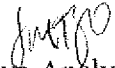


REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: December 7, 2015

TO: Honorable Members of the Economic Development Committee

FROM: Sharon M. Tso 
Chief Legislative Analyst

LOS ANGELES CONVENTION CENTER EXPANSION AND MODERNIZATION

SUMMARY

On June 30, 2015, Council approved recommendations (CF#14-1383) related to the expansion and modernization of the Los Angeles Convention Center (LACC). Staff reported on the results of a design competition, with a recommendation to retain HMC/Populus to design the project. Council instructed the Bureau of Engineering (BOE) to enter into negotiations with the HMC/Populus and report back to Council with the outcome of those negotiations. Council further instructed the City Administrative Officer (CAO) to report on a financing plan for the project and the Chief Legislative Analyst and CAO to report on additional actions to advance this project.

This report addresses those actions. First, BOE has successfully completed negotiations with HMC/Populus and has presented a contract for consideration and approval. BOE has also provided a budget and timeline for project implementation. Finally, BOE has requested authority to hire staff to support development of the project. The CAO will report separately concerning finance plan options.

The CAO is currently completing an analysis of public-private partnership (P3) opportunities at the LACC. Results of that report should be available soon. To ensure that the City maintains flexibility in its development and financing options, the actions in this report authorize BOE to prepare for staff hiring and the retention of contractors. Further actions to move this project forward will be made after the findings of the P3 report have been considered by Council.

RECOMMENDATIONS

That the City Council, with approval of the Mayor:

1. Authorize the total project budget for the Convention Center Expansion/Renovation Project of \$470 million;
2. Designate the City Engineer as the Program Manager for the Convention Center Expansion/Renovation Project;

3. Instruct BOE to implement the project in logical phases, with issuance of the Notice to Proceed for any and all work to be issued following action by Council on the public-private partnership (P3) report;
4. Delegate the Authority to the Board of Public Works to execute a sole source contract with Populous Inc., for Architecture and Engineering Design Services with a budget authority of \$33,537,590 for seven years;
5. Authorize the Board of Public Works to enter into a Construction Management/General Contractor contract with a Guarantee Maximum Price for the Convention Center Expansion/Renovation Project, subject to Council approval;
6. Authorize the Board of Public Works to enter into a Construction Management/Project Management contract for seven years, subject to Council approval;
7. Authorize resolution authority for ten new positions in the Department of Public Works, subject to allocation by the Civil Service Commission and paygrade review by the Employee Relations Division, for the period December 1, 2015 through June 30, 2016, as follows:

<u>Public Works Bureau</u>	<u>Code</u>	<u>Classification</u>	<u>Quantity</u>
Bureau of Engineering	9489	Principal Civil Engineer	1
Bureau of Engineering	9485	Senior Civil Engineer	1
Bureau of Engineering	7925	Architect	1
Bureau of Engineering	7561-2	Building Mechanical Engineer II	1
Bureau of Engineering	7246-4	Civil Engineering Associate IV	1
Bureau of Engineering	7246-3	Civil Engineering Associate III	1
Bureau of Engineering	9171	Senior Management Analyst I	1
Bureau of Engineering	1116	Secretary	1
Bureau of Engineering	1368	Senior Clerk Typist	1
Board of Public Works	1523-2	Senior Accountant II	1

8. Direct the Personnel Department to expedite the allocation of these positions for Civil Service Commission consideration;
9. Authorize the Controller to establish a new fund entitled Convention Center Expansion/Renovation in Department 50 to provide cash flow on a revolving basis and receive and disburse funds for the project;
10. Instruct the Controller to establish appropriation accounts within the new fund to transfer the appropriations, encumbrances, pre-encumbrances, and expenditures in the Convention Center Expansion/Renovation Project;
11. Authorize the CAO to make any technical corrections necessary to implement the intent of the Mayor and Council; and

12. Instruct the BOE and CTD to report on a semi-annual basis concerning status and progress of the LACC Expansion and Renovation project.

FISCAL IMPACT

There is no fiscal impact with these recommendations. The CAO will report separately concerning costs associated with this project.

BACKGROUND

On June 30, 2015, Council adopted (CF# 14-1383), a joint report prepared by the CLA and CAO authorizing selection of HMC/Populus as the highest rated architectural design team for the LACC expansion and modernization project. The City conducted a design competition to identify an expansion and modernization plan for the LACC that would meet the needs of a broader range of conventions and trade shows. In September 2014, three finalists were selected to prepare plans and models. Those plans were submitted for City consideration and public review in May 2015. A scoring panel comprised of staff at the BOE and the Los Angeles Convention and Tourism Department (CTD) made their final assessment of the proposals. On June 16, 2015, the BOE released a report that recommended selection of the team of HMC Architects with Populous as the highest rated architectural design team resulting from the design competition for the LACC expansion and renovation project. Council concurred with that recommendation on June 30, 2015.

Upon approving selection of the architectural team, Council instructed staff to initiate the next phase of this project. Actions authorized BOE to negotiate a contract with the architectural team; instructed CAO to prepare a financing plan; and the CLA and CAO to identify steps and actions necessary to move this project forward.

Populus/HMC Contract

As noted, Council authorized BOE to negotiate a personal services contract with the architectural team of HMC and Populus to serve as architects for the proposed expansion of the LACC. BOE has concluded negotiations and recommends a contract with Populus Inc. as lead architects for \$33,537,590. HMC will remain as a significant partner on the architectural team, but Populus has been designated as the lead for this project due to their special practice in convention center design. A copy of the contract is provided as Attachment A.

Finance Plan

The CAO has prepared an analysis of finance options for the project, which is provided under separate cover.

Budget

BOE has prepared and submitted a budget for the project. Total cost for the LACC expansion and modernization project is \$469,987,590, as outlined in Table 1, with the detailed budget provided in Attachment B. The budget includes a total construction budget of \$350 million, soft costs of \$93,740,000, and a 7.5% contingency of \$26,250,000. This proposed budget is consistent with cost proposals previously discussed. Staff have focused specifically on remaining

within the \$350 million construction budget previously presented to Council for consideration.

