a publicly traded corporation.

Yes  No

If **Yes**, explain on Attachment B the circumstances surrounding each instance, including the entity that was involved, the dates of such instances, and the outcome.

17. If a license is required to perform any services provided by your firm, in the past five years, has your firm, or any person employed by your firm, been investigated, cited, assessed any penalties, subject to any disciplinary action by a licensing agency, or found to have violated any licensing laws?

Yes  No

If **Yes**, explain on Attachment B the circumstances surrounding each instance in the last five years.

18. In the past five years, has your firm, any of its owners, partners, or officers, ever been penalized or given a letter of warning by the City of Los Angeles for failing to obtain authorization from the City for the substitution of a Minority-owned (MBE), Women-owned (WBE), or Other (OBE) business enterprise?

Yes  No

If Yes, explain on Attachment B the circumstances surrounding each instance in the last five years.

#### H. BUSINESS INTEGRITY

19. For questions (a), (b), and (c) below, check Yes if the situation applies to your firm. For these questions, the term "firm" includes any owners, partners, or officers in the firm. The term "owner" does not include owners of stock in your firm if the firm is a publicly traded corporation. If you check Yes to any of the questions below, explain on Attachment B the circumstances surrounding each instance.

(a) Is a governmental entity or public utility currently investigating your firm for making (a) false claim(s) or material misrepresentation(s)?

Yes  No

(b) In the past five years, has a governmental entity or public utility alleged or determined that your firm made (a) false claim(s) or material misrepresentation(s)?

Yes  No

(c) In the past five years, has your firm been convicted or found liable in a civil suit for, making (a) false claim(s) or material misrepresentation(s) to any governmental entity or public utility?

Yes  No

20. In the past five years, has your firm or any of its owners or officers been convicted of a crime involving the bidding of a government contract, the awarding of a government contract, the performance of a government contract, or the crime of fraud, theft, embezzlement, perjury, bribery? For this question, the term "owner" does not include those who own stock in a publicly traded corporation.

Yes  No

If Yes, explain on Attachment B the circumstances surrounding each instance.

#### CERTIFICATION UNDER PENALTY OF PERJURY

I certify under penalty of perjury under the laws of the State of California that I have read and understand the questions contained in this questionnaire and the responses contained on all Attachments. I further certify that I have provided full and complete answers to each question, and that all information provided in response to this Questionnaire is true and accurate to the best of my knowledge and belief.

Michael S. Hogan President  
Print Name, Title

  
Signature

12/12/08  
Date

## ATTACHMENT A FOR SECTIONS A THROUGH C

Where additional information or an explanation is required, use the space below to provide the information or explanation. Information submitted on this sheet must be typewritten or printed in ink. Include the number of the question for which you are submitting additional information. Information submitted on this Attachment in response to Questions in Sections A through C will be posted on the internet for public review. Make copies of this Attachment if additional pages are needed.

Page 1

c1. Duke's Root Control is an affiliate of Duke's Sales & Service Inc and Sewer Sciences LLC. All firms are owned by the Duke Malvern Group.

## ATTACHMENT B FOR SECTIONS D THROUGH H

Where additional information or an explanation is required, use the space below to provide the information or explanation. Information submitted on this sheet must be typewritten or printed in ink. Include the number of the question for which you are submitting additional information. Information submitted on this Attachment in response to Questions in Sections D through H will not be posted on the internet but will be made available to the public for review upon request. Make copies of this Attachment if additional pages are needed.

Page 1

E8. Duke's Root Control is currently under contract to perform Sewer Root Control Treatments for the City of LA. The current contract has been in place since 2006.

Contract Term: 5/3/06 to 5/3/09 Total Cost \$6,000,000.00

Previous Contracts:

Contract Term 8/1/02 to 8/31/05 Total Cost \$3,000,000.00

Contract Term 3/15/02 to 12/31/02 Total Cost \$80,000.00

E9. Duke's Root has completed over 3,500 Root Control treatment projects totaling over 65,000,000 feet since 1/1/04 up to 12/31/08.

Additional references to those included with proposal are available upon request.

**CITY OF LOS ANGELES  
CONTRACTOR RESPONSIBILITY ORDINANCE**

**CRO QUESTIONNAIRE RECEIPT VERIFICATION FORM**

To verify the Contractor Responsibility Ordinance's (CRO) compliance, this form must be completed by the Awarding Authority and submitted to the appropriate Designated Administrative Agency (DAA) along with the Responsibility Questionnaires. Upon receipt of the Questionnaires, the DAA will return this signed form to the Awarding Authority. **The Awarding Authority must attach the certified form to each draft contract for review by the Office of the City Attorney. No contract may be executed unless a certified Receipt Verification Form indicates that the CRO requirement has been met.**

**1. Information Regarding Proposed Contract**

Project Name/Description: RFP SEWER ROOT CONTROL TREATMENT

---

RFB/RFQ/RFP # (if any): \_\_\_\_\_ Date RFB/RFQ/RFP Released: \_\_\_\_\_

Procuring Dept.: SANITATION Mail Stop #: 536

Name of Dept. Contact: CARMELO MARTINEZ Phone: (213) 342-6040

**2. Questionnaires Are Submitted for the Following Bidders/Proposers/Proposed Contractors:**

Company Name: DUKE'S ROOT CONTROL INC

Company Address: 1020 HIAWATHA BLVD WEST

City: SYRACUSE State: NY Zip: 13204

Company Name: \_\_\_\_\_

Company Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Company Name: \_\_\_\_\_

Company Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Company Name: \_\_\_\_\_

Company Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

---

**FOR DAA USE ONLY – VERIFICATION REGARDING RECEIPT**

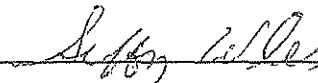
---

The Responsibility Questionnaires for the bidders/proposers/proposed contractors listed above were received on (date) 5/5/09.

The Questionnaires were processed by:

Dept. of Public Works for Construction Contracts and Service Contracts  
 Dept. of General Services for Procurement Contracts

Authorized DAA Representative (Print Name) Seffy Wiles Phone (213) 847-2408

DAA Representative Signature  Date 5/5/09

**EXHIBIT I – BUSINESS TAX REGISTRATION CERTIFICATE**



# CITY OF LOS ANGELES

OFFICE OF FINANCE

P.O. BOX 53200

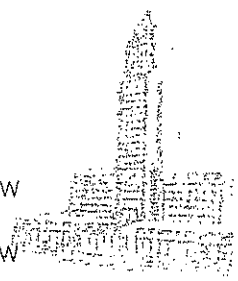
LOS ANGELES CA 90053-0200

8/10/2007 12:12

DUKES ROOT CONTROL INC  
1020 HIAWATHA BLVD W  
SYRACUSE NY 13204-1118

1020 HIAWATHA BOULEVARD W  
SYRACUSE, NY 13204-1118

THIS CERTIFICATE MUST BE POSTED AT PLACE OF BUSINESS

CITY OF LOS ANGELES TAX REGISTRATION CERTIFICATE				
THIS CERTIFICATE IS GOOD UNTIL SUSPENDED OR CANCELLED				
BUSINESS TAX				ISSUED: 12/10/2007
ACCOUNT NO.	FUND/CLASS	DESCRIPTION	STARTED	STATUS
0002095947-0001-1	L049	Professions/Occupations	03/15/2002	Active
				
DUKES ROOT CONTROL INC 1020 HIAWATHA BOULEVARD W SYRACUSE, NY 13204-1118 1020 HIAWATHA BOULEVARD W SYRACUSE, NY 13204-1118				
				ISSUED BY: <i>Antoinette P. Christensen</i> DIRECTOR OF FINANCE

**EXHIBIT J – RESIDENCE INFORMATION**



LOS ANGELES RESIDENCE INFORMATION

The City Council in consideration of the importance of preserving and enhancing the economic base and well-being of the city encourages businesses to locate or remain within the City of Los Angeles. This is important because of the jobs businesses generate and for the business taxes they remit. The City Council, on January 7, 1992, adopted a motion that requires proposers to state their headquarter address as well as the percentage of their workforce residing in the City of Los Angeles.

---

Organization: Duke's Root Control, Inc.

I. Corporate or Main Office Address:

1020 Hiawatha Blvd West  
Syracuse, NY 13204

II. Total Number of Employees in Organization: 47

Number and Percentage of Employees in Organization who are Los Angeles City Residents:

0 and 0 %

**EXHIBIT K – NON-COLLUSION**

AFFIDAVIT TO ACCOMPANY PROPOSALS OR BIDS

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

Michael S. Hogan, being first duly sworn, deposes and says: That he  
is President  
(Insert "sole owner", "a partner", "president", "secretary", or other proper title)  
of Duke's Root Control, Inc. who submits herewith to  
(Insert name of bidder)  
Sewer Root Control Treatment the attached proposal;

That he the person whose name signed to the hereto attached proposal; that said proposal is genuine; that the same is not sham or collusive; that all statements of fact therein are true; that such proposal was not made in the interest of behalf of any person, partnership, company, association, organization or corporation not therein named or disclosed.

Affiant further deposes and says: That the bidder has not directly or indirectly by agreement, communication or conference with anyone attempted to induce action prejudicial to the interests of the public body which is to award the contract, or of any other bidder, or anyone else interested in the proposed contract; that the bidder has not in any manner sought by collusion to secure for himself an advantage over any other bidder.

Affiant further deposes and says that prior to the public opening and reading of bids the said bidder:

- A. did not, directly or indirectly, induce or solicit anyone else to submit a false or sham bid;
- B. did not, directly or indirectly, collude, conspire, connive or agree with anyone else that said bidder or anyone else would submit a false or sham bid, or that anyone should refrain from bidding or withdraw his bid;
- C. did not, in any manner, directly or indirectly, seek by agreement, communication or conference with anyone to raise or fix the bid price of said bidder or of anyone else, or to raise or fix any overhead, profit or cost element of his price or of that of anyone else;
- D. did not, directly or indirectly, submit his bid price or any breakdown thereof, or the contents thereof, or divulge information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, or to any individual or group of individuals, except to the awarding authority or to any person or persons who have a partnership or other financial interest with said bidder in his business.

I hereby certify or declare under penalty of perjury that the foregoing is true and correct.

Signed: Michael S. Hogan President  
WARNING

Subscribed and sworn to before me

this 16<sup>th</sup> day of December, 2008

Gail A. Dailey  
Notary Public

GAIL A. DAILEY  
NOTARY PUBLIC, STATE OF NEW YORK  
No. 01DA6073015  
QUALIFIED IN ONONDAGA COUNTY  
MY COMMISSION EXPIRES APRIL 15, 2010

BIDS WILL NOT BE CONSIDERED UNLESS THE AFFIDAVIT HEREON IS FULLY EXECUTED, INCLUDING THE CERTIFICATE OF THE NOTARY AND THE NOTARIAL SEAL.

NON-COLLUSION AFFIDAVIT

The appropriate, authorized operator's designate must sign and affix the corporate seal (see space below).

I, Michael S. Hogan, depose and say that I am  
President of Duke's Root Control, Inc.  
("President", Vice President", etc.) (Insert Name and Address of Organization)

who submits this proposal to the City of Los Angeles Personnel Department, and hereby declare that this proposal is genuine, and not sham or collusive, nor made in the interest or in behalf of any person not herein named and the proposer had not directly induced or solicited any other proposer to put in a sham proposal, or any other person, firm, or corporation to refrain from submitting a proposal, and that the proposer has not in any manner sought by collusion to secure for him/herself an advantage over any other proposer.

Date: 12/15/2008 at Syracuse, NY 13204  
(Month, Day, Year) (City, State)

(Corporate Seal)

I certify or declare under penalty of perjury that the foregoing is correct.

M S Hogan  
(Signature)

EXHIBIT L - CONTRACT HISTORY

CITY OF LOS ANGELES CONTRACT HISTORY


The City Council passed a resolution on July 21, 1998 requiring that all proposed vendors supply in their proposal or bid, a list of all City of Los Angeles contracts held by the bidder or any affiliated entity during the preceding 10 years. Use the space below to list all such contracts. Include the dates of the contract, the services or goods provided, the amount of the contract, and the contract number. If the bidder or any affiliated entity has held no City of Los Angeles contracts during the preceding 10 years, state so in the space below. Use the back of the page and additional pages as needed.

Contract # 73929 3/15/02 - 12/31/02  
Sewer Root Control Treatment \$80,000.00

Contract # 103754 8/1/02 - 8/31/05  
Sewer Root Treatment \$3,000,000.00

Contract # 109738 5/3/2006 - 5/3/2009  
Sewer Root Control Treatment \$6,000,000.

