

CONTRACT NO. C- 115890

AMENDMENT NO. 1
SERVICES AGREEMENT
BETWEEN
THE CITY OF LOS ANGELES
AND
ABB Inc. (ABB)
FOR
CONTROL SYSTEMS SUPPORT

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AMENDMENT NO. 1 BETWEEN
THE CITY OF LOS ANGELES
AND
ABB INC. (ABB)
FOR
CONTROL SYSTEMS
SUPPORT

This Amendment No. 1, made and entered into by and between the Bureau of Sanitation, Department of Public Works, City of Los Angeles, a Municipal Corporation acting by order of and through its Board of Public Works, hereinafter called the "CITY", and "ABB Inc." hereinafter referred to as the "CONTRACTOR"; is set forth as follows:

W I T N E S S E T H

WHEREAS, Contract C-115890 between the City of Los Angeles and ABB Inc. was executed in October 2009 to procure support services for control systems installed at the Glendale Water Reclamation Plant and the Donald C. Tillman Water Reclamation Plant; and

WHEREAS, the Bureau of Sanitation uses Symphony Control Systems from CONTRACTOR to run the operations at the Glendale Water Reclamation Plant and the Donald C. Tillman Water Reclamation Plant; and

WHEREAS, the Bureau of Sanitation does not have the in-house expertise to perform many of the services required to maintain and support these control systems and must rely on outside services to provide them; and

WHEREAS, the Bureau of Sanitation recognizes that CONTRACTOR possesses

specialized expertise, knowledge, and sufficient personnel to perform the required services; and

WHEREAS, the Bureau of Sanitation requires resources and services only available from CONTRACTOR to satisfy the support needs of the control systems; and

WHEREAS, CONTRACTOR, being the sole manufacturer of the ABB Symphony Control Systems, is uniquely qualified to provide these technical services and provide the necessary equipment and spare parts; and

WHEREAS, CONTRACTOR has designed and patented the code for firmware and engineering software embedded in the ABB Control System and has proprietary rights to the hardware design and the components that make up the module of the ABB Control System; and

WHEREAS, CONTRACTOR has performed the above referenced tasks in a professionally sound manner in accordance with all applicable laws, rules, regulations and other applicable requirements of Local, State, and Federal governments; and

WHEREAS, this contract is being amended to extend the contract term by an additional five (5) years from October 2014; and

WHEREAS, the duration of this contract amendment is intended to secure support time and services from CONTRACTOR until the ABB control systems are replaced by the Honeywell control systems, scheduled to be completed in 2018; and

WHEREAS, due to increased costs, the contract ceiling of \$2,000,000 will be increased to \$3,000,000 to accommodate costs for the additional five (5) year term.

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

NO CHANGE IN THIS ARTICLE

ARTICLE 2 - DEFINITIONS

NO CHANGE IN THIS ARTICLE

ARTICLE 3 - SERVICES DESCRIPTION

NO CHANGE IN THIS ARTICLE

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

MODIFY SUB-ARTICLE 4.5 TO READ AS FOLLOWS:

4.5 CONTRACTOR Schedule of Services and Costs

4.5.1 FIELD SERVICE- See attached schedule (EXHIBIT A) for estimated dollar amounts

Service Location: Donald C. Tillman Water Reclamation Plant

150 days total each 5-year term of the contract– See attached schedule for subscription costs.

Service Location: Glendale Water Reclamation Plant

150 days total each 5-year term of the contract -See attached schedule for subscription costs.

The CONTRACTOR agrees to provide to the CITY on-site field service technical support for the term of this AGREEMENT. Under this AGREEMENT, the CITY is entitled to up to one hundred fifty (150) days of primary work hours (PWH) support from a Field Service Representative assigned by CONTRACTOR for **the term of the contract**. Primary Work Hours are defined in Article 9.2.2. In situations where the Field Service Representative is required by

the CITY to work outside the PWH, or work in excess of eight (8) hours in one day, the overtime policy in Article 9.2.3 shall apply.

