

## **TRANSMITTAL**

To:

Date: 07/14/2015

**THE COUNCIL**

From:

**THE MAYOR**

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

A blue ink signature consisting of several loops and curves, appearing to be the name Ana Guerrero.

(Ana Guerrero)

**ERIC GARCETTI**  
Mayor



Housing Development Bureau  
1200 West 7th Street, Los Angeles, CA 90017  
tel 213.808.8638 | fax 213.808.8610  
[hcida.lacity.org](http://hcida.lacity.org)

Eric Garcetti, Mayor  
Rushmore D. Cervantes, General Manager

July 8, 2015

Council File: New  
Council District: Citywide  
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Honorable Eric Garcetti  
Mayor, City of Los Angeles  
Room 303, City Hall  
200 N. Spring Street  
Los Angeles, CA 90012

Attention: Mandy Morales, Legislative Coordinator

**COUNCIL TRANSMITTAL: REQUEST FOR AUTHORITY TO ENTER INTO A PERSONAL SERVICES AGREEMENT WITH DAVID PAUL ROSEN AND ASSOCIATES AS SELECTED THROUGH A REQUEST FOR BIDS FOR RESIDUAL RECEIPTS LOAN POLICY ANALYSIS AND RECOMMENDATIONS**

**SUMMARY**

The Los Angeles Housing + Community Investment Department (HCIDLA) requests authorization to execute a Personal Services Agreement (PSA) with David Paul Rosen and Associates for the provision of residual receipts loan policy analysis and recommendations. HCIDLA fosters the development of affordable rental housing by issuing residual receipts loans through its Affordable Housing Trust Fund (AHTF). Residual receipts loans include repayment terms wherein the annual repayment amount is determined based upon the amount by which project income exceeds project expenses. In order to determine residual receipts loan payments, the audited financial statements of a project funded by the AHTF are reviewed to validate eligible expenses and calculate if residual amounts are available towards repayment of the AHTF loan. This type of residual receipts analysis is performed annually when the audited financial statements become available to calculate the loan repayment amount for that year.

Currently, HCIDLA oversees a portfolio of 759 residual receipts loans, including over 300 loans that transferred from the former Community Redevelopment Agency of the City of Los Angeles (CRA/LA). Multifamily residual receipts loan repayments are a primary source of program income generated by the HCIDLA loan portfolio and is part of the preservation and creation of affordable housing in the City.

Historically, the HCIDLA policies for determining residual receipts have differed from the former CRA/LA residual receipts policies. To develop more consistent policies that could apply to residual receipts loans issued from both agencies, HCIDLA issued a Request for Bids (RFB) for Residual Receipts

Loan Policy Analysis and Recommendations. HCIDLA received and scored proposals from two bidders, David Paul Rosen and Associates and Keyser Marston Associates, whose scores were 90 and 72, respectively. HCIDLA proposes to execute a PSA with David Paul Rosen and Associates, the bidder with the highest score, to provide services related to residual receipts loan policy analysis. The contract amount will not exceed \$24,999 and will be paid from Municipal Housing Finance Funds. The contract term will be for a six-month period. A copy of the draft PSA is provided in the Attachment.

## **RECOMMENDATIONS**

The General Manager of HCIDLA respectfully requests the following:

- I. That your office schedule this transmittal for consideration at the next available meeting(s) of the appropriate City Council committee(s) and forward it to the City Council for review and approval immediately thereafter;
- II. That the City Council, subject to the approval of the Mayor, take the following actions:
  - A. Authorize the HCIDLA General Manager, or designee, to execute a PSA with David Paul Rosen and Associates in an amount not to exceed \$24,999 for a six-month term, in substantial conformance with the Attachment to this report and subject to the approval of the City Attorney as to form;
  - B. Authorize the City Controller to establish and appropriate a new account within Fund 815, Municipal Housing Finance Fund, Department 43 as follows:

Account	Name	Amount
43M246	D P Rosen-Residual Receipts Policy Analysis	\$ 24,999.00

- C. Authorize the HCIDLA General Manager, or designee, to prepare Controller instructions and make any necessary technical adjustments consistent with Mayor and Council actions on this matter, subject to the approval of the City Administrative Officer, and authorize the Controller to implement these instructions.

## **BACKGROUND**

Residual receipts is a common loan type in public sector affordable housing lending. Public agencies, such as HCIDLA, provide residual receipts loans to support the development of affordable multifamily rental housing. Residual receipts loans are structured to allow for annual repayment to the extent that such repayment is feasible and does not jeopardize the long-term affordability and operation of an affordable housing project. Generally, residual receipts loans include repayment terms which provide for annual repayment of principal and interest from an affordable housing project's cash flow after other allowable expenses have been paid.

In 2013, the number of residual receipts loans in the HCIDLA loan portfolio increased by 75% when over 300 residual receipts loans transferred from the former CRA/LA. Currently, there are 759 residual receipts loans in the HCIDLA loan portfolio. During the period of April 1, 2014 to March 31, 2015, the residual

receipts loans generated over \$15 million in residual receipts program income to support the citywide affordable housing and community investment goals of HCIDLA.

#### RFB Evaluation Criteria and Scoring

In order to develop more uniform policies for determining residual receipts that are consistent with industry standards and balance appropriate and reasonable project expenses with maximizing the income generating potential for both the HCIDLA and former CRA/LA loans, HCIDLA issued the RFB for Residual Receipts Loan Policy Analysis and Recommendations on January 7, 2015. All bids for the RFB were solicited from the qualified list of contractors selected through the 2012 Request for Qualifications for Housing Studies and Services (C.F. 12-1470). RFB submissions were evaluated in the categories of: Experience; Past Work Product; Proposed Approach; and, Adequacy of Cost. The table below summarizes the scoring criteria used in the RFB for Residual Receipts Loan Policy Analysis and Recommendations.

<b>RFB Evaluation Criteria</b>	<b>Maximum Points</b>
EXPERIENCE - The quality and depth of the proposer's experience/capabilities and that of the assigned personnel as it relates to the subject area, including references.	25
PAST WORK PRODUCT - A general assessment of the ability of the proposer, as evidenced by past performance, to produce work and related deliverables that thoroughly address the requirement(s) of the subject area and do so in a timely manner.	25
PROPOSED APPROACH - The adequacy of the proposer's plan for undertaking the work.	25
ADEQUACY OF COST - Reasonably and competitively priced costs.	25
<b>Total Points</b>	<b>100</b>

HCIDLA received proposals from two bidders on January 28, 2015 - David Paul Rosen and Associates and Keyser Marston Associates. Proposals were reviewed by a panel of HCIDLA staff members consisting of an Accountant, Finance Development Officer and Community Housing Program Manager. The range of staff knowledge and experience included, but was not limited to: accounting, residual receipts loan analysis, real estate evaluation, and knowledge of federal and state housing rules and regulations. The proposals were scored by each panel member, and those scores were averaged and ranked. The highest score of 90 was awarded to David Paul Rosen and Associates while the next highest score of 72 was awarded to Keyser Marston Associates. Proposers were informed of their final scores and advised of the opportunity to appeal the results. No appeals were submitted in accordance with the terms of the RFB.

