

City of Los Angeles Department of Water and Power



**Request for Proposal
RFP No. RFP248-09**

**Proposals for
LADWP Internet Website Upgrade and Redesign**

May 6, 2009

**Department of Water & Power
The City of Los Angeles**

Request For Proposal (RFP)

No. RFP248-09

LADWP Internet Website Upgrade and Redesign

The Los Angeles Department of Water and Power (LADWP) is requesting proposals from qualified vendors interested in assisting the LADWP in upgrading and redesigning the appearance, graphical user interface features, and functionality of its corporate website, www.ladwp.com.

Proposals shall be submitted in accordance with the requirements set in this document. Only written proposals shall be considered. All materials submitted shall become a part of the proposal, and may be incorporated in a subsequent contract between the Department and the selected proposer.

The use of the term "bid" in a proposal shall be considered synonymous with term "proposal."

A Proposer's Conference will be held at the LADWP facility, located at 111 North Hope Street, in the Auditorium, on Wednesday, May 27, 2009 from 9:00 a.m. – 11:00 a.m.

The conference is a critical component of the City's "Good Faith Effort" (GFE) process and the participation of all potential proposers is strongly encouraged. Attendees will receive essential information and ten (10) points to be credited toward the successful completion of the GFE requirement outlined in Section 4.16 of this RFP.

Please submit your written proposal, one original and 7 copies, no later than 2:00 p.m. on June 24, 2009 in a sealed package, clearly marked with the RFP number and title of work to be done.

Address the proposal package to:

George Rofail
Manager
Department of Water and Power
City of Los Angeles
111 North Hope Street, Room 1068
Los Angeles, CA 90012

Proposal shall be identified as:

RFP No. RFP248-09
LADWP Internet Website Upgrade and Redesign
Due date: June 24, 2009

Received proposals will be held, unopened, in a secure place until the response due date and time for all proposals have elapsed. Proposals shall be opened and their contents secured to prevent disclosure during the process of negotiating with competing proposers. The proposals shall be opened publicly, but only the names of the proposers shall be revealed. Adequate precautions shall be taken to treat each proposer fairly and to insure that information gleaned from competing proposals is not disclosed to other proposers. Prices and other information concerning the proposals shall not be disclosed until a recommendation for award is made to the awarding authority.

All proposals shall be opened publicly on June 24, 2009 at 2:05 p.m. or soon thereafter as practical. The location of the proposal opening shall be held at 111 North Hope Street, Room 1071, Los Angeles, CA, 90012.

Proposals must be received the Department at the exact address listed above. No allowance will be made for delays in the U.S. Mail, consumer mailing services, or the Department internal mail service. Proposals will be time stamped prior to the 2:00 pm closing time, unless otherwise instructed (by addendum). Submittals received after this time and date will be considered late and will not be opened or considered for evaluation and will be returned unopened in accordance with purchasing policies

For questions regarding this RFP, submit all inquiries in writing to George Rofail, Contract Administrator, via George.Rofail@ladwp.com or via fax at (213) 367-0777 no later than June 10, 2009. LADWP's responses to the questions will be posted on the LADWP website at www.ladwp.com under the 'Bids & RFPs' section of 'Doing Business' tab no later than June 17, 2009. LADWP recommends all proposers to visit the abovementioned LADWP website on a regular basis as the responses may be posted earlier than the posting date.

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1.0 Introduction

1.1 Purpose of Project

The Los Angeles Department of Water & Power (LADWP) is soliciting proposals from vendors to assist the LADWP in redesigning the appearance, graphical user interface features, and functionality of its web presence, with primary focus on its externally facing corporate website, www.ladwp.com (Website), for the LADWP's external customers and users. The project includes upgrading the architecture and web platform to maintain and continually improve the Website for both the external and internal web presence.

1.2 Background of Project

The LADWP administers its corporate externally facing Website and the related systems. The externally facing website consists of over four thousand pages with content authored from over 30 internal sources. The traffic to the site averages over 250,000 user sessions and 2,000,000 page views per month. In addition there are a myriad of additional internal websites, many of which contain data also available through the corporate externally facing Website. The internal websites lack a common architecture, navigation, user interface, or ability to easily designate information for both internal and external consumption.

The primary public facing website currently resides on a Sun Solaris version 9 platform utilizing Apache 2.0 web servers, Tomcat 5.5.20 application server/Servlet/JSP engine, Oracle database 9i, and Stellent Content Management System version 6.2.

Static content is initiated for publishing through the Stellent Content Management System. Customers can register for the site and their account information is retrieved using screen scraping (Platypus JET API 3270) from a legacy CIS (TRES) that is hosted internally on an IBM mainframe computer. Customer bills are presented in HTML format through a connection to IBM OnDemand/ODWek (v8.2) servlets. Online payment services are provided by a third party.

Additional online functionality is provided, which includes Cogix v3 for online web surveys, and Accordent v5.6 for online web presentations.

The externally facing Website is in need of an extensive overhaul to improve its functionality and navigation. In addition, a substantial upgrade to the externally Website infrastructure is planned, with an ultimate goal of relying on corporate standard systems where feasible to support the website for both external and internal web functionality. The following corporate architectural elements are anticipated for the re-development of the LADWP websites, both internal and external, to the extent practicable:

- 1.2.1 Oracle Universal Content management and Content Conversion
Server version 10gR3

- 1.2.2 FileNet, P8v4, as the LADWP master records management system (for documents that may be served to the website with broader records management requirements)
- 1.2.3 Siebel 7.5.3 eService application server for receiving customer contact information, customer account information, service requests, and other customer information. Oracle 10g data base engine
- 1.2.4 Sun JavaCaps for system integration
- 1.2.5 Hostbridge for direct integration to CICS transactions for CIS

Oracle Identity Management Suite (Oracle Access Manager) for customer registration, user authentication, and provisioning.

Note: LADWP anticipates replacing the CIS system within 3 years. Depending on the system selected, the Seibel product may no longer be utilized after that time. In developing proposals, a cost benefit assessment for the conversion of interfaces and other architectural elements should be incorporated in the recommendations.

This specific contract focuses on the externally facing website. However, it is desired that the architecture and design support, to the extent practicable, a unified architecture and design for both the external and internally facing web presence.

1.3 Description of LADWP

The LADWP is the largest municipally owned utility in the United States, responsible for the supply and distribution of water and electric power to over 2 million residential and commercial customers in the City of Los Angeles. The LADWP employs approximately 8,500 persons to serve a 465 square-mile area ranging from the Pacific Ocean to the San Gabriel Mountains, and a portion of the Owens Valley. LADWP began the municipal distribution of water in 1902 and distribution of electricity in 1916.

LADWP is administered by a five-member Board of Water & Power Commissioners appointed by the Mayor and confirmed by the Los Angeles City Council for five-year terms. It is a proprietary agency of Los Angeles and receives no tax support. LADWP operations are financed entirely by the sale of electricity and water, with revenue bonds the main source of external financing.

Operations and work forces are centered in the greater Los Angeles Area with additional facilities in the Northern California, Arizona, Utah, and Nevada.

1.4 Acronyms

<i>CICS</i>	Customer Information Control System
<i>CIS</i>	Customer Information System
<i>CRM</i>	Customer Relationship Management

<i>DMZ</i>	Demilitarized Zone
<i>IVR</i>	Interactive Voice Response
<i>LADWP</i>	Los Angeles Department of Water and Power
	Security standards from the PCI global forum (credit and debit card processing)
<i>PCI</i>	Peripheral Component Interconnect

2.0 Statement of Work (SOW)

2.1 Scope of Work

The contractor shall perform work to assess, recommend, design, and work with LADWP staff to develop, and implement upgrades for all visual, functional, and technical aspects of the externally facing Website to ensure that LADWP's Internet presence meets customer's expectations and conforms to industry best practices. The final product must be easily modifiable and upgradeable. The contractor shall also provide extensive knowledge transfer, training, documentation, and communications and site evolution plans.

2.2 Description of Work

2.2.1 Initial Assessment

The contractor will conduct an initial assessment of the existing Website

- 2.2.1.1 Information Architecture – The Contractor shall conduct an audit of externally facing Website's existing content, navigation, usability and visual design. The Contractor shall conduct the audit and provide a detailed report giving concrete recommendations and analysis based on the audit and industry best practices.
- 2.2.1.2 External Focus Groups – The Contractor shall develop questions and recruit LADWP customers for thirty (30) focus group sessions. The focus groups shall represent English and Spanish speaking Residential, Commercial, and Neighborhood Council groups for an initial assessment of the existing Website and desired enhancements. In addition, focus groups may include representatives from local university computer science and communications departments, Chamber of Commerce, City of Los Angeles Departments, and environmental non-governmental organizations. The Contractor shall conduct the sessions and provide a detailed report giving concrete recommendations and analysis based on customer input.
- 2.2.1.3 Internal Focus Groups – The Contractor shall develop questions and conduct twenty (20) focus group sessions with internal LADWP representatives from the following categories: Executives, Senior Managers, Customer Service Division

representatives, and Public Affairs representatives for an initial assessment of the existing Website and desired enhancements. The assessment shall also gather information on the use of, and perceived strengths and weaknesses of the internal websites. The Contractor shall conduct the sessions and provide a detailed report giving recommendations and analysis based on internal input is to be provided.

- 2.2.1.4 Technical Architecture – The Contractor shall review the proposed components for the new technical components such as operating systems, databases, application services, content management system, and hardware. The Contractor shall provide a detailed report giving recommendations and analysis based on architecture analysis, planned website changes, and industry best practices.

2.2.2 Design Options for the Website

- 2.2.2.1 Three website design options and navigational structures shall be developed meeting the customer needs and LADWP's business objectives. The options shall be presented with a detailed written report that assists the LADWP in understanding the intent and benefits of each option. The options shall also include presentations of usable web page mock-ups to facilitate internal and external evaluation.
- 2.2.2.2 External Focus Groups – The Contractor shall develop questions and recruit LADWP customers, who are different from those involved in the previous sessions, for thirty (30) focus group sessions to evaluate the three design and three navigational structure options. The focus groups shall represent The focus groups shall represent English and Spanish speaking Residential, Commercial, and Neighborhood Council groups, and may include representatives from local university computer science and communications departments, Chamber of Commerce, City of Los Angeles Departments, and environmental non-governmental organizations. The Contractor shall conduct the sessions and provide a detailed report giving concrete recommendations and analysis based on customer input.
- 2.2.2.3 Internal Focus Groups – The Contractor shall develop questions and conduct twenty (20) focus group sessions with internal management and user representatives from the following categories: Executives, Senior Managers, Customer Service Division representatives, and Public Affairs representatives to evaluate the three design and three navigational structure options. The Contractor shall conduct the sessions and provide

a detailed report giving recommendations and analysis based on internal organizational and stakeholder input.

- 2.2.2.4 Based on evaluation of design and navigation structural options, the Contractor shall provide a finalized style design and structural navigation design. The design shall be scalable and easily modifiable, and shall incorporate interactive tools to facilitate customer usage, and to the extent feasible, be extensible to include the internal web presence.

2.2.3 Technical and Infrastructure Upgrade Analysis

- 2.2.3.1 The Contractor shall prepare and submit a detailed report that provides recommendations for upgrades or changes to the proposed versions of software, installation of any new software, and changes to the proposed website infrastructure, which shall include detailed explanation of the benefits, risks, and costs associated with the implementation and non-implementation of each recommendation. All recommendations shall ensure minimal customization and provide configurable components.

- 2.2.3.1.1 The report shall provide recommendations regarding the network, server and storage architecture to ensure 99.99% Website availability.

- 2.2.3.1.2 The report shall provide recommendations regarding the website application to ensure 99.99% Website availability.

- 2.2.3.1.3 The report shall identify any anticipated impediments to meeting the LADWP business requirements, and recommendations for remediation or improvement, with the proposed software architecture including website databases, the applications used to provide functionality on the website, the use of or integration with LADWP's existing Filenet enterprise document management system, and the expansion of the content management system to be concurrently utilized for all of the LADWP's Intranet websites and to allow for content and contributor sharing and management across inter- and intra-sites, including granting limited secure access to external partners (extranet functionality).

- 2.2.3.1.4 The report shall provide recommendations regarding a method for the presentation of video and streaming video on the website.
- 2.2.3.1.5 The report shall provide recommendations regarding the potential use of a portal technology to best meet customer needs.
- 2.2.3.1.6 The report shall provide recommendations regarding the website security mechanisms, including recommendations regarding the implementation of Oracle Web Access Manager, the appropriate structure for security zones or DMZ's, and the use of 256 bit SSL encryption (and requirements for hardware acceleration equipment..
- 2.2.3.1.7 The report shall provide recommendations regarding the website's integration with Siebel Customer Relationship Management, version 7.5.3 and higher, for self-service capabilities that at a minimum shall include enrolling in a program, initiating a service request, checking on request progress, request program-related information, update contact information and preferences, view billing and account information, and request and view billing and account reports.
- 2.2.3.1.8 The report shall provide recommendations regarding the website's integration with the LADWP's CIS System for customer access to billing and account information, account registration, automated program enrollment, and automated service application processing.
- 2.2.3.1.9 The report shall provide recommendations regarding the Website's integration with LADWP's OnDemand System for bill presentment.
- 2.2.3.1.10 The report shall provide recommendations regarding the conversion of interfaces to utilize Sun's JCAPS Suite for application integration and the Hostbridge CICS integration (now being implemented for IVR integration).

- 2.2.3.1.11 The report shall provide recommendations regarding the integration of the website with all third-party applications, including the bill payment and presentment provider, used to provide existing and planned online functionality. The recommendations shall also include recommendations regarding the requirements to function with an LADWP Merchant ID for managing on-line payments, including requirements to meet PCI security requirements.
- 2.2.3.1.12 The report shall assess the ability to utilize the proposed software architecture to provide blog capabilities, which shall include categorization, metric analytics, topic ratings, and modularity for inclusion in multiple website areas and section, and any recommended additional software required.
- 2.2.3.1.13 The report shall provide recommendations for providing online chat capabilities, which shall include queuing, availability controls, active user engagement, live monitoring, metric analytics, and interaction record archiving. The report should consider the potential to integrate on-line chat with other features provided within the Cisco VoIP call center environment with IVR and presence capabilities.
- 2.2.3.1.14 The report shall provide recommendations for compliance with Section 508 of the Federal Rehabilitation Act for accessibility of the visually impaired.
- 2.2.3.1.15 The report shall provide recommendations on the feasibility of automated and accurate presentment of all content and functionality in English and Spanish, and that can be expanded to additional languages, and that is provided through a mechanism or service, such as that provided by MotionPoint Corporation's or similar website translation tools.
- 2.2.3.1.16 The report shall provide recommendations to support access to content and functionality by a wide variety of mobile devices to the extent practical.

- 2.2.3.1.17 The report shall provide recommendations regarding the utilization of any additional third-party applications needed to provide desired online functionalities.
- 2.2.3.1.18 The report shall provide recommendations for providing enhanced online search capabilities.
- 2.2.3.1.19 The report shall provide recommendations for providing configurable online forms that can be integrated with databases, Siebel CRM system, CIS system, document management system, and Microsoft Exchange email messages.
- 2.2.3.1.20 The report shall provide recommendations for incorporating RSS publishing and consumption capabilities for different portions of the Website.
- 2.2.3.1.21 The report shall provide recommendations for the incorporation of any additional web 2.0 capabilities that would assist LADWP in meeting business needs.
- 2.2.3.1.22 The report shall provide recommendations for providing digital asset management and conversion.
- 2.2.3.2 The Contractor shall prepare a complete technical architecture that incorporates each component described in Section 2.2.3.1, which to the extent feasible relies upon the LADWP proposed software and hardware components.
- 2.2.3.3 Based on LADWP review and approval of the technical architecture and scope determinations based on the technical architecture, the Contractor shall prepare detailed design documentation for each application and infrastructure component. The Contractor shall present the complete and detailed design to LADWP for approval before proceeding with Development.

2.2.4 Prototype and Website Development

- 2.2.4.1 The Contractor shall manage the project to develop the externally facing Website based on the LADWP-approved design described in Section 2.2.3.3, utilizing contractor staff and 2 LADWP technical personnel.

- 2.2.4.2 The Contractor shall develop a prototype website that shall be developed based on all feedback and agreed-upon changes. This shall be presented to the LADWP for approval before development is completed.

2.2.5 Testing

- 2.2.5.1 The Contractor shall, in conjunction with LADWP personnel perform usability testing on the developed site and unit, system, load and functional testing on all applicable new and existing components of the website and related applications, including hardware and software. Testing shall be completed before launch to determine if any additional capabilities or enhancements are required to meet the site's test criteria and objectives, and to ensure reliability and functionality for a minimum of 1,000 simultaneous users receiving response time not to exceed 2 seconds as a cumulative from each website architecture component including the LADWP's network with regular traffic, as measured at the Internet Point of Presence of LADWP. User Acceptance Testing shall be conducted by the Contractor utilizing 250 LADWP customers, who shall be identified and recruited by the Contractor, subject to LADWP approval. Testing will be in compliance with a pre-developed test plan that shall be presented to the LADWP for written approval a minimum of 30 days prior to the start of the testing phase.

2.2.6 Website Implementation

- 2.2.6.1 Once testing is completed, and once the LADWP approves the testing results, the Contractor shall migrate all existing and new content to the new externally facing website. Migration of content into the new platform for the internal web presence shall be a responsibility of LADWP.

Once testing is completed, and once the LADWP approves the testing results, the Contractor shall migrate all existing and new functionality and interfaces (where agreed appropriate per note in Section 1.2) to the new externally facing website.

- 2.2.6.2 Once testing is completed, and once the LADWP approves the testing results, the Contractor shall work with LADWP to complete the turn over of the fully tested and accepted externally facing Website into production.

2.2.7 Training and Knowledge Transfer

- 2.2.7.1 The Contractor shall provide knowledge transfer regarding all applicable components of the website, which shall include, but not limited to, development, structure, graphics, interfaces, and functionality. The knowledge transfer shall consist of comprehensive training sessions and detailed documentation.
- 2.2.7.2 Contractor shall provide a minimum of 90 days of support after implementation of the redesigned Website into production.

2.3 Deliverables

Deliverables will be individually defined, identified and agreed to by LADWP and the selected vendor as part of the statement of work of the agreement. The Contractor shall perform and submit all the work described as a turn-key fixed bid project for Sections 2.2.1 through 2.2.3.

A task management system described in Section 5.0, "Task Management System", will be used to assign and monitor work, and specify deliverables for Sections 2.2.4 through 2.2.7.

2.4 Project Schedule

The project shall be completed in a one year period from the date of an approved contract. A shorter period is preferable to LADWP, but the proposed schedule must be compliant with the objectives of the project strategy and maintain cost effectiveness.

3.0 Evaluation Criteria

The LADWP will select the proposer that best meets the criteria presented in this RFP, in accordance with the City Charter. Factors other than price will be considered in the selection process, including, but not limited to the proposer's ability to comply with RFP requirements, technical and project approach, oral presentation, job opportunities and training program, financial stability of the firm, personnel qualifications, and proposer qualifications. In addition to materials provided in proposals, the LADWP may rely on system demonstrations, site visits, references, and/or other generally available industry information.

The LADWP will evaluate all submitted proposals on the selection criteria listed below. Firms that fall within the competitive range will be included on a short list and will be invited to make oral presentations. Selection will be based solely upon the LADWP's evaluation of the written proposals and oral presentations.

The LADWP reserves the right to weigh the evaluation criteria as it deems appropriate.

The ability of the Proposer to develop a fully operational solution that meets or exceeds the requirements identified in this RFP will include consideration of the following:

3.1 Compliance with Supplier Diversity

Proposals will be evaluated **pass/fail** pursuant to compliance with the Supplier Diversity/Good Faith Effort Outreach. See Section 4.16

3.2 Qualifications of the Firm

Proposers shall have sufficient background and experience in providing the proposed services to utilities or companies with comparable size as the LADWP. In its evaluation, the Evaluation Committee will consider the company's background, history in providing the proposed services, examples of previous work, and responses from references.

3.3 Qualifications of Personnel

Proposers shall submit the qualifications and experience of each lead person that is anticipated to participate in the project. In its evaluation, the Evaluation Committee will consider the proposed team's background, history in providing the proposed services, examples of previous work, and responses from references.

3.4 Technical and Project Approach

LADWP will consider the technical approach in determining, developing, testing, and implementing the technical capabilities to meet the objectives stated in this RFP. LADWP will consider the project management approach, which shall include the proposed resource loaded workplan, the proposed method for issue and risk management, status reporting, and change control.

3.5 Cost

The LADWP will consider the total cost for the Project, the costs of various deliverables, staff rates, and the on-going maintenance and support costs (e.g. life cycle costs). This will include consideration of the following:

3.5.1 Total proposed fixed price for the Initial Assessment, the Design Options for the Website, and the Technical and Infrastructure Upgrade Analysis phases as described in Section 2.2.1 through 2.2.3 of the RFP.

3.5.2 Hourly contractor staff costs and proposed estimates for the completion of the remaining items described in Section 2.2.4 through 2.2.7 of the RFP.

3.5.3 Cost of individual deliverables.

3.5.4 Reasonableness of costs for proposed functionality, including additional functionality of benefit to the LADWP.

3.5.5 LADWP resource requirements and any additional investment in hardware or software.

3.5.6 Internal and external on-going costs to maintain and support the Website.

3.6 Job Opportunities and Training Program

This item will be evaluated consistent with the policy provided in Section 4.20 of this RFP.

3.7 Financial Stability of the Firm

Proposals will be rated on financial stability, based principally upon the financial performance of the primary firm.

3.8 Oral Presentation

Short-listed firms will be asked to deliver an oral presentation. Evaluation criteria for the oral presentation will be provided upon notification of the presentation.

4.0 Requirements for Proposal

4.1 Writing Requirements for Proposal

Submitted proposals shall conform to the following requirements:

4.1.1 One original and seven copies, and one full electronic copy, of the proposal shall be enclosed in a single, sealed package plainly marked with the words "Proposal for RFP No.RFP248-09 for LADWP Internet Website Upgrade and Redesign."

4.1.2 Proposals shall be prepared simply and economically, without the inclusion of unnecessary promotional materials.

4.1.3 Proposals submitted shall be written in the English language.

4.1.4 Proposals shall be submitted on recycled paper that has a minimum of 30-percent post-consumer recycled content.

4.1.5 The proposals shall be duplex copied (double-sided pages).

4.1.6 Neon or fluorescent paper shall not be used.

4.1.7 Company/Corporate letterhead or stationery that accompanies the proposal is exempt from these requirements

Submittal of a proposal pursuant to this Request for Proposal shall constitute acknowledgment and acceptance of all terms and conditions hereinafter set forth unless otherwise expressly stated in the proposal.

Responses to this Request for Proposal shall be made in accordance with the format set forth in this section and must follow the same titling and numbering schemes. All pages of the proposal must be consecutively numbered.

4.2 Coverage of RFP Items

The proposal must cover the statement of work and all the RFP requirements. Any limitation in the bidder's ability to supply information requested in the RFP or to support or to perform a particular function should be stated in detail in the appropriate section of your response. Any omissions or deviations from the requirements set forth in this RFP shall be fully described. Failure to adhere to the following format may be a cause for the rejection of the proposal as non-responsive.

Any additional documents that the bidder's organization requires to be signed or agreed to, by the LADWP shall be referenced in the letter of transmittal and attached as appendices to the proposal.

4.3 Letter of Transmittal

Each proposal that is submitted in response to this RFP must contain the letter of transmittal including the following information:

- 4.3.1** A brief statement of the Contractor's understanding of the work to be done and commitment to perform the work as scheduled.
- 4.3.2** A list of the sections/parts of the RFP being bid.
- 4.3.3** A summary of exceptions taken to the RFP requirements, statement of work, specifications, confidentiality agreement (See Appendix B), and/or proposed contractual terms and conditions.
- 4.3.4** A reference to any contractual terms and conditions required by the Contractor.
- 4.3.5** The names of individuals authorized to represent the Contractor, the titles, addresses, telephone numbers, and e-mail addresses.
- 4.3.6** An officer authorized to bind must sign each proposal on behalf of the Proposer and must include the following declarations on the transmittal letter:

This proposal is genuine, and not a sham or collusive, nor made in the interest or in behalf of any person not herein named; the proposer has not directly or indirectly induced or solicited any other proposer to put in a sham bid, or any other person, firm or corporation to refrain from submitting a proposal; and the proposer has not in any manner sought by collusion to secure for themselves an advantage over any other proposer.

4.4 Table of Contents

Include a clear identification of the proposal by section and by page number.

4.5 Background of the Firm

The Proposer must provide detailed documentation regarding the background and qualifications of the firm, including capabilities, experience, available resources, and past projects.

4.6 Financial Status of the Firm

The Proposer must provide detailed documentation of the company's financial status, such as annual financial report, or other independently audited financial report or tax return, to permit the LADWP to determine the vendor's ability to reliably perform the work of the contract. This documentation should be for the previous three (3) years. Provide an explanation of financial strength and ability to perform on a long-term basis. Include mergers and acquisitions within the last 12 months. This financial information will not be scored but will be reviewed to ensure adequacy of financial resources to enable the Contractor to perform services as required.

In addition, the proposal shall disclose any pending lawsuits or litigation against the company that could materially affect the company's financial strength or ability to provide the services being proposed.

4.7 Assigned Personnel

The Proposer must provide detailed documentation regarding the name, title, background and qualifications and description of work they will perform, academic background, and relevant work experience of all personnel that will be assigned to the project. Any required LADWP staffing resources must be clearly delineated and presented by staff classification, as well as any other resources, as an appendix to the proposal.

4.8 Subcontractors

1. The proposer shall state whether subcontractors will be used to perform services. If subcontractors are used, the proposer shall specifically state the services the subcontractor shall perform.

2. Should the proposer offer the use of subcontractors, the proposer shall provide the same assurances of competence for the subcontractor.
3. The proposer shall also demonstrate ability to manage and supervise the subcontracted work.
4. The proposer shall list any relevant certifications pertaining to the subcontractor's ability to successfully design, deploy and maintain the system.
5. The proposer shall submit all data on the subcontractor required by this section as identified in Section 4.7.

Note: Subcontractors shall not be allowed to further subcontract with others for work on this project without approval or knowledge of the LADWP. The LADWP reserves the right to approve any changes or additions to subcontractors. Replacement subcontractors must have similar levels of relevant experience and overall work experience as the individual being replaced.

4.9 Compensation: Fees and Labor Costs

Provide the pricing information required in Sections 4.9.1 – 4.9.2 with the following guidelines taken into consideration.

- 1) All expense reimbursements shall be limited to the City Guidelines, as referenced in Appendix O, and itemized on the same invoice for corresponding work performed. In addition, travel time shall not be reimbursed.
- 2) Hourly rates shall be inclusive of salary, employee benefits, overhead, profit, general office expenses, administrative services, invoices or time sheets preparation and processing routine telecommunications, internet, personal computer, facsimile, routine postage, individual shipping charges, incidental copying.
- 3) The LADWP shall pay for services for each Task Order authorizing work based on the fees established on the Contract Fee Schedule and agreed-upon amount not to exceed the amount specified in the Task Order award letter.
- 4) Cost plus percentage of cost and mark-up shall not be allowed by the LADWP on Consultant or Sub-consultant fees and rates.
- 5) Prior to contract award, the successful Proposer shall supply a detailed breakdown of the applicable overheads and fringe benefit costs that are part of the labor rates and other direct costs associated with the services to be performed.

4.9.1 Phases of Work (Fixed Price)

The pricing for Sections 2.2.1 through 2.2.3 of the Statement of Work will be a firm fixed price, with payments made by LADWP to the Vendor based on an agreed upon payment schedule.

1. Provide the firm price on all the phases listed below:
 - a. Section 2.2.1 Initial Assessment
 - b. Section 2.2.2 Design Options for the Website
 - c. Section 2.2.3 Technical and Infrastructure Upgrade Analysis
2. Provide an itemized cost breakdown of the firm, fixed price. Itemized cost breakdown shall include the employee name, job title, hourly labor rates and number of hours, direct and indirect costs for performing each of the phases required to complete the work.
3. The vendor will be paid only those tasks actually performed and properly billed according to the Contractor's Task Assignment Cost Summary.

4.9.2 Phases of Work (Hourly Rate)

Provide details of the costs of all work, fees and labor, including:

1. Contract Fee Schedules showing the hourly rates for all classification employees including manager, professional, technical, clerical, and Subcontractors who shall be performing the work for the completion on all the phases listed below:
 - a. Section 2.2.4 Prototype and Website Development
 - b. Section 2.2.5 Testing
 - c. Section 2.2.6 Website Implementation
 - d. Section 2.2.7 Training and Knowledge Transfer

See Appendix C for Contract Fee Schedule form.

2. Provide Task Cost Estimate for each task described in Section 2.2.4 through 2.2.7 using Task Cost Estimate form found in Appendix F. Make any assumptions you feel are necessary and list them on the form but be sure they are consistent with the work described in Section 2.2.4 through 2.2.7. Documentation should be included in an appendix to the proposal.
3. The provided hourly rate schedule will serve as the basis for any task authorizations issued to the consultant.

4.10 Technical and Project Structure

The Proposer must provide a detailed description of its technical assessment, design, development, testing, implementation methodology, training, and knowledge transfer.

The Proposer must provide a detailed project resource loaded workplan for the completion of the Project. The workplan must include any required LADWP resources.

4.11 References and Samples of Capabilities

The Proposers must provide at least three (3) actual examples of websites and website technical architecture designs that have been implemented for clients in the past 18 months.

The proposer must include a list of at least three (3) successfully implemented systems that are similar in nature, size, and scope of the project described in this RFP. Only references from projects involving proposed project team members will be deemed acceptable. For each client listed the Proposer shall provide the:

1. Name of the client;
2. Name, title, address, and phone number of the project manager, or a contact person at the client (including role of the contact person in the project);
3. The approximate contract value of work performed by the Proposer;
4. Locations of where services were provided;
5. Name of system(s) and description;
6. Proposer personnel that participated in the project;
7. Implementation time frame;
8. Size of client/ number of customers;
9. Number of persons trained to use the system;
10. Hardware/software utilized;
11. The degree to which the implementation addresses both internal and external web presence of the client.