Table 1
LACC Expansion and Modernization Budget

Construction	\$350,000,000
Design Fee	33,537,590
Project Management/Construction Management (PM/CM)	
– Project Administration (Bureau of Engineering)	11,200,000
– PM/CM (Consultant)	9,800,000
Furniture, Fixtures and Equipment	3,500,000
Other Office Support (Accounting/Other City staff/Survey/Geotech)	4,200,000
Bureau of Contract Administration	12,250,000
Permits/Testing	14,000,000
1% Art Fee	3,500,000
CEQA	1,750,000
Subtotal	\$443,737,590
Project Contingency (Executive Committee)	\$26,250,000
Grand Total	\$469,987,590

Staffing

It is recommended that the Bureau of Engineering be the project manager for the Convention Center Expansion. As project manager, BOE will be responsible for design, bid and award, construction management, and post construction responsibilities. BOE does not currently have sufficient staffing or available vacancies to support the workload for this project. To support the workload, BOE has projected that ten resolution authorities will be required from Fiscal Year 2015-16 through Fiscal Year 2020-21. The total estimated cost of the positions for the life of the project is \$8,740,000 (Attachment C). Funding for these positions will be presented at a future data, following the outcome of the P3 report as discussed later in this report.

BOE also anticipates that it will require funds to issue a Task Order Solicitation for additional project and construction management consulting services for Fiscal Year 2015-16. The consultants will be used as staff augmentation and will assist with all aspects of the BOE workload including specialty studies in instances where BOE does not have specific expertise. BOE will issue a Request for Qualifications (RFQ) for these services. BOE is projecting a total cost of \$9.8 million for project and construction management consulting services over the life of the project.

Both the Bureau of Contract Administration and the CTD will require staffing for this project, but not until FY 2016-2017, as shown in Attachment C. These staffing needs will be addressed in future budgets.

Schedule

The current Project Schedule for this project provides for immediate initiation of preconstruction and various contractual services, including architectural services, project and construction management, and CEQA analysis. Preconstruction services, including assistance with the preparation of bid packages for construction, validation of cost estimates, and value engineering to achieve cost savings, would be completed by the end of 2016 and design services would be completed in early 2018.

Construction is estimated to begin in mid-2017, with design services continuing through the first few months of construction.

This schedule is currently designed to reduce the impact of construction on existing convention business. Staff have worked to balance the urgency to initiate and complete this project to meet the business needs of present and future clients, with the need to minimize impacts on clients holding events at the LACC. Business continuity has been a significant concern throughout the design competition. Staff will work to identify opportunities to streamline the schedule, keeping in mind the needs of future events.

NEXT STEPS

Approval of a finance plan, budget, and staffing will allow the project to move into its next phase. BOE will initiate actions to hire staff to support the project. Concurrently, BOE will initiate California Environmental Quality Act (CEQA) analysis. BOE has provided the following schedule of tasks that will need to be completed with regard to CEQA.

1. Issue Notice to Proceed
2. Prepare detailed project description
3. Distribute Notice of Preparation (mandatory 30 day notice)
4. Prepare draft Technical Reports based on the Notice of Preparation
5. Publish Draft Environmental Impact Report (DEIR) along with Notice of Completion (NOC) (mandatory 45 day review)
6. Prepare responses to comments received
7. Prepare Final EIR
8. Board of Public Works for consideration
9. Council Committee consideration
10. Full City Council consideration
11. File Notice of Determination

P3 STUDY

The CAO is currently reviewing options related to public-private partnership (P3) opportunities that would allow the City to pursue creative financing with the private sector for the LACC. A consultant report is anticipated shortly. The CAO anticipates that it will be able to present

findings of that report to Council for consideration soon. With regard to recommendations in this report, it is advisable that a Notice to Proceed for architectural design be issued after results of the P3 analysis are available. This will allow BOE to prepare for project implementation, while retaining flexibility for the City to adjust program elements that accommodate P3 opportunities.

Attachment A

Architectural and Engineering Related Professional Services

CONTRACT NO. C- _____

**ARCHITECTURAL AND ENGINEERING RELATED
PROFESSIONAL SERVICES CONTRACT**

BETWEEN THE

CITY OF LOS ANGELES

AND

POPULOUS, INC.

FOR

ARCHITECTURAL CONSULTANT SERVICES

ON

**LOS ANGELES CONVENTION CENTER (LACC)
EXPANSION AND RENOVATION PROJECT**

TABLE OF CONTENTS

<u>RECITALS</u>	<u>PAGE NO.</u>
<u>ARTICLE 1 - SECTION HEADINGS AND CONSTRUCTION OF PROVISIONS AND TITLES HEREIN</u>	9
<u>ARTICLE 2 - DEFINITIONS</u>	9
<u>ARTICLE 3 - PROJECT DESCRIPTION</u>	14
<u>ARTICLE 4 - RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY THE CONSULTANT.....</u>	15
<u>ARTICLE 5 - KEY CONSULTANT PERSONNEL</u>	48
<u>ARTICLE 6 - RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY CITY.....</u>	49
<u>ARTICLE 7 - TERM AND COST CEILING OF CONTRACT</u>	50
<u>ARTICLE 8 - TERMINATION</u>	51
<u>ARTICLE 9 - SUBCONSULTANT APPROVAL</u>	53
<u>ARTICLE 10 - COMPENSATION, INVOICING AND PAYMENT</u>	53
<u>ARTICLE 11 - AMENDMENTS, CHANGES OR MODIFICATIONS</u>	61
<u>ARTICLE 12 - INDEMNIFICATION AND INSURANCE</u>	61
<u>ARTICLE 13 - INDEPENDENT CONTRACTORS</u>	62
<u>ARTICLE 14 - WARRANTY AND RESPONSIBILITY OF CONSULTANT</u>	62

<u>ARTICLE 15 - OWNERSHIP OF DATA AND INTELLECTUAL PROPERTY</u>	<u>63</u>
<u>ARTICLE 16 - NONDISCRIMINATION</u>	<u>66</u>
<u>ARTICLE 17 - BUSINESS INCLUSION PROGRAM</u>	<u>67</u>
<u>ARTICLE 18 - SUCCESSORS AND ASSIGNS</u>	<u>67</u>
<u>ARTICLE 19 - CONTACT PERSONS - PROPER ADDRESSES - NOTIFICATION</u>	<u>68</u>
<u>ARTICLE 20 - EXCUSABLE DELAYS</u>	<u>68</u>
<u>ARTICLE 21 - SEVERABILITY</u>	<u>68</u>
<u>ARTICLE 22 - DISPUTES</u>	<u>68</u>
<u>ARTICLE 23 - ENTIRE CONTRACT ..</u>	<u>69</u>
<u>ARTICLE 24 - APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT</u>	<u>69</u>
<u>ARTICLE 25 - CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED</u>	<u>69</u>
<u>ARTICLE 26 - BONDS,</u>	<u>70</u>
<u>ARTICLE 27 - CHILD SUPPORT ASSIGNMENT ORDERS.....</u>	<u>70</u>
<u>ARTICLE 28 - LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE</u>	<u>71</u>
<u>ARTICLE 29 - AMERICANS WITH DISABILITIES ACT</u>	<u>73</u>
<u>ARTICLE 30 - EQUAL BENEFITS ORDINANCE</u>	<u>73</u>