In cases where it is necessary to bring an ABB specialist on-site in support of the Field Service Representative, the ABB Service Manager shall consult with the CITY and obtain approval from the CITY at the time of the occurrence. The specialist's time and

“Other Direct Costs” shall be invoiced at the rates specified in Article 9. The CITY agrees to a minimum charge of four (4) hours for any site visit by CONTRACTOR's specialist to CITY's facilities. The CITY is not entitled to a refund for any unused service time purchased through the Field Service Subscription. The "average 30 days per year" field services recommended for Tillman Water Reclamation Plant should be scheduled throughout the term of this AGREEMENT as deemed appropriate. However, the CITY is not obligated to consume the “average 30 days per year” of recommended service days. Any unused hours will be “banked” for future use within the AGREEMENT period. The Field Service Representative assigned by CONTRACTOR shall work with the Tillman Water Reclamation Plant personnel to coordinate visits and schedule work when the CITY requests services. Travel expenses for Field Service Representatives are covered by this AGREEMENT and shall not be charged to the CITY.

The additional costs incurred by CONTRACTOR as a result of requiring a specialist on-site or Field Service Representative working overtime or outside the PWH shall be paid to CONTRACTOR through the purchase of Field Service time as allocated under the contingency funds made available in this AGREEMENT. If the CITY does not utilize the 150 days by the

end of the fifth contract year, then any remaining hours shall be lost without further compensation.

4.5.2 24-HOUR EMERGENCY RESPONSE - See attached schedule for estimated dollar amounts

Service Location: Glendale Water Reclamation Plant

See attached schedule (EXHIBIT A) for estimated subscription costs.

Service Location: Donald C. Tillman Water Reclamation Plant

See attached schedule (EXHIBIT A) for estimated subscription costs.

In the event of an emergency, defined as equipment or system failure that either (1) has caused or will likely result in unplanned system downtime; (2) poses an imminent threat to plant personnel health and/or safety; or (3) may likely result in property damage, a Field Service Representative must be on-site within 24 hours from the time the emergency was first reported to CONTRACTOR by the CITY. There is no limit to the number of callouts the CITY can make of the CONTRACTOR provided the event is, in fact, a valid emergency as defined above.

However, the minimum number of hours charged to the CITY will be four (4) hours per callout with any applicable overtime premiums accessed per the Standard Service Rate Sheet current at that time. The Field Service Representative's time will commence upon confirmation of response from the local field service representative who is assigned to respond to the emergency call and

conclude after his/her return trip from the site. If the CONTRACTOR fails to meet the stipulated response time, then the CITY shall be issued a total monthly credit in the amount of \$1,250 (in the next invoice statement) for nonconformance incident(s) that occur within a calendar month. The maximum yearly credit shall be limited to a total amount of \$15,000 per site.

4.5.3 TECHNICAL SUPPORT- TELEPHONE SUPPORT - See attached schedule for estimated dollar amounts

Service Location: Glendale Water Reclamation Plant

See attached schedule (EXHIBIT A) for subscription costs. Service Location: Donald C. Tillman Water Reclamation Plant

See attached schedule (EXHIBIT A) for subscription costs.

This technical phone support offered by CONTRACTOR as "Support Line Bronze Plus Subscription" provides the CITY ten (10) hours a year of phone support for solving technical problems (the "Support Line Subscription"). This Support Line Subscription with the CONTRACTOR provides the CITY telephone access to CONTRACTOR's staff of technical specialists and guaranteed response to request within one (1) hour. Support shall escalate to design engineer level should the nature and difficulty of the technical problem exceed the expertise of the technical specialist. This service shall be available to the CITY 24 hours a day and 365 days a year. Should a time occur during the term of this AGREEMENT when either the Glendale Water Reclamation Plant or the Donald C. Tillman Water Reclamation Plant no longer

requires telephone support, this Support Line Subscription will be canceled and any remaining funds shall be reallocated as part of the general contingency fund.