Duke's Root Control, Inc  
Name of Organization

  
Signature

Michael S. Hogan  
Print Name

President  
Title

12/15/08  
Date

**EXHIBIT M – MUNICIPAL LOBBYING ORDINANCE**



City Ethics Commission  
 200 :: Spring Street  
 City Hall — 24th Floor  
 Los Angeles, CA 90012  
 Mail Stop 129  
 (213) 978-1960

## Bidder Certification CEC Form 50

Bid/Contract Number:  
6940

Department: Dept. of Public Work Bureau of Sanitation

Name of Bidder: Duke's Root Control, Inc

Phone: 315-472-4781

Address: 1020 Hawatha Blvd W Syracuse, NY 13204

Email: mike@dukes.com

### CERTIFICATION

I certify the following on my own behalf or on behalf of the entity named above, which I am authorized to represent:

- A. I am a person or entity that is applying for a contract with the City of Los Angeles.
- B. The contract for which I am applying is an agreement for one of the following:
  - 1. The performance of work or service to the City or the public;
  - 2. The provision of goods, equipment, materials, or supplies;
  - 3. Receipt of a grant of City financial assistance for economic development or job growth, as further described in Los Angeles Administrative Code § 10.40.1(h) [see reverse]; or
  - 4. A public lease or license of City property where both of the following apply, as further described in Los Angeles Administrative Code § 10.37.1(i) [see reverse]:
    - a. I provide services on the City property through employees, sublessees, sublicensees, contractors, or subcontractors, and those services:
      - i. Are provided on premises that are visited frequently by substantial numbers of the public; or
      - ii. Could be provided by City employees if the awarding authority had the resources; or
      - iii. Further the proprietary interests of the City, as determined in writing by the awarding authority.
    - b. I am not eligible for exemption from the City's living wage ordinance, as eligibility is described in Los Angeles Administrative Code § 10.37(i)(b).
- C. The value and duration of the contract for which I am applying is one of the following:
  - 1. For goods or services contracts—a value of more than \$25,000 and a term of at least three months;
  - 2. For financial assistance contracts—a value of at least \$100,000 and a term of any duration; or
  - 3. For construction contracts, public leases, or licenses—any value and duration.
- D. I acknowledge and agree to comply with the disclosure requirements and prohibitions established in the Los Angeles Municipal Lobbying Ordinance if I qualify as a lobbying entity under Los Angeles Municipal Code § 48.02.

Date: 12/15/2008

Signature: [Handwritten Signature]

Name: Michael S. Hogan

Title: President

*Under Los Angeles Municipal Code § 48.09(H), this form must be submitted to the awarding authority with your bid or proposal on the contract noted above.*



**EXHIBIT N - PERFORMANCE BOND**

IN WITNESS THEREOF, the parties hereto have caused this Supplemental Agreement to be executed by their respective duly authorized representatives.

**THE CITY OF LOS ANGELES**

**[INSERT CONTRACTOR NAME]**

By: \_\_\_\_\_  
Commissioner  
Board of Public Works

By: \_\_\_\_\_  
*Contractor Signee Here*  
*Title (e.g. General Manager)*

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

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

By: \_\_\_\_\_  
Commissioner  
Board of Public Works

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

**APPROVED AS TO FORM**

**ATTEST:**

**CARMEN A. TRUTANICH, City Attorney**

**JUNE LAGMAY, City Clerk**

By: \_\_\_\_\_  
John A. Carvalho  
Deputy City Attorney

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

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

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

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

**CITY OF LOS ANGELES**

**DUKE'S ROOT CONTROL, INC**

By: *Andres Hain*  
Title: Commissioner, Board of Public Works  
Date: 12/24/09

By: *URSA*  
Title: Vice President  
Date: July 28, 2009

By: *David Doh*  
Title: Commissioner, Board of Public Works  
Date: 12/29/09

**APPROVED AS TO FORM**

Carmen A. Trutanich, City Attorney  
By: *Christopher M. Westhoff*  
Christopher M. Westhoff  
Title: Assistant City Attorney  
Date: 8/6/09

**ATTEST**

June Lagmay, City Clerk  
By: *Vera Mendez*  
Title: Deputy City Clerk  
Date: 12.30.09



C. 116625

**EXHIBIT A- PROJECT SERVICES COST SCHEDULE**  
**Duke's Root Control, Inc.**

<u>Pipe Size</u>	<u>Cost per Linear Foot</u>
6-inch	\$1.02 / linear foot
8-inch	\$1.03 / linear foot
10-inch	\$1.03 / linear foot
12-inch	\$1.24 / linear foot
14-inch	\$1.52 / linear foot
15-inch	\$1.75 / linear foot
18-inch	\$2.29 / linear foot

**EXHIBIT A- PROJECT SERVICES COST SCHEDULE**  
**Duke's Root Control, Inc.**

<u>Pipe Size</u>	<u>Cost per Linear Foot</u>
6-inch	\$1.02 / linear foot
8-inch	\$1.03 / linear foot
10-inch	\$1.03 / linear foot
12-inch	\$1.24 / linear foot
14-inch	\$1.52 / linear foot
15-inch	\$1.75 / linear foot
18-inch	\$2.29 / linear foot

**EXHIBIT B - GOOD FAITH EFFORT WAIVER**

The Minority, Women and Other Business Enterprise (MBE/WBE/OBE) Program Outreach Requirements have been waived for this contract.

EXHIBIT C - INSURANCE REQUIREMENTS





**Affordable Insurance**  
**McLaughlin-Kehoe Associates, Inc.**  
 225 West Manlius Street • P.O. Box 130 • East Syracuse, NY 13057  
 Phone (315) 437-2821 • Fax (315) 437-5272  
 E-mail: info@McKInsurance.com



December 17, 2008

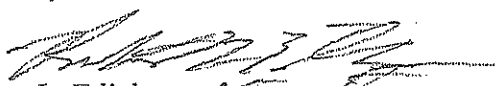
City of Los Angeles  
 Board of Public Works  
 200 N Spring St.  
 Rm 355, City Hall  
 Los Angeles, CA 90013

To Whom It May Concern:

Duke's Root Control, Inc. does conform with all insurance requirements and the coverages are in place.


Duke's Root Control, Inc. also has approval for \$1,000,000+ in bonding for this project.

Sincerely,

  
 Robert L. Edick  
 Vice President

State of New York  
 County of Onondaga ss:

On this 18<sup>th</sup> day of December, 2008 before me personally came Robert L. Edick to me known, who being duly sworn, did depose and say that he resides in Onondaga County, that he is the Vice President of McLaughlin-Kehoe Associates, Inc. and he executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal, and that he signed his name thereto by like order.

  
 Notary Public  
 GAIL A. DAILEY  
 NOTARY PUBLIC, STATE OF NEW YORK  
 No. 01DAG073015  
 QUALIFIED IN ONONDAGA COUNTY  
 MY COMMISSION EXPIRES APRIL 15, 2012

2. Issue Date (mm/dd/yy)  
12/17/08

3. Producer  
McLaughlin-Kehoe Associates Inc.  
225 West Manlius Street  
PO Box 130  
East Syracuse, NY 13057  
Telephone: 315-437-2821

5. Policy Information  
Carrier: National Fire Ins. Co. of Hartford  
Policy No.: C6004239018  
Policy Period: 1/1/09 to 1/1/10  
Coverage Trigger (Check one):  Occurrence  Claims Made  
Check  if Loss Adjustment Expense is included in Limits

4. Named Insured  
Dukes Root Control, Inc.  
1020 Hiawatha Blvd West  
Syracuse, NY 13204

6.  Deductible  Self-Insured Retention (check which) of \$ \_\_\_\_\_  
with a stop loss cap of \$ \_\_\_\_\_ applies to \_\_\_\_\_  
coverage.  Per occurrence  Per Claim  
7. Applicability This insurance pertains to the operations and/or tenancy of the Named Insured under all written agreements and permits in force with the City of Los Angeles unless checked here  in which case only the following specific agreements and permits with the City of Los Angeles are covered:  
City Agreement/Permit No.:

General Liability (Check one)

Commercial General Liability N/A

Comprehensive Form (1973 Occurrence) (Retroactive Date)

	Liability Limits in Thousands \$	
	Each Occurrence	Aggregate
<input checked="" type="checkbox"/> Premises/Operations		
<input checked="" type="checkbox"/> Underground & Collapse Hazard	\$1,000	\$1,000
<input checked="" type="checkbox"/> Products/Completed Operations		
<input checked="" type="checkbox"/> Contractual		
<input checked="" type="checkbox"/> Independent		

10. Other Provisions: (Description of operations, premises, vehicles, pertinent exclusions, names of other insureds, etc.)

11. Claims: Underwriter's representative for claims pursuant to this insurance.  
CNA Insurance  
6233 Route 298  
East Syracuse, NY 13057

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this certificate applies or any certificate now or hereafter applied thereto, it is agreed as follows:

- 12. Additional Insured. The City of Los Angeles and its officers and employees are included as additional insureds with regard to liability and defense of suits arising from the operations and uses performed by or on behalf of the Named Insured.
- 13. Contribution Not Required. The insurance program of the City of Los Angeles shall be excess of this insurance and shall not contribute with it.
- 14. Separation of Insureds. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the Company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
- 15. Cancellation Notice. If the Company elects to cancel this insurance before the stated expiration date, or declines to renew in case of a continuous policy, or reduces the stated limits other than by impairment of an aggregate limit, the Company will, with respect to the City's interests, provide the City at least thirty (30) days prior written notice of such election. Ten (10) days written notice for non-payment of premium is acceptable. Notice will be addressed as follows: City Administrative Officer, Risk Management, 200 North Main Street, Room 1240, City Hall East, Los Angeles, CA 90012.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this certificate is applied.

16. City Department/Bureau  
City of Los Angeles  
Board of Public Works  
200 North Spring Street  
Room 355  
Los Angeles, CA 90012

17. Authorized Representative  Broker/Agent  Underwriter  \_\_\_\_\_  
I Robert L. Edick (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this certificate.  
Signature \_\_\_\_\_  
(Authorized Representative)  
Telephone: 315-437-2821 Date Signed 12/17/08

2. Issue Date (mm/dd/yy)  
12/17/08

3. Producer  
McLaughlin-Kehoe Associates Inc.  
225 West Manlius Street  
PO Box 130  
East Syracuse, NY 13057  
  
Telephone: (315) 437-2821

5. Policy Information  
Carrier: Greenwich Insurance Company  
Policy No.: PEC001880700  
Policy Period: 6/13/08 to 6/13/09  
Coverage Trigger (Check one):  Occurrence  Claims Made  
Check  if Loss Adjustment Expense is included in Limits

4. Named Insured  
Duke's Root Control, Inc.  
1020 Hiawatha Blvd West  
Syracuse, NY 13204

6.  Deductible  Self-Insured Retention (check which) of \$ 25,000  
with a stop loss cap of \$ \_\_\_\_\_ applies to \_\_\_\_\_  
coverage.  Per occurrence  Per Claim

7. Applicability This insurance pertains to the operations and/or tenancy of the Named Insured under all written agreements and permits in force with the City of Los Angeles unless checked here  in which case only the following specific agreements and permits with the City of Los Angeles are covered:  
City Agreement/Permit No.:

General Liability (Check one) POLLUTION

Commercial General Liability  
 Comprehensive Form (1973 Occurrence) (Retroactive Date)

	Liability Limits in Thousands \$	
	Each Occurrence	Aggregate
<input type="checkbox"/> Premises/Operations		
<input type="checkbox"/> Underground & Collapse Hazard		
<input type="checkbox"/> Products/Completed Operations		
<input type="checkbox"/> Contractual		
<input type="checkbox"/> Independent		
<input checked="" type="checkbox"/> Pollution Liability	5,000	5,000

10. Other Provisions: (Description of operations, premises, vehicles, pertinent exclusions, names of other insureds, etc.)

11. Claims: Underwriter's representative for claims pursuant to this insurance.

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this certificate applies or any certificate now or hereafter applied thereto, it is agreed as follows:

12. Additional Insured. The City of Los Angeles and its officers and employees are included as additional insureds with regard to liability and defense of suits arising from the operations and uses performed by or on behalf of the Named Insured.

13. Contribution Not Required. The insurance program of the City of Los Angeles shall be excess of this insurance and shall not contribute with it.

14. Separation of Insureds. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the Company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.