The LADWP reserves the right to contact any or all of the clients listed without further notice to the Proposer. Client references may be considered as part of the overall evaluation.

4.12 Previous Services Provided to City of Los Angeles

Has the proposer, within the last three years, rendered any service to the LADWP, either as a contractor or subcontractor, either under the current proposer's name or any other name or organization? If so, please provide details.

4.13 Non-Discrimination/Equal Employment Practices/Affirmative Action Construction & Non-Construction Contractors (AAP)

The proposer and each of its known subcontractors shall complete and file an acceptable Affirmative Action Plan as set forth in Appendix D of this RFP as a part of its written proposal responding to the RFP.

Each contractor shall submit the following properly completed forms and documents for the City of Los Angeles' Affirmative Action Program:

1. A signed Affirmative Action Certificate Form.
2. A signed Affirmative Action Plan. This plan must be reviewed and approved by the LADWP to determine its acceptability.

Each of the above documents, if approved, shall be effective for twelve (12) months following the date of approval for the Affirmative Action practices. An Affirmative Action Plan shall be in effect and on file with the LADWP for the duration of the contract period.

4.14 Living Wage Ordinance

Submittal of a response to this Request for Proposal stipulates and confirms that the undersigned (Proposer) agrees to comply with the applicable provisions of the Living Wage Ordinance (LWO) of the Los Angeles Administrative Code. LWO forms must be completed by the successful proposer, only. Refer to instructions attached in Appendix E.

4.15 Child Support Policy

In accordance with the City of Los Angeles Ordinance No. 172401, the LADWP requires all contractors and subcontractors performing work for the LADWP to comply with all reporting requirements and wage earning assignments and wage earning assignments relative to court ordered child support.

All bidders and proposers are required to complete the Certification of Compliance with Child Support Obligations, Appendix G. Failure to return the completed certification as part of the bid or proposal may result in the bid or proposal being deemed non-responsive to these specifications.

4.16 Supplier Diversity

It is the policy of the LADWP to provide Women Business Enterprises (WBEs), and Minority Business Enterprises (MBEs), and all other business enterprises an equal opportunity to participate in the performance of all LADWP contracts. Bidders shall assist the LADWP in implementing this policy by taking all reasonable steps to ensure that all available business enterprises, including WBEs and MBEs, have an equal opportunity to compete for and participate in the work being requested by this RFP. Efforts to obtain participation of MBEs, WBEs, and other business enterprises could reasonably be expected to produce a level of participation by interested subcontractors including 15 percent MBE and 7 percent WBE.

4.16.1 Good Faith Effort

All bidders shall make a good faith effort to reach out to WBEs, MBEs, and all other business enterprises in response to this Request for Proposal (RFP). The LADWP's Outreach Program constitutes a requirement of this RFP, regardless of the number or kind of subcontractors a successful bidder may ultimately retain. If a bidder initially intends to perform all work under any contract resulting from this RFP through their own resources, without employing any subcontractors, it is nevertheless required that the bidder make a good faith effort as specified in this Section of the RFP.

WBE/MBE Defined: "Women's Business Enterprise" (WBE) or "Minority Business Enterprise" (MBE), as used herein means a business enterprise that is certified as meeting both of the following criteria:

- 5 A business that is at least 51 percent owned by one or more women or, minority person(s), in the case of any business whose stock is publicly held, at least 51 percent of the stock is owned by one or more women or minority person(s).
- 6 A business whose management and daily business operations are controlled by one or more women or minority person(s).

4.16.2 LADWP's Supplier Diversity Program

Each proposal shall include a statement of the proposer's good faith effort in the form and format described below. Provide your firm's Outreach Program Results in Appendix H.

The LADWP will determine the adequacy of each bidder's good faith effort based upon the documentation provided. Bidders not receiving a passing score may be found nonresponsive and disqualified from participating in any contracts resulting from this RFP.

4.16.3 Factors and Weights for Evaluation of Good Faith Effort

Bidder's good faith effort to reach out to WBEs, MBEs and all other business enterprises will be determined by the factors specified herein. The LADWP will determine the adequacy of each bidder's good faith effort to utilize this Outreach Program by considering all factors set forth and the weights for evaluation. The total point possible is 100, and a passing score of 75 points must be achieved.

1. Attendance at the Bidder's Conference. (Weight: 10 points)
2. Identifying selected portions of work being proposed in response to this RFP to be performed by subcontractors in order to provide participation by MBEs, WBEs, and other business enterprises. The proposers shall, when economically feasible, divide total work requirements into small portions or quantities to permit maximum participation of MBEs, WBEs, and other business enterprises. (Weight: 15 points)
3. Preparing and issuing Requests for Proposals to interested business enterprises and publishing proposals in newspapers, trade association publications, minority or trade-oriented publications, trade journals, or other appropriate media to solicit interest in participating in the work proposed in response to this RFP, not less than 10 calendar days prior to the submittal date of proposal. (Weight: 10 points)
4. Preparing and distributing written invitations to those business enterprises, including MBEs and WBEs, having an interest in participating in the work proposed in response to this RFP and documenting any invitations sent not less than 10 calendar days prior to submittal date of proposal. (Weight: 10 points)
5. Documenting efforts to follow up initial solicitations of interest by contacting the business enterprises to determine whether the enterprises are interested in participating in the work. (Weight: 13 points)
6. Providing interested enterprises with information about the plans, specifications, and requirements for the selected subcontracting work. (Weight: 7 points)
7. Requesting assistance from organizations that provide assistance in the recruitment and placement of MBEs, WBEs, and other business enterprises not less than 15 calendar days prior to the bid submittal date. (Weight: 13 points)

8. Negotiating in good faith with interested MBEs, WBEs, and other business enterprises and not unjustifiably rejecting proposals prepared by any enterprise. As documentation, the bidder shall submit a list of all sub-bidders for each portion of potential work for MBEs, WBEs, and other business enterprises. (Weight: 13 points)
9. Documenting efforts to advise and assist interested MBEs, WBEs, and other business enterprises in obtaining bonds, lines of credit, or required insurance. (Weight: 9 points)

4.16.4 Monthly Records

The successful bidder shall maintain records monthly to determine compliance with the LADWP's Outreach Program and shall submit such records to the Contract Administrator. The records shall be submitted on LADWP forms and shall show the following:

1. The name of each participating subcontractor.
2. Description of work each subcontractor has contracted to perform.
3. The percentage completion of the work under each subcontract.
4. The compensation contracted to be paid to each subcontractor.
5. The cumulative compensation earned by each subcontractor.
6. The cumulative compensation paid to each subcontractor.

4.17 Insurance Requirements

Describe the Contractor's ability to comply with the Insurance Requirements presented in Section 9.0 of this document.

4.18 Los Angeles City Tax Registration Certificate

Provide the Contractor's Business Tax Registration Certificate or Business Tax Exemption Number. Policy regarding Business Tax Registration is presented in Appendix I.

4.19 Taxpayer Identification Number

Provide the proposer's Taxpayer Identification Number on Form W-9. Policy regarding Tax ID is presented in Appendix J.

4.20 Job Opportunities and Training Policy

Provide response that complies with the Job Opportunities and Training Policy, Revised 3/6/2009 as presented in Appendix A.

5.0 Task Management System

The LADWP's Task Management System is a means to contract for a specific service when the exact work product is not known at the initiation of the contract. Rates quoted in the proposal are used as the basis for establishing the compensation for the tasks requested.

Any contract awarded as a result of this RFP will be administered and managed using the LADWP's Task Management System with compensation for a task being calculated and established on a time-and-material basis. Upon acceptance of a task letter, the Service Provider agrees to provide the deliverable(s) required by letter within the cost and schedule estimates included in the task letter. See Appendix K.

6.0 Contract Period and Funding

6.1 Contract Period

It is anticipated that a three-year contract will be awarded in the third quarter of 2009. It is expected that the described scope of work shall be completed within the first year of the contract. The remaining contract term will be for LADWP requested enhancements and support.

6.2 Contract Funding

The contract will be funded by both the Water and Power systems, at an allocation determined by the number of eligible employees within each system.

7.0 Conditions for Submitted Proposal

7.1 Clarification

If additional information is needed to interpret RFP, written questions shall be submitted to Mr. George Rofail, Contract Administrator, at george.rofail@ladwp.com.

7.2 Responsiveness

The detailed requirements set forth in paragraph(s) of Section 2.2 and Section 4.0 are mandatory. Failure by a proposer to respond to a specific requirement may result in disqualification.

7.3 Right to Reject Proposals

The LADWP reserves the right to reject any or all proposals.

7.4 Incurring Costs

The LADWP is not liable for any costs incurred by proposers in responding to this RFP. Any and all costs incurred responding to this RFP, including interviews or other related activity, shall be borne by the Proposer.

7.5 Disposition of Proposals

All proposals submitted in response to this RFP shall become the property of the LADWP and a matter of public record. Also, the Contractor must identify all copyrighted material, trade secrets or other proprietary information that they claim are exempt from disclosure under the Public Records Act (California Code Sections 6250 et seq.). In the event such an exemption is claimed, the Contractor shall be requested to state in the proposal that they will defend any action.

7.6 Discussions

The LADWP may award a contract on the basis of proposals submitted, without discussions, or may negotiate further with those proposers within a competitive range. Proposals should be submitted on the most favorable terms the proposer can provide.

7.7 Award

Award may be without discussion of proposals received. Proposals should be submitted on the most favorable terms the proposer can provide.

7.8 Council Review

Any action taken by the Board will be subject to review by the Los Angeles City Council and an award of contract will not be final until such review process has been completed. The successful bidder will be notified, in writing, when such review process has been completed, and of the award date of the contract. No payment can be made for action taken or work started prior to the award date of the contract and execution of bonds and insurance if applicable.

8.0 Standard Contract Provisions

At the conclusion of the evaluation process, negotiations between the LADWP and the successful bidder(s) for a contract will proceed. In order to ensure the negotiations are successfully completed within an appropriate time frame, the standard terms and conditions required by the LADWP is presented in Appendix L, Agreement for Information Technology Products & Services. This draft includes Standard Terms and Conditions that will be made part of the final contract including City/LADWP required socioeconomic programs and requirements and the Confidentiality Agreement.

9.0 Insurance Requirements

Insurance – General Statement

It is the policy of Los Angeles LADWP of Water and Power (LADWP) that upon the award of a contract, the selected Bidder/Proposer/Vendor must provide evidence of insurance that conforms to the insurance requirements of the bid/proposal/agreement. Insurance requirements are explained in detail in the following language and “Contract Insurance Requirements” sheet, which specifically outlines the types and amounts of coverage required for this project. For your information and use, “Special Endorsement Forms”, “Guidance for Submitting Evidence of Insurance” and information on our insurance program for small vendors are available on our website.

When and if you are awarded a contract/agreement, acceptable evidence of required insurance, from insurers acceptable to the LADWP, will be required to be submitted within 30-days of the date of award and maintained current throughout the term of the contract. Said evidence of insurance must be on file with the Risk Management Section in order to receive payment under any contract for services rendered, and in order to commence work under your contract.

For further information regarding these requirements, please contact:

Los Angeles LADWP of Water and Power
Risk Management Section
Phone: (213) 367-4674
Fax: (213) 367-0214
Web: <http://www.ladwp.com/ladwp/cms/ladwp005363jsp>

Insurance – Applicable Terms and Conditions

9.1 Additional Insured Status Required

Contractor/Vendor shall procure at its own expense, and keep in effect at all times during the term of this Agreement, the types and amounts of insurance specified on the attached Contract Insurance Requirements page. The specified insurance shall also, either by provisions in the policies, by City's own endorsement form or by other endorsement attached to such policies, include and insure City, its LADWP of Water and Power, its Board of Commissioners (hereinafter referred to as "Board"), and all of its officers, employees and agents, their successors and assigns, as Additional Insureds (except for Professional Liability and Workers' Compensation), against the area of risk described herein as respects Contractor's/Vendor's acts or omissions in its performance of the agreement, hereunder or other related functions performed by or on behalf of Contractor/Vendor. Such insurance shall not limit or qualify the liabilities and obligations of the Contractor/Vendor assumed under the contract.

9.2 Severability of Interests and Cross Liability Required

Each specified insurance policy (other than Workers' Compensation and Employers' Liability and Property coverages) shall contain a Severability of Interest and Cross Liability clause which states, "It is agreed that the insurance afforded by this policy shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability," and a Contractual Liability Endorsement which shall state, "Such insurance as is afforded by this policy shall also apply to liability assumed by the insured under this Agreement with the City of Los Angeles."

9.3 Primary and Non-Contributory Insurance Required

All such insurance shall be Primary and Noncontributing with any other insurance held by City's LADWP where liability arises out of or results from the acts or omissions of Contractor/Vendor, its agents, employees, officers, assigns, or any person or entity acting for or on behalf of Contractor/Vendor. Any insurance carried by the LADWP which may be applicable shall be deemed to be excess insurance and the Contractor's/Vendor's insurance is primary for all purposes despite any conflicting provision in the Contractor's/Vendor's policies to the contrary.

9.4 Deductibles Subject to LADWP's Discretion

Deductibles and/or self-insured retentions shall be at the sole discretion of the Risk Manager of the LADWP (hereinafter referred to as "Risk Manager"). The LADWP shall have no liability for any premiums charged for such coverage(s). The inclusion of the LADWP of Water and Power, its Board, and all of its officers, employees and agents, and their agents and assigns, as additional insureds, is not intended to, and shall not, make them, or any of them a partner or joint venturer with Contractor/Vendor in its operations.

9.5 Proof of Insurance for Renewal or Extension Required

At least ten (10) days prior to the expiration date of any of the policies required on the attached Contract Requirement page, documentation showing that the insurance coverage has been renewed or extended shall be filed with the LADWP. If such coverage is canceled or reduced in coverage, Contractor/Vendor shall, within fifteen (15) days of such cancellation or reduction of coverage, file with the LADWP evidence that the required insurance has been reinstated or provided through another insurance company or companies.

9.6 Submission of Acceptable Proof of Insurance and Notice of Cancellation

Contractor shall provide proof to the LADWP's Risk Manager of all specified insurance and related requirements either by production of the actual insurance policy(ies), by use of LADWP's own endorsement form(s), by other written evidence of insurance acceptable to the Risk Manager, but always in a form acceptable to the Risk Manager and the Office of the City Attorney. The documents evidencing all specified coverages shall be filed with the LADWP prior to Contractor beginning operations hereunder. Said proof shall contain at a minimum, the applicable policy number, the inclusive dates of policy coverages, the date the protection begins for the LADWP of Water and Power, and the insurance carrier's name. It shall bear an original signature of an authorized representative of said carrier, and shall provide that such insurance shall not be subject to cancellation, material reduction in coverage or non-renewal except after written notice by certified mail, return receipt requested, to the City Attorney of the City of Los Angeles at least thirty (30) calendar days prior to the effective date thereof. The notification shall be sent by registered mail to: The Office of the City Attorney, Water and Power Division, Post Office Box 51111, JFB Room 340, Los Angeles, California 90051-0100.

9.7 Claims-Made Insurance Conditions

Should any portion of the required insurance be on a "Claims Made" policy, the Contractor/Vendor shall, at the policy expiration date following completion of work, provide evidence that the "Claims Made" policy has been renewed or replaced with the same limits, terms and conditions of the expiring policy, or that an extended three (3) years discovery period has been purchased on the expiring policy at least for the contract under which the work was performed.

9.8 Failure to Maintain and Provide as Cause for Termination

Failure to maintain and provide acceptable evidence of the required insurance for the required period of coverage shall constitute a breach of contract, upon which the LADWP may immediately terminate or suspend the agreement.

9.9 Sub-Contractor Compliance

The Contractor/Vendor shall be responsible for all sub-contractors'/sub-vendors' compliance with the insurance requirements.

9.10 Periodic Right to Review/Update Insurance Requirements

The LADWP and Contractor/Vendor agree that the insurance policy limits specified on the attached Contract Insurance Requirements page may be reviewed for adequacy annually throughout the term of this Agreement by the Risk Manager/City Attorney, who may thereafter require Contractor/Vendor to adjust the amounts and types of insurance coverage however the Risk Manager/City Attorney deems to be adequate and necessary. City reserves the right to have submitted to it, upon request, all pertinent information about the agent and carrier providing such insurance, including applicable license and ratings.

9.11 Specific Insurance Requirements

See Appendix N, "Contract Insurance Requirements".

9.12 Indemnification

The Contractor/Vendor undertakes and agrees to indemnify and hold harmless the City of Los Angeles, the LADWP of Water and Power, the Board of Water and Power Commissioners of the City of Los Angeles, and all of their officers and employees, and, at the option of the LADWP, defend the LADWP, and any and all of their Boards, officers, agents, representatives, employees, assigns and successors in interest from and against any and all suits and causes of action, claims, charges, damages, demands, judgments, civil fines and penalties, or losses of any kind or nature whatsoever, for death, bodily injury or personal injury to any person, including Contractor's/Vendor's employees and agents, or damage or destruction to any property of either party hereto, or third persons in any manner arising by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this contract on the part of the Contractor/Vendor, or the Contractor's/Vendor's officers, agents, employees, or sub-contractors/sub-vendors of any tier, except for the active negligence or willful misconduct of the LADWP, its Board, officers, agents, representatives or employees.

APPENDIX A

Appendix A

Job Opportunities and Training Program (JOTP)

Pursuant to the policy adopted on March 21, 2006, by the Board of Water and Power Commissioners, the Los Angeles Department of Water and Power (LADWP) requires that consultants/contractors devote 3% of direct labor costs to job development and training activities.

Program Goals:

- Partner with prospective (LADWP) consultants/contractors to dedicate minimum three percent (3%) of total direct labor costs (where applicable) of awarded contracts to the development and implementation of a job opportunities and training program
- Kindle current and future applicants' interest in working in the utility industry
- Improve the quality of the available workforce
- Facilitate job opportunities for underserved and unemployed workers

Bid/Proposal Evaluation Criteria:

LADWP shall also use the following demonstrable indicators to evaluate bids or proposals:

1. Clearly identified aspects of the project's scope of work, wherein the consultant/contractor anticipates training and employment opportunities for the underserved or unemployed, when feasible, dividing the entire project into smaller components to permit maximum engagement of Job Opportunities Training Program (JOTP) participants.

Required documentation:

A tabulated breakdown of project components and listing of potential tasks to be performed by/positions to be offered to JOTP participants

2. Proof of Contractor/consultant's efforts to outreach to high schools, community colleges, universities, WorkSource Centers, and other community resources specific to identifying program participants.

Required documentation:

Copies of each letter sent to the stated organizations. Faxed letters must include the fax transmittal confirmation slip showing date and time of

transmission. Mailed letters must include copies of the metered envelopes or certified mail receipts. Letters should state bidding/proposing firm's name, address, telephone number and contact person. It should specify the types of skills the needed JOTP participants should have and the positions the bidder/proposer anticipates to fill.

3. Percent of the total direct labor costs associated with the project, as set forth in the contractor/consultant cost schedule, that the above- referenced employment opportunities identified in item 1 (above) represent.

Required documentation:

Project cost schedule detailing the dollar amount of the direct labor costs versus the dollar amount and percentage to be dedicated to the JOTP.

Also consider for inclusion, proof of the following:

- A statement of the purpose and objectives of training activities, setting forth the expected level(s) of skill and competency at the conclusion of training, methods employed to evaluate the success of the contractor/consultant training activities, and identification of employment and placement opportunities for successful program participants.
- Methods of recruiting participants for training/partnership program activities to ensure inclusion within the community that LADWP serves.
- Methods to be used to monitor the progress of trainees/interns and their work and time spent on the project.

Commitments to provide training and job opportunities to JOTP participants will be considered by LADWP in the evaluation of your proposal for this project. 10 points will be allocated to this item.

APPENDIX B

CONFIDENTIALITY AGREEMENT

Between

CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER

And

Vendor

1. PARTIES:

The parties to this Agreement are the City of Los Angeles by and through the Department of Water and Power (“LADWP”), a Department of the City of Los Angeles established pursuant to Section 670, et. seq. of the Los Angeles City Charter, and **Vendor**.

2. RECITALS:

LADWP and **Vendor** recognize that the forces of competition require that the confidentiality of information and those matters which **Vendor** and LADWP possess as proprietary matters, must be maintained in order for both parties to effectively compete in the market place. It is the intent of the parties to this Agreement to fully maintain the confidentiality of such matters, items and information in connection with (**scope of work**).

3. DEFINITIONS:

The term “Agreement” means this confidentiality agreement between the LADWP and **Vendor**;

(a) “Confidential Information” means any data or information that is competitively sensitive material, and not generally known to the public, including, but not limited to, products planning information, marketing strategies, plans, finance, financial

information, operations, customer relationships, customer profiles, sales estimates, business plans, and internal performance results relating to the past, present or future business activities of either party, its subsidiaries and affiliated companies and the customers, clients and suppliers of any of the foregoing;

(b) any scientific or technical information, design, process, procedure, formula, or improvement that is commercially valuable and secret in the sense that its confidentiality affords a party a competitive advantage over its competitors; and

(c) all confidential or proprietary concepts, documentation, reports, data, specifications, computer software, source code, object code, flow charts, databases, inventions, information, know-how, show-how and trade secrets, whether or not patentable or copyrightable.

Confidential Information of a disclosing party, includes without limitation, all documents, inventions, substances, engineering and laboratory notebooks, drawings, diagrams, specifications, bills of material, equipment, prototypes and models, and any other tangible manifestation of the foregoing which now exist or come into the control or possession of the other party. If the Confidential Information is provided in a tangible form, the disclosing party shall clearly mark it "Proprietary" or "Confidential." If the Confidential Information is provided orally, the disclosing party shall clearly identify it as being proprietary or confidential. In the event the disclosing party inadvertently fails to clearly identify any tangible or oral information it provides to the recipient party, as confidential or proprietary, in the manner or fashion as set

forth herein, such information shall still be treated by the recipient party as confidential or proprietary information, if such information would otherwise be reasonably construed as Confidential Information hereunder.

The information will remain the property of the originating party. Confidential Information shall not include information which (i) at the time of disclosure is fully within the public domain through no breach of this Agreement by either party; (ii) is shown by evidence to have been, and in fact has been, known or independently developed by and is currently in the possession of either party prior to disclosure hereunder, (iii) was or is acquired by either from a third party who did not breach an obligation of confidentiality by disclosing it to either party or (iv) is required to be disclosed to comply with any applicable law, order, regulation or ruling; provided, however, both parties shall give timely notice of any such disclosure pursuant to these Sections.

4. PERMITTED USE OF CONFIDENTIAL INFORMATION:

The Confidential Information of the originating party will be kept confidential by the receiving party and will not be disclosed by the receiving party or its representatives without the prior written consent of the originating party, except that the receiving party may disclose such Confidential Information to those employees of the receiving party with a need to know such Confidential Information for purposes of this Agreement. Such Confidential Information will not be used for any purpose other than evaluating the transaction referred to above. Each party agrees to be responsible for any breach of this Agreement by its respective representatives.

5. NO DISCLOSURE:

The parties agree not to disclose to any other person that the Confidential Information has been made available.

6. NOTIFICATION OF DISCLOSURE:

Each party shall immediately notify the other party of any intended or unintended unauthorized disclosure or use of any Confidential Information by any of its representatives. Each party shall take all steps necessary in protection of LADWP and **VENDOR** rights to or in any of the Confidential Information referenced herein. If a party has requested or required, pursuant to any applicable law, order, regulation or ruling to disclose any of the Confidential Information, such party shall provide prompt written notice to the other party of such request or requirement so that such other party can seek a protective order or other appropriate remedy concerning such disclosure.

7. RETURN OF CONFIDENTIAL INFORMATION:

At any time upon the specific request of either party, LADWP and/or **VENDOR** shall promptly return any documentation or written, recorded, electronically stored or other descriptive materials of any kind that contain or discuss any Confidential Information as defined herein (provided, however, each party shall be permitted to redact its own analyses, compilations or other material) and each party's confidentiality obligations hereunder shall continue thereafter for the term of this Agreement.

8. TERM:

This Agreement shall be in effect for a period of three (3) years unless sooner terminated in writing by either party. Both parties agree that all their obligations undertaken herein with

respect to the Confidential Information received pursuant to this Agreement shall survive and continue after any expiration or termination of this Agreement.

9. DISCLAIMER OF ACCURACY, COMPLETENESS:

Each party acknowledges that although it has endeavored to include in the Confidential Information those materials that are believed to be reliable and relevant for the purpose of evaluation, neither party nor its respective representatives make any representation or warranty as to the accuracy or completeness of the Confidential Information. Each party agrees that neither party, nor its representatives, shall have any liability to the other party or its representatives as a result on or use of the Confidential Information.

10. NO OBLIGATION TO PROCEED:

LADWP and **VENDOR** expressly acknowledge that this Agreement is not to be construed as a letter of intent or any kind of commitment to enter into the transaction referred to above. LADWP and **VENDOR** further acknowledge that any expenses either may incur in evaluating the referenced transaction will be its sole responsibility unless otherwise agreed in writing.

11. NO LICENSE RIGHTS:

Supplying of Confidential Information shall not be considered to provide any license or proprietary rights, including any implied patent license.

12. REMEDIES:

The parties agree that money damages would not be a sufficient remedy for breach of the confidentiality and other obligations of this Agreement. Accordingly, in addition to all other remedies that each party may have, each party, as applicable, shall be entitled to

specific performance and injunctive or other equitable relief as a remedy for any breach of the confidentiality and other obligations of this Agreement. Each party agrees to waive any requirement for a bond in connection with any such injunctive or other equitable relief.

13. CHOICE OF LAWS:

The validity construction and enforcement on this Agreement and the determination of the rights and duties of the parties shall be governed by the laws of the State of California. Venue shall be in Los Angeles County.

14. COMPLETE AGREEMENT:

The agreement contains the entire agreement and understanding concerning the subject matter hereof between the parties hereto. This Agreement may not be modified or amended, except by writing signed by both parties hereto. This Agreement shall be effective on the date signed by the later of LADWP or **VENDOR**.

15. WAIVER TERMINATION OR DISCHARGE:

No waiver, termination or discharge of this Agreement, or any of the terms or provisions hereof, shall be binding upon either party hereto unless confirmed in writing. No waiver by either party hereto of any term or provision of this Agreement or of any default hereunder shall affect such parties' rights thereafter to enforce such term or provision to exercise any right or remedy in the event of any other default, whether or not similar.

16. ASSIGNMENT:

Neither **VENDOR** nor LADWP may not assign any right, matter or thing, referenced by this Agreement, in whole or in part, without the prior written consent of the other party and any attempt to so assign or transfer which is not in accordance herewith shall be null

and void and of no force or effect.

17. SUCCESSOR AND ASSIGNS OF LADWP:

This Agreement shall be binding on both LADWP and **VENDOR** and their successors and permitted assigns.

18. SEVERABILITY:

If any provision of this Agreement shall be held void, voidable, invalid or inoperative, no other provision on this Agreement shall be effective as a result thereof, and accordingly, the remaining provisions of this Agreement shall remain in full force and effect as though such void, voidable, invalid or inoperative provisions had not been contained herein.

19. REPRESENTATION:

Both parties acknowledge and agree that each was represented by legal counsel during the negotiation and execution of this Agreement.

20. TERM:

The term of this Agreement shall be for a period until testing is completed from the effective date.

IN WITNESS HERETO, the parties hereto have cause their duly authorized
representatives to execute this Agreement.

DATE: _____

CITY OF LOS ANGELES
DEPARTMENT OF WATER AND POWER

By: _____

Name: _____

Title: _____

Date: _____

VENDOR

By: _____

Name: _____

Title: _____

67508

APPENDIX C

Contract Fee Schedule

RFP:_____

Firm Name: _____

Firm Address: _____

Contact: _____

Direct Labor

[illegible]

Other Direct Costs

[illegible]

APPENDIX D

CITY OF LOS ANGELES

Awarding Dept.: _____
 Dept. Contact: _____
 MS: _____ OCC#: _____

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

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

A. For all contracts, the contractor agrees to adhere to the following Nondiscrimination Clause:

1. The contractor agrees and obligates the company not to discriminate during the performance of this contract against any employee or applicant for employment because of the employee's or applicant's race, religion, national origin, ancestry, sex, age, sexual orientation, disability, marital status, domestic partner status, or medical condition; and
2. All subcontracts awarded under this contract shall contain a like Nondiscrimination Clause.

B. For construction contracts from \$1,000 to under \$5,000 and nonconstruction contracts from \$1,000 to under \$100,000, the contractor agrees to:

1. Adhere to the Nondiscrimination Clause above;
2. Designate a management level Equal Employment Opportunity Officer as provided for in Section "E" below; and
3. Adhere to Equal Employment Practices provisions as outlined in LAAC § 10.8.3 and on Page A-3 of this document.

C. For construction contracts of \$5,000 or more and non-construction contracts of \$100,000 or more, the contractor agrees to:

1. Adhere to the Nondiscrimination Clause above;
2. Designate a management level Equal Employment Opportunity Officer as provided for in Section "E" below;
3. Adhere to Equal Employment Practices provisions as outlined in LAAC § 10.8.3 and on Pages A-4 and A-5 of this document;
4. Complete the Ethnic Composition of Total Work Force Report provided on Page A-2 of this document; and
5. Sign and submit an Affirmative Action Plan. The bidder must submit one of the two following plans:
 - a. Plan A. Los Angeles City Affirmative Action Plan ("Los Angeles City Affirmative Action Requirements") on Page A-6 and Page A-7 which is an approved plan requiring only signature of acceptance along with the Ethnic Composition of Work Force (Page A-2) and submittal to be effective; or,
 - b. Plan B. The Bidder's own Affirmative Action Plan for approval, which must contain at a minimum all of the elements of the City's Plan.

D. Subcontractors:

1. The contractor shall require the same documents indicated above to be submitted for subcontractors of any contract awarded by the City; and
2. The contractor shall be responsible for obtaining the Affirmative Action Plans from its subcontractors. Additional forms are Available from the Office of Contract Compliance or the awarding authority.