<u>ARTICLE 31 - WAIVER</u>	<u>74</u>
<u>ARTICLE 32 - PROHIBITION AGAINST ASSIGNMENT OR DELEGATION</u>	<u>74</u>
<u>ARTICLE 33 - PERMITS</u>	<u>75</u>
<u>ARTICLE 34 - CLAIMS FOR LABOR AND MATERIALS.</u>	<u>75</u>
<u>ARTICLE 35 - DISCOUNTS</u>	<u>75</u>
<u>ARTICLE 36 - CONTRACTOR RESPONSIBILITY ORDINANCE</u>	<u>75</u>
<u>ARTICLE 37 - BREACH</u>	<u>76</u>
<u>ARTICLE 38 - SLAVERY DISCLOSURE ORDINANCE</u>	<u>77</u>
<u>ARTICLE 39 - CONTRACT BIDDER ETHICS</u>	<u>77</u>
<u>ARTICLE 40 - AFFIRMATIVE ACTION PROGRAM</u>	<u>78</u>
<u>ARTICLE 41 - FALSE CLAIMS ACT</u>	<u>82</u>
<u>ARTICLE 42 - EQUAL EMPLOYMENT PRACTICES</u>	<u>83</u>
<u>ARTICLE 43 - FIRST SOURCE HIRING ORDINANCE</u>	<u>85</u>
<u>ARTICLE 44 - IRAN CONTRACTING ACT OF 2010</u>	<u>87</u>

EXHIBITS

<u>EXHIBIT A -</u>	<u>PRELIMINARY PROJECT SCHEDULE (BAR CHART)</u>
<u>EXHIBIT B -</u>	<u>PROPOSED PROJECT COST BREAKDOWN</u>
<u>EXHIBIT C</u> <u>SCHEDULE A -</u>	<u>MBE/WBE/SBE/EBE/DVBE/OBE SUBCONTRACTORS</u> <u>INFORMATION FORM</u>
<u>EXHIBIT C</u> <u>SCHEDULE B -</u>	<u>MBE/WBE/SBE/EBE/DVBE/OBE UTILIZATION PROFILE</u>
<u>EXHIBIT C</u> <u>SCHEDULE C -</u>	<u>FINAL SUBCONTRACTING REPORT</u>
<u>EXHIBIT D -</u>	<u>INSURANCE REQUIREMENTS AND COVERAGE</u>
<u>EXHIBIT E -</u>	<u>CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT</u> <u>OBLIGATIONS</u>
<u>EXHIBIT F -</u>	<u>CERTIFICATION REGARDING COMPLIANCE WITH THE</u> <u>AMERICANS WITH DISABILITIES ACT</u>
<u>EXHIBIT G -</u>	<u>INTENTIONALLY LEFT BLANK</u>
<u>EXHIBIT H -</u>	<u>BIDDER ETHICS</u>
<u>EXHIBIT I -</u>	<u>PRIME AND SUBCONSULTANT INFORMATION FORM</u>
<u>EXHIBIT J -</u>	<u>PROPOSED FACILITY PROGRAM</u>
<u>EXHIBIT K -</u>	<u>OTHER DESIGN SERVICES</u>
<u>EXHIBIT L -</u>	<u>ADDITIONAL SERVICES</u>

EXHIBIT M-	<u>ELECTRONIC DOCUMENT CONTROL</u>
EXHIBIT N-	<u>BUILDING INFORMATION MODELING (BIM) PROJECT MANUAL</u>
EXHIBIT O-	<u>NOT USED</u>
EXHIBIT P-	<u>ELECTRONIC DATA TRANSFER AGREEMENT</u>
EXHIBIT Q-	<u>RFP COMPETITION BRIEF AND ADDENDA</u>
EXHIBIT R-	<u>CONSULTANT DESIGN COMPETITION PROJECT RENDERINGS</u>
EXHIBIT S-	<u>CONSULTANT ORGANIZATION CHART</u>
EXHIBIT T-	<u>ARCHITECTURAL DIVISION CONSULTANT GUIDE</u>
EXHIBIT U-	<u>DEFERRED APPROVALS</u>

CONTRACT FOR PROFESSIONAL CONSULTANT SERVICES

This Contract is made and entered into by and between the CITY OF LOS ANGELES, California, a municipal corporation acting by order of and through its Board of Public Works, hereinafter referred to as the "CITY", and **Populous, Inc.**, hereinafter referred to as the "CONSULTANT", and is set forth as follows:

WITNESSETH

WHEREAS, CITY has a need for architectural and engineering consulting services for the **Los Angeles Convention Center Expansion and Renovation Project**; and

WHEREAS **eleven (11) design teams** responded to the Request for Proposals (RFP) to participate in the Design Competition for the **Los Angeles Convention Center Expansion and Renovation Project** dated June 11, 2014; and

WHEREAS **six (6) design teams** were shortlisted for interview based on the evaluation of the proposals as set forth in the RFP; and

WHEREAS **three (3) of the shortlisted design teams** were selected to participate in the Design Competition Phase; and

WHEREAS HMC Architects with Populous, Inc. was selected as the highest rated architectural design team resulting from the Design Competition; and

WHEREAS, CONSULTANT is selected to be the most qualified by CITY staff based on the evaluation criteria set forth in the RFP; and

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

WHEREAS, CONSULTANT meets the State requirements to perform professional engineering work as required in the Professional Engineers Act; and

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

WHEREAS, CITY desires to retain CONSULTANT to provide the required engineering and technical services in connection with the Project as outlined herein;

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

DRAFT

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

All titles, subtitles, or headings in this Contract have been inserted for convenience and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the CITY or CONSULTANT. The word "CONSULTANT" herein this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one CONSULTANT herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the CITY'S option, one or more additional original texts of this Contract may also be retained by the CITY.

ARTICLE 2 - DEFINITIONS

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

ADDITIONAL SERVICES	Services that is not included in Basic Services of the Contract.
ARTIST	An individual or group selected by the City and under a separate contract with the City that will provide artwork in compliance with the 1% for the Arts Program.
AUTHORIZATION TO PROCEED	The written notice by the Engineer to the CONSULTANT that the next project phase or sequential activity shall commence.
BASIC SERVICES	Work performed by the CONSULTANT during the Preliminary Design, Schematic Design, Design Development, Construction Documents, Bid and Award,

and Construction Administration Phases including Record Drawings.