15. Cancellation Notice. If the Company elects to cancel this insurance before the stated expiration date, or declines to renew in case of a continuous policy, or reduces the stated limits other than by impairment of an aggregate limit, the Company will, with respect to the City's interests, provide the City at least thirty (30) days prior written notice of such election. Ten (10) days written notice for non-payment of premium is acceptable. Notice will be addressed as follows: City Administrative Officer, Risk Management, 200 North Main Street, Room 1240, City Hall East, Los Angeles, CA 90012.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this certificate is applied.

16. City Department/Bureau

City of Los Angeles,  
Board of Public Works  
200 North Spring Street  
Room 355  
Los Angeles, CA 90012

17. Authorized

Representative  Broker/Agent  Underwriter  \_\_\_\_\_

I Robert L. Edick (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this certificate.

Signature \_\_\_\_\_  
(Authorized Representative)

Telephone: 315-437-2821 Date Signed 12/17/08

**AUTOMOBILE LIABILITY CERTIFICATE**

FOR THE CITY OF LOS ANGELES

2. Issue Date (mm/dd/yy)  
12/17/08

3. Producer  
McLaughlin-Kehoe Associates Inc.  
225 West Manlius Street  
PO Box 130  
East Syracuse, NY 13057  
Telephone 315-437-2821

5. Policy Information  
Carrier: Valley Forge Insurance Co.  
Policy No.: C1002379701  
Policy Period: 1/1/09 to 1/1/10  Check here if policy is continuous until cancelled

4. Named Insured  
Dukes Root Control, Inc.  
1020 Hiawatha Blvd West  
Syracuse, NY 13204

6.  Deductible  Self-Insured Retention (check which) of \$ \_\_\_\_\_ applies to liability coverage.

7. Applicability This insurance pertains to the operations and/or tenancy of the Named Insured under all written agreements and permits in force with the City of Los Angeles unless checked here  in which case only the following specific agreements and permits with the City of Los Angeles are covered:  
City Agreements/Permits

**Automobile Liability**

10. Liability Limits in Thousands \$	
<input checked="" type="checkbox"/> Any Auto	Bodily Injury (per person) \$
<input checked="" type="checkbox"/> All Owned Autos (Priv. Pass.)	Bodily Injury (per accident) \$
<input checked="" type="checkbox"/> All Owned Autos (Other than Priv. Pass.)	Property Damage \$
<input checked="" type="checkbox"/> Non-Owned Autos	BI & PD \$
<input type="checkbox"/> Garage Liability	Combined \$ 1,000

11. Other Provisions: (Description of operations, premises, vehicles, pertinent exclusions, names of other insureds, etc)

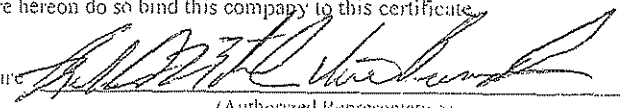
12. Claims: Underwriter's representative for claims pursuant to this insurance.  
CNA Insurance  
6333 Route 298  
East Syracuse, NY 13057

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this certificate applies or any certificate now or hereafter is applied thereto, it is agreed as follows:

- 13. **Additional Interest.** The City of Los Angeles and its officers and employees are included as additional insureds with regard to liability and defense of suits arising from the ownership, maintenance or use of the insured vehicles being operated by or on behalf of the Named Insured.
- 14. **Contribution Not Required.** The insurance program of the City of Los Angeles shall be excess of this insurance and shall not contribute with it.
- 15. **Separation of Insureds.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the Company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
- 16. **Cancellation Notice.** If the Company elects to cancel this insurance before the stated expiration date, or declines to renew in case of a continuous policy, or reduces the stated limits other than by impairment of an aggregate limit, the Company will, with respect to the City's interests, provide the City at least thirty (30) days prior written notice of such election. Ten (10) days written notice for non-payment of premium is acceptable. Notice will be addressed as follows: City Administrative Officer, Risk Management, 200 North Main Street, Room 1240, City Hall East, Los Angeles, CA 90012

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this certificate applies.

17. City Department/Bureau  
City of Los Angeles  
Board of Public Works  
200 N Spring St  
Rm 355, City Hall  
Los Angeles, CA 90012

18. Authorized Representative  Broker/Agent  Underwriter   
I, Robert L. Edick (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this certificate.  
Signature   
(Authorized Representative)  
Telephone: 315-437-2821 Date Signed 12/17/08

2. Issue Date (mm/dd/yy)  
12/17/08

3. Producer  
McLaughlin-Kehoe Associates Inc  
225 West Manlius Street  
PO Box 130  
East Syracuse, NY 13057  
Telephone 315-437-2821

5. Policy Information  
Carrier: Continental Casualty  
Policy No.: 2074575957  
Policy Period: 1/1/09 to 1/1/10

4. Named Insured  
Dukes Root Control Inc.  
1020 Hiawatha Blvd West  
Syracuse, NY 13204

6. Applicability This insurance pertains to the operations and/or tenancy of the named insured under all written agreements and permits in force with the City of Los Angeles unless checked here  in which case only the following specific agreements and permits with the City of Los Angeles are covered:  
City Agreement/Permit No.:

Workers' Compensation

Liability Limits in Thousands \$

Workers' Compensation  
and  
Employer's Liability

\$  
Statutory  
\$1,000 (Each Accident)  
\$1,000 (Disease-Policy Limit)  
\$1,000 (Disease-Each Employee)

9. Includes (check as applicable):

- Waiver of Subrogation against the City.
- Longshore and Harbor Workers.
- \_\_\_\_\_

10. Other Provisions: (Description of operations, premises, vehicles, pertinent exclusions, names of other insureds, etc)

11. Claims: Underwriter's representative for claims pursuant to this insurance.

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this certificate applies or any certificate now or hereafter is applied thereto, it is agreed as follows:

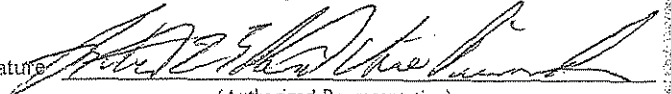
12. Cancellation Notice. If the Company elects to cancel this insurance before the stated expiration date, or declines to renew in case of a continuous policy, or reduces the stated limits other than by impairment of an aggregate limit, the Company will, with respect to the City's interests, provide the City at least thirty (30) days prior written notice of such election. Ten (10) days written notice for non-payment of premium is acceptable. Notice will be addressed as follows: City Administrative Officer, Risk Management, 200 North Main Street, Room 1240, City Hall East, Los Angeles, CA 90012.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this certificate is applied.

13. City Department/Bureau  
City of Los Angeles  
Board of Public Works  
200 N Spring St  
Rm 355, City Hall  
Los Angeles, CA 90013

14. Authorized

Representative  Broker/Agent  Underwriter  \_\_\_\_\_  
I Robert L. Edick (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this certificate.

Signature   
(Authorized Representative)

Telephone: 315-437-2821 Date Signed 12/17/08

# ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID AP  
DUKES-1

DATE (MM/DD/YYYY)  
12/17/08

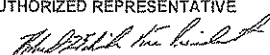
PRODUCER McLaughlin-Kehoe Insurance Affordable Insurance PO Box 130 / 225 W Manlius St. East Syracuse NY 13057 Phone: 315-437-2821 Fax: 315-437-5272	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	INSURERS AFFORDING COVERAGE	NAIC #
INSURED  Dukes Root Control, Inc & Dukes Sales & Service, Inc. 1020 Hiawatha Blvd West Syracuse NY 13204	INSURER A: National Fire Ins. Co. of Hart	20478
	INSURER B: Valley Forge Insurance Co	
	INSURER C: The Hartford	
	INSURER D: Continental Casualty	20443
	INSURER E:	

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Premises/Opp <input checked="" type="checkbox"/> Contractual Lia GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	C6004239018	01/01/09	01/01/10	EACH OCCURRENCE \$ 1000000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100000 MED EXP (Any one person) \$ 5000 PERSONAL & ADV INJURY \$ 1000000 GENERAL AGGREGATE \$ 2000000 PRODUCTS - COMP/OP AGG \$ 1000000
B		AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	C1002379701	01/01/09	01/01/10	COMBINED SINGLE LIMIT (Ea accident) \$ 1000000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
B		EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$10000	2090460194	01/01/09	01/01/10	EACH OCCURRENCE \$ 10000000 AGGREGATE \$ 10000000 \$ \$ \$
D		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	WC 2 74575957	01/01/09	01/01/10	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1000000 E.L. DISEASE - EA EMPLOYEE \$ 1000000 E.L. DISEASE - POLICY LIMIT \$ 1000000
C		OTHER NYS Disability	2P63996A3AA	01/01/09	01/01/10	Statutory

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
 Sewer Root Control Treatment City of Los Angeles, its officers, agents and employees are included as additional insureds for general liability on a primary and non-contributing basis with respect to any insurance or self ins. of the City. Waiver of subrogation in favor of the additional insureds apply to workers Compensation. GL includes pesticide/herbicide applications

CERTIFICATE HOLDER  LOSANGI  City of Los Angeles Board of Public Works 200 N. Spring St., Room 355 Los Angeles CA 90012	CANCELLATION  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.  AUTHORIZED REPRESENTATIVE 
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# ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID AP  
DUKES-1

DATE (MM/DD/YYYY)  
12/17/08

PRODUCER  
McLaughlin-Kehoe Insurance  
Affordable Insurance  
PO Box 130 / 225 W Manlius St.  
East Syracuse NY 13057  
Phone: 315-437-2821 Fax: 315-437-5272

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED  
  
Dukes Root Control, Inc. &  
Dukes Sales & Service, Inc  
1020 Hiawatha Blvd West  
Syracuse NY 13204

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Greenwich Insurance Company	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE	\$
					DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
					MED EXP (Any one person)	\$
					PERSONAL & ADV INJURY	\$
					GENERAL AGGREGATE	\$
					PRODUCTS - COMP/OP AGG	\$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident)	\$
					BODILY INJURY (Per person)	\$
					BODILY INJURY (Per accident)	\$
					PROPERTY DAMAGE (Per accident)	\$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$
					OTHER THAN EA ACC	\$
					AUTO ONLY: AGG	\$
	<b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  DEDUCTIBLE RETENTION \$				EACH OCCURRENCE	\$
					AGGREGATE	\$
						\$
						\$
						\$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATU-TORY LIMITS	OTH-ER
					E.L. EACH ACCIDENT	\$
					E.L. DISEASE - EA EMPLOYEE	\$
					E.L. DISEASE - POLICY LIMIT	\$
A	Contractors Pollution	PEC001880700	06/13/08	06/13/09	Occurrenc	5000000
					Aggregate	5000000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

RE: Sewer Root Control Treatment

City of Los Angeles. it's officers, agents and employees are included as additional insureds for pollution liability to the extent caused by the insured.

## CERTIFICATE HOLDER

LOSANG1

City of Los Angeles  
Board of Public Works  
200 N. Spring St, Room 355  
Los Angeles CA 90012

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

*[Signature]*

INTER DEPARTMENTAL CORRESPONDENCE

DATE: 16-Jan-08

TO: LA MBOC, MAYOR'S OFFICE OF ECONOMIC DEVELOPMENT

ATTN: LINDA SMITH FAX#: 213/978-0665

FROM: Barry Berggren, Division Manager Phone: 323 342-6040 Fax: 323 342-6013

by: Carmelo Martínez

Dept/Div: Wastewater Collection Systems Div, Bureau of Sanitation E-mail: Carmelo.Martinez@lacity.org

SUBJECT: MBE/WBE/OBE RECOMMENDATION FOR GOOD FAITH EFFORT CONTRACT NO. \_\_\_\_\_

In compliance with Executive Directive No. 2001-26, City of Los Angeles Minority, Women and Other Business Enterprise (MBE/WBE/OBE) Program, please fill out the following:

- 1. Title of Project: Chemical Root Control for City owned sewers
- 2. This project will be advertised as an: \_\_\_\_\_ RFB XX RFP \_\_\_\_\_ RFQ Other: \_\_\_\_\_
- 3. Type of Contract: \_\_\_\_\_ Procurement XX Personal Services \_\_\_\_\_ Construction \_\_\_\_\_
- 4. Projected total amount of the contract: \$6 million Estimated duration of project: 3 years
- 5. Significant Dates:  
 Estimated date of pre-bid or job walk meeting: 15-Apr-08  
 Estimated date that bids or proposals are due: 15-Jul-08
- 6. Recommendations:  
 MBE/WBE/OBE encouragement: waiver

Justify why encouragement:

- \_\_\_\_\_ Technical Requirement \_\_\_\_\_ Lack of available subcontractors
- XX Lack of available subcontract sub-supply opportunities XX One product single point of distribution

Other: Sewer root control involves the application of Federal/State restricted-use chemicals. This can only be applied by commercial applicators, who have a valid Qualified Pesticide Applicator license, or certificate with the California Department of Pesticide Regulation. The chemical application is highly specialized, and does not lend itself to subcontracting opportunities.