E. Equal Employment Opportunity Officer:

Please be advised that _____ is hereby

 NAME OF DESIGNEE TITLE

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

_____, () _____
 WORK ADDRESS TELEPHONE

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

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

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

 COMPANY NAME

 AUTHORIZED SIGNATURE

 ADDRESS

 NAME AND TITLE (TYPE OR PRINT)

 CITY, COUNTY, STATE, ZIP

A-1

 TELEPHONE

 DATE

TOTAL COMPOSITION OF WORK FORCE

OCC# _____

Contractor _____ **Project Title** _____ **Length of Contract** _____
Contractor Address _____ **Work Force as of (Date)** _____ (If you have no employees, write "no employee at this time.")

(Note: J - Journeyman, A - Apprentice, T - Trainee, F - Female, M - Male)																							
FOR CONSTRUCTION PROJECTS (L.A. County Only)																							
	AFRICAN AMERICAN (BLACK)			HISPANIC			ASIAN / PACIFIC ISLANDER			AMERICAN INDIAN/ ALASKAN NATIVE			CAUCASIAN (NON-HISPANIC)			TOTAL EMPLOYEES			% MINORITY			GENDER	
CRAFT	J	A	T	J	A	T	J	A	T	J	A	T	J	A	T	J	A	T	J	A	T	M	F
Brick Layers																							
Carpenters																							
Electricians																							
Gunit Workers																							
Iron Worker																							
Laborers																							
Operator Engineers																							
Painters																							
Pipe Trades																							
Plasters / Cement Masons																							
Sheet Metal Workers																							
Teamsters																							
Clerical																							
Supervisory																							
TOTAL																							

FOR NON-CONSTRUCTION PROJECTS

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

Employment statistics were obtained from:

☐ Available Records ☐ Visual Check ☐ Other (Specify) _____

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

Sec. 10.8.3. Equal Employment Practices Provisions.

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

- A. During the performance of this contract, the contractor agrees and represents that it will provide equal employment practices and the contractor and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
 - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
 - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 - 3. The contractor agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
- C. As part of the City's supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, the contractor shall certify in the specified format that he or she has not discriminated in the performance of City contracts against any employee or applicant for employment on the basis or because of race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
- D. The contractor shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of City contracts. On their or either of their request the contractor shall provide evidence that he or she has or will comply therewith.
- E. The failure of any contractor to comply with the Equal Employment Practices provisions of this contract may be deemed to be a material breach of City contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to the contractor.
- F. Upon a finding duly made that the contractor has failed to comply with the Equal Employment Practices provisions of a City contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the said contractor is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, such contractor shall be disqualified from being awarded a contract with City of Los Angeles for a period of two years, or until the contractor shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.
- H. The Board of Public Works shall promulgate rules and regulations through the Office of Contract Compliance, and provide necessary forms and required language to the awarding authorities to be included in City Request for Bids or Request for Proposal packages or in supplier registration requirements for the implementation of the Equal Employment Practices provisions of this contract, and such rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive orders. No other rules, regulations or forms may be used by an awarding authority of the City to accomplish the contract Compliance program.
- I. Nothing contained in this contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the City, or when an individual bid or proposal is submitted, the contractor shall agree to adhere to the Equal Employment Practices specified herein during the performance or conducted of City Contracts.
- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
 - 1. Hiring practices;
 - 2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
 - 3. Training and promotional opportunities; and
 - 4. Reasonable accommodations for persons with disabilities.
- L. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the City and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the City.

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

Sec. 10.8.4. Affirmative Action Program Provisions.

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

- A. During the performance of a City contract, the contractor certifies and represents that the contractor and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
 - 1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
 - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 - 3. The contractor shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
- C. As part of the City's supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, the contractor shall certify on an electronic or hard copy form to be supplied, that the contractor has not discriminated in the performance of City contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
- D. The contractor shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of City contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any contractor to comply with the Affirmative Action program provisions of City contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the contractor.
- F. Upon a finding duly made that the contractor has breached the Affirmative Action Program provisions of a City contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said contractor is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such contractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that the contractor has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a City contract, there may be deducted from the amount payable to the contractor by the City of Los Angeles under the contract, a penalty of TEN DOLLARS (\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a City contract.
- H. Notwithstanding any other provisions of a City contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.
- I. The public Works board of Commissioners shall promulgate rules and regulations through the Office of Contract Compliance and provide to the awarding authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of City contracts, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an awarding authority of the City to accomplish this contract compliance program.
- J. Nothing contained in City contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.

- K. The contractor shall submit an Affirmative Action Plan which shall meet the requirements of this Chapter at the time it submits its bid or proposal or at the time it registers to do business with the City. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, the contractor may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, the contractor must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
- (1) Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
 - (2) A contractor may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the City with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and the contractor.
- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
 2. Classroom preparation for the job when not apprenticeable;
 3. Pre-apprenticeship education and preparation.
 4. Upgrading training and opportunities;
 5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
 6. The entry of qualified women, minority and all other journeymen into the industry; and
 7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's work force to achieve the requirements of the city's Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the City and may be used at the discretion of the City in its Contract Compliance Affirmative Action Program.
- P. This ordinance shall not confer upon the City of Los Angeles or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by contractors or suppliers engaged in the performance of City contracts.
- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the City and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the City.

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

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

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

1. Construction Contracts Included.

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

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

2. Anticipated Utilization.

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

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

3. An Affirmative Action Plan.

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

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

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

b. Continually evaluate personnel practices to assure that hiring, upgrading, promotions, transfers, demotions and layoffs are made in nondiscriminatory manner so as to achieve and maintain a diverse work force.

c. Utilize training programs and assist minority, women and other employees in locating, qualifying for and engaging in such training programs to enhance their skills and advancement.

d. Secure cooperation or compliance from the labor referral agency to the contractor's contractual affirmative action obligations.

e. Establish a person at the management level of the contracting entity to be the Equal Employment Opportunity Office; such individual to have the authority to disseminate and enforce the company's Equal Employment and Affirmative Action Policies.

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

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

DATE

OFFICER'S SIGNATURES

FIRM NAME

A-7

OFFICER'S NAME AND TITLE (TYPE OR PRINT)

APPENDIX E

LWO – DEPARTMENTAL DETERMINATION FORM

REQUIRED DOCUMENTATION FOR ALL CONTRACTS

This form will aid Awarding Departments with determining whether or not a contract is subject to the LWO. It must be completed by the **AWARDING DEPARTMENT** and submitted to the Office of Contract Compliance. **INCOMPLETE SUBMISSIONS WILL BE RETURNED.** Please refer to the endnotes for more details.

AWARDING DEPARTMENT INFO			
Dept: _____		Contract Administrator: _____	
Contact Phone: _____		MS# _____	
CONTRACT INFO			
Contractor Name: _____		Contract # _____	
Project/Contract Name: _____		Purpose of Contract: _____	
Contract Amount: \$ _____		Term: _____	Start Date ____/____/____
		End Date ____/____/____	
SECTION I: DETERMINING APPLICABILITY TO LWO			
1	Check off ONE box that best describes the contract, then Continue to #2: This is a ☐ New Contract ☐ Contract Amendment		
2	If you checked off "New Contract" above, SKIP to Question #5 to determine whether this New contract is subject to the LWO.		
3	If you checked off "Contract Amendment" Please answer the following questions about the original contract:		
a	Was the original contract subject to the LWO?	☐ Yes ☐ No	
b	Was the original contract approved for an exemption?	☐ Yes ☐ No If YES, please note what type of exemption it received: _____	
4	If you checked off YES to 3a OR 3b, THIS FORM IS NOW COMPLETE – PLEASE SUBMIT PAGE 1 ONLY TO OCC. If you checked off NO to 3a AND 3b, Continue to #5 to determine whether this Contract Amendment is subject to the LWO.		
5	Check off ONE box in Parts A, B, C or D below that best describes the contract:		
These are contracts NOT SUBJECT, NOT APPLICABLE to LWO:		These contracts MAY or MAY NOT BE SUBJECT, or MAY or MAY NOT BE APPLICABLE to LWO:	
PART A		PART B	PART C
☐ Service contract that is less than 3 months OR \$25,000 or less ¹ ☐ Other governmental entity ² ☐ Purchase or rental of goods, equipment, property ³ ☐ Construction contract ⁴ ☐ Funded by Business Improvement District (BID) assessment money ⁵ ☐ Financial assistance is below both LWO CFAR thresholds: ⁶ (a) Financial assistance must be less than \$1 Million in a 12-month period AND (b) Is less than \$100,000 if on a continuing basis (such as a loan at a rate lower than the Applicable Federal Rate).		☐ Service contract that is at least 3 months AND over \$25,000.	☐ Public leases or licenses ☐ City Financial Assistance Recipient (CFAR) ⁷
6	If you checked off any box in Part A - THIS FORM IS NOW COMPLETE – PLEASE SUBMIT PAGE 1 ONLY TO OCC.		
7	If you checked off a box in Part B or C, SKIP TO #9.		
8	If you checked off the box in Part D, SKIP TO #13.		
9	Answer the following questions to determine whether the service contract or public lease or license is subject to the LWO:		
a	Service contracts ONLY: Are some of the services rendered by employees whose work site is on property owned by the City?	☐ Yes ☐ No	
b	Public Leases or Licenses ONLY: Are the services rendered on premises at least a portion of which is visited by substantial numbers of the public on a frequent basis (including, but not limited to, airport passenger terminals, parking lots, golf courses, recreational facilities)?	☐ Yes ☐ No	
c	Could the services feasibly be performed by City employees if the awarding authority had the requisite financial and staffing resources?	☐ Yes ☐ No	
d	Has the DAA determined in writing that coverage would further the proprietary interests of the City?	☐ Yes ☐ No	
10	If you checked off YES to ANY Question in #9, this contract is APPLICABLE TO THE LWO (it is SUBJECT). Continue onto SECTION II.		
11	If you checked off NO to Questions #9a, 9c, <u>and</u> 9d, this contract is NOT APPLICABLE TO THE LWO (it is NOT SUBJECT). Continue onto SECTION III.		
12	If you checked off NO to Questions #9b, 9c, <u>and</u> 9d, this contract is NOT APPLICABLE TO THE LWO (it is NOT SUBJECT). Continue onto SECTION III.		
13	Answer the following questions to determine whether the CFAR is subject to the LWO:		
A	Does the agreement intend to promote economic development?	☐ Yes ☐ No	
b	Is the Financial Assistance given in a 12-month period and above \$1 Million?	☐ Yes ☐ No	
c	Is the Financial Assistance \$100,000 or more on a continuing basis?	☐ Yes ☐ No	
14	If you checked off NO to Question #13a - this contract is NOT APPLICABLE TO THE LWO (it is NOT SUBJECT). PLEASE SUBMIT PAGE 1 ONLY TO OCC.		
15	If you checked off NO to Question #13b <u>and</u> 13c - this contract is NOT APPLICABLE TO THE LWO (it is NOT SUBJECT). PLEASE SUBMIT PAGE 1 ONLY TO OCC.		
16	If you checked off YES to Question #13b <u>or</u> 13c - this contract is APPLICABLE TO THE LWO (it is SUBJECT). Continue onto SECTION II.		

SECTION II: CONTRACTS APPLICABLE/SUBJECT TO THE LWO	
1	Your contract is applicable/subject to the LWO. However, it may be eligible for an exemption. Answer the following questions to determine whether it is eligible for an exemption.
2	Is this contract a CFAR? If YES, SKIP TO QUESTION #6 . If NO, Continue onto #3 .
3	Check off ONE box in Parts A or B that best describes the contract that MAY be eligible for an exemption, then Continue to #4:
PART A SERVICE CONTRACTS ONLY ☐ One-person contractor⁸ ☐ 501(c)(3) non-profit organization⁹ ☐ Grant-Funded Services¹⁰ ☐ Occupational license required¹¹ ☐ Collective bargaining agreement with LWO supersession language¹² PART B PUBLIC LEASES OR LICENSES ONLY ☐ Collective bargaining agreement w/ supersession language¹³ ☐ Small Business¹⁴	
4	If you checked off any boxes in Part A or B, this contract MAY be eligible for an exemption. Continue onto SECTION III.
5	If you did NOT check off any box above, this contract IS NOT eligible for an exemption. Continue onto SECTION IV.
6	Answer the following questions to determine whether the CFAR is eligible for an exemption:
a	Is the contractor a City financial assistance recipient (CFAR) in the first year of operation? ¹⁵ ☐ Yes ☐ No
b	Is the contractor a CFAR with less than five (5) employees? ¹⁶ ☐ Yes ☐ No
c	Is the contractor a CFAR that employs long-term, unemployed or provides training for permanent positions requesting hardship waiver? ¹⁷ ☐ Yes ☐ No
d	Does the contractor have employees who spend less half of their time on the City funded project or the employees of its service contractor? ¹⁸ ☐ Yes ☐ No
e	Does the contractor have a Collective bargaining agreement w/ supersession language? ¹⁹ ☐ Yes ☐ No
7	If you checked off YES to ANY Question in #6, this contract MAY be eligible for an EXEMPTION. Continue onto SECTION III.
8	If you checked off NO to <u>ALL</u> Questions in #6, this contract IS NOT eligible for an EXEMPTION. Continue onto SECTION IV.
SECTION III: CONTRACTS NOT SUBJECT / CONTRACTS ELIGIBLE FOR EXEMPTIONS	
1	Your contract MAY be eligible for an exemption. Have the contractor fill out the corresponding form below and submit it to your department for further review. Once the form is completed, send it to OCC for final approval, and then continue to #2 in this Section.
REQUIRES OCC APPROVAL	
Type of Contract	Form to Submit
Service contracts / Public Licenses / Lessees NOT Subject Grant Funded Services *Occupational license required *Collective bargaining agreement w/supersession language *CFAR	LW 10 – OCC Exemption Form http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm *Also submit the LW 18 – Subcontractor Information Form (SIF) http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm
Small Business	LW 26 – OCC Small Business Exemption Form (English): http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm LW 26 – OCC Small Business Exemption Form (Spanish): http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm
REQUIRES AWARDING DEPARTMENT APPROVAL	
Type of Contract	Form to Submit
*One-person contractors, lessee, licensee *501(c)(3) non-profit organization	LW 13 – Departmental Exemption Form http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm *Also submit the LW 18 – Subcontractor Information Form (SIF) http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm
2	Has the exemption been approved? If YES, THIS FORM IS NOW COMPLETE – PLEASE SUBMIT PAGES 1, 2 and the APPROVED EXEMPTION FORM TO OCC. If NO, Continue onto SECTION IV.
SECTION IV: CONTRACTS SUBJECT TO THE LWO (AND NOT ELIGIBLE FOR EXEMPTIONS)	
1	Your contract IS SUBJECT TO THE LWO AND NOT ELIGIBLE FOR EXEMPTIONS. Have the contractor fill out the two (2) corresponding forms below and submit them to your department for further review. Once these forms are complete, Continue onto #2 .
Employee Information Form (EIF) Subcontractor Information Form (SIF)	LW 6 – Employee Information Form http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm LW 18 – Subcontractor Information Form http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm
2	THIS FORM IS NOW COMPLETE – PLEASE SUBMIT PAGES 1, 2, EIF and SIF TO OCC.

ENDNOTES FOR LWO DEPARTMENTAL DETERMINATION FORM - LW-1

¹ **Less than three months OR less than \$25,000 - LAAC 10.37.1(j):** Service contracts or Authority for Expenditures that do not meet these thresholds are not categorically exempt from the LWO.

² **Governmental Entities – LAAC 10.37.1(g):** Agreements with governmental entities are exempt from the requirements of the LWO. If an agreement is exempt from the LWO because the contractor is a governmental entity, subcontractors performing work for the governmental entity on the agreement are also exempt.

³ **Purchase of Goods, Property, or a Lease of Property with City as Lessee – LAAC 10.37.1(j):** Such contracts are categorically exempt from the LWO unless they include a service component that is more than just incidental. - “Incidental services” means services that are: (1) part of an agreement for which the primary purpose is to purchase or rent goods or equipment; and (2) performed on a non-recurring and irregular basis. Services are not incidental, even if the primary purpose of the agreement is to purchase goods or equipment, if the agreement provides that services are to be performed on a regular schedule, or if the awarding authority anticipates that services will be needed on a regular basis during the life of the agreement.

⁴ **Construction contracts LAAC 10.37.1(j):** Construction contracts that do not conform to the definition of a service contract are categorically exempt from the LWO.

⁵ **Business Improvement Districts (BID):** Service agreements funded with the BID’s assessment monies are categorically exempt from the LWO (see also Regulation #11). Agreements to provide services related to a BID that are not funded with the BID’s assessment money remain subject to the LWO unless they otherwise qualify for an exemption.

⁶ **City Financial Assistance Below LWO Thresholds - LAAC 10.37.1(c):** Agreements that provide a contractor with City financial assistance intended to promote economic development or job growth are categorically exempt from the LWO if they do not meet either of the monetary thresholds described in the LWO.

Thus, such agreements are categorically exempt from the LWO if the assistance given in a 12-month period is below \$1,000,000 and less than \$100,000 per year on a continuing basis. Example: The City approves a loan to a contractor of \$5,000,000 for the development of shopping center that will create new jobs. The loan is for 20 years at an interest rate of 4%. At the time the awarding authority grants approval for the loan, the Applicable Federal Rate (AFR) referenced in the LWO is 4.6%.

This contract is not subject to the LWO because it does not meet the financial thresholds, as explained below:

The amount of financial assistance used to determine whether the contractor meets the LWO thresholds is amount the contractor saves in interest payments. To determine the amount of savings on interest payments (the financial assistance), the annual savings on interest rate is calculated as follows:

Financial Assistance = (Amount of Loan @ AFR) – (Amount of Loan @ City rate)

Financial Assistance = (\$5,000,000 x 4.6%) – (\$5,000,000 x 4%)

Financial Assistance = \$230,000 – \$200,000

Financial Assistance = \$30,000

Thus, the contractor receives \$30,000 in financial assistance per year for the next 20 years. This is less than \$1 Million in a year, and less \$100,000 per year on a continuing basis. Therefore, the contractor is exempt from the LWO. No approval from the OCC is required, and the awarding department may indicate this exemption on the Departmental Determination of Coverage form.

⁷ **City Financial Assistance Recipient –** Means any person who receives from the City discrete financial assistance for economic development or job growth expressly articulated and identified by the City, as contrasted with generalized financial assistance such as through tax legislation, in accordance with the following monetary limitations. Assistance given in the amount of one million dollars (\$1,000,000) or more in any twelve-month period shall require compliance with this article for five years from the date such assistance reaches the one million dollar (\$1,000,000) threshold. For assistance in any twelve-month period totaling less than one million dollars (\$1,000,000) but at least one hundred thousand dollars (\$100,000), there shall be compliance for one year if at least one hundred thousand dollars (\$100,000) of such assistance is given in what is reasonably contemplated at the time to be on a continuing basis, with the period of compliance beginning when the accrual during such twelve-month period of such continuing assistance reaches the one-hundred thousand dollar (\$100,000) threshold.

Categories of such assistance include, but are not limited to, bond financing, planning assistance, tax increment financing exclusively by the City, and tax credits, and shall not include assistance provided by the Community Development Bank. City staff assistance shall not be regarded as financial assistance for purposes of this article. A loan shall not be regarded as financial assistance. The forgiveness of a loan shall be regarded as financial assistance. A loan shall be regarded as financial assistance to the extent of any differential between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan by the applicable federal rate as used in 26 U.S.C. § 9 1274(d), 7872(f). A recipient shall not be deemed to include lessees and sublessees.

⁸ **One-Person Contractor:** A contractor may apply for exemption under Section 10.37.1(f) of the LWO if that contractor has no employees. The one-person contractor shall submit an application for non-coverage or exemption to the awarding authority on the form referred to in Appendix A with the appropriate one-person contractor certification. If, subsequent to the approval of the exemption application, the contractor hires any employees, the exemption is no longer valid. Any employee the contractor hires becomes covered by the LWO to the extent that the employee performs work on the City agreement. In such cases, the contractor shall notify the awarding authority of the change in circumstances and submit to the awarding authority all the necessary forms to comply with the LWO reporting requirements, including the employee and subcontractor information forms.

⁹ **Non-Profit 501(c)(3) Organizations:** A corporation claiming exemption under Section 10.37.1(g) of the LWO as a corporation organized under Section 501 (c)(3) of the United States Internal Revenue Code must provide the following additional documents in support of the application for exemption:

(A) A copy of the most recent IRS letter indicating that the contractor has been recognized as a non-profit corporation organized under section 501 (c)(3) of the United States Internal Revenue Code.

(B) An application for non-coverage or exemption, including the non-profit salary certification on the form referred to in Appendix A. The salary certification must list the salary of the corporation's chief executive officer (CEO), computed on an hourly basis, and the hourly wage rate of the lowest paid worker in the corporation. The salary of the CEO, when computed on an hourly basis, must be less than 8 times what the lowest paid worker is paid on an hourly basis. For purposes of this exemption, the "chief executive officer (CEO)" means the CEO of the 501(c)(3) corporation that entered into the agreement with the City, or the highest paid person employed by the corporation if the CEO is not the highest paid employee. The "lowest paid worker" refers to the lowest paid worker employed by the 501(c)(3) corporation that entered into the agreement with the City, regardless of whether the person works on the City agreement. In calculating the salary of the CEO and the wage rate of the lowest paid worker, the corporation may not include items such as cash allowances for car expenses, meals, parking, or the value of pension plan contributions.

Child care workers: Even if a corporation meets the requirements for exemption as a 501(c)(3) non-profit organization, if the corporation provides child care services as part of the City agreement or employs child care workers who will work on the City agreement, the corporation must pay all child care workers working on the subject agreement the required LWO wage rate. The LWO requirements regarding compensated and uncompensated days off are also applicable to those child care workers.

¹⁰ **Grant-funded Services:** Agreements let by the City involving federal or state grant funds shall be subject to the LWO unless the grant-funding agency indicates in writing that the provisions of the Ordinances should not apply. The awarding authority shall provide a copy of grant-funding agency's determination to the OCC.

¹¹ **Occupational license - LAAC 10.37.1(f): Exemptions for Employees Requiring Occupational Licenses:** If an employer claims that the LWO does not apply to an employee pursuant to section 10.37.1(f) because an occupational license is required of the employee to perform the work, the employer shall submit to the awarding authority, along with the application for non-coverage or exemption, a list of the employees required to possess an occupational license, the type of occupational license required, and a copy of the occupational license itself. An exemption granted under this provision exempts only the employee who must possess an occupational license to perform work on the City agreement. If an occupational license is not required of an employee to perform the work, the employee remains covered by the LWO.

¹² **Exemption by Collective Bargaining Agreement – LAAC 10.37.12:** An employer subject to provisions of the LWO may, by collective bargaining agreement (CBA), provide that the CBA, during its term, shall supersede the requirements of the LWO for those employees covered by the CBA. The provisions of the LWO should not be interpreted to require an employer to reduce the wages and benefits required by a collective bargaining agreement. All parties to the CBA must specifically waive in full or in part the benefits required by the LWO. An employer applying for this exemption shall submit a copy of the CBA. If the CBA does not specifically indicate that the LWO has been superseded, the employer shall submit written confirmation from the union representing the employees working on the agreement that the union and the employer have agreed to let the CBA supersede the LWO.

(A) Provisional Exemption from LWO during negotiation of CBA: An employer subject to the LWO may apply for Provisional Exemption from the LWO if the employer can document that: (1) the union and the employer are currently engaged in negotiations regarding the terms of the CBA; and (2) the issue of allowing the CBA to supersede the LWO has been proposed as an issue to be addressed during the negotiations. If granted, Provisional Exemption status is valid until the end of the negotiation process, including, if applicable, impasse resolution proceedings. During the negotiation process, the employer shall provide, upon request from the OCC, status reports on the progress of negotiations. At the end of the negotiation process, the employer shall provide the OCC with a copy of the final CBA to verify whether the LWO has been superseded, and the effective dates of the CBA.

(i) If the final CBA signed by the employer and the union supersedes the LWO, the employer shall be considered to be exempt from the LWO's wage and benefits provisions for the time period covered by the effective dates of the superseding CBA. The employer remains subject to all applicable provisions of the LWO for the time period not covered by the superseding CBA. If the employer has not complied with the LWO requirements during the time period not covered by the

superseding CBA, the employer shall be required to make retroactive corrections for any period of non-compliance, which may include making retroactive payments to affected employees for the relevant periods of non compliance.

(ii) If the final CBA signed by the employer and the union does not supersede the LWO, the employer shall be required to comply with all applicable LWO requirements, including the wage and benefits provisions. Compliance shall also be required retroactively to the date that the employer first became subject to the LWO. If necessary, the employer shall provide retroactive payments to affected employees for any time period during which the employer did not comply with the LWO.

¹³ See Endnote #12

¹⁴ **Small Business Exemptions for Public Lessees and Licensees – LAAC 10.37.1(i):** A public lessee or licensee claiming exemption from the LWO under section 10.37.1(i) shall submit the small business application for exemption form referred to in Appendix A along with supporting documentation to verify that it meets both of the following requirements:

(A) The lessee's or licensee's gross revenues from all business(es) conducted on the City premises for the calendar year prior to the date of the application for exemption do not exceed the gross annual revenue amount set by the LWO in Section 10.37.1(i). That gross revenue amount shall be adjusted annually according to the requirements of the LWO. The gross revenue amount used in evaluating whether the lessee or licensee qualifies for this exemption shall be the gross revenue amount in effect at the time the OCC receives the application for exemption.

A public lessee or licensee beginning its first year of operation on a specific City property will have no records of gross annual revenue on the City property. Under such circumstances, the lessee or licensee may qualify for a small business exemption by submitting proof of its annual gross revenues for the last tax year prior to application no matter where the business was located, and by satisfying all other requirements pursuant to these regulations and the LWO.

A lessee or licensee beginning its first year of operation as a business will have no records of gross annual revenue. Under such circumstances, the lessee or licensee may qualify for a small business exemption by satisfying all other requirements pursuant to these regulations and the LWO.

(B) The lessee or licensee employs no more than seven (7) employees.

(i) For purposes of this exemption, a lessee or licensee shall be deemed to employ a worker if the worker is an employee of a company or entity that is owned or controlled by the lessee or licensee, regardless of where the company or entity is located; or if the worker is an employee of a company or entity that owns or controls the lessee or licensee, regardless of where the company or entity is located.

Whether the lessee or licensee meets the seven (7) employee limit provided for in Section 10.37.1(i) of the LWO shall be determined using the total number of workers employed by all companies or businesses which the lessee or licensee owns or controls, or which own or control the lessee or licensee. Control means that one company owns a controlling interest in another company.

(ii) If a business operated by the lessee or licensee is part of a chain of businesses, the total number of employees shall include all workers employed by the entire chain of businesses unless the business operated by the lessee or licensee is an independently owned and operated franchise.

(iii) A public lessee or licensee shall be deemed to employ no more than seven (7) employees if its entire workforce (inclusive of those employees falling within the guidelines stated in subsections (i) and (ii) immediately above) worked an average of no more than 1,214 hours per month for at least three-fourths of the time period that the revenue limitation provided for in section 10.37.1(i) is measured.

Until the OCC approves the application for exemption, the lessee or licensee shall be subject to the LWO and shall comply with its requirements. If the OCC approves the application, the lessee or licensee shall be exempt from the requirements of the LWO for a period of two years from the date of the approval. The exemption will expire two years from the date of approval, but may be renewable in two-year increments upon meeting the requirements.

¹⁵ **CFAR: First Year Financial Assistance Recipients – 10.37.1(c):** A first-year City financial assistance recipient (CFAR) applying for exemption under Section 10.37.1(c) of the LWO shall submit proof of its start up date and workforce documentation with its application for exemption. If the OCC grants an exemption on this basis, the first year CFAR is exempt from the LWO for a period of one year from the date the exemption is approved.

¹⁶ **CFAR: Employing Fewer Than Five Employees – 10.37.1(c):** A City financial assistance recipient (CFAR) claiming exemption on the basis that it employs fewer than five (5) employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year shall submit with its application for exemption payroll registers for that twenty (20) week period to verify eligibility.

¹⁷ **CFAR: Hardship waivers for job training and preparation programs –10.37.1(c):** A City financial assistance recipient (CFAR) that employs the longterm unemployed or provides trainee positions intended to prepare employees for permanent positions may request an economic hardship waiver pursuant to Section 10.37.1(c). The CFAR must submit to the awarding authority documentation of the program's demonstrated and projected results and the potential adverse

impact due to compliance with this article. The awarding authority will forward the documentation and its recommendation to the City Council for consideration. A copy of such a recommendation shall be forwarded to the OCC.

¹⁸ **CFAR: Employee Exemption – 10.37.1(c):** A City financial assistance recipient (CFAR) that claims exemption pursuant to Section 10.37.1(e) for its employees who expend less than half of their time on the City funded project or the employees of its service contractor, if any, who expend less than half of their time on the premises of the CFAR directly involved with the activities funded by the City, shall be responsible for maintaining records of applicable hours and descriptions of work performed to substantiate the exemption.

¹⁹ See Endnote #12

APPENDIX F

LWO/SCWRO – SUBCONTRACTOR DECLARATION OF COMPLIANCE FORM

REQUIRED DOCUMENTATION FOR ALL SUBCONTRACTS SUBJECT TO LWO

This form must be submitted to the **AWARDING DEPARTMENT** within **90 DAYS** of the execution of the subcontract. **INCOMPLETE SUBMISSIONS WILL BE RETURNED.**

THE LIVING WAGE ORDINANCE (LWO) REQUIRES:

That a subcontractor (including a sublessee, a sublicensee, or a service contractor to a City financial assistance recipient) that works on or under the authority of an agreement subject to the Service Contractor Worker Retention Ordinance (SCWRO) and Living Wage Ordinance (LWO) **must comply with all applicable provisions of the Ordinances unless specifically approved for an exemption.**

THE SERVICE CONTRACT WORKER RETENTION ORDINANCE (SCWRO) REQUIRES:

In case of a successor service contract, a successor prime contractor and its subcontractors shall retain for a 90-day transition employment period, certain employees who have been employed by the terminated prime contractor and its subcontractor, if any, for the preceding 12 months or longer. Refer to the SCWRO Rules and Regulations, available from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance (OCC) website - <http://bca.lacity.org>, for details regarding the wage and benefit requirements of the Ordinance.