BIM

Building Information Modeling

BIP

Business Inclusion Program

BOARD

The Board of Public Works of the City of Los Angeles and the contract's awarding authority.

BUILDING INSPECTOR

Also called the B&S Inspector; authorized representative from the Department of Building & Safety.

BUREAU

Bureau of Engineering, Department of Public Works, CITY of Los Angeles.

CADD

Computer- Aided Design and Drafting

CITY

The City of Los Angeles

CITY ENGINEER

Representative of the Board.

CONSTRUCTION DOCUMENTS

The complete detail drawings, specifications, notices and addenda, based on the approved Design Development Plans.

CONTRACTOR

The Construction Company associated with the CITY performing the work or improvements designed by the CONSULTANT.

CONSULTANT

Populous, Inc.

CULTURAL AFFAIRS

The Department of Cultural Affairs, which includes the Cultural Affairs Commission, Cultural Heritage Commission and the Public Art Committee.

**DESIGN DEVELOPMENT
PLANS**

Drawings indicating floor plans and elevations, outline specifications, estimate and color perspective renderings and photographs based on approved Schematic Design.

DESIGN PROGRAM

Data indicating space, personnel requirements, and functional relationships; list of all required functions, proposed construction budget and any other pertinent data needed for the design of the PROJECT.

DESIGN SERVICES

All services to be provided by the CONSULTANT and its subconsultants specified in this AGREEMENT

DVBE

Disabled Veteran Business Enterprise

EBE

Emerging Business Enterprise

ENGINEER

The City Engineer or his designated representative

ENGINEERING COST INDEX

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

EXHIBITS

Attachments to this Agreement including Project Task Orders

**FIXED LIMIT
CONSTRUCTION COST**

The estimated cost of construction of the PROJECT at mid-point of construction, including all costs, exclusive of the following:

CONSULTANT's fee stipulated in this AGREEMENT, Bureau of Engineering costs, cost of Artwork, cost of soil test, inspection cost, cost of material tests, cost of site survey, CITY Building Permit and other plan checking fees, advertising costs and cost of furniture and equipment

not included in the Construction Contract.

GMP	Guaranteed Maximum Price, is a cost-type contract where the contractor is compensated for actual costs incurred plus a fixed fee subject to a ceiling price.
GSD	Refers to the General Services Department; maintains City-owned buildings as well as manages City Forces Construction.
HOURLY BILLING RATE	Hourly Billing Rate for CONSULTANT or subconsultant(s) includes salary, fringe benefits, overhead, profit and all other expenses incurred by CONSULTANT or subconsultant.
ITA	Refers to the Information Technology Agency; Advises, maintains and installs the City's data and communication technology.
INSPECTOR	Refers to the Inspector of Public Works; Authorized Representative of the Director, Bureau of Contract Administration
LUMP SUM PAYMENT	Payment for delivery of completed services of a stipulated scope of work.
MBE	Minority Business Enterprise
NOTICE TO AWARD	The written notice by the Engineer to the successful proposer stating that upon compliance by the successful proposer of required conditions, the CITY will give a Notice to Proceed.
NOTICE TO PROCEED	The written notice by the Engineer to the successful proposer that the Project shall commence.

OBE	Other Business Enterprise
PRELIMINARY DESIGN DOCUMENTS	Drawings and written design summary based on building program analysis
PROGRAM MANAGER	The Representative of the City Engineer
PROJECT ARCHITECT	The technical architect assigned to the PROJECT.
PROJECT ENGINEER	The technical engineer assigned to the PROJECT.
PROJECT MANAGER	The designated person responsible for the tracking and monitoring of the scope, budget and schedule of the PROJECT.
PROJECT TASK ORDER	The detailed project description, scope of services, schedule and cost.
QA / QC	Quality Assurance / Quality Control (Program)
REHABILITATION	The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historic, architectural and cultural values.
SBE	Small Business Enterprise
SCHEMATIC DESIGN	Schematic Drawings and Massing Model based on the approved Design Program and/or Preliminary Design for the project.
SUBCONSULTANT	An individual, firm, or corporation having a direct contract with the consultant for the performance of a part

of the work which is proposed to be constructed or done under the contract.

USING AGENCY

The City Departments who will occupy and operate the facilities of the completed PROJECT. The primary users may include, but not be limited to, the Department of Recreation and Parks, LAPD, LAFD, etc.

WBE

Women Business Enterprise

ARTICLE 3 - PROJECT DESCRIPTION

The Expansion and Renovation Project ("Project") will consist of the expansion and renovation of the Los Angeles Convention Center including additional new state-of-the-art convention center exhibit hall space, ballroom space, and meeting room space to expand and complement the existing Los Angeles Convention Center ("LACC"). The Project will modernize and expand the West exhibit hall with modern and robust rigging and utility systems. In addition, planning for the Project site will include drop-off and loading requirements and parking at current levels for attendees and staff. The Project will include food service facilities including concessions stands, commissary and storage, a replacement kitchen to serve the entire facility, a ballroom kitchen to serve the ballroom and adjacent spaces, pantries, premium dining facility and offices. Additional space requirements include a large ballroom, meeting rooms, event offices, public restrooms, building receiving area/loading dock, building services areas, audio/visual control room, storage, loading platform and other spaces needed to support this facility. The Project will utilize sustainable, energy-efficient materials and systems including renewable energy systems, and shall achieve a minimum rating of LEED Gold.

For detailed program requirements of the Project, see the Facility Program in Exhibit J.

It is intended that the CONSULTANT prepare design and construction contract documents to build the facility with a cost of construction (FIXED LIMIT CONSTRUCTION COST) of not more than **\$350 million**, unless modified in writing by the Project Manager.

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

4.1 CONSULTANT shall perform the services described in Article 4.5. CONSULTANT shall perform such work with a degree of skill and diligence normally employed by architects or consultants performing the same or similar services.

4.2 CONSULTANT shall provide corrective services at no additional cost to the CITY for services which fail to meet the above standards and which are reported to CONSULTANT in writing within sixty (60) days of discovery. Should the CONSULTANT fail or refuse to perform promptly its obligations under this warranty, the CITY may render or undertake the performance thereof and the CONSULTANT shall be liable for any expenses thereby incurred.

4.3 Maintenance of Records

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

All of the aforementioned records shall be maintained on an industry recognized accounting basis and shall be clearly identifiable.

4.4 Master Specifications

A. Specifications included in the Construction Documents shall be prepared using the

Construction Specifications Institute (CSI) MasterFormat 50 Divisions format.