7. MBE/WBE/OBE Good Faith Effort required:

Level of participation is as follows: \_\_\_\_\_ %MBE \_\_\_\_\_ %WBE \_\_\_\_\_ %OBE

8. Is this a: XX New Contract \_\_\_\_\_ Renewal \_\_\_\_\_ Other

9. Name of previous contractor: Pacific Sewer Maintant Length of previous contract 3 years, Value of previous \$6 million/3yrs  
Duke's Root Control Inc.

TO: Bureau of Sanitation/Wastewater Collection Systems Division

ATTN: Carmelo Martínez

FROM: LA MBOC, MAYOR'S OFFICE OF ECONOMIC DEVELOPMENT

SUBJECT: RESPONSE TO ABOVE REQUEST

X Recommendation approved \_\_\_\_\_ Available Subs CS Initials  
 \_\_\_\_\_ Recommendation disapproved \_\_\_\_\_ Available Opportunities \_\_\_\_\_ Initials

Other/Comment: \_\_\_\_\_

By: [Signature] Date: 8/30/08 Tel. No.: 213 978-0665

L. SMITH



**EXHIBIT D - EQUAL BENEFITS ORDINANCE**

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

**EQUAL BENEFITS ORDINANCE COMPLIANCE FORM**

Your company must be certified as complying with Los Angeles Administrative Code Section 10.8.2.1, Equal Benefits Ordinance, prior to the execution of a City agreement. This form must be returned to the City department awarding the agreement. If responding to a request for bid/proposal, submit this form with the bid/proposal.

City Dept. Awarding Contract: PW Bureau of Sanitation Contact/Phone: Carmelo Martinez 323-342-6040

**SECTION 1. CONTACT INFORMATION**

Company Name: Duke's Root Control, Inc

Company Address: 1020 Hiawatha Blvd West

City: Syracuse State: NY Zip: 13204

Contact Person: Michael Hogan Phone: 315-472-4781 Fax: 315-475-4203

I am a one-person contractor, and I have no employees.  Yes  No (if you answered "Yes," go to Section 3)

Approximate Number of Employees in the United States: 47

Are any of your employees covered by a collective bargaining agreement or union trust fund?  Yes  No

**SECTION 2. COMPLIANCE QUESTIONS**

Has your company previously submitted a Compliance Form and all supporting documentation?  Yes  No  
 If Yes, AND the benefits provided to your employees have not changed since that time, continue onto Section 3. If No, OR if the benefits provided to your employees have changed since that time, complete the rest of this form.

In the table below, check all benefits that your company currently provides to employees or to which your employees have access. Provide information for each benefits carrier if your employees have access to more than one carrier. Note: some benefits are available or apply to employees because they have a spouse or domestic partner to whom the benefit applies, such as bereavement leave that allows an employee time off because of the death of a spouse or domestic partner; other benefits are provided directly to the spouse or domestic partner, such as medical insurance that covers the spouse or domestic partner as a dependent.

	BENEFIT(S) YOUR COMPANY CURRENTLY OFFERS	This Benefit is Not Offered to Employees	This Benefit is Available to Employees	Available/Applies to Spouses of Employees	Available/Applies to Domestic Partners of Employees
1	<b>Health Insurance (List Name of Carrier(s))</b>				
	Health Carrier 1:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Health Carrier 2:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/> additional carriers on attachment.				
2	<b>Dental Insurance (List Name of Carrier(s))</b>				
	Dental Carrier 1:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Dental Carrier 2:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/> additional carriers on attachment.				
3	<b>Vision Plan (List Name of Carrier(s))</b>				
	Vision Carrier 1:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Vision Carrier 2:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	Pension/401(k) Plans	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5	Bereavement Leave	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6	Family Leave	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7	Parental Leave	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8	Employee Assistance Program	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9	Relocation & Travel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10	Company Discount, Facilities & Events	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11	Credit Union	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12	Child Care	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13	Other:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14	Other:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## COMPLIANCE

**YOU MUST SUBMIT SUPPORTING DOCUMENTATION TO VERIFY EACH BENEFIT MARKED.** Without proper documentation for **each carrier and each benefit marked**, your company cannot be certified as complying with the EBO. If documentation for a particular benefit does not exist, attach an explanation. Refer to the "Documentation to Verify Compliance with the Equal Benefits Ordinance" fact sheet for more information on the type of documentation that must be submitted to verify compliance with the EBO.

If in the Table in Section 2 you indicated that your company does not provide all benefits equally throughout its entire operations to all your employees with spouses and employees with domestic partners of the same and different sex, you may:

- a. Request additional time to comply with the EBO.** Provisional Compliance may be granted to Contractors who agree to fully comply with the EBO but need more time to incorporate the requirements of the EBO into their operations. Submit the Application for Provisional Compliance (OCC/EBO-3) and supporting documentation with this Compliance Form.
- b. Request to be allowed to comply with the EBO by providing affected employees with the cash equivalent.** Your company must agree to provide employees with a cash equivalent. In most cases, the cash equivalent is the amount of money equivalent to what your company pays for spousal benefits that are unavailable for domestic partners, or vice versa. Submit a completed Application for Reasonable Measures Determination (OCC/EBO-2) and supporting documentation with this Compliance Form.
- c. Comply on a Contract-by-Contract Basis.** Compliance may be granted on a contract-by-contract basis for those Contractors who have multiple locations in the U.S. but cannot comply with the EBO throughout the Contractor's operations. Indicate below the compliance category you are requesting:
  - Contractor has multiple operations located both within and outside City limits. Contractor will comply with the EBO only for the operation(s) located within City limits and for employee(s) located elsewhere in the United States who perform work relating to the City agreement. Supporting documentation for the affected operation(s)/employees must be submitted.
  - Contractor has no offices within City limits but does have (an) employee(s) working on the City agreement located elsewhere in the United States. Contractor will comply with the EBO only for employee(s) located elsewhere in the United States who perform work relating to the City agreement. Supporting documentation for the affected employee(s) must be submitted.

### SECTION 3. EXECUTE THE DECLARATION AND SUBMIT THE FORM TO THE AWARDING DEPARTMENT

This form must be returned to the City department awarding the agreement. If responding to a request for bid/proposal, submit this form with the bid/proposal to the awarding department. The awarding department will forward the form to the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance for review.

#### DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this 15<sup>th</sup> day of December, in the year 2008, at Syracuse, NY  
(City) (State)

[Signature]  
Signature

Michael S. Hogan  
Name of Signatory (please print)

President  
Title

1020 Hiawatha Blvd West  
Mailing Address

Syracuse, NY 13204  
City, State, Zip Code

753026801  
Federal ID Number

**EXHIBIT E -- SLAVERY DISCLOSURE ORDINANCE**

**CITY OF LOS ANGELES - SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt from the Slavery Disclosure Ordinance (SDO), a Company entering into a Contract with the City must complete an Affidavit disclosing any and all records of Participation or Investment in, or Profits derived from Slavery, including Slaveholder Insurance Policies, during the Slavery Era. The Company must complete and submit the Affidavit and any attachments to the Awarding Authority. This is required only of the Company actually selected for award of a Contract. It must be done before the Contract or Contract amendment can be executed. Questions regarding the Affidavit may be directed to the Department of Public Works, Office of Contract Compliance located at 1149 S. Broadway Street, 3<sup>rd</sup> Floor, Los Angeles, California 90015. Phone: (213) 847-1922; Fax: (213) 847-2777.

City Department Awarding Agreement Bureau of Sanitation Department Contact Person Carmelo Martinez

**AFFIDAVIT DISCLOSING SLAVERY ERA PARTICIPATION, INVESTMENTS, OR PROFITS**

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

<u>Duke's Root Control, Inc</u>	<u>315-472-4781</u>	<u>315-475-4203</u>	
Company Name	Phone	Federal ID #	
<u>1020 Hawthorne Blvd West</u>	<u>Syracuse</u>	<u>NY</u>	<u>13204</u>
Street Address	City	State	Zip
- Has the Company submitted the SDO Affidavit previously? NO  YES Date of prior submission: 10/6/05  
If "NO," complete Section 4, 5, and 6. If "YES," list the date of prior submission and skip to Section 6 and execute the form.
- The Company came into existence in 2002 (year).
- The Company has searched its records and those of any Predecessor Companies for information relating to Participation or Investments in, or Profits derived from Slavery or Slaveholder Insurance Policies. Based on that research, the Company represents that:

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

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

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

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

Executed on 12/15/08 at Syracuse, NY  
(Date) (City) (State)  
 Signature: [Signature] Title: President

**DEFINITIONS**

- Awarding Authority** means a subordinate or component entity or person of the City, such as a City Department or Board of Commissioners, that has the authority to enter into a Contract or agreement for the provision of goods or services on behalf of the City of Los Angeles.
- Company** means any person, firm, corporation, partnership or combination of these.
- Contract** means any agreement, franchise, lease or concession including an agreement for any occasional professional or technical personal services, the performance of any work or service, the provision of any materials or supplies or rendering of any service to the City of Los Angeles or the public, which is let, awarded or entered into with or on behalf of the City of Los Angeles or any Awarding Authority of the City.
- Designated Administrative Agency (DAA)** means the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance.
- Enslaved Person** means any person who was wholly subject to the will of another and whose person and services were wholly under the control of another and who was in a state of enforced compulsory service to another during the Slavery Era.
- Investment** means to make use of an Enslaved Person for future benefits or advantages.
- Participation** means having been a Slaveholder during the Slavery Era.
- Predecessor Company** means an entity whose ownership, title and interest, including all rights, benefits, duties and liabilities were acquired in an uninterrupted chain of succession by the Company.
- Profits** means any economic advantage or financial benefit derived from the use of Enslaved Persons.
- Slavery** means the practice of owning Enslaved Persons.
- Slavery Era** means that period of time in the United States of America prior to 1865.
- Slaveholder** means holders of Enslaved Persons, owners of business enterprises using Enslaved Persons, owners of vessels carrying Enslaved Persons or other means of transporting Enslaved Persons, merchants or financiers dealing in the purchase, sale or financing of the business of Enslaved Persons.
- Slaveholder Insurance Policies** means policies issued to or for the benefit of Slaveholders to insure them against the death of, or injury to, Enslaved Persons.
- Affidavit** means the form developed by the DAA and may be updated from time to time. The Affidavit need not be notarized but must be signed under penalty of perjury.

**EXHIBIT F- NONDISCRIMINATION, EQUAL EMPLOYMENT, AFFIRMATIVE  
ACTION**

CITY OF LOS ANGELES

Awarding Dept.: \_\_\_\_\_  
Dept. Contact: \_\_\_\_\_  
MS: \_\_\_\_\_ OCC#: \_\_\_\_\_

NONDISCRIMINATION • EQUAL EMPLOYMENT PRACTICES • AFFIRMATIVE ACTION  
CONSTRUCTION & NONCONSTRUCTION CONTRACTORS (VENDORS, SUPPLIERS, CONSULTANTS)

Los Angeles Administrative Code (LAAC), Division 10, Chapter 1, Article 1, Section 10.8 requires entities doing business with the City to comply with a Nondiscrimination/Affirmative Action Program. (Refer questions regarding these requirements to the Bureau of Contract Administration, Office of Contract Compliance, Equal Employment Opportunities Enforcement Section, at (213) 847-1922.) In order to comply, it is necessary that the bidder/proposer/respondent complete, sign and return with the bid/proposal/response, the following:

- A. For all contracts, the contractor agrees to adhere to the following Nondiscrimination Clause:
  1. The contractor agrees and obligates the company not to discriminate during the performance of this contract against any employee or applicant for employment because of the employee's or applicant's race, religion, national origin, ancestry, sex, age, sexual orientation, disability, marital status, domestic partner status, or medical condition; and
  2. All subcontracts awarded under this contract shall contain a like Nondiscrimination Clause.
- B. For construction contracts from \$1,000 to under \$5,000 and nonconstruction contracts from \$1,000 to under \$100,000, the contractor agrees to:
  1. Adhere to the Nondiscrimination Clause above;
  2. Designate a management level Equal Employment Opportunity Officer as provided for in Section "E" below; and
  3. Adhere to Equal Employment Practices provisions as outlined in LAAC § 10.8.3 and on Page A-3 of this document.
- C. For construction contracts of \$5,000 or more and non-construction contracts of \$100,000 or more, the contractor agrees to:
  1. Adhere to the Nondiscrimination Clause above;
  2. Designate a management level Equal Employment Opportunity Officer as provided for in Section "E" below;
  3. Adhere to Equal Employment Practices provisions as outlined in LAAC § 10.8.3 and on Pages A-4 and A-5 of this document;
  4. Complete the Ethnic Composition of Total Work Force Report provided on Page A-2 of this document; and
  5. Sign and submit an Affirmative Action Plan. The bidder must submit one of the two following plans:
    - a. Plan A. Los Angeles City Affirmative Action Plan ("Los Angeles City Affirmative Action Requirements") on Page A-6 and Page A-7 which is an approved plan requiring only signature of acceptance along with the Ethnic Composition of Work Force (Page A-2) and submittal to be effective; or,
    - b. Plan B. The Bidder's own Affirmative Action Plan for approval, which must contain at a minimum all of the elements of the City's Plan.
- D. Subcontractors:
  1. The contractor shall require the same documents indicated above to be submitted for subcontractors of any contract awarded by the City; and
  2. The contractor shall be responsible for obtaining the Affirmative Action Plans from its subcontractors. Additional forms are Available from the Office of Contract Compliance or the awarding authority.