#### Recommended Contractor and Scope of Work

Based upon the evaluation and scoring of the proposals, HCIDLA recommends entering into a PSA with David Paul Rosen and Associates to commence on or about September 1, 2015 for a six-month period for an amount not to exceed \$24,999. The scope of work to be provided by the contractor shall include the following:

1. Review and summarize residual receipts portfolio characteristics with respect to: size of portfolio, distribution of project types, annual residual receipt collections, delinquencies, timeliness of reviews and collections and nature of borrower disputes.
2. Review HCIDLA's current policies, procedures and staffing and provide a comprehensive written analysis pertaining to HCIDLA's policies on residual receipts loans. In performing this task, the contractor will interview key staff and review written loan policy materials. The contractor will use staff interviews to become familiar with current practices and to solicit staff suggestions for revisions to these practices.
3. Review residual receipt collection policies of other public agencies, including the Community Development Commission of the County of Los Angeles (CDC) and California Housing and Community Development Department (Cal HCD) for consistency with, and departure from, HCIDLA practices. Recommend areas to improve consistency with CDC and Cal HCD who frequently participate as lenders in HCIDLA-financed transactions and share in residual receipts collections.
4. Summarize the contractor's nationwide review of residual receipts loan collection best practices among major affordable housing lenders.
5. Review the HCIDLA asset management/loan portfolio database to determine its adequacy as a tool for residual receipts analysis, general portfolio monitoring and asset management decision-making. Determine the capacity of the database system for timely tracking and reporting of key property performance variables such as operating expenses, rents, vacancy rates, debt coverage and reserves.
6. Prepare written policies and procedures to guide residual receipts loan analysis and collections. This document will include guidance regarding cash or accrual methodologies for calculating residual receipts, expense analysis, reserve withdrawals, payment of deferred developer fees and payment of partnership fees such as asset management and incentive management fees. The policies and procedures guidelines will also propose owner reporting requirements such as financial audit standards and/or additional reporting requirements such as annual income/expense and withdrawal schedules to supplement audits.
7. Prepare a recommendations memo regarding other initiatives, actions and policies for improving residual receipts collections. Such recommendations may include: database and other information technology improvements; improved coordination with CDC and Cal HCD; operating expense standards by property type; and, incentives that encourage owners to provide timely and accurate reporting of residual receipts. Contractor will also, as appropriate, propose language for HCIDLA loan documents related to reporting requirements and residual receipts collections.

#### **FISCAL IMPACT STATEMENT**

There is no impact to the General Fund. The recommendations in this report will authorize HCIDLA to enter into a PSA for residual receipts loan policy consulting services to be paid from the Municipal Housing Finance Fund in an amount not to exceed \$24,999.

Prepared By:

Helen Villagomez  
HELEN VILLAGOMEZ  
Finance Development Officer I

Reviewed By:

Douglas Swoger  
DOUGLAS SWOGER  
Director, Asset Management

Reviewed By:

Helmi Hisserich *pot*  
HELMI HISSERich *pot*  
Assistant General Manager

Reviewed By:

Laura Guglielmo  
LAURA K. GUGGIELMO  
Executive Officer

Approved By:

Rushmore D. Cervantes  
RUSHMORE D. CERVANTES  
General Manager

Attachment: Draft Personal Services Agreement with David Paul Rosen and Associates

**CITY OF LOS ANGELES**

**PERSONAL SERVICES AGREEMENT**

Agreement No.

Project /Program Title:

Contractor: David Paul Rosen & Associates

Type of Organization: For Profit - Sole Proprietor

State Corporate Number:

D-U-N-S® Number: 606062842

CFDA Number: HOME – 14.239

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## EXHIBITS

Exhibit A	Indemnification and Insurance Requirements
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Exhibit C	Certification Regarding Lobbying
Exhibit D	Notice of Prohibition Against Retaliation
Exhibit E	Management Representation
Exhibit F	Fee Schedule

AGREEMENT NUMBER \_\_\_\_\_ OF CITY CONTRACTS  
BETWEEN  
THE CITY OF LOS ANGELES  
AND  
DAVID PAUL ROSEN & ASSOCIATES

THIS AGREEMENT is made and entered into by and between the City of Los Angeles, a municipal corporation hereinafter called the City, by and through the Housing and Community Investment Department of the City of Los Angeles and **David Paul Rosen & Associates**, a Sole Proprietor, hereinafter called the Contractor.

WITNESSETH

WHEREAS, the Los Angeles Housing and Community Investment Department, hereinafter referred to as the HCID, is charged with the development of citywide housing policy and with supporting safe and livable neighborhoods through the promotion, development and preservation of decent and affordable housing; and

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

WHEREAS, the monitoring of developer adherence to agreements guaranteeing the long term provision of affordable housing to qualified households is a necessary function mandated by program funding sources; and

WHEREAS, the project which is the subject of this agreement, hereinafter called the Agreement, has been established by the City as one of the above described programs, and has been funded in the HCID budget by the U.S. Department of Housing and Urban Development (Grantor/HUD) with HOME funds and the Municipal Housing Finance Fund (MHFF); and

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

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

WHEREAS, the City and the Contractor are desirous of executing this Agreement as authorized by the City Council and the Mayor (refer to Council File Number \_\_\_\_\_ approved on \_\_\_\_\_ and \_\_\_\_\_ respectively) which authorizes the General Manager of the Los Angeles Housing and Community Investment Department to prepare and execute the Agreement.

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

## INTRODUCTION

### §101. Parties to the Agreement

- The parties to this Agreement are:
- A. The City of Los Angeles, a municipal corporation, having its principal office at 200 North Spring Street, Los Angeles, California 90012.
  - B. The Contractor known as David Paul Rosen & Associates, having its principal office at 1330 Broadway, Suite 937, Oakland, CA 94612.