- B. The CONSULTANT shall follow the latest edition of the Bureau of Engineering's Municipal Facilities Master Specifications, as applicable.
- C. CITY will provide supplementary conditions and time control specification provisions, which CONSULTANT shall incorporate into the Contract Documents.

4.5 Scope of Services

The CONSULTANT shall provide complete architectural and engineering services in accordance with and as specifically described in this section for the PROJECT and provide adequate staffing and expertise to complete the project in accordance with Exhibit A.

4.5.1. (Preliminary) Conceptual Design Refinement Phase:

- A. The CONSULTANT shall review the Facility Program (Exhibit J) attached hereto furnished by the CITY. From the CONSULTANT own research, review of the project scope budget and schedule, and work with the ENGINEER, Using Agency and any applicable Governmental Authority designated by CITY on defining the design and operational objectives for the Project, the CONSULTANT shall develop and deliver a Design Program for the approval of the ENGINEER that includes its proposed analysis and direction for the design of this PROJECT.
- B. As part of programming, CONSULTANT shall conduct and document the results of design workshops with the ENGINEER and the Using Agency to refine the project goals and the design concept. The objective of these workshops is to gain the CITY input during the Conceptual Design Refinement Phase. These workshops shall focus on architectural and engineering systems. Decisions made from these workshops will be documented in the Concept Design Deliverables in the form of the drawings and narratives.
- C. The CONSULTANT shall perform analysis of requirements and proposed uses of the PROJECT by the Using Agency, computation of required floor areas, parking, setbacks, and other areas necessary to the proposed uses. Analysis of the site, such as climatic conditions, soil conditions, solar access, neighboring environment, traffic and pedestrian patterns shall

also be provided and reflected in the systems designed to minimize energy consumption and maximize both resource conservation and the health of the built environment.

- D. The CONSULTANT shall conduct exploratory investigations (limited to readily observable conditions) of the facility to augment the CITY provided scope and reports. The CITY will assist by providing necessary clearances to enter the existing building.
- E. The CONSULTANT shall coordinate with the Artist (selected by the CITY) for the installation of any Project related artwork.
- F. The CONSULTANT shall coordinate with the Environmental Impact Report (EIR) consultant (selected by the CITY) and provide any documentation required to complete the California Environmental Quality Act (CEQA) process.
- G. CONSULTANT shall conduct all Conceptual Design Refinement Phase meetings and prepare minutes for distribution to attendees.
- H. During the Conceptual Design Refinement Phase, the CONSULTANT shall provide the following at the discretion of the ENGINEER:
 - 1. One (1) two-day design workshop with the ENGINEER and Using Agency every two weeks.
 - 2. Four (4) one-day design workshops with the ENGINEER and Using Agency at the discretion of the ENGINEER.
 - 3. The CONSULTANT shall provide a minimum of one (1) on-line meeting workshop with the ENGINEER and Using Agency every four weeks.
 - 4. Attend two (2) public meetings/presentations
 - 5. Attend two (2) meetings/presentations with stakeholdersMeetings not used during this phase will count towards similar additional meetings if required in subsequent phases of the project.
- I. The CONSULTANT shall develop and deliver on the CONCEPT DESIGN submittal due date, seven (7) sets and one (1) electronic copy of the Design Program (Conceptual Design Documents and Pre-Design Report) illustrating the site plan, configuration, scale and relationship of the Project components, including the following:
 - 1. A site development program, square footage building program, facility branding strategy, food service program, technology program, initial FF&E list;

2. Conceptual site plan that locates the project components on the site and describes pedestrian and vehicular circulation and access;
3. Conceptual building floor plans, elevation studies and sections that describe the configuration for the Project, including, but not limited to, requirements for exhibit halls, offices, retail space, meeting spaces, prefunction and circulation areas, kitchen and food service areas, storage, parking and facility operations;
4. Qualitative description of required spaces, including activities, accommodations and general level of finish;
 - a. Specific room definitions and specific sizes, in matrix form;
 - b. Equipment and furnishing needs;
 - c. Functional diagrams and adjacencies;
 - d. Preliminary room data sheets with utility, A/V, outlets requirements, etc.
 - e. Space Summary;
5. The key requirements of Applicable Laws with respect to the design and construction of the Project and the key requirements of Governmental Authorities and community groups having a special interest in the Project;
6. A proposed approval process for obtaining the Governmental Approvals for the Project;
7. Design Narrative/Basis of Design (for LEED™)
8. Construction Cost Estimate (by major building systems)
9. Project implementation schedule with activities and milestones
10. LEED/CalGREEN documentation and conceptual sustainability plan for Project Conceptual sustainability plan including: (a) Energy model and how the proposed design meets project goals (Btu/ft² and LEED credits within the Energy & Atmosphere category); and (b) Site storm water management.
11. The CONSULTANT is responsible for submittals of applications and other documentation for Savings By Design (SBD) and other nonresidential construction energy efficiency incentive programs available to the project team, and obtaining these incentives. Include documentation for incentive programs.
12. Life-cycle costing.
13. **Building Information Modeling (BIM):** Prepare and submit a BIM Execution Plan to be agreed upon by the CITY and CONSULTANT. The agreed upon BIM Execution Plan will be submitted for final approval by the Contractor during the Schematic Design phase.

- J. As a condition to completing the Conceptual Design Refinement phase, documents prepared by the CONSULTANT shall be the basis for an Estimated Construction Cost to be obtained by a cost consultant selected by the CONSULTANT with the requirement that said estimate shall confirm the Project to be at or below the **Fixed Limit Construction Cost**. CONSULTANT, as a Basic Service and without additional compensation, shall attend meetings with the ENGINEER, Using Agency and cost consultant to discuss the Estimated Construction Cost and, if necessary, discuss appropriate changes to reduce the Estimated Construction Cost and, based on such meetings, make changes in the selection and design of details, materials, finishes, and building systems and equipment of the Project acceptable to CITY. CONSULTANT shall make such changes which shall be incorporated into revised Conceptual Design documents as expeditiously as possible in order to minimize delays and perform in accordance with the Project Schedule.
- K. CONSULTANT shall provide documentation to the CITY as requested for the selection and award of the contract to the General Contractor.
- L. The ENGINEER may require the CONSULTANT to provide additional studies, analysis, and alternate schemes. Payment to the CONSULTANT for Additional Services beyond the scope of the work shall be negotiated between the ENGINEER and the CONSULTANT and subject to conditions stipulated in Article 11 and Exhibit L of this AGREEMENT.
- M. Cultural Affairs: The CONSULTANT must secure the preliminary approval from the CITY Cultural Affairs Department for his design. The Cultural Affairs Department Preliminary Approval is mandatory in order to proceed with the project design process.
- N. Governmental Approvals: The CONSULTANT shall coordinate with and submit to the Department of Building & Safety, the Planning Department, the Fire Department, and all other Government Authorities having jurisdiction over the PROJECT with respect to Governmental Approvals and for a preliminary plan review of the Concept Design for code compliance. Such coordination services shall include provision of any necessary design documents required thereby, subject to the prior approval of the CITY of any such documents. For a listing of Governmental Approvals for the Project, see the Bureau of Engineering "Exhibit T - Architectural Division Consultant Guide".