E. Equal Employment Opportunity Officer:

Please be advised that Michael S. Hogan President is hereby  
NAME OF DESIGNEE TITLE

designated as the Company's Equal Employment Opportunity Officer. The Officer has been given the authority to establish, disseminate and enforce the Equal Employment and Affirmative Action Policies of this firm to ensure nondiscrimination in all of its employment practices. The Officer may be contacted at:

1020 Hiawatha Blvd West Syracuse, NY 13204 (315) 472-4781  
WORK ADDRESS TELEPHONE

F. Signed Certification - The Contractor by its signature affixed hereto declares under penalty of perjury that:

1. The contractor has read the Nondiscrimination Clause in "A" above and certifies that it will adhere to the practices in the performances of all contracts;
2. The contractor has read the Equal Employment Practices provisions on Page A-3 and certifies that it will adhere to the practices in the performance of any construction contract \$1,000 to under \$5,000 and nonconstruction contract \$1,000 to under \$100,000;
3. The contractor has designated the Equal Employment Opportunity Officer as noted in Section "E" above;
4. The contractor has read the Affirmative Action Program provisions on Pages A-4 and A-5, certifies that it will adhere to the practices in the performance of any construction contract of \$5,000 or more and nonconstruction contract of \$100,000 or more and submits an Affirmative Action Plan. Indicate which plan is submitted:  City Plan;  Company Plan.
5. The information contained herein is true and correct.

All Certificates and Plans are effective for 12 months from date of approval by the Office of Contract Compliance.

Duke's Boot Control, Inc  
COMPANY NAME

1020 Hiawatha Blvd West  
ADDRESS

Syracuse, NY 13204  
CITY, COUNTY, STATE, ZIP

[Signature]  
AUTHORIZED SIGNATURE

Michael S. Hogan President  
NAME AND TITLE (TYPE OR PRINT)

315-472-4781 4/28/09  
TELEPHONE DATE

PRIME  SUB BCA Form (6/08)

**TOTAL COMPOSITION OF WORK FORCE**

OCC#

Contractor Duke's Root Control, Inc  
 Contractor Address 1030 Hixson Blvd. Suite 202

Project Title Sewer Root Control Treatment  
 Work Force as of (Date) 1/1/09

Length of Contract 3 years  
 (If you have no employees, write "no employee at this time.")

(Note: J - Journeyman, A - Apprentice, T - Trainee, F - Female, M - Male)

**FOR CONSTRUCTION PROJECTS (L.A. County Only)**

	AFRICAN AMERICAN (BLACK)		HISPANIC		ASIAN/PACIFIC ISLANDER		AMERICAN INDIAN/ALASKAN NATIVE		CAUCASIAN (NON-HISPANIC)		TOTAL EMPLOYEES		% MINORITY		GENDER	
	J	A	J	A	J	A	J	A	J	A	J	A	J	A	T	F
CRAFT																
Brick Layers																
Carpenters																
Electricians																
Gunite Workers																
Iron Worker																
Laborers																
Operator Engineers																
Painters																
Pipe Trades																
Plasters / Cement																
Masons																
Sheet Metal Workers																
Teamsters																
Clerical																
Supervisory																
TOTAL																

**FOR NON-CONSTRUCTION PROJECTS**

OCCUPATION	AFRICAN AMERICAN (BLACK)		HISPANIC		ASIAN OR PACIFIC ISLANDER		AMERICAN INDIAN/ALASKAN NATIVE		CAUCASIAN (NON-HISPANIC)		TOTAL EMPLOYEES		% MINORITY		GENDER	
	Regular	Trainee	Regular	Trainee	Regular	Trainee	Regular	Trainee	Regular	Trainee	R	T	R	T	M	F
Official & Managers																
Professionals																
Technicians																
Sales Workers																
Office / Clerical																
Semi-Skilled																
Laborers (Unskilled)																
Service Workers																
TOTAL																

Employment statistics were obtained from:

Available Records  Visual Check  Other (Specify)



**EQUAL EMPLOYMENT PRACTICES PROVISIONS**  
**Construction Contracts in excess of \$1,000 or more but less than \$5,000 and**  
**Nonconstruction Contracts of \$1,000 or more but less than \$100,000**

**Sec. 10.8.3. Equal Employment Practices Provisions.**

Every non-construction contract with or on behalf of the City of Los Angeles for which the consideration is \$1,000 or more, and every construction contract for which the consideration is \$1,000 or more, shall contain the following provisions, which shall be designated as the EQUAL EMPLOYMENT PRACTICES provision of such contract:

- A. During the performance of this contract, the contractor agrees and represents that it will provide equal employment practices and the contractor and each subcontractor 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, domestic partner 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. The contractor 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. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, 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, domestic partner 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, the contractor 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, domestic partner status, or medical condition.
- D. The contractor 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 the contractor shall provide evidence that he or she has or will comply therewith.
- E. The failure of any contractor 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 the contractor.
- F. Upon a finding duly made that the contractor has failed to comply with the Equal Employment Practices provisions of a City contract, the 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 failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the said contractor 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, such contractor shall be disqualified from being awarded a contract with City of Los Angeles for a period of two years, or until the contractor shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.
- H. The Board of Public Works shall promulgate rules and regulations through the Office of Contract Compliance, and provide necessary forms and required language to the awarding authorities to be included in City Request for Bids or Request for Proposal packages or in supplier registration requirements for the implementation of the Equal Employment Practices provisions of this contract, and such rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive orders. No other rules, regulations or forms may be used by an awarding authority of the City to accomplish the contract Compliance program.
- 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, the contractor shall agree to adhere to the Equal Employment Practices specified herein during the performance or conducted 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. All contractors 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 contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the City.

**AFFIRMATIVE ACTION PROGRAM PROVISIONS**  
**Construction Contracts of \$5,000 or More and**  
**Nonconstruction Contracts of \$100,000 or More**

**Sec. 10.8.4. Affirmative Action Program Provisions.**

Every non-construction contract with or on behalf of the City of Los Angeles for which the consideration is \$100,000 or more and every construction contract with or on behalf of the City of Los Angeles for which the consideration is \$5,000 or more shall contain the following provisions which shall be designated as the AFFIRMATIVE ACTION PROGRAM provisions of such contract:

- A. During the performance of a City contract, the contractor certifies and represents that the contractor and each subcontractor 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, domestic partner 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. The contractor shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, 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, domestic partner 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, the contractor shall certify on an electronic or hard copy form to be supplied, that the contractor 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, domestic partner status, or medical condition.
- D. The contractor 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 contractor 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 the contractor.
- F. Upon a finding duly made that the contractor has breached the Affirmative Action Program provisions of a City contract, the 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 contractor 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 contractor shall be disqualified from being awarded a contract with the City of Los Angeles 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 the contractor 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 the contractor by the City of Los Angeles 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 of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.
- I. The public Works board of Commissioners shall promulgate rules and regulations through the Office of Contract Compliance and provide to the awarding authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of City contracts, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms maybe used by an awarding authority of the City to accomplish this contract compliance program.
- 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. The contractor 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 contractors 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, the contractor 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, the contractor 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) A contractor 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 contractors and suppliers who have developed Affirmative Action Programs. For each contractor 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 the contractor.
- 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 contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor'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 contractor'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 contractor 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. This ordinance shall not confer upon the City of Los Angeles or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by contractors or suppliers engaged in the performance of City contracts.
- Q. All contractors 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 contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the City.

**LOS ANGELES CITY AFFIRMATIVE ACTION PLAN**  
**LOS ANGELES CITY AFFIRMATIVE ACTION MANDATORY PROVISIONS**

Notwithstanding any other provision of this Division to the contrary, every construction contract involving an expenditure of \$5,000 or more of City funds, except in cases of urgent necessity, as provided in Section 371 of the Charter of the city of Los Angeles and except as provided in Section 10.9 of this Code, shall contain as part of the contract an Affirmative Action Plan substantially as set forth in this section and which by the contractor's signature affixed thereto, shall constitute and be established as the contractor's Affirmative Action Plan. The Plan, which may be a plan proposed by the contractor or the City's proposed Plan prepared by the Office of Contract Compliance, shall be subject to the approval of the Office of Contract Compliance prior to award of the contract. The Plan may consist of a Plan approved by the Office of Contract Compliance within the previous twelve months. If the previously approved Plan is 30 days or less from expiration, the contractor must submit a new Plan to the Office of Contract Compliance which shall be subject to approval before the contract may be awarded.

**Sec. 10.13. Mandatory Provisions Pertaining to Nondiscrimination in Employment and Affirmative Action in Hiring Employees in the Performance of Work on Certain City Construction Contracts.**

1. Construction Contracts Included.

The contractor shall not be eligible for an award of a City Construction Contract in excess of \$5,000, unless the contractor has submitted as part of the bid a written Affirmative Action Plan embodying both (1) anticipated levels of minority\*, women and all other staffing utilization, and (2) specific affirmative action steps directed at applying good faith efforts in a nondiscriminatory manner to recruit and employ minority, women and all other potential staff or is deemed to have submitted such a program pursuant to Subsection 3 of this section. Both the anticipated levels and the affirmative action steps must be taken and applied in good faith and in a nondiscriminatory manner to attempt to meet the requirements of this section for all trades which are to be utilized on the project, whether subcontracted or not.

\*"Minority" is defined as the term "minority person" is defined in subsection (f) of section 2000 of the California Public Contract Code.

2. Anticipated Utilization.

The plan must set forth anticipated minority, women, and all other staffing utilization by the contractor and all subcontractors on each project constructed by the City using those trades within the area of jurisdiction of the Los Angeles Building and Construction Trades Council within the City of Los Angeles in each work class and at all levels in terms of staff hours. The anticipated levels of minority, women and other staffing utilization shall be the levels at which each of those groups are represented in the relevant workforce in the Greater Los Angeles Area as determined by the U. S. Bureau of the Census and made available by the Office of Contract Compliance. Attainment of the anticipated levels of utilization may only be used as an indicia of whether the contractor has complied with the requirements of this section and has applied its Affirmative Action Plan in good faith and in a nondiscriminatory manner. Failure to attain the anticipated levels of utilization shall not, by itself, disqualify the contractor for award of a contract or subject the contractor to any sanctions or penalties.

In no event may a contractor utilize the requirements of this section in such a manner as to cause or result in *discrimination* against any person on account of race, color, religion, ancestry, age, disability, medical condition, marital status, domestic partner status, sex, sexual orientation, or national origin.

3. An Affirmative Action Plan.

The contractor certifies and agrees to immediately implement good faith efforts measures to recruit and employ minority, women, and other potential staff in a nondiscriminatory manner including, but not limited to, the following actions. The contractor shall:

a. Recruit and make efforts to obtain such employees through:

- (1) Advertising employment opportunities in minority and other community news media. Notifying minority, women and other community organizations of employment opportunities.
- (2) Maintaining contact with schools with diverse populations of students to notify them of employment opportunities.
- (3) Encouraging present minority, women and other employees to refer their friends and relatives.
- (4) Promoting after school and vacation employment opportunities for minority, women and other youth.
- (5) Validating all job specifications, selection requirements, tests, etc.
- (6) Maintaining a file of names and addresses of each worker referred to the contractor and what action was taken concerning such worker.
- (7) Notifying the appropriate awarding authority of the City and the Office of Contract Compliance in writing when a union with whom the contractor has a collective bargaining agreement has failed to refer a minority, woman or other worker.