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

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

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

Rushmore D. Cervantes, General Manager  
Housing and Community Investment Department  
1200 West 7<sup>th</sup> Street, 9<sup>th</sup> Floor  
Los Angeles, CA 90017

With copies to:  
Vasken Djansezian  
Community Housing Programs Manager  
LA Housing and Community Investment Department  
1200 West 7th Street, 9th Floor  
Los Angeles, CA 90017

2. The representative of the Contractor shall be:

David Paul Rosen, Principal I  
1330 Broadway, Suite 937  
Oakland, CA 94612

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

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

### §103 Independent Contractor

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

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

- A. Contractor shall provide copies of the following documents to the City:
  - . Proof of insurance as required by the City in accordance with Section §414 of this Agreement and attached hereto as Exhibit I and made a part hereof.
- B. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions as required by Executive Orders 12549 and 12689 29 CFR Parts 97.35 and 98.510 in accordance with §416.A.1.a.(13) of this Agreement and attached hereto as Exhibit J and made a part hereof.
- C. Certification Regarding Lobbying in accordance with §416.A.1.a.4.(b) of this Agreement and attached hereto as Exhibit K and made a part hereof. Contractor shall also file a Disclosure Form at the end of each calendar quarter in which there occurs any event requiring disclosure or which materially affects the accuracy of the information contained in any Disclosure Form previously filed by Contractor.
- D. A Notice of Prohibition Against Retaliation attached as Exhibit L to this Agreement - Contractor shall comply with the requirements of the Notice of Prohibition Against Retaliation as it relates to the Living Wage Ordinance.
- E. A Management Representation statement fully executed in accordance with City's fiscal policies and attached hereto as Exhibit N and made a part of hereof.
- F. A Certification of Compliance with the Living Wage Ordinance Service Contractor Worker Retention and Living Wage Policy in accordance with §419.
- G. City of Los Angeles Affirmative Action Plan, a copy of which is located at <http://bca.lacity.org/site/pdf/aa/aaformwo.pdf>
- H. A Certification of Compliance With Equal Benefits Ordinance/Reasonable Measures Application for Equal Benefits Ordinance in accordance with §421 of this Agreement and the Slavery Disclosure Ordinance in accordance with §423.
- I. Contractor shall submit a Code of Conduct to the City for approval and that it must meet the requirements of §415 Conflict of Interest of the Agreement.

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

**§201. Time of Performance**

The term of this Agreement shall commence on \_\_\_\_\_ and end \_\_\_\_\_, with an option to renew for \_\_\_\_\_ terms, subject to funding availability, Contractor's continuing compliance with applicable Federal, State and local government legislation, and satisfactory Contractor's performance. Said term is subject to the provisions herein. Performance shall not commence until the Contractor has obtained the City's approval of the insurance required in §414 herein

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

- A. The Contractor shall provide contractual services, as specified in this section. All work is subject to prior City approval. Failure to receive approval may result in withholding compensation pursuant to §301. The following scope of services shall be provided:
  - 1. Review and summarize residual receipts portfolio characteristics with respect to:

- 1.1. Size of portfolio (including loan amounts and number of loans);
  - 1.2. Distribution of project types (i.e., large family, special needs, senior);
  - 1.3. Annual residual receipts collections for preceding 5 years;
  - 1.4. Delinquencies;
  - 1.5. Timeliness of reviews and collections; and
  - 1.6. Number, frequency and nature of owner appeals.
2. Review HCIDLA's current policies, procedures and staffing and provide a comprehensive written analysis pertaining to HCIDLA's policies on residual receipts loans. In performing this task, Contractor will interview key staff and review written material. Contractor will use staff interviews to familiarize itself with current practices and to solicit staff suggestions for revisions to these practices.
  - 2.1. Review written material regarding asset management guidelines and procedures for residual receipts collections.
  - 2.2. Determine adequacy of current asset management staffing ratios.
  - 2.3. Review HCIDLA policies and practices for reviewing and determining the appropriateness of project operating expenses by project type (e.g., family, senior, special needs).
  - 2.4. Review current financial audit review and residual receipts calculation methodologies.
3. Review residual receipt collection policies of the Community Development Commission of the County of Los Angeles (CDC) and Cal HCD for consistency with (and departure) from HCIDLA practices. Recommend areas to improve consistency with CDC and Cal HCD who frequently participate as lenders in HCIDLA-financed transactions and share in residual receipts collections.
4. Summarize Contractor's nationwide review of residual receipts loan collection best practices among major affordable housing lenders. Contractor will also consult with NCSHA and NAAHL for affordable housing lender referrals.
5. Review HCIDLA's asset management/loan portfolio database to determine its adequacy as a tool for residual receipts analysis, general portfolio monitoring and asset management decision-making. Determine the capacity of the database/IT system for timely tracking and reporting of key property performance variables such as operating expenses, rents, vacancy rates, debt coverage and reserves. Contractor will conduct its review through staff interviews and a review of asset management reports and database.
6. Prepare written policies and procedures to guide residual receipts loan analysis and collections. This document will include guidance regarding cash or accrual methodologies for calculating residual receipts; expense analysis; reserve withdrawals; payment of deferred developer fees and partnership fees such as asset management and incentive management fees. The policies and procedures guidelines will also propose owner reporting requirements such as financial audit standards and/or additional reporting requirements such as annual income/expense and withdrawal schedules to supplement audits.

7. Prepare a recommendations memo regarding other initiatives, actions and policies for improving residual receipts collections. Such recommendations may include database and other IT improvements; improved coordination with CDC and Cal HCD; operating expense standards by property type; and owner incentives that encourage owners to provide timely and accurate reporting of residual receipts. Contractor will also, as appropriate, propose language for HCIDLA loan documents related to reporting requirements and residual receipts collections.
- B. Pursuant to Los Angeles Administrative Code 10.39 City Contractor Evaluations, HCID will evaluate the Contractor's work performance based on timeliness, adherence to financial terms and billing accuracy, communication, responsiveness and expertise. HCID will use performance reviews in determining contract extensions, evaluating future proposals and in awarding other contracts.