- O. After obtaining the approval for the Design Program, the CONSULTANT will be authorized to continue the Project and perform the services specifically described below. Should the CONSULTANT not obtain approval after three (3) re-submittals, the CITY retains the option to terminate this Agreement. At that time, there shall be due and payable to the CONSULTANT a mutually agreed lump sum settlement fee based on the Payment Schedule for the Conceptual Design Refinement Phase and termination proceeding will commence.

4.5.2. Schematic Design Phase:

- A. Upon approval of the (Preliminary) Conceptual Design Refinement Phase by the ENGINEER and the Using Agency, the CONSULTANT will be authorized in writing to proceed with the Schematic Design Phase.
- B. CONSULTANT shall conduct and document the results of design workshops with the ENGINEER, the Using Agency, and the General Contractor selected by the CITY to confirm and coordinate the selection of major building systems and equipment. The objective of these workshops is to gain the CITY and the General Contractor input at the beginning of Schematic Design of major building systems and equipment. These workshops shall focus on architectural and engineering systems. Decisions made from these workshops will be documented in the Schematic Design Deliverables in the form of the drawings and narratives.
- C. The CONSULTANT shall perform research on zoning requirements, easements, adjacent structures, parking requirements, highway dedications, setbacks and building lines and other requirements pertaining to building design. The CONSULTANT shall review ADA or other access to the project site as part of this Agreement. The above information shall be included on the title page of each set of drawings.
- D. Based on the approved Design Program, Concept Design Documents, Construction Cost budget, workshops, and other information developed by CONSULTANT in the Conceptual Design Refinement Phase and approved by CITY, CONSULTANT shall prepare and submit documents for the Schematic Design Phase. The documents shall include drawings, general specifications and a written report. The documents shall be sufficient for the CITY to obtain an Estimated Construction Cost from the General Contractor.

- E. Schematic Design Phase drawings shall include, but not be limited to, a proposed site utilization study, plot plans, schematic plans of all floor plan conditions and drawings illustrating elevations and sections indicating the fundamentals of the architectural concept. The written report shall include a discussion of pertinent design factors, outline descriptions of proposed systems, and list all proposed materials and work to be included in the Construction Contract. Indicate the building summary and occupancy separation. (North arrow should be oriented to the top of the sheet or to the left when up is not feasible).
- F. Schematic Design Phase general specifications shall include construction methods, concepts, and materials used for the architectural, civil, landscape, structural, mechanical, electrical, telecommunications, data, security and other specialty systems. The Specifications shall be arranged in Construction Specification Institute (CSI) Format. Specifications shall be type-written single-spaced on 8-1/2" x 11" bond paper.
- G. To be considered acceptable for final Schematic Design Phase submittal, the documents prepared by CONSULTANT and subconsultants shall comply with the requirements listed for the Schematic Design Phase of the Bureau of Engineering "Architectural Division Consultant Guide" and the approved Conceptual Design Refinement Phase documents as determined and approved by the City Engineer.
- H. CONSULTANT shall prepare and submit additional drawings as required to illustrate interior treatment, interior fixtures, shelving, colors, overall effect and landscape treatment.
- I. CONSULTANT shall conduct all Schematic Design Phase meetings and prepare minutes for distribution to attendees.
- J. During the Schematic Design Phase, the CONSULTANT shall provide the following at the discretion of the ENGINEER:
1. One (1) two-day design workshop with the ENGINEER and Using Agency every two weeks.
 2. Four (4) one-day design workshops with the ENGINEER and Using Agency at the discretion of the ENGINEER.
 3. The CONSULTANT shall provide a minimum of one (1) online meeting workshop with the ENGINEER and Using Agency every four weeks.

4. Attend two (2) public meetings/presentations (See 4.5.2-Q)

6. Attend two (2) meetings/presentations with stakeholders (See 4.5.2-Q)

Meetings not used during this phase will count towards similar additional meetings if required in subsequent phases of the project.

K. Cost Estimates: CONSULTANT shall prepare and submit a statement of probable construction cost for the Schematic Design. The statement of probable construction cost shall be based upon the CSI format. The CONSULTANT shall use a subconsultant that specializes in construction cost estimating to prepare the cost estimates.

L. The CONSULTANT shall submit an analysis evaluating the sustainability merits of the design. Energy efficiency, indoor air and environmental quality, materials selection and construction practices strategies shall be identified as well as an analysis of the implications to the building form, the construction costs, and maintenance costs. Initial daylighting analysis with impact on design and energy usage required.

M. Deliverables: The CONSULTANT shall submit the following for review, comment and approval by the ENGINEER and the Using Agency on the 50% and 100% SCHEMATIC DESIGN PHASE submittal due dates:

1. Seven (7) full size 36"x48" sets of Schematic Design drawings
2. Seven (7) copies of Outline Specifications
3. Seven (7) copies of Construction Cost Estimate (by a consultant selected by the CONSULTANT).
4. Seven (7) copies of Room Summary Schedule
5. Seven (7) copies of written documentation and design summary describing energy efficiency systems and all sustainability issues addressed in the design, to meet LEED™ (Leadership in Energy and Environmental Design) and CalGREEN requirements. This shall include documentation for Savings By Design (SBD) and other nonresidential construction energy efficiency incentive programs available to the project team.
6. One (1) electronic copy on a DVD of items 1 through 5 above.
7. One (1) electronic copy of the updated Schematic Design Phase BIM Design Model on DVD or appropriate media approved by the CITY (to meet the Level of Development Guidelines for Schematic Design in Exhibit N of this contract)