4.5.4 TECHNICAL SUPPORT- WEB ACCESS -See attached schedule for estimated dollar amounts

Service Location: Glendale Water Reclamation Plant

See attached schedule (Exhibit A) for subscription costs.

Service Location: Donald C. Tillman Water Reclamation Plant

See attached schedule (Exhibit A) for subscription costs.

The CITY is entitled to all of the following web services through the "Solutions Bank Subscription" with CONTRACTOR:

- Technical Database-documentation database containing supplemental technical documents written by Technical Support: engineering design changes; product release enhancements and bug fixes.
- Customer Forums- product and industry forums for customer discussions, exchanging of information and experiences.
- Download Databank- service pack download area.

- Auto Notification -e-mails will automatically be sent to the CITY when new documents are published to the TechInfoBank. A hyperlink is included in the e- mail for immediate viewing of the specific document.
- On-Line Product Manuals- product instruction manuals with updated documentation published immediately upon release.
- Knowledge Bank- natural language query search engine, providing searches through Knowledge Bases for information based on actual experiences from the resolution product issues.
- Support Case Tracking- track status of all support cases (open or closed). Cases can be tracked per user or per site.
- Immediate Agent- consult, one-on-one, real-time with Contractor Call Center Specialist. Should a time occur during the term of this AGREEMENT when either the Glendale Water Reclamation Plant or Donald C. Tillman Water Reclamation Plant no longer requires web access support, this Solutions Bank Subscription will be canceled and any remaining funds shall be reallocated as part of the general contingency fund.

4.5.5 "INFOPLUS21 HISTORIAN SERVICES"- See attached schedule for estimated dollar amounts Service Location: Donald C. Tillman Water Reclamation Plant

See attached schedule (Exhibit A) for subscription costs. CONTRACTOR shall provide a total of two hundred (200) hours of call-in telephone support for the CITY over the five (5) year term of this AGREEMENT. Service shall be available between 9:00AM and 5:00PM Pacific Standard Time. With the CITY's permission, CONTRACTOR logs on to the Infoplus21 Historian System remotely via dial-up modem to perform troubleshooting and system optimization tasks. The CITY may, at its option, use the Infoplus21 support hours included in this AGREEMENT to request remote diagnostics over dial -up modem. The City shall schedule an average of 40 hours a year of phone support. However, the CITY is not obligated to consume the "average 40 hours per year" of recommended service time. Any unused hours will be "banked" for future use within the AGREEMENT period. Should a time occur during the term of this AGREEMENT when Donald C. Tillman Water Reclamation Plant no longer requires TNFOPLUS21 Historian support, then this program feature may be cancelled without penalty and any remaining or prorated funds shall be reallocated to the general contingency fund.

The following Aspentech products shall be supported by CONTRACTOR:

Infoplus21 - Historian Software licensed by ASPEN TECH

SQLplus- Licensed application software by ASPEN TECH to query data from Historian.

@aGlance (12 Users) - Licensed application software from ASPEN TECH Process Explorer (10

Users)- Licensed application software from ASPEN TECH Aspen Calc- Licensed application software from ASPEN TECH.

4.5.6 SOFTWARE MAINTENANCE SERVICES

The CITY elects not to subscribe to the Sentinel Software License Agreement during the term of this contract but reserves the right to enter into the Sentinel Agreement should the need for software upgrade arise. The CONTRACT ADMINISTRATOR may, at his option, request a cost proposal in writing from CONTRACTOR for subscribing to the Sentinel Software License Agreement should the CITY decide to upgrade its control system software. Terms and conditions shall be negotiated at time of request between CONTRACTOR and the CONTRACT ADMINISTRATOR. Costs for the software upgrade agreement shall be paid through the general contingency fund for this contract.