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

- As of July 1, 2008 a wage of at least **\$10.00 per hour with health benefits** of \$1.25 per hour, or **\$11.25 per hour without health benefits** (to be adjusted annually) (Regulation #4);
- At least **12 compensated days off per year** for sick leave, vacation or personal necessity at the employee's request (pro-rated for part-time employees) (Regulation #4);
- At least **10 additional days off per year of uncompensated time off** for sick leave (pro-rated for part-time employees) (Regulation #4); and
- Making **less than \$12.00 per hour** information of their possible **right to the federal Earned Income Tax Credit (EITC)** and make available the forms required to secure advance EITC payments from the employer (Regulation #4).

THE LIVING WAGE ORDINANCE (LWO) ALSO REQUIRES EMPLOYERS:

- To permit access to work sites for authorized City representatives to review the operation, payroll and related documents, and to provide certified copies of the relevant records upon request by the City.
- **Not to retaliate** against any employee claiming non-compliance with the provisions of these Ordinances and to **comply with federal law** prohibiting retaliation for union organizing (Regulation #4). Refer to the LWO Rules and Regulations, available from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance (OCC) website - <http://bca.lacity.org>, for details regarding the wage and benefit requirements of the Ordinance.

TO BE FILLED OUT BY THE SUBCONTRACTOR:

1. Company Name: _____ Company Phone Number: _____

2. Company Address: _____

3. **STATE** the name of your Prime Contractor: _____

4. Type of Service Provided by Subcontractor to Prime: _____

IF A SUBCONTRACTOR FAILS TO COMPLETE AND SUBMIT THIS FORM TO THE OFFICE OF CONTRACT COMPLIANCE, THE PRIME CONTRACTOR MAY BE DEEMED TO BE IN VIOLATION OF THE LWO AND SCWRO FOR FAILING TO ENSURE ITS SUBCONTRACTOR'S COMPLIANCE WITH THE ORDINANCES. THIS MAY RESULT IN WITHHOLDING OF PAYMENTS DUE THE PRIME CONTRACTOR, OR TERMINATION OF THE PRIME CONTRACTOR'S AGREEMENT WITH THE CITY.

By signing this Declaration of Compliance, the subcontractor certifies that it will comply with all applicable provisions of the SCWRO, LWO, and their implementing Rules and Regulations, including any amendments or revisions to the Ordinances and Regulations.

Print Name of Person Completing This Form

Signature of Person Completing This Form

Title

Phone #

Date

AWARDING DEPARTMENT USE ONLY:

Dept: _____ Dept Contact: _____ Contact Phone: _____ Contract #: _____

APPENDIX G

City of Los Angeles
Department of Water and Power
CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT
OBLIGATIONS

This document must be returned with the Proposal/Bid Response

The Undersigned hereby agrees that _____ will:
Name of Business

1. Fully comply with all applicable State and Federal employment reporting requirements for its employees.
2. Fully comply with and implement all lawfully served Wages and Earnings Assignment Orders and Notices of Assignment.
3. Certify that the principal owner(s) of the business are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally.
4. Certify that the business will maintain compliance with Child Support Obligations Ordinance provisions.

I declare under penalty of perjury that the foregoing is true and was executed at:

City/County/State

Date

☐ **Please check if company has already submitted to DWP certification relative to Child Support Obligations Ordinance.**

Name of Business

Address

Signature of Authorized Officer or Representative

Print Name

Title

Telephone Number

APPENDIX H

LADWP WEBSITE UPGRADE RFP

Department's Outreach Program Documentation

Instructions: In accordance with Section 4.16.2 of this RFP, all proposer(s) shall furnish all requested information and include it with any proposal in response to this RFP.

- A. Each principal firm, and/or joint venture partner, involved in the proposal shall furnish the following information:
1. Name of principal firm:
 2. Indicate whether the firm is a :
 Certified Women's Business Enterprise,
 Certified Minority Business Enterprise, or
 Other Business Enterprise.
 3. Name all other principal and/or joint venture partners
 4. Indicate whether other principal and/or joint venture partners are a:
 Certified Women's Business Enterprise,
 Certified Minority Business Enterprise, or
 Other Business Enterprise
- B. Each proposal shall include a List of Proposed Subcontractors indicating which, if any, of the subcontractors are Certified Women's Business Enterprises by use of the letters "WBE", or Certified Minority Business Enterprises by use of the letters "MBE", in the Status column of the list which shall be of the format that follows:

Proposed Subcontractors

<u>Firm Name, Address, and Telephone</u>	<u>Status</u>	<u>Description of Work to be Performed</u>	<u>Estimated Dollar Amount of Work to be Performed</u>
--	---------------	--	--

Note: Provide a copy of W/MBE certification from the certifying agency with the proposal.

C. Each proposal shall furnish a detailed statement of the good faith efforts to meet the Department's Outreach Program:

- 1) Participation achieved: _____% WBE _____% MBE
- 2) Attended pre-bid meetings: _____ Yes _____ No
- 3) Identify selected portions of the project to be performed by subcontractors:

- 4) State the publication(s) and the dates of the advertisement(s) placed for bids from interested business enterprises. Attach copy(ies).

- 5) List the business enterprises that were sent written notices of intent to bid. Attach copies.

- 6) Document the efforts to follow up initial solicitations.

- 7) List the interested enterprises that were provided information about the plans, the specifications and the requirements.

- 8) List the organizations contacted that provided assistance in the recruitment and the placement of WBEs, MBEs, and other business enterprises.

- 9) List the WBEs, the MBEs, and the other business enterprises that negotiations were conducted with.

- 10) Document the efforts to advise and to assist interested WBEs, MBEs, and other business enterprises in obtaining bonds, lines of credit, or required insurance.

Attach additional sheets if necessary.

APPENDIX I

ANTOINETTE CHRISTOVALE
DIRECTOR OF FINANCE

CITY OF LOS ANGELES

CALIFORNIA



ANTONIO R. VILLARAIGOSA
MAYOR

OFFICE OF FINANCE
CITY HALL
200 NO. SPRING ST., ROOM 101
LOS ANGELES, CA 90012-5701
(USE MAIN ST. ENTRANCE)

(213) 473-5901
FAX (213) 978-1548
WWW.CITYOFLA.ORG/FINANCE

IMPORTANT NOTICE

Dear City of Los Angeles Vendor:

Re: Tax Registration Certificate (TRC) and/or Vendor Registration Number (VRN)

On October 14, 1987, the City of Los Angeles Controller's Office implemented a program designed to ensure that all businesses (hereafter referred to as vendors), which contract to provide goods or services to the City, have fully complied with all business tax requirements. As such, each vendor must provide the Controller's Office with a registration account number issued by the Los Angeles Office of Finance, prior to being paid for any goods or services provided.

The Office of Finance is responsible for the collection of various taxes, fees, and charges as required under the Los Angeles Municipal Code. Section 21.03 L.A.M.C. (Imposition of Tax) requires persons engaged in any business or occupation within the City of Los Angeles to register and pay the required tax due. Businesses, including vendors, owing a business tax are issued a Tax Registration Certificate (TRC). However, in some cases businesses are not required to pay a business tax, depending on the nature and location of that business. In those cases, the vendor is issued a Vendor Registration Number (VRN). In order to be paid under contract with the City, a Tax Registration Certificate Number (TRC) or Vendor Registration Number (VRN) must be provided to the Controller's Office.

In order to obtain the required registration number, please complete and return the enclosed application (Exhibit A), along with the appropriate attachments, based on your business activity. Applications are reviewed by Office of Finance personnel and the appropriate registration number will be issued. An annual business tax is due upon issuance of a Tax Registration Certificate Number (TRC). All Vendor Registration Numbers (VRN) will be reviewed on an annual basis.

Additionally, non-profit organizations may apply for an exempt Tax Registration Certificate. Applications for exemption of the City of Los Angeles business tax are reviewed by the Office of Finance and/or the Los Angeles Police Department, Commission Investigation Division, Charitable Services Unit to determine if an exemption should be granted. The determination is generally completed in approximately thirty (30) days from the date all required documentation is submitted.

If you require non-profit tax exemption information, please contact the Tax Exemption Unit at (213) 978-3050, or if you have questions regarding Vendor Registration, please contact the Special Desk Unit at (213) 473-5901.

Enclosures

(Revised 11/05)

Office of Finance

(Main Office)

City Hall
200 North Spring Street
Room 101
Los Angeles, CA 90012
(213) 978-1521

Hours: 8:00 a.m. – 5:00 p.m.
Monday – Friday

BRANCH OFFICES

TELEPHONE NUMBERS

HOURS

Van Nuys Civic Center
6262 Van Nuys Blvd #110

(818) 374-6850

Monday – Friday
8:00 a.m. – 5:00 p.m.

West Los Angeles
1828 Sawtelle Bl., Room 102

(310) 575-8888

Monday – Friday
8:00 a.m. – 5:00 p.m.

Hollywood
6501 Fountain Ave.

(213) 485-3935

Monday – Friday
8:00 a.m. – 5:00 p.m.

San Pedro
638 S. Beacon St. Room 211

(310) 732-4537

Mon. Wed. Fri.
7:30-Noon/1-4:30 p.m.

Westchester Municipal Building
7166 W. Manchester Ave., Room 9

(213) 473-6750

Tues. & Thurs.
8-Noon/1-4:30 p.m.

Watts Civic Center Building
10221 Compton Ave., Room 202

(213) 473-5109

Tues. & Thurs.
1:00-4:30 p.m.

Figueroa Plaza Bldg. One Stop Ctr.
201 N. Figueroa St., 3rd Floor
(Counter 17)

(213) 482-7032

Mon. Tue. Thu. Fri.
7:30 – 4:30 p.m.
Wed. 9:00 a.m.-4:30 p.m.

**APPLICATION FOR TAX REGISTRATION CERTIFICATE OR
VENDOR REGISTRATION NUMBER**

In order to obtain the required Tax Registration Certificate or a Vendor Registration Number, please complete the following information:

LEGAL NAME OF OWNER: _____
(Individual, Partnership, or Corporation)

BUSINESS NAME: _____
(DBA or Fictitious Name of Business)

BUSINESS ADDRESS: _____
(Do Not Use a P.O. Box) ☐ Residential
☐ Non-residential

MAILING ADDRESS: _____
(If Different from Business Address)

C/O: _____

DESCRIPTION OF BUSINESS: _____

BUSINESS START DATE WITHIN THE CITY OF LOS ANGELES: _____
MONTH DAY YEAR

Please circle the exhibit(s) you are submitting with EXHIBIT A:

B C D E F G H I J K L M

SOCIAL SECURITY NUMBER (SSN), if there
ARE NO business related employees:

FEDERAL EMPLOYER IDENTIFICATION
NUMBER (FEIN), if there ARE related employees:

OR

SSN

FEIN

NOTE: SSN/FEIN is confidential, not part of public record.

Signature: _____ Title: _____

Telephone: (____) _____ Date: _____

Return this application and the applicable exhibits to the Office of Finance, Special Desk Unit, 200 N. Spring St, Room. 101, Los Angeles, California 90012.

-

FOR OFFICE USE ONLY

INFORMATION AND VENDOR QUESTIONNAIRE PACKAGE CONTENTS

EXHIBIT A	APPLICATION
EXHIBIT B	SELLING GOODS, WARES, OR MERCHANDISE AT WHOLESALE OR RETAIL
EXHIBIT C	PROFESSIONAL OR OCCUPATIONAL/MISCELLANEOUS SERVICES
EXHIBIT D	CONTRACTOR
EXHIBIT E	LEASING OR RENTING TANGIBLE PERSONAL PROPERTY
EXHIBIT F	LEASING OR RENTING COMMERCIAL PROPERTY
EXHIBIT G	LEASING OR RENTING HOTEL ROOMS, APARTMENTS OR RESIDENTIAL UNITS
EXHIBIT H	TRUCKING OR HAULING
EXHIBIT I	TRANSPORTING PERSONS FOR HIRE
EXHIBIT J	CERTIFICATION OF EXEMPTION – CONSTITUTIONAL/GOVERNMENT EXEMPTIONS
EXHIBIT K	CERTIFICATE OF EXEMPTION – ONE TIME PURCHASE OVER \$200
EXHIBIT L	CONDUCTING, OPERATING, OR PROMOTING ANY ENTERTAINMENT, SHOW OR EXHIBITION
EXHIBIT M	CERTIFICATE OF EXEMPTION – VENDORS DEEMED CITY OF LOS ANGELES EMPLOYEES

SELLING GOODS, WARES, OR MERCHANDISE AT WHOLESALE OR RETAIL**YES** **NO**

1. Are you engaged in business within the City of Los Angeles?

(If Yes, (If No,
Answer #2) Answer #3)

You are engaged in business within the City of Los Angeles when, through the physical presence of yourself, your employees, your agents, or your equipment, you carry on activities within the City of Los Angeles which are designed to solicit, promote, stimulate, or otherwise encourage the sale of goods, wares, or merchandise seven (7) or more days per calendar year. This includes the delivery of your merchandise within the City of Los Angeles in vehicles owned and operated by you or your employees.

2. If yes, do you have a valid City of Los Angeles Tax Registration Certificate? _____

Account Number _____

If you do not have a valid City of Los Angeles Tax Registration Certificate, please report your City of Los Angeles gross receipts for the previous three calendar years or from the date you began conducting business within the City of Los Angeles.

<u>YEAR</u>	<u>GROSS RECEIPTS</u>
20____	\$_____
20____	\$_____
20____	\$_____

3. If your answer to Question No. 1 is "NO", but you do have customers within the City of Los Angeles, please indicate below the method or methods by which activities in Question No. 1 are accomplished:

YES **NO**

a. Advertising

b. Telephone orders

c. Bid by mail

d. Independent Commission Brokers/Sales Representative

If method (d) is used, please provide:

Name _____

Address _____

City _____ State _____

Telephone _____

e. Deliveries are made by means other than vehicles operated by you.

Signature _____

Title _____

PROFESSIONAL OR OCCUPATIONAL/MISCELLANEOUS SERVICES

YES NO

1. Are you engaged in business within the City of Los Angeles?

(If Yes, (If No,
Answer #2) Answer #3)

You are engaged in business within the City of Los Angeles when, through physical presence, you carry on any trade, calling, occupation, vocation, profession or other means of livelihood, as an independent contractor, and when the gross receipts are derived from or attributable to activities engaged in within the City of Los Angeles for seven (7) or more days per calendar year.

2. If yes, do you have a valid City of Los Angeles Tax Registration Certificate? _____

Account Number _____

If you do not have a valid City of Los Angeles Tax Registration Certificate, please report your City of Los Angeles gross receipts for the previous three calendar years or from the date you began conducting business within the City of Los Angeles.

<u>YEAR</u>	<u>GROSS RECEIPTS</u>
20____	\$_____
20____	\$_____
20____	\$_____

3. If your answer to Question No. 1 "NO", but you do have gross receipts derived from activities within the City of Los Angeles, please indicate below the nature of your activity.

Signature_____

Title_____

CONTRACTOR

YES

NO

1. Are you engaged in business within the City of Los Angeles?

(If Yes, (If No,
Answer #2) Answer #3)

You are engaged in business within the City of Los Angeles when, as a contractor or subcontractor, you or your employees undertake any job or project upon land located within the City of Los Angeles including the erection, alteration, improvement, or repair of any type of structure; plumbing, plastering, sheet metal, electrical, cement or tile work; excavating; erection of scaffolding; construction of roads, railroads, pipe lines for seven (7) or more days per calendar year.

2. If yes, do you have a valid City of Los Angeles Tax Registration Certificate? _____

Account Number _____

If you do not have a valid City of Los Angeles Tax Registration Certificate, please report your City of Los Angeles gross receipts for the previous three calendar years or from the date you began conducting business within the City of Los Angeles.

<u>YEAR</u>	<u>GROSS RECEIPTS</u>
20____	\$ _____
20____	\$ _____
20____	\$ _____

3. If your answer to Question No. 1 is "NO", but you do have contracts with the City of Los Angeles, please provide the Los Angeles City job site addresses below.

Signature_____

Title_____

LEASING OR RENTING TANGIBLE PERSONAL PROPERTYYESNO

1. Are you engaged in business within the City of Los Angeles?

(If Yes,
Answer #2)

(If No,
Answer #3)

You are engaged in business within the City of Los Angeles when, through the physical presence of yourself, your employees, your agents, or your equipment, you carry on activities within the City which are designed to solicit, promote, stimulate or otherwise encourage the leasing or rental of tangible personal property for seven (7) or more days per calendar year.

2. If yes, do you have a valid City of Los Angeles Tax Registration Certificate? _____

Account Number _____

If you do not have a valid City of Los Angeles Tax Registration Certificate, please report your City of Los Angeles gross receipts for the previous three calendar years or from the date you began conducting business within the City of Los Angeles.

<u>YEAR</u>	<u>GROSS RECEIPTS</u>
20____	\$_____
20____	\$_____
20____	\$_____

3. If your answer to Question No. 1 is "NO": _____

YESNO

- a. Is the property installed at a location within the City of Los Angeles? _____
- b. Is there a provision in the lease or rental agreement that use of property is to take place within the City of Los Angeles? _____

Signature_____

Title_____

LEASING OR RENTING COMMERCIAL PROPERTY

YES **NO**

1. Are you engaged in business within the City of Los Angeles?

You are engaged in business within the City of Los Angeles when you rent or let a building, or structure, or any space therein of any kind on land located in the City of Los Angeles to a tenant for purposes other than dwelling for seven (7) or more days per calendar year.

2. If yes, do you have a valid City of Los Angeles Tax Registration Certificate?

Account Number _____

If you do not have a valid City of Los Angeles Tax Registration Certificate, please report your City of Los Angeles gross receipts for the previous three calendar years or from the date you began conducting business within the City of Los Angeles.

<u>YEAR</u>	<u>GROSS RECEIPTS</u>
20____	\$ _____
20____	\$ _____
20____	\$ _____

3. Please provide the location(s) of the leased property within the City of Los Angeles.

Signature_____

Title_____

LEASING OR RENTING HOTEL ROOMS, APARTMENTS OR RESIDENTIAL UNITSYES NO

1. Are you engaged in business within the City of Los Angeles?

You are engaged in business within the City of Los Angeles when you conduct or operate in the City of Los Angeles a hotel, rooming house, apartment house, house court or bungalow court, any public camp, trailer camp, park or lot where the public may rent camping, trailer or tent space, and renting or letting rooms, apartments or other accommodations for dwelling in any such place for seven (7) or more days per calendar year.

2. If yes, do you have a valid City of Los Angeles Tax Registration Certificate?

Account Number _____

If you do not have a valid City of Los Angeles Tax Registration Certificate, please report your City of Los Angeles gross receipts for the previous three calendar years or from the date you began conducting business within the City of Los Angeles.

<u>YEAR</u>	<u>GROSS RECEIPTS</u>
20____	\$_____
20____	\$_____
20____	\$_____

3. If the answer to Questions No. 1 is "Yes" and you do not have a valid City of Los Angeles Tax Registration Certificate, please answer the following:

- a. Do you rent four (4) or more units within the City of Los Angeles?

- c. Does your total gross receipts from the activity exceed \$20,000 per calendar year?

Signature_____

Title_____

TRUCKING OR HAULING

Supporting documentation identified by the Office of Finance may be required.

YES NO

1. Are you engaged in business within the City of Los Angeles? _____

You are engaged in business within the City of Los Angeles when you, your employees or your agents operate a motor vehicle within the City for hire or compensation seven (7) or more days per calendar year.

2. If yes, do you have a valid City of Los Angeles Tax Registration Certificate? _____

Account Number _____

3. Do you operate as a for hire motor carrier of property required to pay a fee to the State Under the Household Goods Carriers Uniform Business License Tax Act or the Motor Carriers of Property Uniform Fee Act? _____

If your answer to questions 2 and 3 is "NO", please contact the Office of Finance, Call Center at (213) 978-1521 for instructions on completing the following:

Please provide the following information for all vehicles:

<u>YEAR</u>	<u>UNLADEN WEIGHT</u>	<u>VEHICLE DAYS</u>	<u>NO. OF DAYS OPERATED</u>
20_____	_____	_____	_____
20_____	_____	_____	_____
20_____	_____	_____	_____

Signature_____

Title_____

TRANSPORTING PERSONS FOR HIRE

Supporting documentation identified by the Office of Finance may be required.

YES NO

1. Are you or do you plan to engage in business within the City of Los Angeles? _____

You are engaged in business within the City of Los Angeles when you, your employees or your agents operate a motor vehicle within the City for transportation of persons for hire or compensation seven (7) or more days per calendar year.

2. If yes, do you have a valid City of Los Angeles Tax Registration Certificate? _____

If yes, please provide your Tax Registration Certificate account number: _____

3. Do you operate a charter party limousine(s) and have a business address outside the City of Los Angeles where all your vehicles are limousine(s) or luxury sedan(s) only, with a seating capacity of no more than 9 including the driver? _____

4. Do you have a franchise granted by the City Department of Transportation? _____

5. Do you operate your vehicle exclusively in Interstate Commerce? _____

6. Do you operate a vehicle(s) that meets all of the following: (1) Operated exclusively between fixed termini or over regular routes in passenger stage operations.
(2) Operated as indicated in (1) under certificate issued by the Public Utilities Commission, AND (3) Operation has been issued a certificate of public convenience and necessity by the Interstate Commerce Commission. _____

If your answer to questions 2, 3, 4, 5 or 6 is "NO", please contact the Office of Finance, Tax Exemption Unit at (213) 978-3057 for instructions on completing the following information for all vehicles:

<u>YEAR</u>	<u>SEATING CAPACITY</u> <u>(including driver)</u>	<u>VEHICLE DAYS</u>	<u>NO. OF DAYS</u> <u>OPERATED</u>
20_____	_____	_____	_____
20_____	_____	_____	_____
20_____	_____	_____	_____

Additionally, please provide the following information for all vehicles that are operated within the City.

Vehicle Make (e.g. Lincoln, Ford, Chevrolet, etc.)	Model (e.g. Towncar, Excursion, Express, etc.)	Body Style (e.g. Sedan, SUV, Van, etc.)	Seating Capacity (including Driver)

Print Name _____

Date: _____

Signature _____

Title _____

CERTIFICATION OF EXEMPTION
CONSTITUTIONAL/GOVERNMENTAL EXEMPTION

The following entities are exempted from paying Business Taxes by the Constitution of the United States, the Constitution of the State of California or the Los Angeles Municipal Code:

1. Banks
2. Insurers – Insurance related activities which “In Lieu” taxes are paid to the State of California
3. Foreign governments – Agencies exempt from Domestic Taxation by Treaty, International Law or Custom
4. United States Government and Agencies
5. State of California
6. University of California
7. California State Universities and Colleges
8. Community Redevelopment Agency of the City of Los Angeles
9. Housing Authority of the City of Los Angeles
10. County of Los Angeles
11. Los Angeles Convention and Exhibition Center
12. Los Angeles Memorial Coliseum Commission
13. Districts and Political Subdivisions under the Laws of the State of California (such as):
 - a. Los Angeles Unified School District
 - b. Los Angeles Community College District
 - c. Los Angeles County Flood Control District
 - d. Metropolitan Water District
 - e. Metropolitan Transit Authority
 - f. Mosquito Abatement Districts
 - g. Wilmington Cemetery District
 - h. Sanitation Districts

I declare, under penalty of perjury under the laws of the State of California, that to the best of my knowledge I/we are one of the entities described above and is/are exempted from paying the City of Los Angeles Business Tax.

Name of Agency

Nature of Business/Type of Agency

Address

Printed Name of Authorized Representative or Agent

Phone Number

Signature

Title

PLEASE RETURN THIS FORM TO THE DEPARTMENT TO WHICH YOU ARE PROVIDING SERVICES AND A COPY TO THE OFFICE OF FINANCE, 200 N. SPRING ST, RM. 101, LOS ANGELES, CALIFORNIA 90012, MAIL STOP 170 – ATTN: TAX EXEMPTION UNIT.

CERTIFICATION OF EXEMPTION
FOR
ONE TIME PURCHASE OR SERVICE RENDERED OVER \$200*

The _____ hereby certifies that a one time
(Name of Department/Bureau)

purchase of _____
(Type of Product/or Service)

costing _____ was made from the
(Cost of Purchase)

following business:

(Name of Company)

(Address)

(Company Representative)

(Title)

(Phone Number)

I/we further certify that to the best of our knowledge, the business is **NOT LOCATED IN THE CITY OF LOS ANGELES**, does not solicit or conduct business in the City for seven (7) or more days during a calendar year, and does not deliver the goods or merchandise in its own vehicles within the City for seven (7) or more days during a calendar year. Based on the information provided, this business would not appear to owe a Business Tax.

(Department/Bureau Representative)

(Title)

(Phone Number)

(Date)

c: Office of Finance
200 N. Spring St., Rm. 101
Los Angeles, CA 90012
Mail Stop 170
Attn: Tax Exemption Unit

CONDUCTING, OPERATING, OR PROMOTING ANY
ENTERTAINMENT, SHOW OR EXHIBITION

YES

NO

1. Are you engaged in business within the City of Los Angeles?

(If Yes,
Answer #2)

(If No,
Answer #3)

You are engaged in business within the City of Los Angeles when, through physical presence, you conduct, operate or promote any entertainment, show or exhibition, where an admission fee is charged, collected or received, or where no admission fee is charged, collected or received but donations of any kind or character are solicited or accepted seven (7) or more days per calendar year.

2. If yes, do you have a valid City of Los Angeles Tax Registration Certificate? _____

Account Number _____

If you do not have a valid City of Los Angeles Tax Registration Certificate, please report your City of Los Angeles gross receipts for the previous three calendar years or from the date you began conducting business within the City of Los Angeles.

YEAR

GROSS RECEIPTS

20____

\$ _____

20____

\$ _____

20____

\$ _____

3. If your answer to Question No. 1 is "NO" and you do not have a valid City of Los Angeles Tax Registration Certificate, but you have conducted, operated, or promoted any entertainment, show or exhibition within the City of Los Angeles, please provide the name, location and dates of the shows/exhibitions below.

NAME OF SHOW/EXHIBITION

LOCATION

DATE

(If additional space is needed, please use a separate sheet)

Signature _____

Title _____

VENDORS DEEMED CITY OF LOS ANGELES EMPLOYEES

EMPLOYEE STATEMENT:

I _____ certify that I
(Name of employee)
am currently working for

(Name of City Department/Bureau)

and that I am under contract with this department in the capacity of an employee as defined in Section 21.00 (Definitions), Subsection (k), Los Angeles Municipal Code and therefore not subject to payment of business taxes.

(Signature of employee)

(Date)

EMPLOYER STATEMENT:

I certify that to the best of my understanding and belief, the above-named individual is deemed to be an employee of this City Department, based on Section 21.00 (Definitions), Subsection (k), Los Angeles Municipal Code, which I have reviewed, and therefore not subject to payment of business taxes.

(Department/Bureau Representative)

(Signature and Title)

(Phone Number)

(Date)

c: Office of Finance
200 N. Spring St., Rm. 101
Los Angeles, CA 90012
Mail Stop 170
Attn: Tax Exemption Unit

APPENDIX J

W-9

**Request for Taxpayer
Identification Number and Certification**

**Give form to the
requester. Do not
send to the IRS.**

Print or type
See Specific Instructions on page 2.

Name (as shown on your income tax return)

Business name, if different from above

Check appropriate box: ☐ Individual/Sole proprietor ☐ Corporation ☐ Partnership
☐ Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶
☐ Other (see instructions) ▶

☐ Exempt
payee

Address (number, street, and apt. or suite no.)

Requester's name and address (optional)

City, state, and ZIP code

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

or

Employer identification number

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

**Sign
Here**

Signature of
U.S. person ▶

Date ▶

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). Check the "Limited liability company" box only and enter the appropriate code for the tax classification ("D" for disregarded entity, "C" for corporation, "P" for partnership) in the space provided.

For a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line.

For an LLC classified as a partnership or a corporation, enter the LLC's name on the "Name" line and any business, trade, or DBA name on the "Business name" line.

Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

Note. You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
2. The United States or any of its agencies or instrumentalities,
3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
5. An international organization or any of its agencies or instrumentalities.

Other payees that may be exempt from backup withholding include:

6. A corporation,
7. A foreign central bank of issue,
8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
9. A futures commission merchant registered with the Commodity Futures Trading Commission,
10. A real estate investment trust,
11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
12. A common trust fund operated by a bank under section 584(a),
13. A financial institution,
14. A middleman known in the investment community as a nominee or custodian, or
15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 7

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting www.irs.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt payees, see *Exempt Payee* on page 2.

Signature requirements. Complete the certification as indicated in 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
For this type of account:	Give name and EIN of:
6. Disregarded entity not owned by an individual	The owner
7. A valid trust, estate, or pension trust	Legal entity ⁴
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

Call the IRS at 1-800-829-1040 if you think your identity has been used inappropriately for tax purposes.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes.

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS personal property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.consumer.gov/idtheft or 1-877-IDTHEFT(438-4338).

Visit the IRS website at www.irs.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.

APPENDIX K

Task Management System

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1.0 General Conditions

Contractor services shall be performed in response to tasks assigned by the Department. Each task shall be under the immediate and responsible direction of one of the contractor's principals. The contractor shall furnish all support services necessary to accomplish its assigned tasks.

1.1 Task Definition

1.1.1 Task Proposal

The Department will prepare a written task proposal for each task which will contain the following information:

1. Task Number
2. Task name or title
3. Purpose and objective of the task assignment
4. Prerequisite tasks
5. Scope of work to be performed
6. Premises (assumptions, conditions, or restrictions)
7. References
8. Key task personnel
9. Schedule, including expected progress reports and expected completion date
10. Method of compensation for proposed task assignment (Time-and-Material and/or Fixed Price)
11. Expected man-hour expenditures (Time-and-Material Basis)
12. Not-to-exceed expenditure limit (for Time-and-Material Basis)

Informal exchanges between the contractor and the Contract Administrator (CA) are authorized and encouraged to aid preparation of the task proposal.