### 3. PAYMENT

#### §301 Compensation and Method of Payment

- A. The City shall pay to the Contractor as compensation for complete and satisfactory performance of the terms of this Agreement, an amount not to exceed Twenty-Four Thousand Nine Hundred Ninety Nine Dollars (\$24,999) at the rate of Three Hundred and Forty (\$340) dollars an hour, according to Exhibit F, Fee Schedule. The foregoing rate represents the total compensation to be paid by City to Contractor for services to be performed as designated by this Agreement.
- B. The Contractor shall submit monthly invoices to the Los Angeles Housing and Community Investment Department (HCID) by the 20th day of the month for projects monitored and work performed at HCID's request during the previous month. Each project in the Affordable Housing Database may be billed only once during the calendar year upon completion of annual monitoring. Exceptions may be made upon advance written approval by HCID.
- C. Ten percent (10%) of the total compensation shall be withheld by the City until the Contractor has completed the requirements of this Agreement.
- D. It is understood that the City makes no commitment to fund this Agreement beyond the terms set herein.
- E. Invoices and supporting 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. The City may request, in writing, changes to the content and format of the invoice and supporting documentation at any time. The City reserves the right to request additional supporting documentation to substantiate costs at any time. All invoices must be signed by an officer of the Contractor under penalty of perjury that the information submitted is true and correct.
- F. Funding for all periods of this contract is subject to the continuing availability of federal funds for this program to the City. The Contract may be terminated immediately upon written notice to the Contractor of a loss or reduction of federal grant funds.
- G. Contractor shall warrant that any applicable discounts have been included in the costs to the City.
- H. Contractor acknowledges that it is aware of liabilities resulting from submitting a false claim for

payment by the City under the False Claims Act (Cal. Gov. Code §§12650 et seq.), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

#### 4. STANDARD PROVISIONS

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

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

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

- A. Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the City. This Agreement shall be enforced and interpreted under the laws of the State of California and the City.
- B. In any action arising out of this Contract, Contractor consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.
- C. If any part, term or provision of this Agreement shall be held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this Agreement, the validity of the remaining portions of provisions shall not be affected thereby.

##### §403 Integrated Agreement

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

##### §404 Excusable Delays

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

##### §405 Breach

Except for excusable delays, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any

aggrieved party may avail itself of all rights and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

**§406 Prohibition Against Assignment or Delegation**

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

**§407 Permits**

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

**§408 Nondiscrimination and Affirmative Action**

- A. The Contractor shall comply with the applicable nondiscrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the City. In performing this Agreement, the Contractor shall not discriminate in its employment practices against any employee or applicant for employment, denial of family and medical care leave; denial of pregnancy disability leave or reasonable accommodations against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sexual identity, sexual orientation, gender identity, transgender status, age, physical handicap, mental disability, marital status, domestic partner status, medical condition, citizenship, and political affiliation or belief. The Contractor shall comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
- B. The Contractor shall comply with the provisions of the Los Angeles Administrative Code §10.8 through 10.13, to the extent applicable hereto. If this Agreement contains a consideration in excess of One Thousand Dollars (\$1,000) but not more than One Hundred Thousand Dollars (\$100,000), the Equal Opportunity practices provisions of this Agreement shall be the mandatory contract provisions set forth in Los Angeles Administrative Code §10.8.3, in which event said provisions are incorporated herein by this reference. If this Agreement contains a consideration in excess of One Hundred Thousand Dollars (\$100,000), the Affirmative Action Program of this Agreement shall be the mandatory contract provisions set forth in Los Angeles Administrative Code §10.8.4, in which event said provisions are incorporated herein by this reference. The Contractor shall also comply with all rules, regulations, and policies of the City's Board of Public Works, Office of Contract Compliance relating to nondiscrimination and affirmative action, including the filing of all forms required by City.
- C. Any subcontract entered into by the Contractor relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this section.
- D. No person shall on the grounds of race, ancestry, color, citizenship, national origin, sex, sexual orientation, gender identity, transgender status, age, physical handicap, mental disability, medical condition, marital status or domestic partner status, political affiliation or belief be excluded from participation in, be denied the benefit of, or be subjected to discrimination under this program/project. For purposes of this Section, Title 24 Code of Federal Regulations Part

107 and Section 570.601(b) defines specific discriminatory actions that are prohibited and corrective action that shall be taken in situation as defined therein.

## **§409 EQUAL EMPLOYMENT PRACTICES**

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

- A. During the performance of this contract, 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, gender identity, transgender status 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, gender identity, transgender status 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, ancestry, national origin, sex, sexual orientation, gender identity, transgender status 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. Contractor shall, upon request, provide evidence that it 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 Contractor.
- F. Upon a finding duly made that 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. In addition 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. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- I. 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.
- J. 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.
- K. Any subcontract entered into by Contractor, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. 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 Contract with the City.

#### §410 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 matter produced by the Contractor hereunder), against the Contractor's rights to payments hereunder, or against the City, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

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

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

## §412 Bonds

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

## §413 Indemnification

Except for the active negligence or willful misconduct of City, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, Contractor/Consultant undertakes and agrees to defend, indemnify and hold harmless City and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including Contractor's/Consultant's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement by the Contractor/Consultant or its subcontractors of any tier. Rights and remedies available to the City under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the City. The provisions of Section 412 shall survive expiration or termination of this Contract.

## §414 Insurance

### A. General Conditions

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

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

B. Modification of Coverage

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

C. Failure to Procure Insurance

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

D. Workers' Compensation

1. By signing this Agreement, Contractor/Consultant hereby certifies that it is aware of the provisions of §3700 *et seq.*, of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all such times as they may apply during the performance of the work pursuant to this Agreement.
2. A Waiver of Subrogation in favor of City will be required when work is performed on City premises under hazardous conditions.

**§415 Conflict of Interest**

A. No City-funded Employees as Board Members

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

B. Code of Conduct

1. The City requires that all Contractors/Sub-Contractors adopt a Code of Conduct which at minimum reflects the constraints discussed in HCID Directive FY12-0001. No Agreements and/or Amendments will be executed without City approval of this Code of Conduct.
2. Further, the City requires compliance with the following conflict of interest requirements for all City funded contractors.

C. Conflict of Interest

1. Prior to obtaining the City's approval of any subcontract, the Contractor shall disclose to the City any relationship, financial or otherwise, direct or indirect, of the Contractor or any of its officers, directors or employees or their immediate family with the proposed subcontractor and its officers, directors or employees.
  2. The Contractor covenants that none of its directors, officers, employees, or agents shall participate in selecting, or administrating any subcontract supported (in whole or in part) by City funds (regardless of source) where such person is a director, officer, employee or agent of the subcontractor; or where the selection of subcontractors is or has the appearance of being motivated by a desire for personal gain for themselves or others such as family business, etc.; or where such person knows or should have known that:
    - a. A member of such person's immediate family, or domestic partner or organization has a financial interest in the subcontract;
    - b. The subcontractor is someone with whom such person has or is negotiating any prospective employment; or
    - c. The participation of such person would be prohibited by the California Political Reform Act, California Government Code §87100 *et seq.* if such person were a public officer, because such person would have a "financial or other interest" in the subcontract.
3. Definitions:
- a. The term "immediate family" includes, but is not limited to, domestic partner and/or those persons related by blood or marriage, such as husband, wife, father, mother, brother, sister, son, daughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, and daughter-in-law.
  - b. The term "financial or other interest" includes, but is not limited to:
    - (1) Any direct or indirect financial interest in the specific contract, including a commission or fee, a share of the proceeds, prospect of a promotion or of future employment, a profit, or any other form of financial reward.
    - (2) Any of the following interests in the subcontractor ownership: partnership interest or other beneficial interest of five percent (5%) or more; ownership of five percent (5%) or more of the stock; employment in a managerial capacity; or membership on the Board of Directors or governing body.