- b. Continually evaluate personnel practices to assure that hiring, upgrading, promotions, transfers, demotions and layoffs are made in nondiscriminatory manner so as to achieve and maintain a diverse work force.
- c. Utilize training programs and assist minority, women and other employees in locating, qualifying for and engaging in such training programs to enhance their skills and advancement.
- d. Secure cooperation or compliance from the labor referral agency to the contractor's contractual affirmative action obligations.
- e. Establish a person at the management level of the contracting entity to be the Equal Employment Opportunity Office; such individual to have the authority to disseminate and enforce the company's Equal Employment and Affirmative Action Policies.

- f. Maintain such records as are necessary to determine compliance with equal employment and affirmative action obligations, and making such records available to City, State and Federal authorities upon request.
- 4. The contractor shall make a good faith effort with respect to apprenticeship and training program to:
  - a. Recruit and refer minority, women and other employees to such programs;
  - b. Establish training programs within the company and/or its association that will prepare minority, women and other employees for advancement opportunities.
  - c. Abide by the requirements of the Labor Code of the State of California with respect to the provision of apprenticeship job opportunities.
- 5. The contractor shall establish written company policies, rules, and procedures which shall be encompassed in a company-wide Affirmative Action Plan for all its operations and contracts. Said policies shall be provided to all employees, subcontractors, vendors, unions and all others with whom the contractor may become involved in fulfilling any of its contracts. The company's Affirmative Action Plan shall encompass the requirements contained herein as a minimum and shall be submitted with its bid to the appropriate awarding authority of the City and to the Office of Contract Compliance of the City.
- 6. Where problems are experienced by the contractor in complying with its obligations pursuant to this section, the contractor shall document its good faith effort to comply with the requirements by the following procedure. The contractor shall state:
  - a. What steps were taken, how and on what date.
  - b. To whom those efforts were directed.
  - c. The responses received, from whom and when.
  - d. What other steps were taken or will be taken to comply and when.
  - e. Why the contractor has been or will be unable to comply.
- 7. The contractor shall complete and file, and require each of its known subcontractors to complete and file with the contractor's bid for the subject project an acceptable Affirmative Action Plan.
- 8. The contractor shall submit and require each of its subcontractors to submit an Ethnic Composition of the Company's Total Work Force (by employees) prior to the date of award of the contract.
- 9. No contract shall be executed until the appropriate awarding authority of the City of Los Angeles, and the Federal funding agency (if Federal funds are involved), has determined in writing that such contractor has executed and filed with the awarding authority and the City Office of Contract Compliance the required Affirmative Action Plan.
- 10. It shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for referral, exclusive or otherwise, failed to refer minority, women or other employees.
- 11. Subject to this subsection the contractor shall execute such further forms and documentation at such times and as may be required by the appropriate awarding authority of the City of Los Angeles.
- 12. Where the contractor has failed to comply with the requirements contained in this section, any and all sanctions allowed by law may be imposed upon the contractor.
- 13. The Office of Contract Compliance within the Department of Public Works shall be responsible for administering the City's Contract Compliance Program in the manner described in Sections 22.359 through 22.359.5 of this Code.
- 14. All contractors 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 contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the City.

By its execution hereof, the contractor accepts and submits the foregoing as its Affirmative Action Plan.

4/28/09  
DATE

Duke's Root Control Inc  
FIRM NAME

  
OFFICER'S SIGNATURES

Michael S. Hogen President  
OFFICER'S NAME AND TITLE (TYPE OR PRINT)

**EXHIBIT G - LIVING WAGE ORDINANCE**

**LWO – EMPLOYEE INFORMATION FORM**  
REQUIRED DOCUMENTATION FOR ALL CONTRACTS SUBJECT TO LWO

This form must be submitted to the **AWARDING DEPARTMENT** within **30 DAYS** of contract execution. **INCOMPLETE SUBMISSIONS WILL BE RETURNED.**

**THE LIVING WAGE ORDINANCE (LWO) REQUIRES THAT SUBJECT EMPLOYERS PROVIDE TO EMPLOYEES:**

- As of July 1, 2009 a wage of at least \$10.30 per hour with health benefits of \$1.25 per hour, or \$11.55 per hour without health benefits (to be adjusted annually) (Regulation #4);
- At least 12 compensated days off per year for sick leave, vacation or personal necessity at the employee's request (pro-rated for part-time employees) (Regulation #4); and
- At least 10 additional days off per year of uncompensated time off for personal or immediate illness only (pro-rated for part-time employees) (Regulation #4). Refer to the LWO Rules and Regulations, available from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance (OCC) website, for details regarding the wage and benefit requirements of the Ordinance.
- Making less than \$12.00 per hour information of their possible right to the federal Earned Income Tax Credit (EITC) and make available the forms required to secure advance EITC payments from the employer (Regulation #4).

**THE LIVING WAGE ORDINANCE (LWO) ALSO REQUIRES EMPLOYERS:**

- Not to retaliate against any employee claiming non-compliance with the provisions of these Ordinances and to comply with federal law prohibiting retaliation for union organizing (Regulation #4).

**TO BE FILLED OUT BY THE CONTRACTOR:**

1. Company Name: Duke's Rest Control, Inc. Email Address: mike@dukes.com
2. **STATE** the number of employees working ON THIS CITY CONTRACT: 3
3. **\*\*ATTACH** a copy of your company's 1<sup>st</sup> PAYROLL under THIS CITY CONTRACT.
4. **\*\*INDICATE** (highlight, underline) on the payroll which employees are working ON THIS CITY CONTRACT.
5. **\*\*Do you provide health benefits (such as medical, dental, vision, mental health, and disability insurance) to your employees?**  Yes  No If YES:
- 5a. **SUBMIT** a copy of the most recent health benefit premium statement(s) showing which employees receive health benefits.
- 5b. **STATE** how much, if any, employees pay for co-premiums: \$ \_\_\_\_\_

**\*\*NOTE:** Payrolls and health benefits information need not be submitted if ALL employees working on this City agreement earn an hourly wage of at least \$15 per hour. If so, check the box below and then **CONTINUE TO #6 & #7**.



I certify under penalty of perjury that I do not have any employees earning less than \$15 per hour working on this City contract.

6. **SUBMIT** a copy of your company's current PAID time off policy for the employees working on the City contract.
7. **SUBMIT** a copy of your company's current UNPAID time off policy for the employees working on the City contract.

**FAILURE TO COMPLY WITH THESE REQUIREMENTS WILL RESULT IN WITHHOLDING OF PAYMENTS BY THE CITY CONTROLLER, OR A RECOMMENDATION TO THE AWARDING AUTHORITY FOR CONTRACT TERMINATION. ALL INFORMATION SUBMITTED IS SUBJECT TO VERIFICATION, AND FALSE INFORMATION MAY RESULT IN CONTRACT TERMINATION.**

I understand that the employee information provided herein is confidential and will be used by the City of Los Angeles, Office of Contract Compliance for the purpose of monitoring the Living Wage Ordinance.

Michael S. Huger

Print Name of Person Completing This Form

[Signature]

Signature of Person Completing This Form

President  
Title

315-472-4781  
Phone #

7/8/09  
Date

**AWARDING DEPARTMENT USE ONLY:**

Dept: \_\_\_\_\_ Dept Contact: \_\_\_\_\_ Contact Phone: \_\_\_\_\_ Contract #: \_\_\_\_\_



1020 Hiawatha Blvd., West  
Syracuse, NY 13204-1131  
1-800-44-ROOTS  
(315) 472-4781  
FAX (315) 475-4203

## VACATION/SICK/LEAVE TIME

Time away from work to relax and pursue special interests is important to everyone. All full-time employees of Duke's Root Control, Inc. are eligible for paid vacation based on the following policy:

New employees with less than one year of service will be eligible for vacation after six months of service. That time will be prorated based on the amount of time remaining in the year. Example: an employee hired March 1, will not be eligible for vacation time until September 1, at which time they would be eligible for 5 days of vacation time. Any employee having fewer than five years, but more than one year of service, shall receive 10 days of paid vacation/sick/leave time per year. Any employee having five years or more of service shall receive 15 days of paid vacation/sick/leave time per year.

For the purposes of vacation/sick/leave policy, a year of service is defined as a year in which an employee worked a minimum of one day. Employees subject to lay-off will receive their full complement of vacation days (two or three weeks) as soon as they are re-hired.

Part-time employees (regularly working less than 30 hours) will not receive any paid vacation/sick/leave days.

Please coordinate your vacation plans at least six weeks in advance with your Supervisor. In case of conflicting requests, your Supervisor will exercise his/her discretion in scheduling vacations considering, in part, the date of your request, length of employment and any other factors he or she deems appropriate. Any remaining unused vacation days left over on December 31st will be paid out to the employee in a separate check based on their salary/day.

Separate from the normal vacation days described above, each field crew worker shall receive up to an additional 10 days of paid leave according to the following policy:

Every 20 days a crew worker is "in the field" - i.e., mob days, layover days, and field days, - the crew worker shall receive a COMP DAY. This policy excludes down days. Comp days work like vacation days except the Company decides when the employee will take the day off. For example, a crew worker may be told on a Tuesday that he will be taking Wednesday off with pay, and then told on Wednesday that he will have to work on Thursday.



TRANSMITTAL 2

**SUPPLEMENTAL AGREEMENT  
TO CONTRACT NO. C-116625  
BETWEEN THE CITY OF LOS ANGELES  
AND  
DUKE'S ROOT CONTROL, INC.**

**THIS SUPPLEMENTAL AGREEMENT** to Contract No. C-116625 between the Bureau of Sanitation, Department of Public Works, a municipal corporation, acting by order of and through its Board of Public Works (hereinafter referred to as the "City"), and **DUKE'S ROOT CONTROL, INC.** (hereinafter referred to as the "Contractor") is entered into with reference to the following:

WHEREAS, on November 7, 2008, the City released a Request for Proposals (RFP) to qualified and interested parties for the chemical treatment of roots in the sewer system; and

WHEREAS, on January 7, 2009, three(3) proposals were received by the City; and

WHEREAS, **DUKE'S ROOT CONTROL, INC.** was deemed to be the most qualified respondent as determined through the evaluation criteria stated in RFP; and

WHEREAS, on September 30, 2009, the Board of Public Works approved and forwarded a report to the Mayor and City Council with the request that the Board of Public Works be authorized to execute and award a three(3) year personal services contract to **DUKE'S ROOT CONTROL, INC.** to provide required services for the chemical treatment of roots in the sewer system; and

WHEREAS, on December 29, 2009, Contract No. C-116625 was executed; and

WHEREAS, on December 29, 2012, the initial contract term expired; and

WHEREAS, the selected Contractor has demonstrated the necessary qualifications to perform said services, referred to in the Scope of Services specified in the original contract and any subsequent amendments; and

WHEREAS, the Contractor has performed the required services in a competent and satisfactory manner; and

WHEREAS, the implementation of this project is critical and the service is required must be retained; and

WHEREAS; the City desires to retain the Contractor to provide the required professional and technical services in connection with the Scope of Services as outlined in the original contract and any subsequent amendments;

NOW, THEREFORE, in consideration of the promises, covenants, and agreements hereinafter set forth, the parties hereby agree to supplement Contract No. C-116625, as follows:

**1. Incorporation of Original Agreements**

Original Contract No. C-116625 is hereby incorporated by reference in its entirety into this Supplemental Agreement as though fully set forth herein, and all terms and conditions contained therein remain in full force and effect including the First Source

Hiring Ordinance and Prevailing Wage requirements as stated in the Addendum as follows:

Addendum to Contract C-116625

**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.

CONTRACTOR shall, prior to the execution of the CONTRACT, provide to the Designated Administrative Agency (DAA) a list of anticipated employment opportunities that CONTRACTOR estimate they will need to fill in order to perform the services under the CONTRACT. The Department of Public Works Office of Contract Compliance is the DAA.

CONTRACTOR further pledges that it will, during the term of the CONTRACT, shall a) At least seven (7) 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 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 interviewed and the reasons why referred individuals were not hired.

Any Subcontract entered into by the CONTRACTOR relating to this AGREEMENT, to the extent allowed hereunder, shall be subject to the provisions of FSHO, and shall incorporate the FSHO. CONTRACTOR 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 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'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 has violated provisions of the FSHO.

**PREVAILING WAGE**

Any CONTRACT awarded hereunder will require the CONTRACTOR to comply with the provisions of the Labor Code of the State of California, relating to Public Works wages. These provisions require the CONTRACTOR to pay not less than the "General Prevailing Wage Rates" to all workers employed in the execution of the CONTRACT and to post a copy of the "General Prevailing Wage Rates" at the job site, in a conspicuous place available to all employees and applicants for employment.