1.1.2 Review of Task Proposal by Contractor

The contractor, at its own expense, will evaluate said task proposal for completeness, understandability, and feasibility. Any request to modify the task proposal shall be transmitted in writing to the CA.

1.1.3 Approved Task Assignment

The contractor shall begin performance of the particular task after approval is transmitted in writing by the CA. Compensation shall be no more than the amount stated therein. No alteration of the task assignment or the compensation set forth therein, once authorized by the CA, is permitted without the prior written consent of the CA.

1.2 Work Outside Approved Task Assignment

Work which is outside the approved task assignment, or work which would require additional charges shall not be performed unless the existing task assignment is revised in writing by the CA.

1.3 Changes to Approved Task Assignment

The Department may order changes by the issuance of an amendment to an approved task assignment.

Note: If such change impacts the price, expenditure limitation, or schedule as set forth in the Agreement, then an equitable adjustment in such amounts and schedule shall be negotiated and shall be set forth in a Change Order.

1.4 Compensation for Task Assignments

Task shall be performed either on a time-and-material basis, with a not-to-exceed amount, or upon a fixed-price basis. Task assignments shall clearly state which compensation method is being used. The parties will select that method of compensation which is most compatible with the particular task assignment, provides the least cost to the Department, and assures the contractor adequate compensation.

In determining reasonable compensation to be paid under the fixed-price option, the Fee Schedule, and list of reimbursable expenses shall be consulted.

Payments under either option shall be substantially equivalent to the total percentage of the work performed toward the completion of the task assignment. To that end, the parties, during the preparation of a task assignment shall formulate a performance schedule.

2.0 Compensation

2.1 Time-and-Material Basis

2.1.1 Fees

The Department will pay for services at the rates established in the Agreement. These rates shall remain in effect for at least one year from the date of this Agreement.

2.1.1.1 Overtime Premiums

Any required work by an individual in excess of 80 hours in a two-week period, shall be based on the rates established in the fee schedule.

2.1.1.2 Travel Time within Los Angeles

Travel time of the contractor's personnel from their home office to a work site in the Los Angeles area and return shall be counted as time worked, except that, any travel time which precedes or follows a day's work shall be counted as time worked only if it exceeds an aggregate of one hour per day and shall not in any event exceed four hours for that day.

2.1.1.3 Travel Time outside Los Angeles

When services are rendered outside of the greater Los Angeles area, travel time shall be counted as time worked, without premium for overtime.

2.1.2 Compensation for Expenses

Compensation for incidental expenses such as postage, parking, travel, meals, etc., should normally be included in the rate or fee quoted by the contractor. Office and other normal expenses should not be directly reimbursed as they are generally paid as overhead. Unusual expenses, however, may be stated separately, when it is to the Department's benefit to do so. Reimbursable expenses must be carefully defined.

2.1.2.1 Travel Expenses outside Los Angeles area

The Department will reimburse for travel and subsistence which is necessary and approved by the CA in advance, to the same extent allowed for Department employees in Administrative Manual Policy 20-8.

These expenses will include, but not limited to:

- 2.1.2.1.1 Air fare and Car Rental: Air fare is limited to coach class only. Car rental is limited to one compact rental per 4 passengers per trip. Original receipts for airfare and car rental must be submitted.

2.1.2.1.2 Meal and Lodging expenses:

- a) Meal expenses up to a maximum limit of \$52.10 per day. This should include taxes and tips. The following Breakdown for Meals shall be used as a guideline:

Breakfast \$12.56

Lunch \$16.19

Dinner \$23.35

Meal receipts must be the detailed receipts. Reimbursement will not be made for alcoholic beverages.

- b) Lodging expenses up to a maximum limit of \$178.48 per day. This should include taxes and tips. Lodging receipts must show paid in full with zero balance owed.
- c) Meals and Lodging are reimbursable only on working days as reported on timesheets, and payments are subject to the approval of the LADWP Contract Administrator identified in this Agreement.
- d) Original receipts must be submitted for necessary travel expenses \$25.00 or more.

2.1.2.1.3 Mileage for non-rental car travel at the rate of \$0.585 per mile.

Per diem expenses to contractor's employees in lieu of actual costs, will not be reimbursed.

2.1.2.2 Travel Expenses within Los Angeles area

The Department will reimburse the contractor's mileage at the rate of \$0.585/mile for necessary car travel which exceeds an aggregate of 100 miles per day.

2.1.2.3 Other Reimbursable Expenses

Reimbursable expenses include the actual cost of necessary printing, large-quantity drawing reproduction, photographs requested by the Department, model-building, shipping charges in excess of \$10, special equipment rentals, and testing and laboratory services. Subcontractor expenses are subject to the same limitations and will be reimbursed at original cost.

The Department will not reimburse for normal office expenses or overhead.

2.1.2.4 Expense Approval

Any expenses exceeding \$5,000 shall be first approved as part of the task assignment approval process.

2.1.3 Expenditure Reports

2.1.3.1 Task Assignment Exceeding \$20,000

The contractor shall notify the CA, in writing, upon spending 50 and 75 percent of monies allowed under any particular task assignment exceeding \$20,000.

2.1.3.2 Task Assignment Exceeding \$100,000

The contractor shall notify the CA, in writing, upon spending 40 and 75 percent of monies allowed under any particular task assignment exceeding \$100,000.

2.2 City Business Tax Registration

The contractor shall obtain and keep in full force and effect during the term of the contract all Business Tax Registration Certificates required by the City of Los Angeles Business Tax Ordinance, Article 1, Chapter II, Section 21.00 and following, of the Los Angeles Municipal Code.

For additional information regarding applicability of the City Business Tax Registration, contact the Office of Finance at (213) 978-1549.

3.0 Invoices

The contractor shall, at the end of each calendar month in which services are performed or expenses are incurred and prior to the tenth day of the following month, submit to the Contract Administrator, Department of Water and Power, City of Los Angeles, PO Box 51111, Los Angeles, California 90051-0100, in triplicate, verified and itemized invoices stating such services were performed and such expenses were necessarily incurred. Such invoices shall conform to the rates established in Task Assignment and shall be organized and clearly identified by agreement number, task number, and name. In support of payment for such invoices, the contractor shall furnish a progress report, payroll records, receipts and other evidence of reimbursement expenses and any other information necessary to verify that contractor's billing is in accordance to the Agreement and Task Assignment. Such invoices will be certified, and paid within 30 days of receipt. Invoice payments will not be made if the invoice is received more than six months after the billing period.

4.0 Conflicts

4.1 Claims and Protests

If the contractor claims additional compensation by reason of any act or omission of the Department or the CA, or if the contractor considers any work demanded of it to be outside the requirements of this Agreement, or if the contractor considers the final estimate of the CA or any other record or ruling of the CA to be unfair or unreasonable, the contractor shall, within fifteen (15) days after such act or omission, make a written statement to the Assistant General Manager-Power/Water. Upon request of the Assistant General Manager-Power/Water, the contractor shall give the Department access to all records containing any evidence relating to the claim. Except for such protests and objections made of record in the manner and within the time limit stated above, the contractor shall be deemed to have waived and does hereby waive all claims for extra work damages and extensions of time on account of demands, instructions, rulings and decision of the CA.

Upon receipt of any such protest from the contractor, the Assistant General Manager-Power/Water shall review the demands, instructions, rulings, or decisions objected to and shall promptly advise the contractor in writing of the final decision which shall be binding on all parties.

4.2 Errors and Omissions

The contractor will be responsible for correcting or remedying any errors or omissions which occur in performance of the services under this Agreement and which are the result of the contractor's negligence or action. The cost of correcting or remedying any error or omission shall be borne by the contractor. Revising contractor-prepared documents at the request of the Department to incorporate comments by the public or by agencies having jurisdiction in matters of the particular task assignment is not considered to be a remedy of errors or omissions, but is considered an integral part of document preparation which may be called for by a task assignment.

4.3 Priority of Documents

In the event of any conflicting provisions between the documents referenced or included in this Agreement, the priority shall be as follows:

- a. Latest Change Order
- b. Agreement
- c. Task Assignment
- d. Other Referenced Documents

Each party shall notify the other immediately upon the determination of any such conflict or inconsistency.

5.0 Monitoring of Work

5.1 Right to Audit

The Contractor and the Contractor's subcontractors and suppliers shall be subject at any time with 7 calendar days prior written notice to audits by the Department or the Department's agents, collectively defined as "Authorized Auditors", relating to all billings and to verify compliance with all contract requirements relative to practices, methods, procedures, and documentation. The Authorized Auditors shall have access to all records and data relating to the contract and change orders. The audits will be performed using FAR, Part 30 and 31, et seq., generally accepted accounting practices and principles, and City Contractor Cost Guidelines, and any other applicable City, State and Federal government audit standards. The Contractor shall maintain and the Authorized Auditors will have the right to examine and audit all books, records, documents, accounting procedures and practices, and other evidence, regardless of form (e.g., machine readable media such as disk, tape, etc.) or type (e.g., databases, applications software, database management software, utilities, etc.), sufficient to properly reflect all costs claimed to have been incurred or anticipated to be incurred in performing the contract. Any information provided on machine-readable media shall be provided in a format accessible and readable by the Authorized Auditors. The Contractor shall not, however, be required to furnish the Authorized Auditors with commonly available software. If the Contractor, the Contractor's subcontractors and/or suppliers are required to submit cost or pricing data in connection with the contract and/or the Contract Amendment, the Authorized Auditors will have the right to examine all documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used. The Authorized Auditors will also have the right to reproduce, photocopy, download, transcribe, and the like any such records. The Contractor shall make said evidence or to the extent accepted by the Authorized Auditors, photographs, micro-photographs, etc. or other authentic reproductions thereof available to the Authorized Auditors at the Contractor's offices at all reasonable times and without charge. The Contractor and the Contractor's subcontractors and suppliers shall keep and preserve all such records for a period of not less than 3 years from and after Final Payment or, if the contract is terminated in whole or in part, until 3 years after final contract closeout.

The Contractor, the Contractor's subcontractors and suppliers shall account for and be responsible for unallowable costs and mutually agreed unallowable costs. The detail and depth of records required as backup support for proposals, billings, or claims shall be that which adequately establishes and maintains visibility of identified unallowable costs, costs directly associated to unallowable costs, and allowable costs.

The entire contract and all changes are subject to audit. Changes with an absolute value of one hundred thousand (\$100,000) dollars or more shall require an audit. The Department may waive the right to audit where there was adequate price competition, an established catalog or market prices for commercial items sold in substantial quantities to the public, and/or prices set by law or regulation.

The Contractor shall maintain and segregate cost and pricing data, books, records, documents, and any other accounting evidence sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred or anticipated to be incurred by a Contract Amendment, including a change order.

For a period of 3 years from the date of Final Payment under the contract, and prior to the execution of any Contract Amendment that exceeds an absolute value of one hundred thousand dollars (\$100,000), the Authorized Auditors will have the right to examine all books, records, documents, and any other applicable data or evidence that relate to the negotiation and/or performance of the contract and/or a Contract Amendment for the purpose of evaluating the accuracy and completeness of the cost or pricing data submitted by the Contractor. To the extent that the examination reveals inaccurate, incomplete, or non-current data, the data shall be considered defective; if the audit indicates the Contractor has been overpaid under a previous payment application, such overpayment, after 10 calendar days notice to the Contractor, shall be paid to the Department.

The Authorized Auditors may require that the Contractor supply appropriate documentation to support the costs or prices proposed for a Contract Amendment, including a change order, and will refuse to complete negotiations until satisfactory documentation is submitted. The Contractor's books, records, documents and any other applicable data or evidence that relate to the negotiations and/or performance of the Contract Amendment shall be subject to audit and inspection.

Also subject to audit shall be the Contractor's records, books, documents and any other applicable data or evidence relating to those items on a billing that relates to:

- a. Work performed under the contract and/or a change order;
- b. Goods not yet incorporated into the work;
- c. Services or work performed under a contract amendment negotiated on an indefinite quantity basis; and
- d. Fixed-price change orders to validate the claimed percentage of completion on the payment application.

Notwithstanding the foregoing, if the audit reveals that the overpayment is more than 5% of the billing, the Contractor shall pay all expenses and costs incurred by the Authorized Auditors arising out of or related to the audit.

The Department will have the right to conduct a closeout audit on every contract relating to the entire contract, including but not limited to, any and all change orders.

5.2 Progress Reports

The contractor shall, as required by the CA, submit reports summarizing all the tasks under this Agreement, the work accomplished, work left to be done, work to be done in the coming months, and the estimated completion dates. This report shall be organized by task and shall include the task number, task coordinator, task title, the authorized

expenditure, the start date and the completion date, and the total of dollars received to date by the contractor. The report shall also show the total dollars received by the contractor under this Agreement.

5.3 Right to Review Services, Facilities, and Records

The Department reserves the right to review any portion of the services performed by the contractor under this Agreement, and the contractor agrees to cooperate to the fullest extent possible. Contractor shall furnish to the Department such reports, statistical data, and other information pertaining to the contractor's services as shall be reasonably required by the Department to carry out its rights and responsibilities under its agreements with its bondholders or noteholders and any other agreement relating to the development of the project(s) and in connection with the issuance of its official statements and other prospectuses with respect to the offering, sale, and issuance of its bond and other obligations.

The right of the Department to review or approve drawings, specifications, procedures, instructions, reports, test results, calculations, schedules, or other data that are developed by the contractor shall not relieve the contractor of any obligation set forth herein.

5.4 Department's Quality Assurance Program

Work performed under this Agreement will be subject to review by the Department's personnel.

6.0 Title to Work

6.1 Confidentiality of Department Information

All information contained in drawings, specifications, technical reports, and data provided by the Department to the contractor shall be held in confidence by the contractor and used only to provide services to the Department. The contractor shall not disclose said information without the CA's written consent.

6.1.1 Department Property

The contractor shall not copy any drawings, specifications, technical reports, or data provided by the Department. The contractor shall return all materials provided by the Department. All material shall be returned no later than the closing date of the Agreement.

6.2 Right to Documentation Developed by Contractor

Documentation, including all reports, drawings, documents, field notes, specifications, and data developed by the contractor and its subcontractors, shall be the property of the Department, and may be used, revised, and distributed by the Department in any manner.

6.2.1 Indemnify for Reuse or Revision

The Department agrees to hold harmless and indemnify the contractor against all damages, claims, and losses, including defense costs, arising out of revision to or reuse of the plans and specifications produced under this Agreement.

6.2.2 Nondisclosure

The contractor shall not disclose to others any information developed by contractor under this Agreement without prior written approval by the CA.

APPENDIX L

**AGREEMENT
FOR
INFORMATION TECHNOLOGY PRODUCTS
&
SERVICES**

Dated _____
Agreement No.: _____

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AGREEMENT FOR INFORMATION TECHNOLOGY PRODUCTS & SERVICES

THIS AGREEMENT FOR INFORMATION TECHNOLOGY PRODUCTS & SERVICES (“Agreement”), is entered into this ___ day of _____, 20__ by and between the **LOS ANGELES DEPARTMENT OF WATER AND POWER** (the “LADWP”), acting by and through the **BOARD OF WATER AND POWER COMMISSIONERS** (Board), and *[Correct Name]*, a *[State] [corporation/limited liability company/partnership/sole proprietorship/other]* with a principal place of business at _____ (“Contractor”).

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. DEFINITIONS. Capitalized terms used in this Agreement shall have the following meanings:

- a) **“Authorized Subcontractor”** shall mean a subcontractor or service provider of Contractor who has been approved by the LADWP beforehand and in writing to carry out any part of Contractor’s obligations under this Agreement.
- b) **“Background Technology”** shall have the meaning assigned to it in **Subsection 17(b) (“Background Technology and Inventions”)**.
- c) **“Board”** shall mean Board of Water and Power Commissioners.
- d) **“Change Order”** shall have the meaning assigned to it in **SECTION 3 (“CHANGE ORDER PROCESS”)**.
- e) **“Confidential Information”** shall have the meaning assigned to it in **Subsection 18(a) (“Protection”)**.
- f) **“Contract Administrator”** shall mean the LADWP’s representative who has been identified as such from time to time by the LADWP, and who shall have authority to act for the LADWP under this Agreement.
- g) **“Contractor’s Quality Assurance Program”** shall mean that program, if any, described as such in **EXHIBIT D (“CONTRACTOR’S QUALITY ASSURANCE PROGRAM”)**.
- h) **“Deliverables”** shall mean collectively all items provided or to be provided by Contractor hereunder, including without limitation all Hardware, Software and Services.
- i) **“LADWP Work Product”** shall have the meaning assigned to it in **Subsection 17(a) (“Disclosure of Work Product”)**.
- j) **“Developed Software”** shall mean Software, in both Object Code and Source Code formats, which is not Existing Software, and which is identified as such in a Statement of Work.
- k) **“Disclosing Party”** shall have the meaning assigned to it in **Subsection 18(a) (“Protection”)**.
- l) **“Documentation”** shall mean all information reasonably necessary or desirable, or as described in a Statement of Work, to be provided to Contractor by the LADWP which describes the form, features or operation of the Deliverables and which is contained in a tangible medium, such as written format, tape,

magnetic or other media, and including without limitation all Updates of Documentation and Documentation which the LADWP may require at any time.

m) “Effective Date” shall mean the first date upon which all of the following shall have occurred: **(a)** this Agreement has been signed by the LADWP by the person authorized by the LADWP to sign on its behalf and also signed by the Contractor’s authorized representative; **(b)** this Agreement has been approved by the City’s Council or by the Board, or by the City’s or the Board’s officer or employee authorized to give such approval; and **(c)** the Office of the City Attorney has indicated in writing its approval of this Agreement as to form and legality.

n) “Error” shall mean any material failure of any Deliverable to conform with its Specifications.

o) “Escrow Agent” shall have the meaning assigned to it in **Subsection 18(e) (“Escrow”)**.

p) “Escrow Agreement” shall mean a written agreement in substantially the form and format as described in **EXHIBIT C (“ESCROW AGREEMENT”)**.

q) “Escrow Materials” shall have the meaning assigned to it in **Subsection 18(e) (“Escrow”)**.

r) “Existing Software” shall mean that Software, in Object Code format (but subject to **Subsection 18(e) (“Escrow”)**), which exists as of the Effective Date, and which is identified as such in a Statement of Work, and including Documentation and Updates.

s) “Fees” shall mean those amounts to be paid to Contractor hereunder, and which are described as such in the Statement of Work.

t) “Force Majeure” shall have the meaning assigned to it in **SECTION 11 (“FORCE MAJEURE”)**.

u) “Hardware” shall mean any and all hardware, machines, devices, computers, or similar equipment described as such in a Statement of Work, including without limitation all associated supplies, materials and spare parts.

v) “Hardware Maintenance” shall have the meaning assigned to it in **Subsection 20(a) (“Hardware Maintenance”)**.

w) “Indemnified Parties” shall have the meaning assigned to it in **SECTION 19 (“INTELLECTUAL PROPERTY AND DELIVERABLES INDEMNITY”)**.

x) “Invention” shall mean any and all trade secrets, inventions, mask works, ideas, processes, formulae, Source Codes, Object Codes, data, programs, other works of authorship, know-how, improvements, discoveries, developments, designs and techniques existing as of the Effective Date or coming into existence thereafter.

y) “Invoice” shall have the meaning assigned to it in **Subsection 12 (c) (“Invoices”)**.

z) “Job Cost Report” shall mean detailed, written or electronic records of the Contractor which describe fully Contractor’s costs in its performance under this Agreement, and including all periodic and cumulative amounts to date of revenue, costs, gross profit and billing information against bid projected costs, and sub-accounts for the different types of all cost categories.

aa) “Maintenance” shall mean: **(i)** Hardware Maintenance; and **(ii)** Software Maintenance.

bb) “Object Code” shall mean computer software programs, not readily perceivable by humans, and which are suitable for machine execution without the intervening steps of interpretation or compilation.

cc) “Prior Work Product” shall have the meaning assigned to it in **Subsection 17(a) (“Disclosure of Work Product”)**.

dd) “Project Plan” shall mean that portion of the SOW specifying the Deliverables and the Schedule (including without limitation all start and end dates for all Tasks).

ee) “Proprietary Rights” shall have the meaning assigned to it in **Subsection 17(c) (“Assignment and License”)**.

ff) “Receiving Party” shall have the meaning assigned to it in **Subsection 18(a) (“Protection”)**.

gg) “Response” shall mean Contractor’s written response to the RFP in **EXHIBIT F (“RESPONSE”)**.

hh) “RFP” shall mean the LADWP’s “Request for Proposal”, number [____], or “Request for Bid”, number [____].

ii) “Schedule” shall mean the schedule of Deliverables, dates and Fees described as such in a Statement of Work.

jj) “Services” shall mean collectively, the Tasks described in each Statement of Work.

kk) “Shrink-Wrap Agreement” shall mean any form of license or other agreement included with any Deliverables hereunder, and including without limitation any embedded “click-wrap” license agreement, or any license agreement which is presented under shrink-wrap or other plastic coverings the removal of which may be deemed to effect agreement with the terms of such license agreement.

ll) “Software” shall mean collectively: **(i)** Existing Software; and **(ii)** Developed Software, and in all cases including all Documentation.

mm) “Software Maintenance” shall have the meaning assigned to it in **Subsection 20(b) (“Software Maintenance”)**.

nn) “Source Code” shall mean computer software programs not in machine readable format and which is not suitable for machine execution without the intervening steps of interpretation or compilation.

oo) “Specifications” shall mean collectively all operational, functional or other specifications with respect to any Deliverables, including without limitation all Documentation and those specifications described as such in the Statement of Work and the Response.

pp) “Statement of Work” shall mean the description of the work to be carried out by Contractor, the Deliverables to be provided by Contractor, the Schedule to be met by Contractor, and the Fees to be paid, and contained in the format described in **EXHIBIT A (“STATEMENT OF WORK”)**.

qq) “Task Assignment” shall mean a written description of work activity provided by the LADWP describing work to be carried out by Contractor, and consisting of at least one (1) Task and an associated Fee.

rr) “Tasks” shall mean the smallest units of work activity described under each Statement of Work.

ss) “Update” shall mean any modification of or addition to the Software or Documentation, including without limitation all new releases, versions, sub-versions, corrections, “patches” and maintenance

releases, which Contractor may prepare, obtain, or have prepared at any time.

tt) “Viruses” shall have the meaning assigned to it in **Subsection 21(d) (“Viruses”)**.

uu) “Work Product” shall have the meaning assigned to it in **SECTION 17 (“RIGHTS IN WORK PRODUCT AND LICENSES”)**.

2. DELIVERABLES.

a) Services. Contractor shall perform Services, strictly in accordance with each Statement of Work.

b) Hardware. Contractor shall prepare and deliver to the LADWP all Hardware, strictly in accordance with each Statement of Work, all Hardware.

c) Software.

i) Existing Software.

Contractor shall provide Existing Software according to the Statement of Work, but in no event later than the delivery of any Developed Software with which such Existing Software is to be integrated pursuant to such Statement of Work.

ii) Developed Software.

Contractor shall prepare and deliver to the LADWP all Developed Software, strictly in accordance with each Schedule.

d) Documentation. Contractor shall prepare and deliver to the LADWP all Documentation, strictly in accordance with each Schedule.

e) Authorized Subcontractors. With prior approval of the LADWP, the Contractor may enter into contracts and agreements with Authorized Subcontractors for the performance of portions of this Agreement.

The Contractor shall at all times be responsible for the acts, errors or omissions of its Authorized Subcontractors and persons directly or indirectly employed by them. Nothing in this Agreement shall constitute any contractual relationship between any others and the LADWP or any obligation on the part of the LADWP to pay, or to be responsible for the payment of, any sums to any Authorized Subcontractors or any other third party. No such Authorized Subcontractor shall be a third party beneficiary of this Agreement. Upon written request from the Contract Administrator, the Contractor shall promptly supply the LADWP with all subcontractor agreements.

f) Site Visits by Contractor. All visits by Contractor to the LADWP’s facilities must have prior approval by the Contract Administrator. Visiting Contractor representatives must carry LADWP-issued identification badges, and conform to such security, safety and other requirements as the LADWP may from time to time impose.

g) Permits. The Contractor and its Authorized Subcontractors, officers, agents and employees shall obtain and maintain all permits and licenses necessary for the Contractor’s performance hereunder and shall pay any third-party fees required therefor.

3. CHANGE ORDER PROCESS.

a) Process. Unless expressly agreed to otherwise in a Statement of Work, the Specifications, the Schedule and the Fees are as described in such Statement of Work, and shall not be changed without the prior, written consent of the LADWP. Provided, however, that in the event that the LADWP wishes to change the Specifications or the Schedule, then the LADWP shall so notify the Contractor in writing, describing the changes to be made. The Contractor shall respond to such notification promptly in writing (and in

no event later than ten (10) days thereafter) describing any increase in Fees which the Contractor seeks with respect to such changes. If thereafter agreed to by the parties, the parties shall record their agreement with respect to such changes, and increase in Fees (if any) in a written change order ("Change Order"), to be signed by the parties, and which will amend this Agreement. Invoices for Fees pursuant to Change Orders will be identified and issued separately from other Invoices.

b) No Obligation. EXCEPT AS PROVIDED IN THIS SECTION 3 ("CHANGE ORDER PROCESS"), THE LADWP SHALL HAVE NO OBLIGATION TO PAY, AND SHALL NOT PAY, ANY INCREASE IN FEES REGARDLESS OF ANY ADDITIONAL WORK CARRIED OUT UNDER THIS AGREEMENT BEYOND THAT WHICH IS EXPRESSLY DESCRIBED IN EACH STATEMENT OF WORK.

4. PACKING AND SHIPMENT.

a) Packing. Contractor agrees to pack all Deliverables to be shipped hereunder in suitable containers for protection in shipment and storage, and in accordance with applicable Specifications. Each container of a multiple container shipment shall be identified so as to:

(i) conspicuously show the number of the container and the total number of containers in the shipment; and

(ii) conspicuously show the number of the container in which the packing sheet has been enclosed; and

(iii) conspicuously show such other information as the LADWP may from time to time require.

b) Packing Sheets. All shipments of Deliverables by Contractor or its Authorized

Subcontractors must include written packing sheets identifying: the Agreement number, the purchase order, item number; quantity and unit of measure; part number and description of the Deliverables shipped; and appropriate evidence of inspection, if required by the LADWP. Only Deliverables under this Agreement shall be listed on any particular packing sheet, and items under any other contracts between the LADWP and Contractor shall not be included thereon.

5. DELIVERY. Contractor shall strictly adhere to the Schedule specified in this Agreement. Time shall be of the essence of Contractor's performance under this Agreement. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities of Deliverables specified herein are the only quantities required. If Contractor delivers in excess of the quantities of Deliverables specified herein, the LADWP shall not be required to make any payment for the excess Deliverables, and may at the LADWP's discretion dispose of such excess Deliverables, return such excess Deliverables to Contractor at Contractor's expense and risk, or make such excess Deliverables available for pick-up by Contractor.

6. SUBSTITUTIONS AND QUALITY.

a) Substitutions. Substitution of any other goods or services for Deliverables called for in any Statement of Work may not be tendered without the prior, written consent of the Contract Administrator. Contractor shall not use any specification in lieu of the Specifications contained in each Statement of Work without the prior, written consent of the LADWP.

b) Quality. The Contractor's work shall reflect competent professional knowledge, judgment, and accepted industry practice. Subject to **SECTION 13 ("TERM AND**

TERMINATION”), the Contractor shall promptly correct, or remedy any work, errors, or omissions, at its sole expense, which do not conform to the provisions of this Agreement.

c) Drawing Quality. Drawings provided for in any Statement of Work shall belong solely to the LADWP, and shall conform to the best standards of the drafting profession. Information in all such drawings shall be organized in a logical, systematic manner, shall be legible and clear, and shall fully conform with such Statement of Work.

d) Professional Licensure and Certification. If so provided in the RFP, drawings shall be signed and sealed by professional engineers and architects with appropriate legal registration. To the extent that professional certification is required given the scope of work, said certification shall be provided with Response.

7. DELIVERY, INSPECTION, ACCEPTANCE AND REJECTION.

a) Delivery. Contractor shall deliver all Deliverables according to the Schedule to such addresses as may be from time to time specified by the LADWP.

b) Inspection. The LADWP shall have a reasonable period, in no event less than thirty (30) days, commencing with the date of delivery of each shipment of Deliverables to inspect and test such Deliverables to ensure that such Deliverables fully conform to this Agreement, fully conform to their Specifications, fully conform to their Documentation, and fully comply with all representations and statements made by Contractor with respect thereto (including, without limitation, any corresponding Response). Contractor shall fully cooperate and assist the LADWP in the course of such inspection and delivery at no cost to the LADWP. In the event of any failure of such

Deliverables to so fully comply with any of the foregoing (each such condition to be considered an “Error”), the LADWP may, at its discretion and upon notice, reject any or all such Deliverables. In such case, Contractor shall within forty-eight (48) hours of such notice remove all such Deliverables from the LADWP’s premises (at Contractor’s sole expense), and replace such Deliverables with conforming Deliverables promptly (and in no event later than five (5) business days thereafter).

c) Acceptance and Rejection. Upon the completion of the inspection and testing described in **Subsection 7(b) (“Inspection”)**, the LADWP shall inform Contractor of whether the corresponding Deliverables are accepted by the LADWP. Any failure of the LADWP to provide such notice within sixty (60) days of delivery shall be deemed a rejection thereof. The Contractor shall remove all rejected Deliverables promptly, and in no event later than five (5) days after such rejection. The LADWP shall be free to dispose of any Deliverables which are not so removed. Acceptance of Deliverables shall not be construed to waive any warranty rights that the LADWP might have at law or by this Agreement.

d) Quality Program. If so provided in **EXHIBIT D (“CONTRACTOR’S QUALITY ASSURANCE PROGRAM”)**, Contractor and its Authorized Subcontractors will provide and maintain such Contractor’s Quality Assurance Program throughout the Term of this Agreement. Contractor will keep records evidencing related quality inspections and their result, and will make such records available to the LADWP upon request throughout the Term and for three (3) years thereafter. Contractor shall permit the LADWP to review procedures, practices, processes, and related documents to determine the acceptability of Contractor’s Quality Assurance Program or other similar business

practices related to performance of this Agreement.

e) Facilities. Contractor and its Authorized Subcontractors shall provide all reasonable facilities for the safety and convenience of the LADWP's inspectors at no additional cost to the LADWP. Contractor shall furnish to the LADWP and its agents all information and data as may be reasonably required to perform their inspection.