- N. Cultural Affairs: The CONSULTANT shall conduct one (1) presentation of the Schematic Design drawings, renderings, model, and material samples to the Cultural Affairs Commission and secure the approval from the CITY Cultural Affairs Department for his design. The Cultural Affairs Department Approval is mandatory in order to proceed with the project design process.
- O. The CONSULTANT shall coordinate with the Artist (selected by the CITY) for the installation of any Project related artwork.
- P. The CONSULTANT shall coordinate with the Environmental Impact Report (EIR) consultant (selected by the CITY) and provide any documentation required to complete the California Environmental Quality Act (CEQA) process.
- Q. Presentations: The CONSULTANT shall conduct two (2) presentations to the Community and two (2) presentations (and provide the materials for presentations) to the project stakeholders, Governmental Authority or other entity as designated by ENGINEER of the Schematic Design drawings, renderings, model, and material samples. The materials for presentations shall be in sufficient detail necessary to illustrate conformance with the project components including exterior design, functional relationships of all interior areas, the relationship of the project to the site and other buildings, materials to be used in construction, the types of mechanical, electrical and structural systems to be utilized.
- R. The CONSULTANT shall provide revisions of the Schematic Design implementing all CITY comments until approved by the ENGINEER and the Using Agency. If after the third submittal of the Schematic Design as described herewith, it is the opinion of the ENGINEER that the Schematic Design does not meet the Design Program requirements; the ENGINEER may suspend the services of the CONSULTANT. At that time, there shall be due and payable to the CONSULTANT a mutually agreed lump sum settlement fee based on the Payment Schedule for the Schematic Design Phase and termination proceeding will commence.
- S. The ENGINEER may require the CONSULTANT to provide additional studies, analysis, and alternate schemes. Payment to the CONSULTANT for Extra Services beyond the scope of the work shall be negotiated between the ENGINEER and the CONSULTANT and subject to conditions stipulated in Article 11 and Exhibit L of this AGREEMENT.

- T. Governmental Approvals: The CONSULTANT shall coordinate with and submit to the Department of Building & Safety, the Planning Department, the Fire Department, and all other Government Authorities having jurisdiction over the PROJECT with respect to Governmental Approvals and for a preliminary plan review of the Schematic Design for code compliance. Such coordination services shall include provision of any necessary design documents required thereby, subject to the prior approval of the CITY of any such documents.
- U. Cost Estimates: Documents prepared by the CONSULTANT shall be the basis for the Estimated Construction Cost from the General Contractor and Program Manager firm (hired by the City) with the requirement that said estimate shall confirm the Project to be at or below the Fixed Limit Construction Cost. If the Estimated Construction Cost exceeds the Fixed Limit Construction Cost, the CITY may require that CONSULTANT as a Basic Service and without additional compensation, attend meetings with the ENGINEER, Program Manager, Using Agency and General Contractor to discuss appropriate changes to reduce the Estimated Construction Costs and, based on such meetings, make changes in the selection and design of details, materials, finishes, and building systems and equipment of the Project acceptable to CITY. CONSULTANT shall make such changes which shall be incorporated into revised Schematic Design documents as expeditiously as possible in order to minimize delays and perform in accordance with the Project Schedule. As a condition to completing the Schematic Design phase, the CONSULTANT shall reconcile the 50% and 100% Schematic Design Phase CONSULTANT cost estimates with the Program Manager and General Contractor 50% and 100% Schematic Design Phase cost estimates.
- V. The CONSULTANT shall not proceed to Design Development Phase until Notice to Proceed is issued by the ENGINEER.

4.5.3. Design Development Phase:

- A. Upon approval of the Schematic Design Phase by the ENGINEER and the Using Agency, the CONSULTANT will be authorized in writing to proceed with the Design Development Phase.

- B. The Design Development Documents shall include revised and updated versions of the Design Program and other descriptive documents, as appropriate, drawings, specifications and a written report and take into account the comments of CITY and General Contractor on the final Schematic Design Phase submittal. Drawings (scale 1/8"=1'-0" minimum) shall include dimensional site development plan, floor plans, elevations, and typical sections indicating proposed construction. Drawings shall also include information on major finishes as well as drawings illustrating the fundamental components of major engineered systems, i.e., civil, structural, mechanical and electrical.
- C. Design Development Drawings shall be based on the approved Schematic Design, but illustrate in greater details than the Schematic Design Phase, floor area relationships, the various requirements of different occupancies, elevations, sections, Architectural, civil, structural, mechanical, electrical, landscape, fire/life safety, telecommunications, data, security requirements, and other design aspects. The Design Development Phase shall include sufficient details, all matters which will materially affect the cost of the PROJECT and all essential operational requirements of the Using Agency based on the approved Schematic Design and all modifications requested by the ENGINEER, and the Using Agency.
- D. Preliminary Specifications for the PROJECT shall be furnished to the ENGINEER with the Design Development Plans for review, modification, and approval. The Specifications shall be arranged in Construction Specification Institute (CSI) Format. Preliminary Specifications shall be typewritten double-spaced on 8-1/2" x 11" bond paper. Structural, civil, mechanical, plumbing and electrical calculations shall also be furnished to the ENGINEER with the plans for review, modification, and approval.
- E. To be considered acceptable for final Design Development Phase submittal, the documents prepared by CONSULTANT and subconsultants shall comply with the requirements listed for the Design Development Phase of the Bureau of Engineering "Architectural Division Consultant Guide" and the approved Schematic Design Phase documents as determined and approved by the City Engineer.
- F. The CONSULTANT shall furnish two (2) sets of interior and exterior material sample boards, including color samples, mounted on 1/4" thick foam core boards or other similar material. The material samples shall be of adequate size to indicate texture and color.

- G. The CONSULTANT shall provide additional drawings as required to illustrate interior and exterior treatment, interior and exterior fixtures, shelving, colors, and overall effect and landscape treatment.
- H. Governmental Approvals: CONSULTANT shall coordinate with and submit to Department of Building & Safety, the Planning Department, the Fire Department, and all other Government Authorities having jurisdiction over the PROJECT with respect to Governmental Approvals for code compliance. Such coordination services shall include provision of any necessary design documents required thereby, subject to the prior approval of the CITY of any such documents.
- I. CONSULTANT shall conduct all Design Development Phase meetings and prepare minutes for distribution to attendees.
- J. During the Design Development Phase, the CONSULTANT shall provide the following at the discretion of the ENGINEER:
1. One (1) two-day design workshop with the ENGINEER and Using Agency every four (4) weeks.
 2. Two (2) one-day design workshops with the ENGINEER and Using Agency at the discretion of the ENGINEER.
 3. The CONSULTANT shall provide a minimum of one (1) online meeting workshop with the ENGINEER and Using Agency every four weeks.
 4. Attend one (1) public meetings/presentations (See 4.5.3-R)
 7. Attend one (1) meetings/presentations with stakeholders (See 4.5.3-R)
- Meetings not used during this phase will count towards similar additional meetings if required in subsequent phases of the project.
- K. Early Construction Document Packages: Notwithstanding any other provisions of this Agreement, during the Design Development Phase the CONSULTANT shall develop Construction Documents with respect to certain drawings and specifications (including but not limited to demolition, grading, foundation and site utility relocation drawings and specifications) by the dates identified in the Project Schedule to accommodate any required early bid packages.