ARTICLE 5 - KEY CONTRACTOR PERSONNEL

MODIFY ARTICLE 5.1 TO READ AS FOLLOWS:

CONTRACTOR designates the following person(s) to represent CONTRACTOR in all matters pertaining to this AGREEMENT:

Monica Martinez
ABB Inc.
579 Executive Campus Dr.
Westerville, OH 43082
(866) 695-7480 Ext. 57409
Fax: 919-666-1391
Email: monica.martinez@mx.abb.com

Tony Amiri
Service Acct Manager
ABB Inc.
5401 Feather Court
Riverbank, CA 95367
Phone: 209 988 4446

Fax: 209 863 8204
Email: tony.j.amiri@us.abb.com

Additional technical specialists shall be assigned subject to the CONTRACT ADMINISTRATOR's approval.

ADD ARTICLE 5.3 TO READ AS FOLLOWS:

5.3 Unless otherwise provided or approved by the CITY, 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. CONTRACTOR agrees to remove personnel from performing work under this CONTRACT if requested to do so by the CITY.

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

NO CHANGE IN THIS ARTICLE

ARTICLE 7 - TERM OF AGREEMENT

MODIFY THIS ARTICLE TO READ AS FOLLOWS:

Unless otherwise provided, the term of this AGREEMENT shall begin on OCTOBER 1, 2014 (the "Effective Date") and shall expire five years from that Effective Date, unless terminated as provided under Article 8 or extended by amendment or change order to this AGREEMENT and signed by the parties.

ARTICLE 8 - TERMINATION

MODIFY ARTICLES 8.2, 8.3, 8.4, AND 8.5 TO READ AS FOLLOWS:

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 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, excluding attorney's fees, 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.

8.4 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 AGREEMENT, 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.

8.5 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.

ADD ARTICLES 8.8 AND 8.9 TO READ AS FOLLOWS:

8.8 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.

8.9 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 AGREEMENT.

ARTICLE 9 - COMPENSATION, INVOICING, AND PAYMENT

MODIFY ARTICLE 9.1.1 TO READ AS FOLLOWS:

9.1.1 "Cost" as used herein is defined as the sum of: (1) Billing Hourly Rates: (2) Other Direct Costs with no markup.

SCHEDULE OF HOURLY LABOR RATES

Specialist Classifications	Hourly Rate	Reimbursable Expenses	2014 Rate
Field Service Representative	20% off ABB SRS*	No	\$250.00
System Specialist, Sr. Service Engineer, or Systems Engineer	5% off ABB SRS*	Yes	\$280.00
Application/Process Consultant	5% off ABB SRS*	Yes	\$310.00
RTA (Regional Technical Advisor)	5% off ABB SRS*	Yes	\$310.00

* SRS is the ABB Standard Service Labor Rate Sheet published in January of each year.

MODIFY ARTICLE 9.4.e TO READ AS FOLLOWS:

- e) Fifteen (15) percent discount of all training at any of CONTRACTOR's facilities or training on-site.

ARTICLE 10 - INDEMNIFICATION AND INSURANCE

MODIFY ARTICLE 10.1 AND 10.2 TO READ AS FOLLOWS:

10.1 INDEMNIFICATION

Except for the active negligence or willful misconduct of CITY, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, CONTRACTOR undertakes and agrees to defend, indemnify and hold harmless CITY and any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (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 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 to the extent 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 shall survive expiration or termination of this AGREEMENT.

10.2 INSURANCE

During the term of this AGREEMENT 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 AGREEMENT 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 F 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 F, and which can also be found at the Board of Public Work's website: <http://bpw.lacity.org/Secretariat/Insurance.html>, in the form Instructions and Information on Complying with CITY Insurance Requirements, rev 05/12, 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 F hereto. EXHIBIT F is hereby incorporated by reference and made a part of this AGREEMENT.