8. SAMPLES. Contractor shall promptly provide to the LADWP upon reasonable request from time to time, and without cost, samples of Deliverables for inspection and testing. Such samples must be identical in all respects to the Deliverables specified in each corresponding Statement of Work. Such samples, if not destroyed by tests, may, upon request made at the time the sample is furnished, be returned to Contractor at Contractor's risk and expense.

9. SAFETY AND ACCIDENT PREVENTION. The LADWP agrees to provide a suitable and safe environment at its facilities with respect to Services to be provided under this Agreement. The parties understand and agree that Contractor has not included in its charges any expense for dealing with or removing potentially hazardous substances, such as asbestos, unless otherwise expressly provided by a Statement of Work. If not so provided in such Statement of Work, the LADWP shall be responsible for handling such substances at its own cost. In performing work under this Agreement, Contractor shall conform to all specific safety requirements contained in the Agreement and as required by law or regulation. Contractor shall take any additional precautions as the LADWP may reasonably require for safety and accident prevention purposes, and shall at all times exercise reasonable and prudent judgment with respect thereto. Any violation of such requirements, laws or regulations shall be

considered a material breach of this Agreement.

10. PERSONNEL.

a) Information. The LADWP shall provide reasonably necessary representatives with authority to act on the LADWP's behalf with respect to approvals, requests, and meeting scheduling.

b) Capacity. Contractor warrants that the size of the staff employed by the Contractor in its performance hereunder shall be reasonably adequate in number and quality at all times to perform the work required by this Agreement and to add such additional personnel as are necessary to accomplish any work required by any Change Order.

c) Identification. The Contractor shall furnish the LADWP from time to time upon request the names, titles, and qualifications of its key project personnel and subcontractors, including without limitation individual resumes, and the tasks to be performed by such individuals. Upon receipt of such request, the Contractor shall respond within two (2) business days.

d) Approval. The Contract Administrator shall have the right to interview and approve all personnel of Contractor and Authorized Subcontractors. Resumes of individual personnel will be reviewed and approved by the LADWP's Contract Administrator before the individual shall be assigned work. The Contractor shall minimize changes to any Contractor personnel with respect to any Statement of Work. Any unreasonable assignment or discharge of such personnel may, at the LADWP's option, be deemed a material breach of this Agreement by Contractor. The LADWP shall have the right to request key personnel changes and to review and approve key personnel changes proposed by the Contractor. No change can

be made without LADWP approval. The LADWP shall have the right to require removal of any personnel with or without cause, which removal shall be effected no later than seventy-two (72) hours, or in the case of any removal requested for security or work rule reasons, immediately.

e) Control. The Contractor's and the Authorized Subcontractors' personnel shall at all times remain under the control of the Contractor.

11. FORCE MAJEURE. If either party is unable to perform its obligations because of strikes, lockouts, labor disputes, embargos, acts of God, governmental regulations, judicial orders, enemy or hostile governmental action beyond the reasonable control of the Contractor or its Authorized Subcontractors ("Force Majeure"), then such party shall immediately notify the other party in writing, and such party's performance shall be suspended for the period equal to the period time of such cause for suspension of performance.

12. FEES, INVOICES AND PAYMENT.

a) Fees. The LADWP shall pay the Fees described in each Statement of Work for Services and Deliverables which have been accepted by the LADWP. Any Fees called for in any Statement of Work shall not increase for at least one (1) year after the date of such Statement of Work, unless expressly agreed to otherwise by the LADWP. Unless expressly stated in a Statement of Work, all salaries, wages, or other payments (including without limitation any overtime) to any third parties, Authorized Subcontractors or employees, shall be the sole responsibility of the Contractor, and the Contractor hereby agrees to fully indemnify, defend and hold harmless the LADWP with respect thereto.

b) Travel and Costs. Travel time of the Contractor's personnel shall not be charged to, or paid by, the LADWP unless specifically provided for in the Response and the Statement of Work. Any allowed travel time shall be at the LADWP's own normal rates, without allowance for premium or overtime.

c) Invoices. Upon the LADWP's acceptance of each shipment of Deliverables (including without limitation acceptance of completed Services), the LADWP shall so notify Contractor, and Contractor shall issue a written invoice ("Invoice") to the LADWP with respect thereto. Each such Invoice shall meet all the invoice criteria described in **EXHIBIT G ("INVOICE CRITERIA")**, and shall contain the contract/purchase order number, the vendor code number, the City of Los Angeles Business Tax Registration Certificate Number, and the identification of material, equipment and/or services covered by the Invoices. In all cases the amount of applicable sales tax or use tax shall be separately stated on the Invoice. All Invoices shall be accompanied by such written documentation as the LADWP may reasonably require in order to support the amount and calculation of all corresponding Fees. Invoices for Services shall be issued monthly for all Services provided during the immediately preceding month.

d) Payment. Such Invoices, if correct, will be certified, and paid within thirty (30) days after receipt of Invoice. Invoice payments will not be made if the Invoice is received more than six (6) months after acceptance of corresponding Deliverables. No such Invoice shall be certified for payment, or paid, unless and until it shall first conform with **Subsection 12(c) ("Invoices")** above. In the event of any dispute of any Fees under any Invoices, the LADWP agrees to make payment of all undisputed amounts as hereinabove provided.

e) Tax Registration Certificate.

Contractor shall obtain and keep in full force and effect during the Term of this Agreement all "Business Tax Registration Certificates" required by the City of Los Angeles Business Tax Ordinance, Article 1, Chapter II, Section 21.00 and following, of the Los Angeles Municipal Code. Contractor's current Business Tax Registration Certificate Number or, for those firms that are exempt, a Vendor Registration Number, must be shown on all Invoices submitted for payment.

f) Taxpayer Identification Number ("TIN").

Contractor hereby represents and warrants that its TIN is [_____] . No Fees shall be payable or paid to Contractor unless and until such TIN is verified by the LADWP as valid.

g) Third Party Claims. 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 LADWP property (including reports, documents, and other tangible matter or Deliverables produced 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.

h) Most Favored Customer. Contractor hereby covenants and warrants that throughout the Term of this Agreement, the Fees payable hereunder shall be no higher than the prices charged by Contractor to its other customers for like goods and services. Contractor shall notify the LADWP immediately of any offer to any other customer of more favorable prices as hereinabove described, and the Fees payable by the LADWP hereunder shall thereupon be deemed reduced to an equivalent level. The LADWP shall have the right, upon reasonable notice, to review the books and

records of Contractor to confirm that Contractor has complied with the requirements of this **Subsection 12(h) ("Most Favored Customer")**.

13. TERM AND TERMINATION.

a) Term. The term of this Agreement ("Term") shall commence upon the Effective Date and shall expire [_____] thereafter, unless earlier terminated as hereinafter provided.

b) Termination without Cause. This Agreement may be terminated by the LADWP, without cause, upon written notice. Upon receipt of such notice, the Contractor shall immediately stop all work under this Agreement. The Contractor shall be entitled to payment of Fees for all Deliverables completed, including without limitation Services provided (in both cases where accepted by the LADWP), until the date of such notice, and also to reimbursement for reasonable and documented re-stocking charges imposed on Contractor by third party suppliers due to such termination, where such charges have been called to the LADWP's attention beforehand and in writing. The Contractor shall then deliver to the LADWP, in an organized and usable form, all Deliverables "work in process" as of such date.

c) Termination for Material Breach. Either party may terminate this Agreement upon notice, in whole or in part, for the material breach of this Agreement by the other party (including without limitation, in the case of Contractor, any such breach by Contractor's Authorized Subcontractors) which has remained uncured for a period of ten (10) days from the date of notice thereof to the breaching party. Without limiting the generality of the foregoing: **(i)** any late payment of Fees by the LADWP shall not, in and of itself, be deemed a material breach of

this Agreement; and **(ii)** any failure of Contractor to timely perform Services or deliver other Deliverables according to any Schedule and this Agreement, shall be deemed a material breach hereof, and in such case the LADWP shall also have the right to reject all such Deliverables. In the case of such late performance or delivery by Contractor, the LADWP may, in addition to any rights and remedies the LADWP may also have, require Contractor, at Contractor's expense, to ship any Deliverables via air freight or by other expedited routing means (at no cost to the LADWP) to avoid or minimize actual or potential delay. Also, in the event the Agreement is terminated in accordance with this **Subsection 13(c) ("Termination for Material Breach")**, the LADWP may also take possession of all Deliverables in process and of all materials, tools, equipment, and property of the Contractor, which have been provided in connection with the work, and may complete the work by whatever method or means the LADWP may select. The cost of completing the work shall be deducted from the balance which would have been due the Contractor had the Agreement not been terminated and the work completed in accordance with the Agreement.

d) Disqualification. In the event Contractor receives one (1) or more notices of material breach as described in **Subsection 13(c) ("Termination for Material Breach")**, whether such material breaches are cured or not, the LADWP may consider such material breaches in making any subsequent determination of responsibility with respect to future awards.

e) Remedies Not Exclusive. Any election by the LADWP to seek any remedy under this **SECTION 13 ("TERM AND TERMINATION")**, including without limitation any right to reject Deliverables or to require expedited shipping, shall not limit any other rights or remedies which the LADWP may

have with respect to any breach of this Agreement.

f) Right of Offset. The LADWP reserves the right to offset any and all costs and damages suffered by the LADWP under this Agreement against any outstanding invoices or amounts otherwise owed to the Contractor or to make a claim against the Contractor therefor.

g) Suspension of Work. The Contract Administrator may orally direct the Contractor to suspend, and to subsequently resume performance of all or any part of the work. Such direction shall be confirmed in writing. An equitable adjustment in the work completion schedule and corresponding Fees (if fixed price) shall be negotiated and confirmed by a Change Order or a revision to a task assignment if such suspension impacts the cost of the work and/or work completion schedule. The LADWP shall pay the Fees due for the suspended work up to the effective date of suspension notice and shall resume Fee payments effective as of the work resumption date.

h) Errors and Omissions. The Contractor will be responsible for correcting or remedying any errors or omissions which occur in performance of the services under this Agreement and which are the result of the Contractor's negligence, action or omission, regardless of whether the foregoing are a material breach hereof or not. The cost of correcting or remedying any such error or omission shall be borne by the Contractor. Revising Contractor-prepared documents at the request of the LADWP to incorporate comments by the public or by agencies having jurisdiction in matters of the particular task assignment is not considered to be a remedy of errors or omissions, but is considered an integral part of document preparation which may be called for by a Task Assignment.

14. TAXES. Unless otherwise required by law, the LADWP is exempt from Federal excise taxes. The LADWP will only pay for any State or local sales or use taxes on the Services rendered or other Deliverables supplied to the LADWP pursuant to this Agreement.

15. NEWLY MANUFACTURED DELIVERABLES. All Deliverables furnished under this Agreement shall contain only newly manufactured items. Used or reconditioned Deliverables are prohibited, unless otherwise expressly agreed to by the LADWP in a corresponding Statement of Work.

16. RECORDS AND AUDIT.

a) Records and Audits.

Incorporated by Reference. See Exhibit K

b) Progress Reports. The Contractor shall, as required by the Contract Administrator from time to time, submit reports summarizing all the Tasks under this Agreement, the work accomplished, work left to be done, work to be done in the coming months, and the estimated completion dates, including without limitation any deviations or reasonably likely deviations from the Schedule. Each such report shall be organized by Task and shall include the Task number, Task coordinator, Task title, the authorized Fee, the start date and completion date, and the total of Fees received to date by the Contractor. Such report shall also show the total Fees received by the Contractor under this Agreement.

c) Right to Review. The LADWP reserves the right to review any portion of the Services performed by the Contractor under this Agreement, and the Contractor agrees to cooperate to the fullest extent. Contractor shall furnish to the LADWP such reports,

statistical data, and other information pertaining to the Contractor's Services as shall be reasonably required by the LADWP. The right of the LADWP to conduct such review shall not relieve the Contractor of any obligation set forth herein.

17. RIGHTS IN WORK PRODUCT AND LICENSES.

a) Disclosure of Work Product. For purposes of this Agreement, "Work Product" shall mean any Invention whether or not patentable, and all related know-how, designs, mask works, trademarks, formulae, processes, manufacturing techniques, trade secrets, ideas, artwork, Developed Software (including without limitation any website or other works). Contractor shall disclose promptly in writing to the LADWP, or any person designated by the LADWP, all Work Product which is solely or jointly conceived, made, reduced to practice, or learned by Contractor in the course of any work performed hereunder ("LADWP Work Product"). Contractor hereby represents and warrants that any Work Product relating to the LADWP's business or any Project which Contractor has made, conceived, learned or reduced to practice prior to the Effective Date of this Agreement ("Prior Work Product") has been disclosed in writing to the LADWP and attached to this Agreement as **EXHIBIT H ("PRIOR WORK PRODUCT")**. If disclosure of any such Prior Work Product would cause Contractor to violate any prior confidentiality agreement, Contractor shall not list such Prior Work Product, but shall instead disclose a cursory, non-confidential name for each such item, a listing of the party(ies) to whom it belongs, and the fact that full disclosure as to such Prior Work Product has not been made for that reason. Contractor agrees that any and all Inventions made, learned, derived, conceived, written, created or first reduced to practice in the performance of work under this

Agreement shall be the sole and exclusive property of the LADWP.

b) Background Technology and Inventions. Contractor shall specifically describe and identify in **EXHIBIT E (“BACKGROUND TECHNOLOGY”)** all existing technology which Contractor intends to use in the course of its performance hereunder (“Background Technology”).

c) Assignment and License. Except for Contractor’s rights in Background Technology, Contractor hereby irrevocably assigns to the LADWP all right, title and interest worldwide in and to LADWP Work Product and all applicable intellectual property rights related to LADWP Work Product including without limitation all copyrights, mask work rights, trademarks, service marks, trade secrets, patents (including applications, continuations, continuations in part, and utility models), moral rights, and contract and licensing rights, however and wherever arising (collectively, the “Proprietary Rights”). Except as set forth below, Contractor retains no right to use the LADWP Work Product and agrees not to challenge the validity of the LADWP’s ownership of the LADWP Work Product. Contractor hereby grants to the LADWP a nonexclusive, fully transferable, perpetual, paid up, royalty-free, irrevocable, worldwide license, with rights to sublicense through multiple tiers of sublicensees, to reproduce, make derivative works of, publicly perform, and publicly display in any form or medium, whether now known or later developed, digitally perform, distribute, make, have made, use, lease, offer for sale, import and sell Background Technology and any Prior Work Product incorporated or used in the LADWP Work Product for the purpose of developing and marketing LADWP products, and carrying on the LADWP’s business.

d) Waiver or Assignment of Rights. If Contractor has any rights to the LADWP

Work Product which cannot be assigned to the LADWP, Contractor unconditionally and irrevocably waives the enforcement of such rights, and all claims and causes of action of any kind against the LADWP with respect to such rights, and agrees, at the LADWP’s request and expense, to consent to and join in any action to enforce such rights. If Contractor has any right to the LADWP Work Product which cannot be assigned to the LADWP or waived by Contractor, Contractor unconditionally and irrevocably grants to the LADWP during the term of such rights, an exclusive (both as to Contractor and all third parties), fully-transferable, irrevocable, perpetual, worldwide, fully paid and royalty-free license, with rights to sublicense through multiple tiers of sublicensees, to reproduce, make derivative works of, publicly perform, and publicly display in any form or medium, whether now known or later developed, digitally perform, distribute, make, have made, use, lease, offer for sale, import and sell goods and services under such rights. Contractor hereby waives and quitclaims to the LADWP any and all claims, of any nature whatsoever, which Contractor now has or may hereafter have for infringement of any Proprietary Rights assigned hereunder to the LADWP.

e) Continuing Assurances and Enforcement. Contractor agrees to cooperate with the LADWP or its designee(s), both during and after the Term of this Agreement, in the procurement and maintenance of the LADWP’s rights in the LADWP Work Product and to execute, when requested, any other documents deemed necessary by the LADWP to carry out the purpose of this Agreement. Without limiting the generality of the foregoing, Contractor agrees to execute upon the LADWP’s request a signed assignment of copyright to the LADWP in a format reasonably required by the LADWP. To the extent the LADWP is unable to procure Contractor’s cooperation in the foregoing,

Contractor hereby irrevocably appoints the LADWP as its attorney in fact to take all such actions and to execute such documents. Contractor shall assist the LADWP in every proper way to obtain, and from time to time enforce, United States and foreign Proprietary Rights relating to the LADWP Work Product in any and all countries. To that end Contractor shall execute, verify and deliver such documents and perform such other acts (including appearances as a witness) as the LADWP may reasonably request for use in applying for, obtaining, perfecting, evidencing, sustaining and enforcing such Proprietary Rights and the assignment thereof. In addition, Contractor shall execute, verify and deliver assignments of such Proprietary Rights to the LADWP or its designee. Contractor's obligation to assist the LADWP with respect to Proprietary Rights relating to such the LADWP Work Product in any and all countries shall continue beyond the expiration or termination of this Agreement, but the LADWP shall compensate Contractor at a reasonable rate after such expiration or termination for the time actually spent by Contractor at the LADWP's request on such assistance.

f) Future Development. This Agreement shall not preclude the Contractor from developing materials outside this Agreement that are competitive with, irrespective of their similarity to, Deliverables which are delivered to the LADWP pursuant to this Agreement.

g) Existing Software License. Contractor hereby grants to the LADWP a worldwide, perpetual, irrevocable, non-exclusive, royalty-free, paid up, transferable license, including the right to grant sublicenses through multiple tiers, with respect to the Existing Software in order to use, copy, execute, publicly perform, publicly display, digitally perform and create derivative works of the Existing Software.

h) Documentation License. Contractor hereby grants to the LADWP a worldwide, perpetual, irrevocable, non-exclusive, royalty-free, paid up, transferable license, including the right to grant sublicenses through multiple tiers, with respect to the Documentation in order to use, copy, execute, publicly perform, publicly display, digitally perform and create derivative works of the Documentation solely in connection with the Department's exercise of its rights under this Agreement.

18. CONFIDENTIAL INFORMATION AND SOURCE CODE ESCROW.

a) Protection. Each party (the Disclosing Party") may from time to time during the term of this Agreement disclose to the other party (the "Receiving Party") certain non-public information regarding the Disclosing Party's business, including technical, marketing, financial, personnel, planning and other information ("Confidential Information"). The Disclosing Party shall mark all such Confidential Information in tangible form with the legend 'confidential', 'proprietary', or with similar legend. With respect to Confidential Information disclosed orally, the Disclosing Party shall describe such Confidential Information as such in writing within thirty (30) days after the date of oral disclosure. Regardless of whether so marked, however, any non-public information regarding the Developed Software (in Source Code and Object Code formats), shall be deemed to be the Confidential Information of the LADWP.

b) Protection of Confidential Information. Except as expressly permitted by this Agreement, the Receiving Party shall not disclose the Confidential Information of the Disclosing Party (using the same degree of care which the Receiving Party ordinarily uses with respect to its own proprietary information, but in no event with less than reasonable care). The Receiving Party shall

also not use the Confidential Information of the Disclosing Party for any purpose not expressly permitted by this Agreement, and shall limit the disclosure of the Confidential Information of the Disclosing Party to the employees or agents of the Receiving Party who have a need to know such Confidential Information of the Disclosing Party to the employees or agents of the Receiving Party who have a need to know such Confidential Information for purposes of this Agreement, and who are, with respect to the Confidential Information of the Disclosing Party, bound in writing by confidentiality terms no less restrictive than those contained herein. The Receiving Party shall provide copies of such agreements to the Disclosing Party upon request; provided, however, that such agreement copies shall themselves be deemed the Confidential Information of the Receiving Party. Notwithstanding the foregoing, after the expiration or termination of this Agreement and the return by the Receiving Party of the Confidential Information of the Disclosing Party as provided in subsection 18(d) ("Return of Confidential Information"), the Receiving Party shall be free to use internally (but not disclose) any ideas, concepts and know-how contained in such Confidential Information: (i) which relate to the business of the Receiving Party; and (ii) which have been retained mentally by employees of the Receiving Party through the course of their performance under this Agreement.

c) State Law Requirements - Protection For Personal Information State law (See S.B. 1386 and A.B. 1950) requires a person or entity that owns or licenses computerized data that includes personal information, of a California resident, to disclose any breach of the data base security system and to implement and maintain procedures and practices to protect personal information from unauthorized access, destruction, use, modification, or disclosure

and, shall require by contract, that non-affiliated third party recipients of such personal information, implement and maintain security procedures and practices to protect the personal information. Accordingly, vendor agrees to implement and maintain such security procedures and practices, in conformance with S.B. 1386 and A.B. 1950, with respect to any personal identification information received under this agreement, as well as notify the City of any breach in security. In addition, vendor shall not share, disclose, or in anyway transfer the personal identification information without the written approval of the LADWP.

Vendor shall be responsible for any and all liabilities, including but not limited to those stated below in this paragraph, that result from any violation of S.B. 1386 or A.B. 1950 that Vendor, its employees, agents, or subcontractors may cause pursuant to the activities performed under this contract. Accordingly, Vendor agrees to indemnify and hold harmless the City of Los Angeles, its respective agencies, LADWPs, boards, all of their commissioners, officers, employees, and authorized agents, and, at the option of the City of Los Angeles, to provide a defense, reasonably acceptable to the LADWP, against any and all suits and causes of action, claims, charges, damages, demands, judgments, civil fines and penalties, or losses of any kind or nature whatsoever caused or brought by any person, including any aggrieved party, as defined in S.B. 1386, arising out of Vendor's breach of any of its duties and obligations under S.B. 1386 or A.B. 1950. The indemnification herein includes all awards, damages, interest, costs and attorneys' fees, if any. Such defense will be consistent with City Charter, Sections 271, 272 and 273.

d) Exceptions. Notwithstanding anything herein to the contrary, Confidential Information shall not be deemed to include

any information which: **(i)** was already lawfully known to the Receiving Party at the time of disclosure by the Disclosing Party as reflected in the written records of the Receiving Party; **(ii)** was or has been disclosed by the Disclosing Party to a third party without obligation of confidence; **(iii)** was or becomes lawfully known to the general public without breach of this Agreement; **(iv)** is independently developed by the Receiving Party without access to, or use of, the Confidential Information; **(v)** is approved in writing by the Disclosing Party for disclosure by the Receiving Party; **(vi)** is required to be disclosed in order for the Receiving Party to enforce its rights under this Agreement; or **(vii)** is required to be disclosed by law or by the order of a court or similar judicial or administrative body; provided, however, that the Receiving Party shall notify the Disclosing Party of such requirement immediately and in writing, and shall cooperate reasonably with the Disclosing Party, at the Disclosing Party's expense, in the obtaining of a protective or similar order with respect thereto.

e) Return of Confidential Information.

The Receiving Party shall return to the Disclosing Party, destroy or erase all Confidential Information of the Disclosing Party in tangible form upon the written request of the Disclosing Party (except for Deliverables and any other items which the LADWP is otherwise entitled to retain under this Agreement) and the Receiving Party shall certify promptly and in writing that it has done so.

f) Escrow.

(i) Deposit. No later than five (5) days after the Effective Date, Contractor and LADWP shall enter into an Escrow Agreement with such software source code escrow agent as may be reasonably required by the LADWP (the "Escrow Agent") pursuant to which Escrow Agreement

Contractor shall immediately deposit with such Escrow Agent one (1) copy of all existing annotated Source Code listings, flow charts, decision tables, schematics, drawings, specifications, documentation, design details, and other related documents which pertain to the Software and all technology necessary to understand the design, structure, and implementation of the Software and to maintain, support and build Object Code of the Software (including, but not limited to, any tools which may or not be commercially available) such that a third party programmer reasonably skilled in the language used in such materials could maintain and support the Software without further assistance or references to other materials (collectively, the "Escrow Materials"). Such Escrow Materials shall also include any Updates of such Software made available to the LADWP pursuant to **SECTION 20 ("MAINTENANCE AND SUPPORT")** of this Agreement, which Escrow Materials Contractor shall keep updated on no less frequent a basis than semi-annually.

(ii) License Grant.

Subject to **SECTION 18 ("CONFIDENTIAL INFORMATION AND SOURCE CODE ESCROW")**, Contractor hereby grants to LADWP a perpetual, irrevocable, non-exclusive, royalty-free, fully paid up, non-transferable (except as provided in **Subsection 24(j) ("Assignment")**) license with respect to the Escrow Materials (including without limitation all Proprietary Rights therein) to use, execute, copy and modify such Escrow Materials solely as reasonably necessary or desirable in order to exercise the LADWP's rights under this Agreement. Notwithstanding anything to the contrary herein, however, LADWP understands and agrees that it shall not exercise the license granted in this **Subsection 18(e)(ii) ("License Grant")** with respect to the Escrow Materials unless and until the Escrow Materials are released to LADWP pursuant to the Escrow Agreement.

19. INTELLECTUAL PROPERTY AND DELIVERABLES INDEMNITY.

a) Statement of Indemnity. Contractor agrees that from and after the Effective Date it shall fully indemnify, defend and hold harmless the LADWP, the Board, and its and their affiliates, officers, directors, agents, employees, customers and assigns (the "Indemnified Parties") from and against any and all claims, losses, liabilities, damages and costs (including attorneys' fees and court costs) arising from or relating to any Deliverables or arising from or relating to any claim, demand, threat, suit or proceeding by any third party regarding the Deliverables, including without limitation any claims of injury to persons or property, or of intellectual property infringement or misappropriation, by any third party. The LADWP shall notify Contractor promptly of any third party claim in connection with the foregoing, shall cooperate reasonably with Contractor in connection therewith (at Contractor's expense), in the defense or settlement of the foregoing. The LADWP shall have the right at its own expense to be represented in any action related to the foregoing by counsel of its own choice, and shall cooperate reasonably with Contractor with respect to such litigation.

b) Control. In Contractor's defense of the LADWP, negotiation, compromise, and settlement of any foregoing infringement or misappropriation action, the LADWP shall retain discretion in and control of the litigation, negotiation, compromise, settlement, and appeals therefrom, as required by the Los Angeles City Charter, particularly Article II, Sections 271, 272 and 273 thereof.

c) Bonds. Contractor understands and agrees that it shall, upon the LADWP's request, furnish a bond to the LADWP, in an amount as may be reasonable in the LADWP's judgment, against any and all loss, damage, costs, expenses, claims and liability

for any possible infringement or misappropriation.

d) Claims and Remediation. If Contractor receives notice of a claim, demand, threat, suit or proceeding regarding alleged intellectual property infringement or misappropriation by the Deliverables, or if in Contractor's judgment such a claim is likely, Contractor may, at its sole expense, procure for LADWP ownership of, or the right to continue using, the Deliverables, modify the Deliverables so that they are no longer infringing, or replace the Deliverables with other items of the same technical specifications and the same or better functionality and performance, which shall, upon acceptance by the LADWP, be considered Deliverables.

e) Use of Funds. Contractor certifies that it has appropriate systems and controls in place to ensure that LADWP funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

20. MAINTENANCE AND SUPPORT.

a) Hardware Maintenance. Commencing with the first day after the expiration of the Hardware warranty described in **SECTION 21 ("WARRANTIES")**, Contractor shall immediately commence providing Hardware Maintenance which shall consist of those activities and services described as such in **EXHIBIT I ("HARDWARE MAINTENANCE")**.

b) Software Maintenance. Commencing with the first day after the expiration of the Software warranty described in **SECTION 21 ("WARRANTIES")**, Contractor shall immediately commence providing Software Maintenance which shall consist of those activities and services described as such in **EXHIBIT J ("SOFTWARE MAINTENANCE")**.

c) Failure to Provide Maintenance. Any failure of Contractor to timely provide Maintenance hereunder shall thereupon immediately suspend any obligation of the LADWP to pay any Fees, and may, in addition and at the LADWP's option, be considered a material breach of this Agreement for purposes of **SECTION 13 ("TERM AND TERMINATION")**.

d) Availability. Commencing with the Effective Date, and for five (5) years after the expiration or termination of this Agreement, whichever comes first, Contractor agrees that it shall continue to offer for sale to the LADWP, at commercially reasonable prices (and subject to **Subsection 12(h) ("Most Favored Customer")**), all Hardware supplies, materials and spare parts. To the extent that Contractor is not willing or able to comply with the foregoing obligation (and without waiving any rights or remedies the LADWP may have with respect thereto), Contractor shall provide to the LADWP its full cooperation and all documents, diagrams or designs necessary or useful to make, have made, use, lease, offer for sale, import and sell such Hardware supplies, materials and spare parts, and hereby grants to the LADWP a royalty-free, fully paid, worldwide, non-exclusive, non-transferable immunity under all intellectual property rights owned or licensable by Contractor in order to enable the LADWP to make, have made, use, lease, offer for sale, import and sell such Hardware supplies, materials and spare parts.