- c. A subcontract is any agreement entered into by Contractor for the purchase of goods or services with any funds provided by this Agreement.
- D. Minutes of Board Meetings must reflect disclosure of transactions where Board Members may have had a direct or indirect interest/benefit in the action.
- E. No director, officer, employee (or agent) of the Contractor may be on the Board of Directors if they receive any financial benefit provided by any City Agreement.
- F. The Contractor further covenants that no officer, director, employee, or agent shall solicit or accept gratuities, favors, anything of monetary value from any actual or potential subcontractor, supplier, a party to a sub agreement, (or persons who are otherwise in a position to benefit from the actions of any officer, employee, or agent).
- G. The Contractor shall not subcontract with a former director, officer, or employee within a one (1) year period following the termination of the relationship between said person and the Contractor.
- H. For further clarification of the meaning of any terms used herein, the parties agree that references shall be made to the guidelines, rules, and laws of the City of Los Angeles, State of California, and Federal regulations regarding conflict of interest.
- I. The Contractor warrants that it has not paid or given and will not pay or give to any third person, any money or other consideration for obtaining this Agreement.
- J. The Contractor covenants that no member, officer or employee of Contractor shall have interest, direct or indirect, in any contract or subcontract or the proceeds thereof for work to be performed in connection with this project during his/her tenure as such employee, member or officer or for one (1) year thereafter.
- K. The Contractor shall incorporate the foregoing subsections of this Section into every agreement that it enters into in connection with this project, and shall substitute the term "subcontractor" for the term "Contractor" and "sub-subcontractor" for "Subcontractor".
- L. The Contractor warrants that it has adopted and shall comply with the Code of Conduct, as approved by the City that meets the foregoing requirements.

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

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

##### 1. Statutes and Regulations Applicable To All Grant Contracts

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

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

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

(2) Single Audit Act

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

(3) Americans with Disabilities Act

Contractor hereby certifies that it will comply with the Americans with Disabilities Act, 42 USC §12101 et seq., and its implementing regulations (ADA), the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), Pub. L. 110-325 and all subsequent amendments, Section 504 of the Rehabilitation Act of 1973 (Rehab. Act), as amended, 29 USC 794 and 24 CFR Parts 8 and 9, the Uniform Federal Accessibility Standards (UFAS), 24 CFR, Part 40, and the Fair Housing Act, 42 U.S.C. 3601, et seq.; 24 CFR Parts 100, 103, and 104 (FHA) and all 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 ADA, the ADAAA, the Rehab Act, the UFAS and the FHA and all subsequent amendments. Contractor will not discriminate against persons with disabilities or against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by the Contractor, relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

(4) Political and Sectarian Activity Prohibited

(a) None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office. Neither shall any funds provided under this Agreement be used for any purpose designed to support or defeat any pending legislation or administrative regulation. None of the funds provided pursuant to this Agreement shall be used for any sectarian purpose or to support or benefit any sectarian activity.

(b) If this Agreement provides for more than \$100,000.00 in grant funds or more than \$150,000 in loan funds, Contractor shall submit to the City a Certification Regarding Lobbying and a Disclosure Form, if required, in accordance with 31 USC 1352. A copy of the Certificate is attached hereto as Exhibit K. No funds will be released to Contractor until the Certification is filed.

(c) Contractor shall file a Disclosure Form at the end of each calendar quarter in which there occurs any event requiring disclosure or which materially affects the accuracy of any of the information contained in any Disclosure Form previously filed by Contractor. Contractor shall require that the language of this Certification be included in the award documents for all subawards at all tiers and that all subcontractors shall certify and disclose accordingly.

(5) Records Inspection

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

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

(6) Records Maintenance

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

(7) Subcontracts and Procurement

(a) Contractor shall comply with the Federal and City standards in the award of any subcontracts. For purposes of this Agreement, subcontracts shall include, but not be limited to, purchase agreements, rental or lease agreements, third party agreements, consultant service contracts and construction subcontracts.

(b) Contractor shall ensure that the terms of this Agreement with the City are incorporated into all Subcontractor Agreements. The Contractor shall submit all subcontractor agreements to the City for review prior to the release of any funds to the subcontractor. The Contractor shall withhold funds to any subcontractor agency that fails to comply with the terms and conditions of this Agreement and their respective Subcontractor Agreement.

(8) Labor

(a) Contractor shall comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed requirements for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System Personnel Administration (5 C.F.R. 900, Subpart F).

(b) Contractor shall comply, as applicable, with the provision of the Davis-Bacon Act (40 U.S.C. §§276a-276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

(c) Contractor shall comply with the Federal Fair Labor Standards Act (29 USC §201) regarding wages and hours of employment.

(d) None of the funds shall be used to promote or deter Union/Labor organizing activities. (California Government Code Sec. 16645 *et seq.*)

(e) Contractor shall comply with the Hatch Act (5 USC §§1501-1508 and 7324-7328).

(9) Civil Rights

Contractor shall comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352, 42 U.S.C. §2000d, which prohibits discrimination on the basis of race, color, or national origin and its implementing regulations and as applied through Executive Order No. 13166, entitled "'Improving Access to Services for Persons with Limited English Proficiency' ("LEP"), which requires recipients of federal funds, including Contractor, to take reasonable steps to insure meaningful access to its programs and activities by person with LEP as more fully described in HUD's final guidance contained in Federal Register, Volume 72, No. 13 (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794, 45 CFR, Part 84), which prohibits discrimination on the basis of handicaps; (d) The Age Discrimination act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation act of 1970 (P.L. 91-616) as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; (j) the requirements of any other nondiscrimination statute(s) which may apply to the application; (k) P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance; (l) Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (42 U.S.C. 2000e); (m) the Americans with Disabilities Act, 42 USC §12101 et seq., and the Americans with Disabilities Act Amendments Act, Pub.L.110-325; and (n) the Genetic Information Nondiscrimination Act of 2008 (GiNA) P.L. 110-233;

(10) Relocation Requirements

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

(b) Contractor shall comply with §104(d) of the Housing and Community Development Act of 1974 (HCD Act). When applicable, §104(d)(2)(A)(iii) of the HCD Act provides relocation assistance to lower-income persons who are displayed as a direct result of the demolition of any dwelling unit or the conversion of a lower-income dwelling unit to a use other than a lower-income dwelling in connection with an assisted project. Section 104(d)(2)(A)(i) provides that certain lower-income dwelling units that are demolished or converted to a use other than as lower-income housing be replaced "one-for-one."