The "General Prevailing Wage Rates" shall be those rates as determined by the Director of the Department of Industrial Relations of the State of California. Copies of those rates are on file in the Office of Contract Compliance, Bureau of Contract Administration, telephone (213) 847-1922. Information regarding prevailing wage rates may be obtained from the Division of Labor Statistics and Research, Prevailing Wage Unit, P.O. Box 420603, San Francisco, CA 94142, telephone (415) 972- 8628, fax (415) 972-8640.

**2. Term**

The term of this Supplemental Agreement is December 30, 2012 to December 29, 2014.

**3. Contract Amount**

The contract amount will not exceed \$5,000,000 over the two year term of this Supplemental Agreement, which amount reflects the cost of work completed by the Contractor since the expiration of the initial contract term and the anticipated cost of work to be performed through the remaining term of this Supplemental Agreement.

**4. Compensation**

The cost to fund the additional 2 year term of this Supplemental Agreement will not exceed \$5,000,000. The contract ceiling for the entire 5 year term of Contract No. C-116625 as well as the term of this Supplemental Agreement shall not exceed \$10,700,000.

Invoice(s) shall be sent to:

To the City:

JOHN PARK

City of Los Angeles – Bureau of Sanitation

Wastewater Collection Systems Division

2714 Media Center Drive

Los Angeles, CA 90065

Tel: 323-342-6033

Fax: 323-342-6013

E-mail: john.park@lacity .org

Payments to the Contractor may be unilaterally withheld or reduced by the City if the Contractor fails to comply with the provisions of this Supplemental Agreement or Contract No. C-116625.

**5. Ratification**

At the City's request Contractor has continued performance of the services specified herein prior to the execution of this Agreement. To the extent that such services were performed in accordance with the terms and conditions of the Agreement, the City hereby acknowledges the services previously performed by Contractor and ratifies Contractor's performance of said services.

This Supplemental Agreement includes three pages and is executed in five duplicate originals, each of which is deemed to be an original.

IN WITNESS THEREOF, the parties hereto have caused this Supplemental Agreement to be executed by their respective duly authorized representatives.

**THE CITY OF LOS ANGELES**

**DUKE'S ROOT CONTROL, INC.**

By: \_\_\_\_\_  
Commissioner  
Board of Public Works

By: \_\_\_\_\_  
*Michael Hogan*  
*President Duke's Root Control, INC*

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

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

By: \_\_\_\_\_  
Commissioner  
Board of Public Works

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

**APPROVED AS TO FORM**

**ATTEST:**

**CARMEN A. TRUTANICH, City Attorney**

**JUNE LAGMAY, City Clerk**

By: \_\_\_\_\_  
John A. Carvalho  
Deputy City Attorney

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

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

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

INTER DEPARTMENTAL CORRESPONDENCE

TRANSMITTAL 3

DATE: 16-Jan-08

TO: LA MBOC, MAYOR'S OFFICE OF ECONOMIC DEVELOPMENT

ATTN: LINDA SMITH FAX#: 213/978-0685

FROM: Barry Berggren, Division Manager Phone: 323 342-6040 Fax: 323 342-6013

by: Carmelo Martinez

Dept/Div: Wastewater Collection Systems Div, Bureau of Sanitation E-mail: Carmelo.Martinez@lacity.org

SUBJECT: MBE/WBE/OBE RECOMMENDATION FOR GOOD FAITH EFFORT CONTRACT NO. In compliance with Executive Directive No. 2001-26, City of Los Angeles Minority, Women and Other Business Enterprise (MBE/WBE/OBE) Program, please fill out the following:

- 1. Title of Project: Chemical Root Control for City owned sewers
2. This project will be advertised as an: RFB XX RFP RFQ Other:
3. Type of Contract: Procurement XX Personal Services Construction
4. Projected total amount of the contract: \$6 million Estimated duration of project: 3 years
5. Significant Dates: Estimated date of pre-bid or job walk meeting: 15-Apr-08 Estimated date that bids or proposals are due: 15-Jul-08
6. Recommendations: MBE/WBE/OBE encouragement: waiver

Justify why encouragement:

Technical Requirement Lack of available subcontractors
XX Lack of available subcontract sub-supply opportunities XX One product single point of distribution

Other: Sewer root control involves the application of Federal/State restricted-use chemicals. This can only be applied by commercial applicators, who have a valid Qualified Pesticide Applicator license, or certificate with the California Department of Pesticide Regulation. The chemical application is highly specialized, and does not lend itself to subcontracting opportunities.

7. MBE/WBE/OBE Good Faith Effort required: Level of participation is as follows: %MBE %WBE %OBE

8. Is this a: XX New Contract Renewal Other

9. Name of previous contractor: Pacific Sewer Mainten Length of previous contract 3 years, Value of previous Duke's Root Control Inc. \$6 million/3yrs

TO: Bureau of Sanitation/Wastewater Collection Systems Division
ATTN: Carmelo Martinez
FROM: LA MBOC, MAYOR'S OFFICE OF ECONOMIC DEVELOPMENT

SUBJECT: RESPONSE TO ABOVE REQUEST

X Recommendation approved Available Subs Initials
Recommendation disapproved Available Opportunities Initials

Other/Comment:

By: L SMITH Date: 8/30/08 Tel. No.: 213 978-0665

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

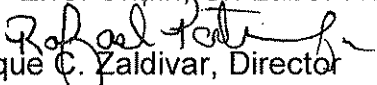
**DATE:** July 18, 2013

2013 JUL 23 PM 3:07

**TO:** Miguel Santana  
City Administrative Officer

CITY ADMINISTRATIVE OFFICER

Attn: Errol Griffin, Sr. Labor Relations Specialist I

**FROM:**   
Enrique C. Zaldivar, Director  
Bureau of Sanitation**SUBJECT: RECLASSIFICATION REQUEST OF PERSONNEL AUTHORITY**

The Bureau of Sanitation requests a reclassification of one (1) Wastewater Treatment Operator I (Class 4123-1) authority to one (1) Wastewater Treatment Operator II (Class 4123-2) authority. This reclassification is requested because the Division must appoint an experienced Wastewater Treatment Operator II to carry out new duties recently assigned by the Bureau's Executive Team.

The position is allocated to the Bureau's Hyperion Treatment Plant. The position will oversee the Division's new stormwater diversion facilities and will be responsible for the startup and troubleshooting of new stormwater diversion facilities. In addition, the position will be responsible for monitoring and inspecting various stormwater treatment sites.

Due to years of experience in facilities startup and treatment process control, the Wastewater Treatment Operator I's and Wastewater Treatment Operator II's have been asked by Executive Management to operate new stormwater diversion facilities owned by the Bureau. Because the facilities are newly constructed stormwater treatment structures, only an experience Wastewater Treatment Operator II can confidently lead a group of Wastewater Treatment Operator I's to perform these tedious duties, especially the troubleshooting tasks. Therefore, an upgrade from a Wastewater Treatment Operator I to a Wastewater Treatment Operator II is necessary.

Reclassifying the position to a Wastewater Treatment Operator II may reduce discharge permit violations which could limit fines imposed on the City of Los Angeles. A wrong decision can lead to a wrong action, which may cause stormwater discharge permit violations, and subsequently, the City may be subject to costly fines. Currently, Hyperion does not have a Wastewater Treatment Operator II to perform these new duties. All existing Wastewater Treatment Operator II's have been assigned to various specific process areas at the Division. None of the existing Wastewater Treatment Operator II's are available to take on these new assignments.

A Request for Change of Personnel Authority, position description and organization chart are attached. If you have any questions or require additional information, please contact Adriene Murphy of the Personnel Services Section, at (213) 485-2672.

Attachments

**DEPARTMENT OF PUBLIC WORKS - BUREAU OF SANITATION  
REQUEST FOR CHANGE OF PERSONNEL AUTHORITY**

**DIVISION:** Hyperion Treatment Plant

**SECTION:** Operations – TSF Control Room

**PROGRAM:** BF820201

**FUNDING SOURCE:** SCMO

**PREPARED BY:** Ronald Bell

**DATE:** July 8, 2013

**BUDGET PACKAGE REQUEST** (Indicate Budget Package Name/Number/Topic, if related to item below):  
CW-1 – CLEAN WATER OPERATIONAL REQUIREMENTS

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**1. TYPE OF CHANGE**

New Positions  
 Reclassification

Pay grade Change  
 Bonus Code Change

**2. FROM:**                      Class Code                      Class Title  
-1                                      4123-1                              Wastewater Treatment Operator I  
(Pos No. 1495)

**TO:**                                      Class Code                      Class Title  
+1                                      4123-2                              Wastewater Treatment Operator II

**3. DUTIES:**  
See attached Position Description

**4. JUSTIFICATION:**

The position is allocated to the Bureau's Hyperion Treatment Plant. The position will oversee the Division's new stormwater diversion facilities and will be responsible for the startup and troubleshooting of new stormwater diversion facilities. In addition, the position will be responsible for monitoring and inspecting various stormwater treatment sites.

Due to years of experience in facilities startup and treatment process control, the Wastewater Treatment Operator I's and Wastewater Treatment Operator II's have been asked by Executive Management to operate new stormwater diversion facilities owned by the Bureau. Because the facilities are newly constructed stormwater treatment structures, only an experience Wastewater Treatment Operator II can confidently lead a group of Wastewater Treatment Operator I's to perform these tedious duties, especially the troubleshooting tasks. Therefore, an upgrade from a Wastewater Treatment Operator I to a Wastewater Treatment Operator II is necessary.

Reclassifying the position to a Wastewater Treatment Operator II may reduce discharge permit violations which could limit fines imposed on the City of Los Angeles. A wrong decision can lead to a wrong action, which may cause stormwater discharge permit violations, and subsequently, the City may be subject to costly fines. Currently, Hyperion does not have a Wastewater Treatment Operator II to perform these new duties. All existing Wastewater Treatment Operator II's have been assigned to various specific process areas at the Division. None of the existing Wastewater Treatment Operator II's are available to take on these new assignments.

## POSITION DESCRIPTION

City of Los Angeles

DO NOT USE THIS SPACE

1. Name of Employee:  Sant	2. Employee's Present Class Title/Code:  Wastewater Treatment Operator I / 4123 - 1	3. Present Salary or Wage Rate:  \$82,998.00
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4. Reason for Preparing Description: <input type="checkbox"/> New Position <input type="checkbox"/> Routine Report of Duties <input checked="" type="checkbox"/> Change in Existing Position <input type="checkbox"/> Review for Proper Allocation	Date Prepared:  6/11/13
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5. Location of office or place of work: Hyperion Treatment Plant 12000 Vista Del Mar Playa Del Rey, CA. 90293	6. Name of Department:    PUBLIC WORKS/SANITATION  Division: Hyperion Treatment Plant                      Section: Operations
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7. Name and title of the person from whom you ordinarily receive instruction and who supervises or reviews your work:

Name: \_\_\_\_\_ Title: **Senior Wastewater Treatment Operator**

8. Describe in detail the duties and work of this position, describing each duty in a separate paragraph. Begin with the duties that normally take most of you time and then describe the duties that infrequent. Be certain to tell **what** is done, **how** it is done and what **materials or equipment** are used. Using percentages show the distribution of the total working time. Also, if the duties and responsibilities of the position have changed, indicate how and when the changes occurred.

PERCENT OF TIME	DUTIES
60%	Monitors wastewater treatment plant operations and conditions by annunciator panel, visual inspection, meters, and gauges to ensure that processing and treated effluent meets permit requirements, and to verify proper operating conditions. Adjusts flow rates and operates and adjusts a variety of plant and related equipment including clarifiers, aeration basins, digesters, dewatering centrifuges, pumping stations, gas handling facilities and odor scrubbers.
20 %	Cleans, clears, and maintains a variety of plant equipment. Performs preventative maintenance such as lubrication and oil changes on mixers centrifuges and acid washes on odor scrubbers. Performs housekeeping around plant buildings and facilities.
10 %	Reads, records and maintains logs of readout results, flow rates and conditions of treatment and other information about plant and wastewater system operations. Identifies equipment malfunction and takes corrective measures.
10%	Collects wastewater, sludge and gas samples. Performs routine lab field tests.

9. How long have the duties been substantially as described above? **20 years**
10. List any machinery or equipment operated and any unusual or hazardous working conditions. **Exposure to toxic, corrosive explosive atmospheres associated with wastewater treatment.**
11. Percent of time spent supervising (training and evaluation employees, assigning and reviewing work). **NA**
12. Indicate the number of employees supervised by class title. **N/A**
13. I certify that the above statements are my own and to the best of my knowledge are accurate and complete.