21. WARRANTIES.

a) Deliverables. Contractor hereby represents and warrants that the Deliverables (including without limitation all Hardware and Software, but not including Services) shall materially conform to their corresponding Specifications (including without limitation all Documentation) in normal use for a period of three (3) years from the date of their

acceptance by the LADWP. In the event of any breach of the foregoing warranty, the LADWP shall promptly notify Contractor, and Contractor shall immediately either replace or, if commercially reasonable, repair such non-conforming Deliverables, and provide the same immediately to the LADWP. Any failure of Contractor to carry out the foregoing in a manner reasonably satisfactory to the LADWP, may, at the LADWP's option, be considered a material breach of this Agreement for purposes of **SECTION 13 ("TERM AND TERMINATION")**. Any such repaired or replaced Deliverables shall continue to have the balance of their warranty period as hereinabove stated; provided, however, that such warranty period shall in no event be less than ninety (90) days.

b) Services. Contractor represents and warrants that Contractor shall perform the Services in a professional and workmanlike manner, in accordance with the best practices of Contractor's industry, and in material conformity with corresponding Specifications (including without limitation all Documentation). In the event of any breach of the foregoing warranty, the LADWP shall promptly notify Contractor, and Contractor shall immediately re-perform the non-conforming Services. Any failure of Contractor to carry out the foregoing in a manner reasonably satisfactory to the LADWP, may, at the LADWP's option, be considered a material breach of this Agreement for purposes of **SECTION 13 ("TERM AND TERMINATION")**.

c) General. Contractor represents and warrants that: **(i)** Contractor has full power and authority to enter into this Agreement and the person signing the Agreement on Contractor's behalf has been duly authorized and empowered to enter into this Agreement; **(ii)** the Deliverables shall not contain any materials which are unlawful, defamatory, libelous, threatening, abusive, racist, vulgar,

harassing, pornographic or obscene; **(iii)** Neither the Deliverables (including without limitation the provision of Services) nor any element thereof, infringes or shall infringe or misappropriate the intellectual property rights of any third party, including without limitation any patent, copyright, trademark or trade secret rights; **(iv)** the Deliverables shall not be subject to any restrictions, including without limitation any liens, mortgages, pledges, security interests, encumbrances, or encroachments; **(v)** Contractor is not under, and shall not enter into any, obligation or obligations inconsistent with the provisions of this Agreement; and **(vi)** Contractor shall not violate any law, statute, ordinance, or regulation in the course of its performance under this Agreement.

d) Viruses. Contractor represents and warrants that it has exercised and shall exercise its most diligent efforts to ensure that no viruses, “Trojan Horses”, “Worms” or other damaging, dangerous or objectionable code (collectively, “Viruses”) are included with the Deliverables. If at any time a Virus may be found to exist in or have emanated from the Deliverables, or any electronic data, information or report generated thereby, Contractor agrees, at its sole expense, to exercise its most diligent efforts (including but not limited to providing appropriate replacement products, software, installation, and diagnostic testing) to remove such Virus within five (5) days of LADWP’s notice.

e) Disclaimer. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, CONTRACTOR HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

22. LIMITATION OF LIABILITY. IN NO EVENT SHALL THE TOTAL LIABILITY OF EITHER PARTY UNDER THIS AGREEMENT EXCEED THE HIGHER OF ONE MILLION DOLLARS (\$1,000,000) OR THE TOTAL AGREEMENT PRICE, REGARDLESS OF THE CAUSE OF ACTION, IN TORT, CONTRACT OR OTHERWISE.

23. SURVIVAL AND ORDER OF PRECEDENCE. In the event of any expiration or termination of this Agreement, the provisions of Section 1 (“Definitions”), Subsection 3(b) (“No Obligation”), Section 13 (“Term and Termination”), Section 16 (“Records and Audit”), Section 17 (“Rights in Work Product and Licenses”), Section 18 (“Confidential Information and Source Code Escrow”), Section 19 (“Intellectual Property and Deliverables Indemnity”), Section 21 (“Warranties”), Section 22 (“Limitation of Liability”), Section 23 (“Survival and Order of Precedence”), and Section 24 (“General”) shall survive and shall continue to bind the parties. In the event of any conflict between the terms of this Agreement and the terms of any exhibit, the terms of the exhibit shall control. In the event of any conflict between the following documents, all of which are hereby incorporated by reference into this Agreement, the order of precedence shall be as follows:

- a. Latest Change Order
- b. Task Assignment
- c. Agreement
- d. Other referenced documents
- e. Response

24. GENERAL.

a) Governing Law. This Agreement shall be governed in all respects by the laws of the United States of America and the State of California without regard to conflicts of law principles. The parties agree that the United

Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to this Agreement.

b) Attorneys' Fees. In the event any proceeding or lawsuit is brought by the LADWP or Contractor in connection with this Agreement, each party shall bear its own attorneys' fees and costs.

c) Forum. Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the City of Los Angeles. The State and Federal Courts located in the City of Los Angeles shall have exclusive jurisdiction over any disputes under this Agreement, and the parties hereby submit to the personal jurisdiction of such courts.

d) Injunctive Relief. It is understood and agreed that, notwithstanding any other provisions of this Agreement, breach of the provisions of this Agreement by Contractor will cause the LADWP irreparable damage for which recovery of money damages would be inadequate, and that the LADWP shall therefore be entitled to obtain timely injunctive relief to protect the LADWP's rights under this Agreement in addition to any and all remedies available at law.

e) Notices. All notices or reports permitted or required under this Agreement shall be in writing and shall be delivered by personal delivery or by certified or registered mail, return receipt requested, and shall be deemed given upon personal delivery or five (5) days after deposit in the mail. Any such notice or report directed to the LADWP shall be delivered to:

LOS ANGELES DEPARTMENT OF WATER AND POWER

[Name]
Contract Administrator

111 North Hope Street, Room _____
Los Angeles, California 90012-2694

With a Copy To:

Chief Assistant City Attorney
111 North Hope Street
Los Angeles, California 90012-2694

Any such notice or report directed to the Contractor shall be delivered to:

[Name of Contractor]
[Address]
[Address]

Either party, by written notice, may designate different or additional person(s) or different addresses.

f) Agency. Nothing contained herein shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties.

g) Waiver. The failure of either party to require performance by the other party of any provision hereof shall not affect the full right to require such performance at any time thereafter; nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.

h) Severability. In the event that any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions.

i) Headings. The section headings appearing in this Agreement are inserted only

as a matter of convenience and in no way define, limit, construe, or describe the scope or extent of such section or in any way affect this Agreement.

j) Assignment. Neither this Agreement nor any rights or obligations of Contractor hereunder may be assigned by Contractor in whole or in part without the prior written approval of the LADWP. Such approval may be withheld for any reason or no reason as this Agreement is a personal services contract and was awarded to Contractor based on the qualities of Contractor. For the purposes of this **Subsection 24(j) (“Assignment”)**, a change in the persons or entities who control fifty percent (50%) or more of the equity securities or voting interest of Contractor shall be considered an assignment of Contractor’s rights and obligations. The LADWP’s rights and obligations, in whole or in part, under this Agreement may be assigned by the LADWP. The LADWP may exercise full transfer and assignment rights in any manner at the LADWP’s discretion.

k) Counterparts. This Agreement may be executed simultaneously in two (2) or more counterparts, each of which will be considered an original, but all of which together will constitute one and the same instrument.

l) Relationship of the Parties. The Contractor is acting hereunder as an independent Contractor and not as an agent or employee of the LADWP. The 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 LADWP.

m) Entire Agreement. This Agreement together with the Exhibits hereto completely and exclusively states the agreement of the parties regarding its subject matter. This Agreement supersedes, and its terms govern, all prior proposals, agreements, or other

communications between the parties, oral or written, regarding such subject matter. The terms of any Shrink-Wrap Agreement accompanying any Software delivered to the LADWP hereunder shall, to the extent inconsistent with the terms of this Agreement, have no effect whatsoever. This Agreement shall not be modified except by a subsequently dated written amendment or exhibit signed on behalf of the LADWP and Contractor by their duly authorized representatives. Any purported oral amendment to this Agreement shall have no effect.

AGREED TO:

Los Angeles Department of Water and Power By: _____

Title: _____

Date: _____

[Contractor Name]

By: _____

Title: _____

Date: _____

EXHIBIT A

STATEMENT OF WORK

1. **HARDWARE**
2. **SOFTWARE**
3. **FEES SCHEDULE**
4. **DELIVERABLE SCHEDULE**

[illegible]

EXHIBIT B
GOVERNMENT AND INSURANCE TERMS

1. Business Policies.

1.1 Los Angeles Department of Water and Power's Recycling Policy.

A. The LADWP of Water and Power supports the use of recycled-content products of all types. Recycled-content products help conserve natural resources, including water and energy, and reduce demands upon landfills.

B. The Contractor shall submit all written documents on paper with a minimum of 30 percent post-consumer recycled content. Existing company/corporate letterhead/stationery that accompanies these documents is exempt from this requirement. Documents of two or more pages in length shall be duplex-copied (double-sided pages). Neon or fluorescent paper shall not be used in any written documents submitted to the LADWP.

1.2 Affirmative Action.

A. During the performance of any contract, the Contractor shall not discriminate in its employment practices against any employee or applicant for employment because of race, religion, national origin, ancestry, sex, age or physical handicap. All subcontracts awarded under any such contract shall contain a like nondiscrimination provision. The applicable provisions of Executive Order No. 11246 of September 24, 1965; Part 60-741 of 41 CFR pertaining to handicapped workers, including 60-741.4 Affirmative Action Clause; and Sections 10.8 to 10.13 of the Los Angeles Administrative Code pertaining to nondiscrimination in employment in the performance of City contracts are incorporated herein by reference and made a part hereof as if they were fully set forth herein.

1.3 Minority and Women Business Enterprise (MBE/WBE)

A. It is the policy of the LADWP to provide Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs) and all other business enterprises an equal opportunity to participate in the performance of all LADWP contracts. The Consultant shall assist the LADWP in implementing this policy and shall use its best effort to attain MBE and WBE participation of 15 percent and 7 percent, respectively, and to ensure that all available business enterprises, including MBEs and WBEs, have an equal opportunity to compete for and participate in the work of this Agreement.

B. "Minority Business Enterprise" (MBE) or "Women's Business Enterprise" (WBE), as used herein means a business enterprise that meets both of the following criteria:

I. A business that is at least 51 percent owned by one or more minority person(s) or women or, in the case of any business whose stock is publicly held, at least 51 percent of the stock is owned by one or more minority person(s) or women.

II. A business whose management and daily business operations are controlled by one or more minority person(s) or women.

C. Efforts to obtain participation of MBEs, WBEs, and other business enterprises could reasonably be expected to produce a level of participation by interested subcontractors, including 15 percent MBEs and 7 percent WBEs. Good faith efforts to reach out to MBEs, WBEs, and all other business enterprises shall be determined by the following factors:

I. Meetings with MBEs, WBEs, associations representing MBEs, WBEs and other groups.

II. Identification of selected portions of the work to be performed by subcontractors in order to provide participation by MBEs, WBEs, and other business enterprises. The Contractor shall, when economically feasible, divide total contract requirements into small portions or quantities to permit maximum participation of MBEs, WBEs, and other business enterprises.

III. Requests for proposals from interested business enterprises or proposals in newspapers, trade association publications, minority or trade-oriented publications, trade journals, or other appropriate media.

IV. Providing written notice to those business enterprises, including MBEs and WBEs, having an interest in participating in this Agreement. The Contractor shall document that invitations were sent to available MBEs, WBEs, and other business enterprises for each portion of the work.

V. Documenting efforts to follow up initial solicitations of interest by contacting the business enterprises to determine whether the enterprises are interested in participating in the work.

VI. Providing interested enterprises with information about the plans, specifications, and requirements for the selected subcontracting

VII. Requesting assistance from organizations that provide assistance in the recruitment and placement of MBEs, WBEs, and other business enterprises.

VIII. Negotiating in good faith with interested MBEs, WBEs, and other business enterprises and not unjustifiably rejecting proposals prepared by any enterprise. As documentation, the bidder shall submit a list of all documentation, the bidder shall submit a list of all sub-bidders for each portion of potential work for MBEs, WBEs, and other business enterprises.

IX. Documenting efforts to advise and assist interested MBEs, WBEs and other business enterprises in obtaining bonds, lines of credit, or required insurance.

D. The Contractor shall submit monthly reports to the Contract Administrator demonstrating compliance with the LADWP's Outreach Program, and make related records available to the LADWP upon request. The reports shall be submitted on LADWP forms which can be obtained from the Contract Administrator, and show the following:

- I.** The name of each participating subcontractor;
- II.** Description of work each subcontractor has contracted to perform;
- III.** the percentage of completion for the work under each subcontract;
- IV.** the compensation contracted to be paid to each subcontractor (attach copy of subcontractor's invoice);
- V.** the cumulative compensation earned by each subcontractor; and
- VI.** the cumulative compensation paid to each subcontractor.

1.4 Service Contract Worker Retention And Living Wage Policy.

A. General Provisions. This contract is subject to the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 et. seq., and the Living Wage Ordinance (LWO), Section 10.37 et. seq., of the Los Angeles Administrative Code. The Ordinances require that, unless specific exemptions apply, employers who are awarded service contracts that involve expenditures in excess of \$25,000, and have a duration of at least three months; and any persons who receive City financial assistance of one million dollars or more in any 12-month period, shall comply with the following provisions of the ordinances: (Retention for a 90-day transition period, the employees who were employed for the preceding 12 months or more by the terminated Contractor or subcontractor, if any, as provided for in the SCWRO; Payment of a minimum initial wage rate to employees as defined in the LWO, of \$8.27 per hour, with health benefits of at least \$1.25 per hour, or otherwise \$9.52 per hour without benefits.

B. Termination Provisions. Under the provisions of Section 10.36.3(c) and Section 10.37.5 (c) of the Los Angeles Administrative Code, the LADWP of Water and Power, shall have the authority, under appropriate circumstances, to terminate this contract and otherwise pursue legal remedies that may be available, if the LADWP of Water and Power determines that the subject Contractor or financial assistance recipient violated the provisions of the referenced Code Section.

C. Invoice Provisions. All invoices related to SCWRO and LWO Contracts shall contain the following statement: "The Contractor fully complies with Section 10.36 et. and Section 10.37 et. seq., SCWRO and LWO, respectively, of the Los Angeles Administrative Code."

1.5 Child Support Policy. The Contractor and any Subcontractor(s) must fully comply with all applicable State and Federal employment reporting requirements for the

Contractor's and any Subcontractor(s)' employees. The Contractor and any Subcontractor(s) must fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with the California Family Code. The Contractor and any Subcontractor(s) must certify that the principal owner(s) thereof (any person who owns an interest of 10 percent or more) are in compliance with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally. The Contractor and any Subcontractor(s) must certify that such compliance will be maintained throughout the term of the Contract. Failure of the Contractor and/or any Subcontractor(s) to fully comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignments or Notices of Assignment or failure of the principal owner(s) to comply with any Wage and Earnings Assignments or Notices of Assignment applicable to them personally shall constitute a default under the Contract. Failure of the Contractor and/or any Subcontractor(s) or principal owner(s) thereof to cure the default within 90 days of notice of such default by the City shall subject the Agreement to termination.

2. Insurance Requirements.

2.1 Insurance

It is the policy of Los Angeles Department of Water and Power (LADWP) that upon the award of a contract, the selected Bidder/Bidder/Tenant must provide evidence of insurance that conforms to the insurance requirements of the bid/proposal/agreement. Insurance requirements are explained in detail in the attached language and "Contract Insurance Requirements" sheet, which specifically outlines the types and amounts of coverage required for this project/tenancy. For your information and use, "Special Endorsement Forms", "Guidance for Submitting Evidence of Insurance" and information on our insurance program for small vendors are available on our website.

When and if you are awarded a contract/agreement, acceptable evidence of required insurance, from insurers acceptable to the LADWP, will be required to be submitted within 30-days of the date of award and maintained current throughout the term of the contract. Said evidence of insurance must be on file with the Risk Management Section in order to receive payment under any contract for services rendered, and in order to commence work/tenancy under your contract.

For further information regarding these requirements, please contact:

Los Angeles Department of Water and Power
Risk Management Section
Phone: (213) 367-4674
Fax: (213) 367-0214
Web: <http://www.ladwp.com/ladwp/cms/ladwp005363.jsp>

2.2 Additional Insured Status Required

Contractor/Vendor shall procure at its own expense, and keep in effect at all times during the term of this Agreement, the types and amounts of insurance specified on the attached Contract Insurance Requirements page. The specified insurance shall also, either by provisions in the policies, by City's own endorsement form or by other endorsement attached to such policies, include and insure City, its Department of Water and Power, its Board of Commissioners (hereinafter referred to as "Board"), and all of its officers, employees and agents, their successors and assigns, as Additional Insured (except for

Professional Liability and Workers' Compensation), against the area of risk described herein as respects Contractor's/Vendor's acts or omissions in its performance of the agreement, hereunder or other related functions performed by or on behalf of Contractor/Vendor. Such insurance shall not limit or qualify the liabilities and obligations of the Contractor/Vendor assumed under the contract.

2.3 Severability of Interests and Cross Liability Required

Each specified insurance policy (other than Workers' Compensation and Employers' Liability and Property coverages) shall contain a Severability of Interest and Cross Liability clause which states, "It is agreed that the insurance afforded by this policy shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability," and a Contractual Liability Endorsement which shall state, "Such insurance as is afforded by this policy shall also apply to liability assumed by the insured under this Agreement with the City of Los Angeles."

2.4 Primary and Non-Contributory Insurance Required

All such insurance shall be Primary and Noncontributing with any other insurance held by City's Department where liability arises out of or results from the acts or omissions of Contractor/Vendor, its agents, employees, officers, assigns, or any person or entity acting for or on behalf of Contractor/Vendor. Any insurance carried by the LADWP which may be applicable shall be deemed to be excess insurance and the Contractor's/Vendor's insurance is primary for all purposes despite any conflicting provision in the Contractor's/Vendor's policies to the contrary.

2.5 Deductibles Subject to LADWP's Discretion

Deductibles and/or self-insured retentions shall be at the sole discretion of the Risk Manager of the LADWP (hereinafter referred to as "Risk Manager"). The LADWP shall have no liability for any premiums charged for such coverage(s). The inclusion of the LADWP, its Board, and all of its officers, employees and agents, and their agents and assigns, as additional insured, is not intended to, and shall not, make them, or any of them a partner or joint venture with Contractor/Vendor in its operations.

2.6 Proof of Insurance for Renewal or Extension Required

At least ten (10) days prior to the expiration date of any of the policies required on the attached Contract Requirement page, documentation showing that the insurance coverage has been renewed or extended shall be filed with the LADWP. If such coverage is canceled or reduced in coverage, Contractor/Vendor shall, within fifteen (15) days of such cancellation or reduction of coverage, file with the LADWP evidence that the required insurance has been reinstated or provided through another insurance company or companies.

2.7 Submission of Acceptable Proof of Insurance and Notice of Cancellation

Contractor shall provide proof to the LADWP's Risk Manager of all specified insurance and related requirements either by production of the actual insurance policy(ies), by use of LADWP's own endorsement form(s), by other written evidence of insurance acceptable to the Risk Manager, but always in a form acceptable to the Risk Manager and the Office of the City Attorney. The documents evidencing all specified coverages shall be filed with the LADWP prior to Contractor beginning operations hereunder. Said proof shall contain at a minimum, the applicable policy number, the inclusive dates of policy coverages, the date the protection begins for the Department of Water and Power, and the

insurance carrier's name. It shall bear an original signature of an authorized representative of said carrier, and shall provide that such insurance shall not be subject to cancellation, material reduction in coverage or non-renewal except after written notice by certified mail, return receipt requested, to the City Attorney of the City of Los Angeles at least thirty (30) calendar days prior to the effective date thereof. The notification shall be sent by registered mail to: The Office of the City Attorney, Water and Power Division, Post Office Box 51111, JFB Room 340, Los Angeles, California 90051-0100.

2.8 Claims-Made Insurance Conditions

Should any portion of the required insurance be on a "Claims Made" policy, the Contractor/Vendor shall, at the policy expiration date following completion of work, provide evidence that the "Claims Made" policy has been renewed or replaced with the same limits, terms and conditions of the expiring policy, or that an extended three (3) years discovery period has been purchased on the expiring policy at least for the contract under which the work was performed.

2.9 Failure to Maintain and Provide as Cause for Termination

Failure to maintain and provide acceptable evidence of the required insurance for the required period of coverage shall constitute a breach of contract, upon which the LADWP may immediately terminate or suspend the agreement.

2.10 Sub-Contractor Compliance

The Contractor/Vendor shall be responsible for all sub-contractors'/sub-vendors' compliance with the insurance requirements.

2.11 Periodic Right to Review/Update Insurance Requirements

The LADWP and Contractor/Vendor agree that the insurance policy limits specified on the attached Contract Insurance Requirements page may be reviewed for adequacy annually throughout the term of this Agreement by the Risk Manager/City Attorney, who may thereafter require Contractor/Vendor to adjust the amounts and types of insurance coverage however the Risk Manager/City Attorney deems to be adequate and necessary. City reserves the right to have submitted to it, upon request, all pertinent information about the agent and carrier providing such insurance, including applicable license and ratings.

2.12 Specific Insurance Requirements

The Bidder shall confirm to the requirements listed in the "Contract Insurance Requirements" sheet per Exhibit L.

2.13 Indemnification

The Contractor undertakes and agrees to indemnify and hold harmless the City of Los Angeles, the Department of Water and Power, the Board of Water and Power Commissioners of the City of Los Angeles, and all of their officers and employees, and, at the option of the LADWP, defend the LADWP, and any and all of their Boards, officers, agents, representatives, employees, assigns and successors in interest from and against any and all suits and causes of action, claims, charges, damages, demands, judgments, civil fines and penalties, or losses of any kind or nature whatsoever, for death, bodily injury or personal injury to any person, including contractor's employees and agents, or damage or destruction to any property of either party hereto, or third persons in any manner arising by reason of the negligent acts, errors, omissions or willful

misconduct incident to the performance of this contract on the part of the contractor, or the contractor's officers, agents, employees, or subcontractors of any tier, except for the active negligence or willful misconduct of the LADWP, its Board, officers, agents, representatives or employees.

EXHIBIT C
ESCROW AGREEMENT

THIS SOURCE CODE ESCROW AGREEMENT (“Escrow Agreement”) is entered into among **THE LOS ANGELES DEPARTMENT OF WATER & POWER (“THE LADWP”)**, having a place of business at 111 N. Hope Street, Los Angeles, CA 90012-5701, and _____ corporation having a place of business at _____ (“Contractor”), and _____ having a place of business at (“Escrow Agent”).

Recitals

Concurrent with the execution of this Escrow Agreement the LADWP and Contractor are entering into an Agreement for Information Technology Products & Services (the “License Agreement”) pursuant to which Contractor has licensed to the LADWP the right to use the Software (as defined in the License Agreement) and related documentation. The License Agreement requires Contractor and the LADWP to enter into an escrow agreement which provides for Contractor’s deposit of certain escrow materials with an escrow agent, and, under certain circumstances for release of such escrow materials to the LADWP.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Agreement

1. DEFINITION OF ESCROW MATERIALS. Capitalized terms used in this Escrow Agreement and not defined herein shall have the meanings assigned to them in the License Agreement. The Escrow Materials to be stored by the Escrow Agent consist of one (1) copy of all existing annotated Source Code listings, flow charts, decision tables, schematics, drawings, Specifications, documentation, design details, and other related documents which pertain to the Software and all technology necessary to understand the design, structure, and implementation of the Software and to maintain, support and build the executable object code of the Software (including, but not limited to, any tools which may or not be commercially available) such that a third party programmer reasonably skilled in the language used in such materials could maintain and support the Software without further assistance or references to other materials (collectively, the Escrow Materials”). Such Escrow Materials shall also include any Updates of such Software (as such term is defined in the License Agreement) made available to the LADWP pursuant to **SECTION 20 (“MAINTENANCE AND SUPPORT”)** of the Agreement

2. DEPOSIT. Within five (5) days of the LADWP’s acceptance of the Software in accordance with **SECTION 7 (“DELIVERY, INSPECTION, ACCEPTANCE AND REJECTION”)** of the License Agreement, Contractor shall deliver to the Escrow Agent a sealed package certified by an authorized officer of Contractor to contain a complete set of the Escrow Materials as defined in **SECTION 1 (“DEFINITION OF ESCROW MATERIALS”)** hereof, for such accepted Software (a “Deposit”). In addition to the foregoing, within thirty (30) days of any Updates to the LADWP pursuant to **SECTION 7 (“DELIVERY, INSPECTION, ACCEPTANCE AND REJECTION”)**, Contractor

shall deliver the Source Code to such Updates for the Software (a “Maintenance Deposit”) to the Escrow Agent.

3. **RECEIPT BY ESCROW AGENT.** Contractor shall furnish to the Escrow Agent a packing list in triplicate describing each Deposit made hereunder. The Escrow Agent shall issue a receipt for all Escrow Materials received and forward copies of such receipts and packing lists to both the LADWP and Contractor.

4. **STORAGE OF MATERIALS; INSPECTION.** The Escrow Agent shall establish under its control a receptacle for the purpose of storing the Escrow Materials in safekeeping in an appropriate physical facility and shall allow the inspection of the Escrow Materials by the LADWP to confirm that the deposit is complete and will compile into the same version of the Object Code of the Software accepted by the LADWP pursuant to **SECTION 7 (“DELIVERY, INSPECTION, ACCEPTANCE AND REJECTION”)** of the License Agreement. Any such inspection shall be in the presence of an authorized representative of Escrow Agent. the LADWP shall provide Contractor with ten (10) days’ notice of any requested inspection and Contractor shall have the right to attend such inspection, at its option. Access to the Escrow Materials shall be permitted to authorized representatives of Escrow Agent to the extent necessary for Escrow Agent to perform its obligations pursuant to this Escrow Agreement.

5. **RECORDS.** Escrow Agent agrees to keep complete written records of the activities undertaken, and materials prepared and delivered to Escrow Agent, pursuant to this Escrow Agreement. Contractor or the LADWP shall be entitled at reasonable times, during normal business hours, and upon reasonable notice to Escrow Agent, during the term of this Escrow Agreement to inspect the records of Escrow Agent with respect to the Escrow Materials.

6. **TERM.** This Escrow Agreement shall be perpetual and shall not terminate upon termination of the License Agreement.

7. **DEFAULT BY CONTRACTOR.** The following events shall constitute events of default by Contractor which give the LADWP the right to receive a single copy of the Escrow Materials from the Escrow Agent pursuant to **PARAGRAPH 8 (“DELIVERY OF ESCROW MATERIALS TO THE LADWP”)** hereof:

(a) Contractor breaches its warranty in **SECTION 21 (“WARRANTIES”)** of the License Agreement or fails to meet its obligations set forth in **SECTION 20 (“MAINTENANCE AND SUPPORT”)** for more than ten (10) days.

(b) Contractor becomes insolvent, or files or has filed against it any proceeding in bankruptcy or for reorganization under any federal bankruptcy law or similar state law, or has any receiver appointed for all or a substantial part of Contractor’s assets or business, or makes any assignment for the benefit of its creditors, or enters into any other proceeding for debt relief;

(c) Contractor ceases to do business or institutes any proceedings for the liquidation or winding up of its business or for the termination of its corporate charter;

(d) Contractor ceases to be actively engaged in its usual line of business; or

8. **DELIVERY OF ESCROW MATERIALS TO THE LADWP.** Escrow Agent agrees, and is hereby specifically authorized, to provide the Escrow Materials to the LADWP immediately upon written notice by the LADWP (a "Default Notice") that one or more of the default events defined in **PARAGRAPH 7 ("DEFAULT BY CONTRACTOR")** has occurred.

9. **BANKRUPTCY.** Contractor and the LADWP acknowledge that this Escrow Agreement is an "agreement supplementary to" the License Agreement as provided in Section 365(n) of Title 11, United States Code (the "Bankruptcy Code"). Contractor acknowledges that if Contractor, as a debtor in possession or a trustee in bankruptcy in a case under the Bankruptcy Code, rejects the License Agreement or this Escrow Agreement, the LADWP may elect to retain its rights under the License Agreement and this Escrow Agreement as provided in Section 365(n) of the Bankruptcy Code. Upon written request of the LADWP to Contractor or the Bankruptcy Trustee, Contractor or such Bankruptcy Trustee shall not interfere with the rights of the LADWP as provided in the License Agreement and this Escrow Agreement, including the right to obtain the Escrow Materials.

10. **LICENSE GRANT FOR USE OF ESCROW MATERIALS CONFIDENTIALITY; LIABILITY FOR DISCLOSURE.** In the event that the LADWP obtains the Escrow Materials pursuant to the terms hereof, the LADWP agrees that it will disclose the Escrow Materials only to employees and consultants of the LADWP who have a need-to-know and need access to the Escrow Materials to perform their duties. the LADWP may make a reasonable number of copies of the Escrow Materials for backup and archival purposes. Such Escrow Materials shall be considered the Confidential Information of Contractor for purposes of **SECTION 18 ("CONFIDENTIAL INFORMATION AND SOURCE CODE ESCROW")** of the License Agreement.

11. **DELIVERY SITE.** Delivery of the Escrow Materials to the LADWP, or return of the Escrow Materials to Contractor, shall be at the offices of the Escrow Agent at _____, unless special delivery instructions concerning delivery elsewhere are furnished to the Escrow Agent by the party authorized hereunder to receive the Escrow Materials.

12. **OBLIGATIONS OF ESCROW AGENT.** The Escrow Agent shall be responsible only for the acceptance, storage, and delivery of the Escrow Materials in accordance with the terms of this Escrow Agreement and for the exercise of due diligence in accordance with the high level of care accorded fiduciary obligations; shall have no obligation or responsibility to verify or determine that the Escrow Materials deposited with Escrow Agent by Contractor do, in fact, consist of those items which Contractor is obligated to deliver under this Escrow Agreement; shall bear no responsibility whatsoever to determine the existence, relevance, completeness, currency, or accuracy of the Escrow Materials; and shall be entitled to act in good faith reliance upon any written instruction, instrument, or signature believed in good faith to be genuine and to assume in good faith that any person purporting to give any writing, notice, advice, or written instruction in connection with, or relating to, this Escrow Agreement has been duly authorized to do so.