ARTICLE 11 – AMENDMENTS, CHANGES OR MODIFICATIONS

NO CHANGE IN THIS ARTICLE

ARTICLE 12 - INDEPENDENT CONTRACTORS

NO CHANGE IN THIS ARTICLE

ARTICLE 13 - WARRANTY AND RESPONSIBILITY OF CONTRACTOR

NO CHANGE IN THIS ARTICLE

ARTICLE 14 - NONDISCRIMINATION AND AFFIRMATIVE ACTION

MODIFY THIS ARTICLE TO READ AS FOLLOWS:

14.1 NON-DISCRIMINATION

Unless otherwise exempt, this AGREEMENT is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The CONTRACTOR shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the

CITY. In performing this AGREEMENT, 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. Any subcontract entered into by CONTRACTOR, to the extent allowed hereunder, shall include a like provision for work to be performed under this AGREEMENT.

Failure of 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.

14.2 EQUAL EMPLOYMENT PRACTICES

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

A. During the performance of this AGREEMENT, CONTRACTOR agrees and represents that it will provide equal employment practices and 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 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. 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. CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of 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 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, 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 or medical condition.

D. 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 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 AGREEMENT 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 have been given to CONTRACTOR.

F. Upon a finding duly made that CONTRACTOR has failed to comply with the Equal Employment Practices provisions of a CITY contract, the AGREEMENT 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. 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 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, CONTRACTOR shall be disqualified from being awarded a contract with the CITY for a period of two years, or until CONTRACTOR shall establish and carry out a program in conformance with the provisions hereof.

G. Notwithstanding any other provision of this CONTRACT, the CITY shall have any and all other remedies at law or in equity for any breach hereof.

H. Intentionally blank.

I. Nothing contained in this AGREEMENT 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, CONTRACTOR shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of CITY Contracts.

K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

1. Hiring practices;

2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;

3. Training and promotional opportunities; and

4. Reasonable accommodations for persons with disabilities.

L. Any subcontract entered into by CONTRACTOR, to the extent allowed hereunder, shall include a like provision for work to be performed under this AGREEMENT. Failure of CONTRACTOR to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject 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.

14.3 AFFIRMATIVE ACTION PROGRAM

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

A. During the performance of a CITY contract, CONTRACTOR certifies and represents that 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 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. 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. CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of 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 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, CONTRACTOR shall certify on an electronic or hard copy form to be supplied, that 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 or medical condition.

D. 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 CONTRACTOR.

F. Upon a finding duly made that CONTRACTOR has breached the Affirmative Action Program provisions of a CITY contract, the AGREEMENT may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the CITY. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said 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 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 CONTRACTOR has been guilty of 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 CONTRACTOR by the CITY under the contract, a penalty of ten dollars (\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a CITY contract.

H. Notwithstanding any other provisions of a CITY contract, the CITY shall have any and all other remedies at law or in equity for any breach hereof.

I. Intentionally blank.

J. Nothing contained in CITY contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.

K. 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 AGREEMENT. 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, 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, CONTRACTOR must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the AGREEMENT 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. 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 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. Intentionally blank.

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 AGREEMENT 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 AGREEMENT with the CITY.

**ARTICLE 15 - MINORITY, WOMEN AND OTHER BUSINESS ENTERPRISE
OUTREACH PROGRAM**

NO CHANGE IN THIS ARTICLE

ARTICLE 16 - SUCCESSORS AND ASSIGNS

NO CHANGE IN THIS ARTICLE

ARTICLE 17 - CONTACT PERSONS – PROPER ADDRESSES – NOTIFICATIONS

NO CHANGE IN THIS ARTICLE

ARTICLE 18 - FORCE MAJEURE

NO CHANGE IN THIS ARTICLE

ARTICLE 19 - BREACH

NO CHANGE IN THIS ARTICLE

ARTICLE 20 - SEVERABILITY

NO CHANGE IN THIS ARTICLE

ARTICLE 21 - DISPUTES

NO CHANGE IN THIS ARTICLE

ARTICLE 22 - ENTIRE AGREEMENT

NO CHANGE IN THIS ARTICLE

ARTICLE 23 - APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT

MODIFY THIS ARTICLE TO READ AS FOLLOWS:

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the City of Los Angeles including but not limited to laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This AGREEMENT and its performance shall be enforced and interpreted under the laws of the State of California. All causes of action arising directly or indirectly from the business relationship evidenced by this AGREEMENT must be filed in the appropriate state or federal court located in Los Angeles county, California, and each party agrees to the subject of jurisdiction of the State of California regardless of their residence. CONTRACTOR shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this AGREEMENT. If any part, term or provision of this AGREEMENT shall

be held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this AGREEMENT, the validity of the remaining parts, terms or provisions of the AGREEMENT shall not be affected thereby.

ARTICLE 24 - CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED

MODIFY THIS ARTICLE TO READ AS FOLLOWS:

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, section 21.00 *et seq.* 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 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 CONTRACT ADMINISTRATOR.

ARTICLE 25 - CHILD SUPPORT ASSIGNMENT ORDERS

NO CHANGE IN THIS ARTICLE

ARTICLE 26 - SERVICE CONTRACTOR WORKER RETENTION AND LIVING WAGE ORDINANCES

MODIFY THIS ARTICLE TO READ AS FOLLOWS:

- 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 H 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. The 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 of compensated and uncompensated days off and health benefits, as defined in the LWO.
2. The 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 evidence of executed pledges from each such subcontractor shall 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. The 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 the LWO and 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). CONTRACTOR shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from CONTRACTOR.

ARTICLE 27 - AMERICANS WITH DISABILITIES ACT

NO CHANGE IN THIS ARTICLE

ARTICLE 28 - EQUAL BENEFITS ORDINANCE

MODIFY THIS ARTICLE TO READ AS FOLLOWS:

Unless otherwise exempt, this CONTRACT 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.

- A. During the performance of the CONTRACT, the CONTRACTOR certifies and represents that the CONTRACTOR will comply with the EBO.
- B. The failure of the CONTRACTOR to comply with the EBO will be deemed to be a material breach of this CONTRACT by the CITY.
- C. If the CONTRACTOR fails to comply with the EBO, the CITY may cancel, terminate or suspend this CONTRACT, in whole or in part, and all monies due or to become due under this CONTRACT may be retained by the CITY. The CITY may also pursue any and all other remedies at law or in equity for any breach.

- D. Failure to comply with the EBO may be used as evidence against CONTRACTOR in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.
- E. 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 CONTRACT. Violation of this provision may be used as evidence against CONTRACTOR in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.

The CONTRACTOR shall 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 its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles’ Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-2625.”

ARTICLE 29 - WAIVER

NO CHANGE IN THIS ARTICLE

ARTICLE 30 - PROHIBITION AGAINST ASSIGNMENT OR DELEGATION

NO CHANGE IN THIS ARTICLE

ARTICLE 31 - PERMITS

NO CHANGE IN THIS ARTICLE

ARTICLE 32 - CLAIMS FOR LABOR AND MATERIALS

NO CHANGE IN THIS ARTICLE

ARTICLE 33 - CONTRACTOR PERFORMANCE EVALUATION

NO CHANGE IN THIS ARTICLE

ARTICLE 34 - LIMITATION OF LIABILITY

NO CHANGE IN THIS ARTICLE

ARTICLE 35 - OWNERSHIP OF WORK PRODUCTS

NO CHANGE IN THIS ARTICLE

ARTICLE 36 - MUNICIPAL LOBBYING ORDINANCE

NO CHANGE IN THIS ARTICLE

ARTICLE 37 - BONDS

NO CHANGE IN THIS ARTICLE

ARTICLE 38 - CONTRACTOR RESPONSIBILITY ORDINANCE

MODIFY THIS ARTICLE TO READ AS FOLLOWS:

Unless otherwise exempt, this AGREEMENT is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 et seq., of the Los Angeles Administrative Code, as amended from time to time, 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 this 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. CONTRACTOR further agrees to: (1) notify the CITY within thirty (30) calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that 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 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 39 - SLAVERY DISCLOSURE ORDINANCE
NO CHANGE IN THIS ARTICLE

ARTICLE 40 – NON-INFRINGEMENT WARRANTY
NO CHANGE IN THIS ARTICLE

ARTICLE 41 – INTELLECTUAL PROPERTY INFRINGEMENT
NO CHANGE IN THIS ARTICLE

(ADD) ARTICLE 42- FIRST SOURCE HIRING ORDINANCE

Unless otherwise exempt in accordance with the provisions of this Ordinance, this CONTRACT is subject to the applicable provisions of the First Source Hiring Ordinance (FSHO), Section

10.44 et seq. of the Los Angeles Administrative Code, as amended from time to time.

CONTRACTOR shall, prior to the execution of the AGREEMENT, 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 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 AGREEMENT 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.

(ADD) ARTICLE 43 - COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470(c)(12) FOR MEASURE H/CONTRACTOR CONTRIBUTIONS/FUNDRAISING

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

Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions

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

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

(ADD) ARTICLE 44 – IRAN CONTRACTING ACT OF 2010

In accordance with California Public Contract Code Sections 2200-2208, all bidders submitting proposals for, entering into, or renewing contracts with the City of Los Angeles for goods and services estimated at \$1,000,000 or more are required to complete, sign, and submit the Iran Contracting Act of 2010 Compliance Affidavit.

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

CITY OF LOS ANGELES

By: _____

Title President, Board of Public Works

Date: _____

APPROVED AS TO FORM:

MICHAEL N. FEUER, City Attorney

By: _____

John A. Carvalho

Title: Deputy City Attorney

Date: _____

ATTEST

Holly Wolcott, Interim City Clerk

By: _____

Title: Deputy City Clerk

Date: _____

ABB INC.

By: _____

Scott Owen

Vice-President of Services

Title: _____

Date: _____

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MAYORS OFFICE

Fax:213-978-0690

JuI 16 2

10:48

P.02

INTER DEPARTMENTAL CORRESPONDENCE

DATE: May 11, 2007

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

ATTN: DAVID MORA FAX#: 213/978-0690

FROM: Charles Lee. Phone: (310) 648-5450 Fax: (310) 648-5772

Dept/Div: PW/Sanitation/ICSD E-mail: Charles.Lee@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: Services Agreement Between The City of LA and ABB Inc. (ABB) For Control Systems Support
- 2. This project will be advertised as an: X Sole Source Contract RFP RFQ Other:
- 3. Type of Contract: Procurement X Personal Services Construction
- 4. Projected total amount of the contract: \$2,000,000 Estimated duration of project: 5 Years
- 5. Significant Dates:
Estimated date of pre-bid or job walk meeting: N/A
Estimated date that bids or proposals are due: N/A
- 6. Recommendations:
MBE/WBE/OBE encouragement: X

Justify why encouragement:

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

Other: Justification: ABB, Inc. does not subcontract to or otherwise license any firm to provide services on the Symphony Distributed Control Systems. The hardware and software of the installed ABB systems are proprietary in design. ABB Inc. does not license the manufacture, sale, or repair of the Symphony Control Systems hardware to any other equipment manufacturer (OEM). With ABB Inc., being the single source delivering control system support to the installed ABB systems, this contract provides no available opportunities for MBE/WBE/OBE participation.

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

8. Is this a: X New Contract Renewal Other

9. Name of previous contractor: Length of previous contract Value of previous

TO: ATTN: Charles Lee
FROM: LA MBOC, MAYOR'S OFFICE OF ECONOMIC DEVELOPMENT
SUBJECT: RESPONSE TO ABOVE REQUEST

X Recommendation approved Available Subs CH Initials
Recommendation disapproved Available Opportunities Initials

Other/Comment:

By: [Signature] Date: 7/16/07 Tel. No. 213 978-0665