Signature \_\_\_\_\_ Date \_\_\_\_\_ Extension \_\_\_\_\_



**ITEMS TO BE FILLED IN BY THE IMMEDIATE SUPERVISOR**

14. Indicate in what respects if any the duties and responsibilities on the other side are not sufficiently or accurately described.  
The duties and responsibilities are accurately described.
15. SUPERVISION RECEIVED. Describe the nature, frequency, or closeness of supervision received by the employee, including the way that the employee's work is assigned and reviewed. **General supervision by Section Senior Wastewater Treatment Operator. receives oral & written instructions from the control room Seniors, WTO III's and lead section WTO II's.**
16. REQUIREMENTS. Indicate the minimum requirements to perform the duties of this position:  
 (a) Education (include specific matter).  
**Possession of a Grade I Certificate for Operations of Wastewater Treatment Plants issued by the California State Water Resources Control Board at the time of appointment.**  
 (b) Experience (type and length: list appropriate City classes, if any).  
**One year of full-time paid experience in the operation or mechanical maintenance of wastewater treatment plant equipment, or other plant processing equipment of similar size and complexity which includes liquid purifying processes.**

17. PHYSICAL REQUIREMENTS. Check below all physical capabilities to do this job.  
Ability to lift 50 lbs, good hand eye coordination.

<input checked="" type="checkbox"/> Strength to: <input checked="" type="checkbox"/> Lift <input checked="" type="checkbox"/> Push <input checked="" type="checkbox"/> Pull Average weight <u>25</u> Heaviest weight <u>50</u>	SPECIAL NEED FOR: <input checked="" type="checkbox"/> Vision to read fine print/numbers <input checked="" type="checkbox"/> Hearing, for telephones/alarms <input checked="" type="checkbox"/> Balance, for working heights Other/Explain: <u>Normal Color Vision</u>	EXTENSIVE USE OF: <input checked="" type="checkbox"/> Legs, for walking/standing <input checked="" type="checkbox"/> Hands and fingers <input checked="" type="checkbox"/> Back, for strenuous labor Other Explain:	Hours per day <u>5</u> <u>1</u> <u>1</u>
<input checked="" type="checkbox"/> Climbing (stairs, ladders, poles) How far			
<input checked="" type="checkbox"/> Face severe working conditions Outdoors <u>  </u> on/near water			

Other/Explain:  
Corrosive chemicals

(a) List any alternative methods or devices that can be used to aid in meeting the physical requirements checked above.  
**Assistive devices such as corrective lens and hearing aids may be used.**

18. RESPONSIBILITIES.

(a) Policy and Methods: Describe the responsibilities for the interpretation and enforcement of policy and methods; indicate the extent of participation in development, if any and approval by higher authority required.  
**Responsible to follow all City of Los Angeles and plant policies, procedures and work instructions.**

(b) Materials or Products: Describe the responsibility and opportunity for bringing about economies and/or preventing losses through effective handling, processing or storing of materials or products, or through planning or engineering in connection with same.  
**Responsible for the general economy of time and material.**

(c) Machinery and equipment: Describe the responsibility for the operation, use, repair or care of machinery, equipment, or facilities or for planning or engineering in connection with the same; indicate the size and kind of such machinery and equipment; describe the opportunity for preventing losses or achieving economies.  
**Responsible for treatment plant machinery and equipment.**

(d) Money: Describe the responsibility for and access to cash, stamps or other negotiable, or the responsibility for authorizing the expenditure of funds; indicate the average value of negotiable handled each month, or the amounts which are authorized to be expended each month.  
 Is position bonded? NA amount of bond \$

(e) Personal Contacts: Describe the purpose and frequency of personal contact with others, both within and outside the organization; indicate the types of contacts, purpose thereof, and the importance of persons contacted.  
**Responsible to effectively communicate process and equipment status with a wide variety of supervisors and coworkers.**

(f) Records and reports: Describe the records and reports, including the kind and value of records in descriptive terms, and the action employee takes in respect thereto.  
**Responsible for recording all activities and observations on the appropriate forms and log books. This documentation has legal ramifications and therefore must be accurate and truthful.**

Signature of the immediate supervisor \_\_\_\_\_ Date \_\_\_\_\_

Class Title \_\_\_\_\_ Extension \_\_\_\_\_

Signature of department head Rafael Pater \_\_\_\_\_ Date \_\_\_\_\_

## POSITION DESCRIPTION

City of Los Angeles

DO NOT USE THIS SPACE

1. Name of Employee:  ant	2. Employee's Present Class Title/Code:  Wastewater Treatment Operator II / 4123 - 2	3. Present Salary or Wage Rate:  \$92,059.92
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4. Reason for Preparing Description:	<input type="checkbox"/> New Position <input checked="" type="checkbox"/> Change in Existing Position	<input type="checkbox"/> Routine Report of Duties <input type="checkbox"/> Review for Proper Allocation	Date Prepared: 6/11/13
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1. Location of office or place of work: Hyperion Treatment Plant 12000 Vista Del Mar Playa Del Rey, CA. 90293	6. Name of Department: PUBLIC WORKS/SANITATION  Division: Hyperion Treatment Plant      Section: Operations
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7. Name and title of the person from whom you ordinarily receive instruction and who supervises or reviews your work:

Name: \_\_\_\_\_ Title: **Senior Wastewater Treatment Operator**

8. Describe in detail the duties and work of this position, describing each duty in a separate paragraph. Begin with the duties that normally take most of you time and then describe the duties that infrequent. Be certain to tell what is done, how it is done and what materials or equipment are used. Using percentages show the distribution of the total working time. Also, if the duties and responsibilities of the position have changed, indicate how and when the changes occurred.

PERCENT OF TIME	DUTIES
80%	Monitors and inspects various storm water treatment sites. Operates and adjusts chlorinator systems, dechlorinator systems, pumps, valves, Vacuum Swing Adsorption (VSA) system, Speece Cone unit, aeration equipment, and other equipment related to stormwater treatment. Performs sampling, handles various chemicals, removes manhole covers, writes work requests, communicates process status with Maintenance and Management, records data into log books, and writes various reports and SOP's.
20 %	Act as Lead Operator to lead Wastewater Treatment Operator I's (WTOI) in operation of the stormwater diversion facilities; provides direction to WTOI's when performing troubleshooting in the stormwater treatment processes.

9. How long have the duties been substantially as described above? **New Position**
10. List any machinery or equipment operated and any unusual or hazardous working conditions. Exposure to toxic, corrosive explosive atmospheres associated with stormwater treatment.
11. Percent of time spent supervising (training and evaluation employees, assigning and reviewing work). **NA**
12. Indicate the number of employees supervised by class title. **N/A**
13. I certify that the above statements are my own and to the best of my knowledge are accurate and complete.

Signature \_\_\_\_\_ Date \_\_\_\_\_ Extension \_\_\_\_\_

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**The duties and responsibilities are accurately described.**
15. SUPERVISION RECEIVED. Describe the nature, frequency, or closeness of supervision received by the employee, including the way that employee's work is assigned and reviewed.  
**General supervision by Section Senior Wastewater Treatment Operator**
16. REQUIREMENTS. Indicate the minimum requirements to perform the duties of this position:  
 (a) Education (include specific matter).  
**Possession of a Grade II Certificate for Operations of Wastewater Treatment Plants issued by the California State Water Resources Control Board at the time of appointment.**  
 (b) Experience (type and length: list appropriate City classes, if any).  
**One year of full-time paid experience as a Wastewater Treatment Operator.**
17. PHYSICAL REQUIREMENTS. Check below all physical capabilities to do this job.  
**Ability to lift 50 lbs, good hand eye coordination.**

<input checked="" type="checkbox"/> Strength to: <input checked="" type="checkbox"/> Lift <input checked="" type="checkbox"/> Push <input checked="" type="checkbox"/> Pull			Hours per
Average weight <u>25</u> Heaviest weight	<b>SPECIAL NEED FOR:</b>	<b>EXTENSIVE USE OF:</b>	week
<u>50</u>	<input checked="" type="checkbox"/> Vision to read fine print/numbers	<input checked="" type="checkbox"/> Legs, for walking/standing	<u>5</u>
<input type="checkbox"/> Climbing (stairs, ladders, poles)	<input checked="" type="checkbox"/> Hearing, for telephones/alarms	<input checked="" type="checkbox"/> Hands and fingers	<u>1</u>
How far	<input checked="" type="checkbox"/> Balance, for working heights	<input checked="" type="checkbox"/> Back, for strenuous labor	<u>1</u>
<input type="checkbox"/> Face severe working conditions	<u>Other/Explain: Normal Color Vision</u>	<u>Other Explain:</u>	
Outdoors <input type="checkbox"/> on/near water			

Other/Explain:  
**Corrosive chemicals**

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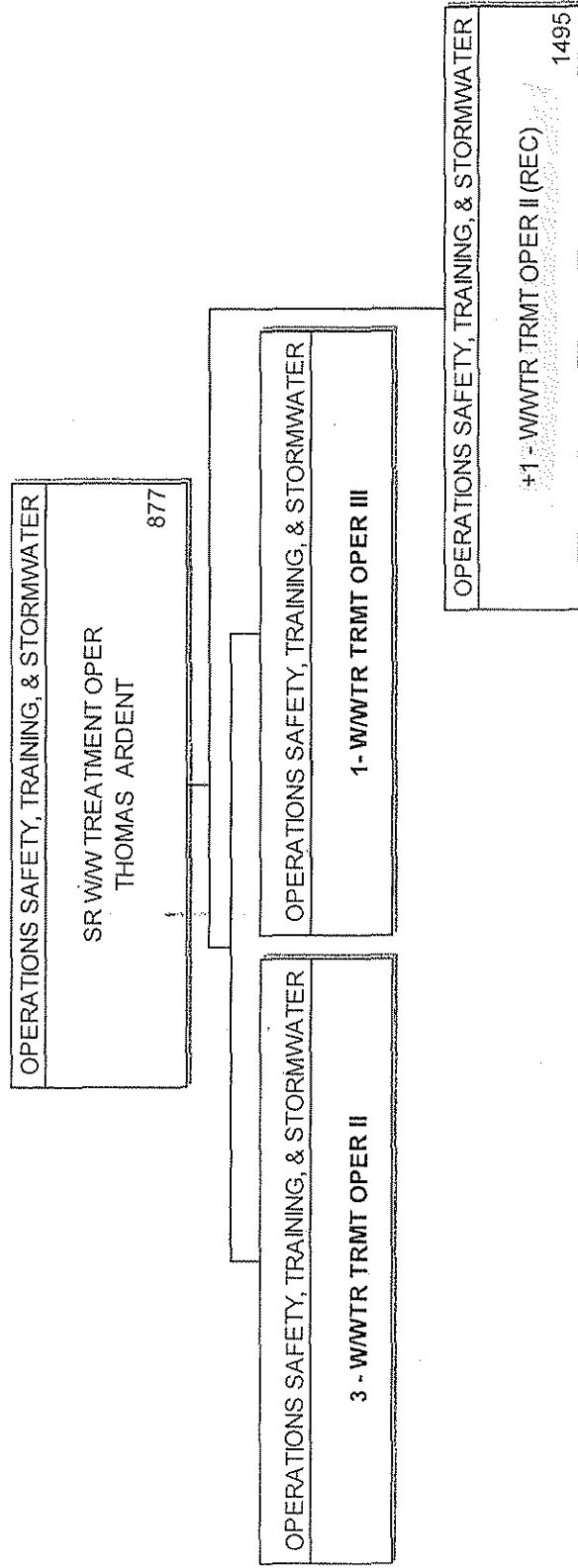
Signature of the immediate supervisor \_\_\_\_\_ Date \_\_\_\_\_

Class Title \_\_\_\_\_ Extension \_\_\_\_\_

Signature of department head Rafael Pater \_\_\_\_\_ Date \_\_\_\_\_

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BUREAU OF SANITATION  
HYPERION TREATMENT PLANT  
PROPOSED 2013-2014



BUREAU OF SANITATION  
 HYPERION TREATMENT PLANT  
 PROPOSED 2013-2014

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LIQUIDS OPERATION SHIFT RELIEF
SR WW TREATMENT OPER PAUL KING
589

LIQUIDS OPERATION SHIFT RELIEF
10 WWTR TRMT OPER I
-1 - WWTR TRMT OPER I (REC)
9 - Total

LIQUIDS OPERATION SHIFT RELIEF
3 - WWTR TRMT OPER II