(11) Environmental

(a) Contractor shall comply, or has already complied, with the requirements of Titles II and III of the Uniform relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is

acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

(b) Contractor shall comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205); (i) Flood Disaster Protection Act of 1973 §102(a) (P.L. 93-234); and (j) §508 of the Clean Water Act (38 U.S.C. 1368).

(c) Contractor shall comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

(d) Contractor shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4822 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

(e) Contractor shall comply with the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) which restores and maintains the chemical, physical and biological integrity of the Nation's waters.

(f) Contractor shall ensure that the facilities under its ownership, lease or supervision, which shall be utilized in the accomplishment of this project, are not listed in the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal Grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

(g) By signing this Agreement, Contractor ensures that it is in compliance with the California Environmental Quality Act (CEQA), Public Resources Code §21000 et seq. and is not impacting the environment negatively.

(12) Preservation.

Contractor shall comply with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

(13) Suspension and Debarment

Contractor shall comply with Federal Register, Volume 68, Number 228, regarding Suspension and Debarment, and Contractor shall submit a Certification Regarding Debarment required by Executive Orders 12459 and 12689, and any amendment thereto. Said Certification shall be submitted to the City concurrent with the execution of this Agreement and shall certify that

neither Contractor nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department head or agency. Contractor shall require that the language of this Certification be included in the award documents for all sub-award at all tiers and that all subcontractors shall certify accordingly.

(14) Drug-Free Workplace

Contractor shall comply with the Federal Drug-Free Workplace Act of 1988, 41 USC §701, 28 CFR Part 67; the California Drug-Free Workplace Act of 1990, California Government Code §§ 8350-8357.

(15) Animal Welfare

(a) Contractor shall comply with the Laboratory Animal Welfare Act of 1966, as amended (P.L. 89-544, 7 USC §§2131 *et seq.*)

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

(16) Faith Based Activities

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

(17) Pro-Children Act of 1994

(a) Contractor must comply with Public Law 103-227, Part C- Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act). This Act requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State and local governments. Federal programs include grants, cooperative agreements, loans or loan guarantees, and contracts. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug and alcohol treatment.

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

(18) American-Made Equipment Products

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

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

B. Statutes and Regulations Applicable To This Particular Grant

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

- a. The HOME Investment Partnerships Program Act 24 CFR Part 92 et seq.
- b. Contractor shall comply with the provisions of the California Child Abuse and Neglect Reporting Act, CA Penal Code §11164 et seq. and specifically §§11165.7, 11165.9, 11166.

C. Statues and Regulations Applicable to all HUD Funded Agreements:

1. Equal Access to HUD-Assisted or Insured Housing

(a) Eligibility for HUD-Assisted or Insured Housing:

A determination of eligibility for housing that is assisted by HUD or subject to a mortgage insured by the Federal Housing Administration (FHA) shall be made in accordance with the eligibility requirements provided for such program by HUD, and such housing shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status. The terms "sexual orientation" and "gender identity" are defined in 24 CFR §5.100.

(b) Prohibition of Inquiries on Sexual Orientation or Gender Identity:

No owner or administrator of HUD-assisted or HUD-insured housing, approved lender in an FHA mortgage insurance program, nor any (or any other) recipient or subrecipient of HUD funds may inquire about the sexual orientation or gender identity of an applicant for, or occupant of, HUD-assisted housing or housing whose financing is insured by HUD, whether renter- or owner-occupied, for the purpose of determining eligibility for the housing or otherwise making housing available.

This prohibition on inquiries regarding sexual orientation or gender identity does not prohibit an individual from voluntarily self-identifying sexual orientation or gender identity. This prohibition on inquiries does not prohibit lawful inquiries of an applicant or occupant's sex where the housing provided or to be provided to the individual is temporary, emergency shelter that involves the sharing of sleeping areas or bathrooms, or inquiries made for the purpose of determining the number

of bedrooms to which a household may be entitled. The term "household" is defined in 24 CFR §570.3.

#### D. Traveling Expenses

Contractor as provided herein shall be compensated for Contractor's reasonable travel expenses incurred in the performance of this Agreement, to include travel and per diem, unless otherwise expressed. Contractor's total travel for in-State and/or out-of-State and per diem costs shall be included in the contract budget(s). All travel including out-of-State travel not included in the budget(s) shall not be reimbursed without prior written authorization from HCID.

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

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

#### §418 Inventions, Patents and Copyrights

##### A. Reporting Procedure for Inventions

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

##### B. Rights to Use Inventions

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

##### C. Copyright Policy

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

2. The Grantor shall have an unencumbered right, and a non-exclusive, irrevocable, royalty-free license, to use, manufacture, improve upon, and allow

others to do so for all government purposes, any Material developed under this Agreement or any Copyright purchased under this Agreement.

D. Rights to Data

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

E. Trade Secrets

Recognizing that City has no way to safeguard trade secrets or proprietary information, Contractor shall and does hereby keep and bear City harmless from all damages, costs, and expenses by reason of any disclosure by City of trade secrets and proprietary information. City shall not require Contractor to provide technical information that is proprietary to him, except as is requested by City to successfully complete the project that is the subject of the Agreement.

F. Obligations Binding on Subcontractors

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

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

A. Unless otherwise exempt in accordance with the provisions of this Ordinance, this contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), §10.37 et seq. of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), §10.36 et seq., of the Los Angeles Administrative Code, as amended from time to time. The Ordinances require the following:

1. Contractor/Consultant assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of benefits as defined in the LWO;
2. Contractor/Consultant further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. Contractor/Consultant shall require each of its Subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. Contractor/Consultant shall deliver the executed pledges from each such subcontractor to the City within ninety (90) days of the execution of the Subcontract. Contractor's/Consultant's delivery of executed pledges from each such Subcontractor shall fully discharge the obligation of the Contractor/Consultant to comply with the provision in the LWO contained in §10.37.6(c) concerning compliance with such federal law.
3. The Contractor/Consultant, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the City with regard to the employer's compliance or anticipated compliance with the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. Contractor/Consultant shall post the Notice of Prohibition Against Retaliation provided by the City.

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

#### §420 Earned Income Tax Credit

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

#### §421 Equal Benefits Ordinance

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

"During the performance of a Contract with the City of Los Angeles, the Contractor/Consultant will provide equal benefits to employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles' Equal Benefits Ordinance may be obtained from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance, Equal Employment Opportunities Enforcement Section at (213) 847-1922."