(a) In the event that Escrow Agent is, for any reason, uncertain of its obligation to deliver the Escrow Materials to the LADWP pursuant to **PARAGRAPH 8 ("DELIVERY OF ESCROW MATERIALS TO THE LADWP")**, it shall deliver such materials and it shall initiate an arbitration pursuant to **PARAGRAPH 13 ("ARBITRATION")** to resolve such uncertainty. In the event the arbitrator determines that the Escrow Materials should not have been delivered to the

LADWP, the LADWP shall return the original Escrow Materials to the Escrow Agent and certify in writing that it has destroyed any copies of such Escrow Materials. Except as expressly provided in this Escrow Agreement, Escrow Agent agrees that it will not divulge or disclose or otherwise make available to third parties whatsoever, or make any use whatsoever, of the Escrow Materials, or any information deposited with it by Contractor in connection with this Escrow Agreement, without the express prior written consent of Contractor.

13. ARBITRATION. Subsequent to the Escrow Agent's delivery of the Escrow Materials to the LADWP pursuant to **PARAGRAPH 8 ("DELIVERY OF ESCROW MATERIALS TO THE LADWP")**, if any dispute arises concerning the delivery of the Escrow Materials to the LADWP by Escrow Agent, such dispute shall be settled by arbitration before a single arbitrator selected in accordance with the rules of the American Arbitration Association, to take place in Los Angeles County, California, within thirty (30) days following the LADWP's delivery of a Default Notice to Escrow Agent pursuant to **PARAGRAPH 8 ("DELIVERY OF ESCROW MATERIALS TO THE LADWP")**, in accordance with the then-prevailing rules of the American Arbitration Association. No discovery will be permitted. The arbitrator shall be instructed to render his or her award in writing within fifteen (15) days after the end of the hearing, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

14. INDEMNITY. Contractor and the LADWP jointly and severally agree to defend and indemnify Escrow Agent and to hold Escrow Agent harmless from and against any and all claims, actions and suits, whether groundless or otherwise, and from and against any and all liabilities, losses, damages, costs, charges, penalties, counsel fees, and any other expense of any other nature, including, without limitation, settlement costs incurred by Escrow Agent on account of any good faith act or omission of Escrow Agent, in respect of, or with regard to, this Escrow Agreement except as to the obligations of Escrow Agent specified in **PARAGRAPH 4 ("STORAGE OF MATERIALS; INSPECTION")** and **PARAGRAPH 12 ("OBLIGATIONS OF ESCROW AGENT")** hereof.

15. COMPENSATION. The Escrow Agent shall be compensated as set forth on **Schedule 1 ("Fee Schedule")** attached hereto. The fees set forth in **Schedule 1 ("Fee Schedule")** are for Escrow Agent's ordinary services as escrow holder. In the event Escrow Agent is required to perform any additional or extraordinary services as a result of being escrow holder, including intervention in any litigation or proceeding, Escrow Agent shall receive, upon prior written approval of the parties responsible for payment of Escrow Agent's expenses, reasonable compensation for such services and be reimbursed for such costs incurred, including reasonable attorneys' fees. All costs and expenses for establishing and maintaining the escrow including but not limited to Escrow Agent's compensation and expenses shall be borne by the LADWP.

16. DISCHARGE OF ESCROW AGENT. Escrow Agent may resign and be discharged from its duties or obligations hereunder by giving notice in writing of such resignation to Contractor and the LADWP specifying a date when such resignation shall take effect, which date shall be at least sixty (60) days after the date of receipt of such notice. Prior to the effective date of such resignation, with the prior written consent of the LADWP, which shall not be unreasonably withheld, Contractor shall arrange for the services of a new escrow agent, and Contractor and the LADWP agree to execute and deliver another escrow agreement with such new escrow agent having substantially the same terms as this Escrow Agreement. Upon Contractor notifying

Escrow Agent of the name and address of the new escrow agent, Escrow Agent agrees to forward the Escrow Materials to such new escrow agent provided that Escrow Agent has received payment for its fees and costs pursuant to **PARAGRAPH 15** (“COMPENSATION”).

17. MODIFICATION. These escrow instructions are irrevocable except as they may be revoked or modified by written consent of the LADWP, Contractor and the Escrow Agent, jointly.

18. GOVERNING LAW. This Escrow Agreement shall be construed and interpreted in accordance with the laws of the State of California.

19. NOTICES. All notices required by this Escrow Agreement shall be sufficiently given:

(a) upon delivery, if given in person with a signed receipt;

(b) if given by facsimile transmission, upon acknowledgment of receipt of electronic transmission; or

(c) if given by registered or certified mail (air mail if international), postage prepaid, return receipt requested, five days after deposit in the mail in accordance with the provisions hereof. All such notices shall be addressed as follows:

If to the LADWP:

LOS ANGELES DEPARTMENT OF WATER AND POWER

[Name]

Contract Administrator

111 North Hope Street, Room _____

Los Angeles, California 90012-2694

With a Copy To:

Chief Assistant City Attorney

111 North Hope Street

Los Angeles, California 90012-2694

If to Contractor:

If to Escrow Agent:

or to such other person or address as the parties may from time to time designate in a writing delivered pursuant to this **PARAGRAPH 19** (“NOTICES”).

20. SEVERABILITY. In the event that any provision of this Escrow Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court or arbitration

decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions.

21. WAIVER. The failure of any party hereto to require performance by another party of any provision hereof shall not affect the full right to require such performance at any time thereafter, nor shall the waiver by any party of a breach of any provision hereof by any other party be taken or held to be a waiver of the provision itself.

22. COUNTERPARTS. This Escrow Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

23. SURVIVAL. The following provisions shall survive any termination of this Agreement or partial termination of this Agreement with respect to a portion of the Escrow Materials delivered pursuant to **PARAGRAPH 8** (“DELIVERY OF ESCROW MATERIALS TO THE LADWP”): **PARAGRAPH 10** (“LICENSE GRANT FOR USE OF ESCROW MATERIALS; CONFIDENTIALITY; LIABILITY FOR DISCLOSURE”), **PARAGRAPH 13** (“ARBITRATION”), **PARAGRAPH 14** (“INDEMNITY”), **PARAGRAPH 18** (“GOVERNING LAW”), **PARAGRAPH 19** (“NOTICES”), **PARAGRAPH 20** (“SEVERABILITY”), **PARAGRAPH 21** (“WAIVER”), **PARAGRAPH 22** (“COUNTERPARTS”) and **PARAGRAPH 24** (“ENTIRE AGREEMENT”).

24. ENTIRE AGREEMENT. This Escrow Agreement, together with any schedule hereto, and the License Agreement, constitute the entire agreement between the parties with respect to the subject matter hereof. This Escrow Agreement supersedes oral, written or other communications concerning the subject matter of this Escrow Agreement, and shall not be altered, amended, or modified except in a writing signed by the duly authorized officers of each party hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Escrow Agreement to be executed as of the date and year hereinafter written.

CONTRACTOR:

**LOS ANGELES DEPARTMENT OF
WATER AND POWER**

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

ESCROW AGENT:

[NAME]

By: _____

Title: _____

Date: _____

SCHEDULE 1
FE SCHEDULE

EXHIBIT D
CONTRACTOR'S QUALITY ASSURANCE PROGRAM

EXHIBIT E
BACKGROUND TECHNOLOGY

EXHIBIT F
RESPONSE

**EXHIBIT G
INVOICE CRITERIA**

Los Angeles Department of Water and Power

NOTE: ANY FEE PAYMENTS MADE IN EXCESS OF FEES ACTUALLY OWED TO CONTRACTOR ARE NULL AND VOID, SHALL BE DEDUCTED FROM FUTURE FEE PAYMENTS AND/OR RETENTION, AND MAY RESULT IN LIABILITY FOR DAMAGES FOR PRESENTING FALSE CLAIMS

INVOICE PREPARATION CHECKLIST

ANY "NO" ANSWERS MAY RESULT IN THE DELAY OF PAYMENT

	<u>YES</u>	<u>NO</u>
1. Are you sending your invoice in triplicate to: (unless other specific instructions appear on your Purchase Order [PO])	_____	_____
Accounts Payable Business Unit Los Angeles Department of Water and Power City of Los Angeles PO Box 51211, Room 424 Los Angeles, CA 90051-5511		
(NOTE: Delivery slips and invoices delivered with goods will not initiate payment)		
2. Is your firm's invoice name exactly the same as on the PO/SPO?	_____	_____
3. Does your invoice, delivery slip, credit memo, or correspondence have		
a. Your correct vendor number?	_____	_____
b. The correct PO/SPO number?	_____	_____
c. Your Business Tax Registration Certificate Number or Vendor Requisition Number?	_____	_____
4. Have all materials/services been delivered?	_____	_____
5. Do invoice prices and quantities agree with the PO/SPO?	_____	_____
6. Does each billed item indicate the corresponding number on the PO/SPO? (Payment will not be made for any item or charges such as freight, restocking, etc. if not specifically allowed for in the PO.)	_____	_____
7. If freight charges are authorized in the PO, are you, and not the freight company, billing for the charges?	_____	_____

8. Are all taxes stated separately? (DWP is not exempt from payment of sales tax. Out-of-State vendor: Please indicate if California sales/use tax should be paid directly to the State of California.)

9. Is your invoice submitted in accordance with contract terms?

10. Does your invoice number appear on any credit memo?

EXHIBIT H
PRIOR WORK PRODUCT

EXHIBIT I
HARDWARE MAINTENANCE

"Hardware Maintenance" shall consist of:

- The LADWP may, from time to time contact Contractor by telephone or e-mail to consult with Contractor regarding the operation of the Hardware and notify Contractor of any Hardware Errors.
- If the Contractor wishes to inspect any Hardware with Errors, the LADWP may, if so requested, return such Hardware to Contractor (at Contractor's risk and expense), or if the foregoing is not reasonable in the LADWP's judgment, the LADWP may require the Contractor to come to the LADWP's facility to make such inspection. In any case, such inspection shall be carried out no later than one (1) day from notice of any Hardware Errors.
- Promptly following such Contractor inspection, Contractor shall use its most diligent efforts to repair such Hardware or replace such Hardware with conforming Hardware, which shall be installed by Contractor upon request, no later than [_____] after notice from the LADWP.

Hours and Facilities. Contractor shall make Hardware Maintenance available during the LADWP's normal business days and normal business hours.

EXHIBIT J
SOFTWARE MAINTENANCE

1. “Software Maintenance” shall consist of the following:
 - The LADWP’s Designated Employees may, from time to time contact Contractor by telephone or e-mail to consult with Contractor regarding the operation of the Software and any Error.
 - The LADWP's Designated Employees shall provide to Contractor all documentation and related information with respect to each Error, and Contractor shall examine same.
 - Contractor shall use its most diligent efforts to correct such Errors by providing Updates to the Software, and shall provide conforming Software to the LADWP promptly thereafter.
2. Contractor shall make Software Maintenance available during the LADWP’s normal business days and normal business hours.
3. For purposes of this **EXHIBIT J (“SOFTWARE MAINTENANCE”)**, Errors shall be classified as follows:
 - “**Level 1 Errors**” shall mean Errors which cause a significant impact in the LADWP’s ability to deliver water or power to customers.
 - “**Level 2 Errors**” shall mean Errors which cause a significant impact upon the LADWP’s information technology system, but does not impair the LADWP’s ability to deliver water or power to customers.
 - “**Level 3 Errors**” shall mean Errors which are not Level 1 Errors or Level 2 Errors.
4. Contractor shall use its most diligent efforts to respond to and acknowledge Errors as follows:
 - Level 1 Errors: The LADWP shall report Level 1 Errors to Contractor using an external call logging service. Contractor shall use its diligent efforts to respond and acknowledge such notice by telephone, email or fax within four (4) hours of receipt. Contractor will promptly thereafter assemble a team of Contractor engineers to provide corresponding Software Maintenance (and will do so outside of normal business days as necessary), and shall inform the LADWP of the contact information for the leader of such team.
 - Level 2 Errors: The LADWP shall report Level 2 Errors to Contractor by email. Contractor shall respond and acknowledge such notice promptly.

- Level 3 Errors: The LADWP shall report Level 3 Errors to Contractor by email. Contractor shall respond and acknowledge such notice promptly.

EXHIBIT K
RIGHT TO AUDIT CLAUSE

1. Right to Audit: The Contractor and the Contractor's subcontractors and suppliers shall be subject at any time with 7 calendar days prior written notice to audits by the Department or the Department's agents, collectively defined as "Authorized Auditors", relating to all billings and to verify compliance with all contract requirements relative to practices, methods, procedures, and documentation. The Authorized Auditors shall have access to all records and data relating to the contract. The audits will be performed using FAR, Part 30 and 31, et seq., generally accepted accounting practices and principles, and City Contractor Cost Guidelines, and any other applicable City, State and Federal government audit standards if any. The Contractor shall maintain and the Authorized Auditors will have the right to examine and audit all books, records, documents, accounting procedures and practices, and other evidence, regardless of form (e.g., machine readable media such as disk, tape, etc.) or type (e.g., databases, applications software, database management software, utilities, etc.), sufficient to properly reflect all costs claimed to have been incurred or anticipated to be incurred in performing the Contract. Any information provided on machine-readable media shall be provided in a format accessible and readable by the Authorized Auditors. The Contractor shall not, however, be required to furnish the Authorized Auditors with commonly available software. If the Contractor, the Contractor's subcontractors and/or suppliers are required to submit cost or pricing data in connection with the Contract and/or the Contract Amendment, the Authorized Auditors will have the right to examine all documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used. The Authorized Auditors will also have the right to reproduce, photocopy, download, transcribe, and the like any such records. The Contractor shall make said evidence or to the extent accepted by the Authorized Auditors, photographs, micro-photographs etc. or other authentic reproductions thereof available to the Authorized Auditors at the Contractor's offices at all reasonable times and without charge. The Contractor and the Contractor's subcontractors and suppliers shall keep and preserve all such records for a period of not less than 3 years from and after Final Payment or, if the Contract is terminated in whole or in part, until 3 years after final Contract closeout.

The Contractor, the Contractor's subcontractors and suppliers shall account for and be responsible for unallowable costs and mutually agreed unallowable costs. The detail and depth of records required as backup support for proposals, billings, or claims shall be that which adequately establishes and maintains visibility of identified unallowable costs, costs directly associated to unallowable costs, and allowable costs.

All Changes are subject to audit. Changes with an absolute value of one hundred thousand (\$100,000) dollars or more shall require an audit. The City may waive the right to audit where there was adequate price competition, an established catalog or market prices for commercial items sold in substantial quantities to the public, and/or prices set by law or regulation.

The Contractor shall maintain and segregate cost and pricing data, books, records, documents, and any other accounting evidence sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred or anticipated to be incurred by a Contract Amendment, including a change order.

For a period of 3 years from the date of Final Payment under the Contract, and prior to the execution of any Contract Amendment that exceeds an absolute value of one hundred thousand dollars (\$100,000), the Authorized Auditors will have the right to examine all books, records, documents, and any other applicable data or evidence that relate to the negotiation and/or performance of the Contract and/or a contract amendment for the purpose of evaluating the accuracy and completeness of the cost or pricing data submitted by the Contractor. To the extent that the examination reveals inaccurate, incomplete, or non-current data, the data shall be considered defective; if the audit indicates the Contractor has been overpaid under a previous payment application, such overpayment, after 10 calendar days notice to the Contractor, shall be paid to the Department.

The Authorized Auditors may require that the Contractor supply appropriate documentation to support the costs or prices proposed for a Contract amendment, including a change order, and will refuse to complete negotiations until satisfactory documentation is submitted. The Contractor's books, records, documents and any other applicable data or evidence that relate to the negotiations and/or performance of the contract amendment shall be subject to audit and inspection.

Also subject to audit shall be the Contractor's records, books, documents and any other applicable data or evidence relating to those items on a billing that relates to:

- a.** Work performed under the contract and/or a change order;
- b.** Goods not yet incorporated into the work;
- c.** Services or work performed under a contract amendment negotiated on an indefinite quantity basis; and
- d.** Fixed-price change orders to validate the claimed percentage of completion on the payment application.

Notwithstanding the foregoing, if the audit reveals that the overpayment is more than 5% of the billing, the Contractor shall pay all expenses and costs incurred by the Authorized Auditors arising out of or related to the audit.

EXHIBIT L
CONTRACT INSURANCE REQUIREMENTS --
For Contractors, Service Providers, Vendors, and Tenants

Agreement/Activity/Operation: _____

Reference/Agreement: _____

Term of Agreement: _____

Contract Administrator and Phone: _____

Buyer and Phone Number: _____

Contract-required types and amounts of insurance as indicated below by checkmark are the minimum which must be maintained. All limits are Combined Single Limit (Bodily Injury/Property Damage) unless otherwise indicated. Firm 30 day Notice of Cancellation required by Receipted Delivery.

PER OCCURRENCE LIMITS

- | | | |
|--|--|----------------------------------|
| (x) WORKERS' COMPENSATION(Stat. Limits)/Employer's Liability: (\$1,000,000.00) | | |
| (x) Broad Form All States Endorsement | () US L&H (Longshore and Harbor Workers) | |
| () Jones Act (Maritime Employment) | () Outer Continental Shelf | |
| (x) Waiver of Subrogation | () Black Lung (Coal Mine Health and Safety) | |
| () Other: _____ | () Other: _____ | |
| (x) AUTOMOBILE LIABILITY: (\$1,000,000.00) | | |
| (x) Owned Autos | () Any Auto | |
| (x) Hired Autos | (x) Non-Owned Auto | |
| () Contractual Liability | (x) Additional Insured | |
| () MCS-90 (US DOT) | () Trucker's Form | |
| () Waiver of Subrogation | () Other: _____ | |
| (x) GENERAL LIABILITY: () Limit Specific to Project () Per Project Aggregate (\$1,000,000.00) | | |
| (x) Broad Form Property Damage | (x) Contractual Liability | (x) Personal Injury |
| (x) Premises and Operations | (x) Products/Completed Ops. | (x) Independent Contractors |
| (x) Fire Legal Liability | () Garagekeepers Legal Liab. | () Child Abuse/Molestation |
| () Corporal Punishment | () Collapse/Underground | () Explosion Hazard |
| () Watercraft Liability | () Pollution | () Addition Insured Status |
| () Waiver of Subrogation | () Airport Premises | () Hangarkeepers Legal Liab. |
| () Marine Contractors Liability | () Other: _____ | () Other: _____ |
| (x) PROFESSIONAL LIABILITY: (\$1,000,000.00) | | |
| () Contractual Liability | () Waiver of Subrogation | () 3 Year Discovery Tail |
| () Additional Insured | () Vicarious Liability Endt. | () Other: _____ |
| () AIRCRAFT LIABILITY: () | | |
| () Passenger Per Seat Liability | () Contractual Liability | () Hull Waiver of Subrogation |
| () Pollution | () Additional Insured | () Other: _____ |
| () PROPERTY DAMAGE: () Loss Payable Status (AOIMA) () | | |
| () Replacement Value | () Actual Cash Value | () Agreed Amount |
| () All Risk Form | () Named Perils Form | () Earthquake: _____ |
| () Builder's Risk:\$_____ | () Boiler and Machinery | () Flood: _____ |
| () Transportation Floater:\$_____ | () Contractors Equipment\$_____ | () Loss of Rental Income: _____ |
| () Scheduled Locations/Propt. | () Other: _____ | () Other: _____ |
| () WATERCRAFT: () | | |
| () Protection and Indemnity | () Pollution | () Additional Insured |
| () Waiver of Subrogation | () Other: _____ | () Other: _____ |
| () POLLUTION: () | | |
| () Incipient/Long Term | () Sudden and Accidental | () Additional Insured |
| () Waiver of Subrogation | () Contractor's Pollution | () Other: _____ |
| () CRIME: () Joint Loss Payable Status () Additional Insured | | |
| () Fidelity Bond | () Financial Institution Bond | () Loss of Monies/Securities |
| () Employee Dishonesty | () In Transit Coverage | () Wire Transfer Fraud |
| () Computer Fraud | () Commercial Crime | () Forgery/Alteration of Docs. |
| () Other: _____ | () Other: _____ | |
| () ASBESTOS LIABILITY: () Additional Insured () | | |

Page 2. **CONTRACT INSURANCE REQUIREMENTS (continued)**

PER OCCURRENCE LIMITS

() _____ (\$ _____) (type of coverage)		
() _____	() _____	() _____
() _____	() _____	() _____
() _____	() _____	() _____
() _____ (\$ _____) (type of coverage)		
() _____	() _____	() _____
() _____	() _____	() _____
() _____	() _____	() _____
() _____ (\$ _____) (type of coverage)		
() _____	() _____	() _____
() _____	() _____	() _____
() _____	() _____	() _____

APPENDIX M

PROTEST POLICY AND PROCEDURES

These procedures provide a method for resolving, prior to award, protests regarding the award of contracts by and through the Los Angeles Department of Water and Power's Board of Commissioners (Board). No contractor shall have any right to due process, should the Department fail to follow these procedures, for any reason within its discretion. However, failure by a contractor to follow protest procedures as discussed below will create the presumption that any subsequent legal action in a court of competent jurisdiction is of no merit. These procedures will enable the Board to ascertain all of the facts necessary to make an informed decision regarding the award of contract.

1.0 Filing of a Protest: Protests may only be filed by interested parties whose direct economic interest would be affected by the award or non-award of a contract.

Formal protests must be filed in writing to the Los Angeles Department of Water and Power (Department) Supply Services Manager of Purchasing Operations at the address below, and received not later than 3:00 p.m., 14 calendar days after the bid opening or after the receipt of proposals, whichever is applicable, to:

SUPPLY SERVICES MANAGER OF PURCHASING OPERATIONS
CARE OF VENDOR LIAISON CENTER
PROTEST FOR BID/SPEC/RFP NO. _____
LOS ANGELES DEPARTMENT OF WATER AND POWER
PO BOX 51111 RM L43
LOS ANGELES, CA 90015-0100

At the protestor's discretion, a protest may be filed by electronic facsimile to Fax Number (213) 367-2268, with an original copy postmarked by U.S. Mail or any other return receipt means to the addressed specified herein.

Protest submissions shall include the following information:

- a. The name and address of the protestor.
- b. The protestor's relationship to the procurement sufficient to establish that the protest is being filed by an interested party.
- c. The title or identification number.
- d. The specific objection(s) to the content of a solicitation or the award of a contract.
- e. Any documentation that may support the allegations of the protest.

PROTEST POLICY AND PROCEDURES

- f. A statement of the relief requested.

If the protest does not comply with the preceding requirements, it may not be considered for evaluation and may be returned to the protestor who submitted the written documentation without appropriate substantiating information.

The Department is not responsible for lost or otherwise delayed deliveries. A protest not filed within the time limits herein may be rejected without consideration or evaluation.

The Department may consider protests concerning ***contract compliance matters*** or ***the Request for Proposal review and evaluation process*** beyond the protest period. These protests will receive due consideration if:

- a. the protest is filed in prior to consideration of award of the contract by the awarding authority, ***and***
- b. such protests affects a contractor who appears to have substantial and reasonable prospect of being selected if the protest is accepted.

2.0 Department Response: The Department will respond in writing to each substantive issue raised in timely filed protests. Protests will be evaluated and the Director of Supply Chain Management will issue a written decision on the determination of the protest within 45 calendar days or prior to award of contract, whichever occurs earlier.

3.0 Appeals: Any decision rendered on a contract may be appealed to General Manager and/or Board of Water and Power Commissioners, whichever is the awarding authority for a particular contract. Such appeal must be filed with the Director of Supply Chain Management within 10 calendar days from the date of mailing of the Departments response to the protest. Appeals must contain detailed information regarding the basis of the appeal. The Director of Supply Chain Management will provide a written report to the General Manager and/or Board of Water and Power Commissioners, whichever is the awarding authority for a particular contract. Protesting parties will be notified of the time that the contract will be considered by General Manager and/or Board of Water and Power Commissioners, whichever is the awarding authority for a particular contract. Protesting parties will be given the opportunity to present their arguments to the Contract awarding authority.

Protests and appeals may be withdrawn at any time before a final decision is issued.

APPENDIX N

For Contractors, Service Providers, Vendors, and Tenants

Agreement/Activity/Operation: Services - Consulting - LADWP Internet Website Upgrade and Redesign
Reference/Agreement: RFP TBD at 2/09
Term of Agreement: _____
Contract Administrator and Phone: George Rofail
Buyer and Phone Number: TBD
Risk Manager /Date: AMN/2-4-09

Contract-required types and amounts of insurance as indicated below by checkmark are the minimum which must be maintained. All limits are Combined Single Limit (Bodily Injury/Property Damage) unless otherwise indicated. Firm 30 day Notice of Cancellation required by Receipted Delivery.

PER OCCURRENCE LIMITS

(x) WORKERS' COMPENSATION(Stat. Limits)/Employer's Liability: (\$1,000,000.00)

- | | |
|---------------------------------------|--|
| (x) Broad Form All States Endorsement | () US L&H (Longshore and Harbor Workers) |
| () Jones Act (Maritime Employment) | () Outer Continental Shelf |
| (x) Waiver of Subrogation | () Black Lung (Coal Mine Health and Safety) |
| () Other: _____ | () Other: _____ |

(x) AUTOMOBILE LIABILITY: (\$1,000,000.00)

- | | |
|---------------------------|------------------------|
| (x) Owned Autos | () Any Auto |
| (x) Hired Autos | (x) Non-Owned Auto |
| () Contractual Liability | (x) Additional Insured |
| () MCS-90 (US DOT) | () Trucker's Form |
| () Waiver of Subrogation | () Other: _____ |

(x) GENERAL LIABILITY: () Limit Specific to Project () Per Project Aggregate (\$1,000,000.00)

- | | | |
|----------------------------------|-------------------------------|-------------------------------|
| (x) Broad Form Property Damage | (x) Contractual Liability | (x) Personal Injury |
| (x) Premises and Operations | (x) Products/Completed Ops. | (x) Independent Contractors |
| () Fire Legal Liability | () Garagekeepers Legal Liab. | () Child Abuse/Molestation |
| () Corporal Punishment | () Collapse/Underground | () Explosion Hazard |
| () Watercraft Liability | () Pollution | (x) Addition Insured Status |
| () Waiver of Subrogation | () Airport Premises | () Hangarkeepers Legal Liab. |
| () Marine Contractors Liability | () Other: _____ | () Other: _____ |

(x) PROFESSIONAL LIABILITY: (\$2,000,000.00)

- | | | |
|---------------------------|-------------------------------|---------------------------|
| (x) Contractual Liability | () Waiver of Subrogation | (x) 3 Year Discovery Tail |
| () Additional Insured | () Vicarious Liability Endt. | () Other: _____ |

() AIRCRAFT LIABILITY: () ()

- | | | |
|----------------------------------|---------------------------|--------------------------------|
| () Passenger Per Seat Liability | () Contractual Liability | () Hull Waiver of Subrogation |
| () Pollution | () Additional Insured | () Other: _____ |

() PROPERTY DAMAGE: () Loss Payable Status (AOIMA) ()

- | | | |
|------------------------------------|----------------------------------|----------------------------------|
| () Replacement Value | () Actual Cash Value | () Agreed Amount |
| () All Risk Form | () Named Perils Form | () Earthquake: _____ |
| () Builder's Risk:\$_____ | () Boiler and Machinery | () Flood: _____ |
| () Transportation Floater:\$_____ | () Contractors Equipment\$_____ | () Loss of Rental Income: _____ |
| () Scheduled Locations/Propt. | () Other: _____ | () Other: _____ |

() WATERCRAFT: ()

- | | | |
|------------------------------|------------------|------------------------|
| () Protection and Indemnity | () Pollution | () Additional Insured |
| () Waiver of Subrogation | () Other: _____ | () Other: _____ |

() POLLUTION: ()

- | | | |
|---------------------------|----------------------------|------------------------|
| () Incipient/Long Term | () Sudden and Accidental | () Additional Insured |
| () Waiver of Subrogation | () Contractor's Pollution | () Other: _____ |

() CRIME: () Joint Loss Payable Status ()

- | | | |
|-------------------------|--------------------------------|---------------------------------|
| () Fidelity Bond | () Financial Institution Bond | () Loss of Monies/Securities |
| () Employee Dishonesty | () In Transit Coverage | () Wire Transfer Fraud |
| () Computer Fraud | () Commercial Crime | () Forgery/Alteration of Docs. |
| () Other: _____ | () Other: _____ | |

() ASBESTOS LIABILITY: () Additional Insured ()

Page 2. CONTRACT INSURANCE REQUIREMENTS (continued)

			PER OCCURRENCE LIMITS
☒ <u>Performance Bond</u> (type of coverage)			(\$ _____)
☒ <u>100% Value of Contract</u>	() _____	() _____	
() _____	() _____	() _____	
() _____	() _____	() _____	
() _____ (type of coverage)			(\$ _____)
() _____	() _____	() _____	
() _____	() _____	() _____	
() _____	() _____	() _____	
() _____ (type of coverage)			(\$ _____)
() _____	() _____	() _____	
() _____	() _____	() _____	
() _____	() _____	() _____	

APPENDIX O

ALLOWABLE TRAVEL AND LIVING EXPENSES

The LADWP will reimburse the Contractor, in accordance with the City Guidelines, for actual cost for reasonable, necessary, authorized and approved incidental expenses while performing the work. These expenses will include, but not limited to:

- 1.1 Airfare and Car rental: Air fare is limited to coach class only. Car rental is limited to one compact rental per 4 passengers per trip. Original receipts for airfare and car rental must be submitted.
- 1.2 Meal expenses are reimbursable only on working days as reported on timesheets, and payable at the daily maximum amount defined by current LADWP meal allowance policy at the time expenses were incurred. Meal receipts must be detailed. Reimbursements will not be made for alcoholic beverages or tips.

Example: The LADWP Guideline as of March 1, 2009

Breakfast	\$12.56
Lunch	\$16.19
Dinner	\$23.35

- 1.3 Lodging expenses are reimbursable up to a maximum of \$178.48 per day. This should include taxes associated with the lodging. Meals obtained from the hotel should be itemized separately and with the appropriate detailed receipt. Incidentals such as entertainment, alcoholic beverages, tips, and use of the lodging parking facility are not reimbursable. Lodging receipts must show paid in full with a zero balance owed.

Per diem expenses to Contractor's employees in lieu of actual costs, will not be reimbursed.