- C. The failure of the Contractor/Consultant to comply with the EBO will be deemed to be a material breach of the Contract by the Awarding Authority.
- D. If the Contractor/Consultant fails to comply with the EBO the Awarding Authority may cancel, terminate or suspend the Contract, in whole or in part, and all monies due or to become due under the Contract may be retained by the City. The City may also pursue any and all other remedies at law or in equity for any breach.
- E. Failure to comply with the EBO may be used as evidence against the Contractor/Consultant in actions taken pursuant to the provisions of Los Angeles Administrative Code §10.40 et seq., Contractor Responsibility Ordinance.
- F. If the Office of Contract Compliance determines that a Contractor/Consultant has set up or used its Contracting entity for the purpose of evading the intent of the EBO, the Awarding Authority may terminate the Contract on behalf of the City. Violation of this provision may be used as evidence against the Contractor/Consultant in actions taken pursuant to the provisions of Los Angeles Administrative Code §10.40 et seq., Contractor Responsibility Ordinance.

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

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

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

This contract may be subject to the Slavery Disclosure Ordinance as codified in the Los Angeles Administrative Code §10.41 et seq. in the future. If so, Contractor will be notified of the applicability by the City.

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

Any reports, analysis, studies, drawings, information, or data generated as a result of this Agreement are to be considered as confidential. Such information shall not be made available

to any individual, agency, or organization except as provided for in this Agreement or as provided by law.

#### §425 Child Support Assignment Orders

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

#### §426 Contractor's Personnel

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

#### §427 Warranty and Responsibility of Contractor

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

- A. Contractor hereby certifies that by signing this Agreement, Contractor and subcontractor staff working with youth, either as employees or volunteers, who have a supervisory or disciplinary authority over minors must be fingerprinted and pass the background check, as required by California Penal Code §11105.3 and California Education Code §45125.1 and §10911.5. Fingerprinting and a background check may be required of other staff

and volunteers depending upon how much contact the staff member will have with minors. The Contractor shall be responsible for obtaining security clearances for staff whose duties require a sufficient level of interaction with youth.

- B. Contractor hereby certifies that by signing this Agreement, Contractor shall have tuberculosis (TB) tests completed on any staff member working with youth.
- C. Contractor shall maintain proof of Security Clearance and TB tests of all staff, including those of the subcontractors, and make these records available for future inspection.

#### **§428 First Source Hiring Ordinance**

Unless otherwise exempt, 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.

- A. Contractor shall, prior to the execution of the contract, provide to the Bureau of Contract Administration, a list of anticipated employment opportunities that Contractor estimates it will need to fill in order to perform the services under the contract.
- B. Contractor further pledges that it will, during the term of the contract: (1) at least seven (7) business days prior to making an announcement of a specific employment opportunity, provide notifications of that employment opportunity to the Housing and Community Investment Department (HCID), which will refer individuals for interview; (2) interview qualified individuals referred by HCID; and (3) prior to filing any employment opportunity, the Contractor shall inform the Bureau of Contract Administration 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.
- C. Any subcontract entered into by the Contractor relating to this contract, to the extent allowed hereunder, shall be subject to the provisions of FSHO, and shall incorporate the FSHO.
- D. Contractor shall comply with all rules, regulations and policies promulgated by the Bureau of Contract Administration, which may be amended from time to time.

Where under the provisions of Section 10.44.13 of the Los Angeles Administrative Code the Bureau of Contract Administration has determined that the Contractor intentionally violated or used hiring practices for the purpose of avoiding the FSHO, that determination will 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 the Los Angeles Administrative Code Section 10.40 *et seq.* This measure does not limit the City's authority to act under the FSHO.

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 Bureau of Contract Administration determines that the Contractor has violated provisions of the FSHO.

## **§429 Compliance With Los Angeles City Charter Section 470(C)(12)**

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

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

As provided in Charter Section 470(c)(12) and related ordinances, you are a 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 ten (10) 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.

## **§430 Compliance with the "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.

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

#### **§501 Defaults**

Should the Contractor fail for any reason to comply with the contractual obligations of this Agreement within the time specified by this Agreement, the City reserves the right to:

- a. Reduce the total budget;
- b. Make any changes in the general scope of this Agreement;
- c. Suspend project operations in accordance with §502 of this Agreement; or
- d. Terminate the Agreement.

#### **§502 Suspension**

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

#### §503 Termination

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

#### §504 Notices of Suspension or Termination

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

#### §505 Amendments

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

§506 WAIVERS

- A. Waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the City.
- B. No waiver by the City or breach of any provision of these conditions shall be deemed for any purpose to be a waiver or breach of any other provision. A party's performance after the other party's default shall not be construed as a waiver of that default.

6. ENTIRE AGREEMENT

§601 Complete Agreement

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

§602 Number of Pages and Attachments

This Agreement is executed in three (3) duplicate originals, each of which is deemed to be an original. This Agreement includes twenty-nine (29) pages, and six (6) Exhibits, which constitute the entire understanding and agreement of the parties.

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7. SIGNATURE PAGE

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

APPROVED AS TO FORM AND LEGALITY:

MICHAEL N. FEUER, City Attorney

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

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

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2015

For: THE CITY OF LOS ANGELES

RUSHMORE D. CERVANTES  
General Manager  
Housing and Community Investment Department

ATTEST:

HOLLY L. WOLCOTT, City Clerk

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

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

By: \_\_\_\_\_  
PRINT NAME:  
Title: \_\_\_\_\_

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2015

For: DAVID PAUL ROSEN AND ASSOCIATES

(Contractor's Corporate Seal)

By: \_\_\_\_\_  
David Rosen  
Principal I

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

D-U-N-S® Number: 606062842

CFDA Number: HOME – 14.239

City Business License Number: 0002380603-0001-8

Internal Revenue Service ID Number: 94-2981032

Council File/CAO File Number: \_\_\_\_\_; Date of Approval: \_\_\_\_\_

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

**EXHIBIT A****Required Insurance and Minimum Limits**Name: David Paul Rosen & Associates

Date: 05/26/15

Agreement/Reference:

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

Limits

<input checked="" type="checkbox"/>	<b>Workers' Compensation – Workers' Compensation (WC) and Employer's Liability (EL)</b>	WC <u>Statutory</u> <u>\$1,000,000</u>
<input type="checkbox"/>	Waiver of Subrogation in favor of City	<input type="checkbox"/> Longshore & Harbor Workers Jones Act
<input type="checkbox"/>	<b>General Liability</b>	<u>\$ 1,000,000</u>
<input type="checkbox"/>	Products/Completed Operations Fire Legal Liability	<input type="checkbox"/> Sexual Misconduct
<input type="checkbox"/>	<b>Automobile Liability</b> (for any and all vehicles used for this contract, other than commuting to/from work)	\$ _____
<input type="checkbox"/>	<b>Professional Liability</b> (Errors and Omissions) Discovery Period <u>12 Months After Completion of Work or Date of Termination.</u>	\$ _____
<input type="checkbox"/>	<b>Property Insurance</b> (to cover replacement cost of building - as determined by insurance company)	\$ _____
<input type="checkbox"/>	All Risk Coverage Flood Earthquake	<input type="checkbox"/> Boiler and Machinery <input type="checkbox"/> Builder's Risk
<input type="checkbox"/>	<b>Pollution Liability</b>	\$ _____
<input type="checkbox"/>	<b>Surety Bonds – Performance and Payment (Labor and Materials) Bonds</b> <b>Crime Insurance</b>	100% of the contract price \$ _____

**Other:** Sent to HCID

- 1) If a contractor has no employees and decides to not cover herself/himself for workers' compensation, please complete the form entitled "Request for Waiver of Workers' Compensation Insurance Requirement" located at: <http://cao.lacity.org/risk/InsuranceForms.htm>
- 2) In the absence of imposed auto liability requirements, all contractors using vehicles during the course of their contract must adhere to the financial responsibility laws of the State of California

**EXHIBIT A**  
**INSTRUCTIONS AND INFORMATION**  
**ON COMPLYING WITH CITY INSURANCE REQUIREMENTS**

(Share this information with your insurance agent or broker.)

**PERSON TO CONTACT** Direct all correspondence, questions, requests for additional forms, etc., to the contact person listed here or to the department that administers your contract, lease or permit:

MONITOR NAME	
CITY AGENCY	Housing and Community Investment Department
ADDRESS	1200 W. 7 <sup>th</sup> Street, 9 <sup>th</sup> Floor Los Angeles, CA 90017
TEL (213)	FAX (213)

**GENERAL INFORMATION**

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

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

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

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

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

- **A copy of the full insurance policy** which contains a thirty (30) days' cancellation notice provision (ten (10) days for non-payment of premium) and additional insured and/or loss-payee status, when appropriate, for the CITY.
- **Binders and Cover Notes** are also acceptable as interim evidence for up to 90 days from date of approval.

Additional Insured Endorsements DO NOT apply to the following:

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

**EXHIBIT A**  
**INSTRUCTIONS AND INFORMATION**  
**ON COMPLYING WITH CITY INSURANCE REQUIREMENTS**

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

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

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

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

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

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

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

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

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

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

Rev. 10/09

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

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

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

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

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

David Paul Rosen & Associates  
Contractor

SIGNATURE  
David Paul Rosen, Principal

DATE

**EXHIBIT B**  
**INSTRUCTIONS FOR CERTIFICATION**

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

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

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

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

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

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

«Contractor»  
David Paul Rosen & Associates

David Paul Rosen, Principal

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SIGNATURE

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DATE

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

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

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

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

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

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

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

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

Rev. 06/06

## EXHIBIT E

### A. MANAGEMENT REPRESENTATION

As a prerequisite to receipt of a City funded Contract, and as material facts upon which the City may rely in preparing the Contract, I, an authorized representative of the Contractor, make the following representations:

1. I am responsible for the fair presentation of the Contractor's financial records/reports in conformity with Generally Accepted Accounting Principles (GAAP) and have provided such records/reports accordingly to the City. I will make available to City all related data and information. I am not aware of any material transactions that have not been properly recorded and disclosed.

True  False

2. The Contractor has adopted sound accounting policies and procedures in accordance with GAAP that include procedures for maintaining internal controls, and preventing and detecting fraud and abuse.

True  False

3. I have advised and will continue to advise the City of any actions taken at meetings of Contractor's Board of Directors, and Committees of the Board of Directors which may have a material impact on Contractor's ability to perform the City's Contract.

True  False

4. Except as recorded or disclosed to you herein, I know of no instances of:

- a. Conflict of interests (direct or indirect), nepotism, related (direct or indirect) party transactions including revenues, expenses, loans, transfers, leasing arrangements, and guarantees, and amounts receivable from or payable to related parties.

True  False

- b. Guarantees, whether written or oral, under which the Contractor is contingently liable.

True  False

- c. Actual, forthcoming or possible terminations of funding from regulatory agencies or other sources due to noncompliance, deficiencies, or for any other reason, that would affect the financial records and/or continuing viability of the Contractor as an on-going concern.

True  False

5. I have no knowledge that a board member/s is/are also an employee of this Contractor whose salary costs are reimbursed under this agreement.

True  False

6. I have no knowledge of and am not in receipt of any communication regarding allegations of fraud, suspected fraud or abuse affecting the Contractor involving management, employees who have significant roles in internal control, or others where fraud/abuse could have a material effect on the financial records or performance of the City Contract.

True  False

7. I have no knowledge of any allegations, written or oral, of misstatements or misapplication of funds in the Contractor's conduct of its financial affairs or in its financial records.

True  False

8. I am not aware of any pending litigation, bankruptcy, judgment, liens and other significant issues that may threaten the financial viability, legal and continuing existence of the Contractor.

True  False

9. The Contractor has satisfactory title to all assets being used in the City's program, and there are no liens or encumbrances on such assets, nor has any asset been pledged as collateral.

True  False

10. The Contractor has complied with all aspects of contractual agreements, related laws and regulations that could have a material effect on the financial records, the program/s, or on the organization as a whole.

True  False

11. I have properly reported and paid to the appropriate governmental agencies all payroll taxes due on employees' (City program related or otherwise) compensation.

True  False

12. I have responded fully to all the City's inquiries related to the Contractor's financial records and/or reports.

True  False

13. I understand that the City's auditing and monitoring procedures of Contractor are limited to those which the City determines best meet its informational needs and may not necessarily disclose all errors, irregularities, including fraud or defalcation, or illegal acts, that may exist.

True  False

14. I understand that the City audit and monitoring reports are intended solely for use by the Contractor and the other authorized parties, and are not intended for other purposes, unless otherwise required by law.

True  False

15. If one or more of the above statements is found to be false, I understand that the City may terminate this contract immediately. I also understand that I have a continuing duty to report to City any material factual change to any of these statements.

True  False

Use this space to provide any additional information:

I declare under penalty of perjury that I have read the foregoing statements and they are true and complete to the best of my knowledge.

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

Contractor

David Paul Rosen & Associates

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David Paul Rosen

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DATE

**EXHIBIT F**

**FEE SCHEDULE**

**David Paul Rosen and Associates**

Services will be compensated according to the following fee schedule:

<u>Position</u>	<u>Hourly Rate</u>
David Paul Rosen, Principal	\$340 / Hour