- L. Cost Estimates: The CONSULTANT shall prepare and submit a detailed Construction Cost Estimate for the PROJECT indicating quantity and unit cost using the CSI Format. The CONSULTANT shall use a subconsultant that specializes in construction cost estimating to prepare the cost estimates.
- M. The CONSULTANT shall submit an analysis evaluating the sustainability merits of the design. Energy efficiency, indoor air and environmental quality, materials selection and construction practices strategies shall be identified as well as an analysis of the implications to the building form, the construction costs, and maintenance costs.
- N. Deliverables: The CONSULTANT shall submit the following documents for review, comment and approval by the ENGINEER and the Using Agency on the 50% and 100% DESIGN DEVELOPMENT PHASE due dates:
1. Seven (7) full size 36"x48" sets of Design Development drawings
 2. Seven (7) copies of Preliminary Specifications for the PROJECT
 3. Seven (7) copies of Construction Cost Estimate
 4. Seven (7) copies of the mechanical, plumbing, electrical and structural calculations.
 5. Seven (7) copies of written documentation and design summary describing energy efficiency systems and all sustainability issues addressed in the design development documents to meet LEED™ (Leadership in Energy and Environmental Design) and CalGREEN requirements. This shall include documentation for Savings By Design (SBD) and other nonresidential construction energy efficiency incentive programs available to the project team.
 6. Two (2) sets of all interior and exterior material samples mounted on 1/4" thick foam core boards or other similar material. The material samples shall be of adequate size indicating texture and color.
 7. Two (2) sets of each of the following (nomenclature based upon April 18, 2015 Design Competition submittal) or as directed by the CITY:
 - a. One (1) Architectural Colored Perspective Rendering or one (1) Framed Photographs for each of the following:
 - Site Plan (Aerial Perspective)
 - Georgia Street Entrance
 - Pico Promenade
 - Pico Meeting Room Balcony
 - Two (2) Interior Perspectives/Views

The Architectural Perspective Rendering shall be 30" x 42" in size with matting 3" wide on 3 sides and 5" wide on bottom side, with non-reflective glass and on a 30" x 42" dark bronze anodized extruded aluminum frame. Submit frame sample for approval by Program Manager prior to final assembly. Title must be provided as per ENGINEER instructions.

- b. One (1) set of colored floor plans, elevations cross and longitudinal sections (1/8"=1'-0" minimum) of the project rendered with colors in accordance with the schedule of interior and exterior finishes and materials, mounted on 30" x 42" foam board.
- 8. One (1) electronic copy on DVD of items 1, 2, 3, 4, 5, 6, and 7a above.
- 9. One (1) electronic copy of the updated Design Development Phase BIM Design Model on DVD or appropriate media approved by the CITY (to meet the Level of Development Guidelines for the Design Development Phase in Exhibit N of this contract)
- O. Cultural Affairs: The CONSULTANT shall conduct one (1) presentation of the Design Development drawings, renderings, model, and material samples to the Cultural Affairs Commission and secure the approval from the CITY Cultural Affairs Department for his design. The Cultural Affairs Department Approval is mandatory in order to proceed with the project design process.
- P. The CONSULTANT shall coordinate with the Artist (selected by the CITY) for the installation of any Project related artwork.
- Q. The CONSULTANT shall coordinate with the Environmental Impact Report (EIR) consultant (selected by the CITY) and provide any documentation required to complete the California Environmental Quality Act (CEQA) process.
- R. Presentations: The CONSULTANT shall conduct one (1) presentation to the Community and one (1) presentation (and provide the materials for presentations) to the project stakeholders, Governmental Authority or other entity as designated by ENGINEER of the Design Development drawings, renderings, model, and material samples. The materials for presentations shall be in sufficient detail necessary to illustrate conformance with the project components including exterior design, functional relationships of all interior areas, the

relationship of the project to the site and other buildings, materials to be used in construction, the types of mechanical, electrical and structural systems to be utilized.

- S. After review of the 50% and 100% Design Development Phase submittals, the ENGINEER will provide the CONSULTANT with one (1) set of drawings and specifications containing notations and revisions to the documents. The CONSULTANT shall revise and submit the documents as noted by the CITY. It is the responsibility of the CONSULTANT to inform the ENGINEER, in writing prior to proceeding with the Construction Documents, if the modifications requested by the ENGINEER will materially affect the Construction Estimate.
- T. The CONSULTANT shall provide revisions of the Design Development documents implementing all CITY (including Cultural Affairs Commission) comments until approved by the ENGINEER and the Using Agency. If after the third submittal of the Design Development documents as described herewith, it is the opinion of the ENGINEER that the Design Development documents do not meet the Design Program requirements; the ENGINEER may suspend the services of the CONSULTANT. At that time, there shall be due and payable to the CONSULTANT a fee based on the Payment Schedule for the Design Development Phase and termination proceeding will commence.
- U. Upon CITY approval of the final Design Development Documents submittal, the structural bay sizes, floor elevations and exterior wall locations (building "footprint") of the Project may not be changed except by a CONSULTANT Change Order.
- V. The ENGINEER may require the CONSULTANT to provide additional studies, analysis, and alternate layouts. Payment to the CONSULTANT for Additional Services beyond the scope of the work shall be negotiated between the ENGINEER and the CONSULTANT and subject to conditions stipulated in Article 11 and Exhibit L of the AGREEMENT.
- W. Governmental Approvals: The CONSULTANT shall coordinate with and submit to the Department of Building & Safety, the Planning Department, the Fire Department, and all other Government Authorities having jurisdiction over the PROJECT with respect to Governmental Approvals of the Design Development Documents for code compliance. Such coordination services shall include provision of any necessary design documents required thereby, subject to the prior approval of the CITY of any such documents.

- X. **Guaranteed Maximum Price:** Documents prepared by the CONSULTANT shall be the basis for the Estimated Construction Cost from the Program Manager and the Guaranteed Maximum Price (GMP) from the General Contractor with the requirement that said GMP shall confirm the Project to be at or below the Fixed Limit Construction Cost. If the GMP exceeds the Fixed Limit Construction Cost, the CITY may require that CONSULTANT as a Basic Service and without additional compensation, attend meetings with the ENGINEER, Program Manager, Using Agency, and General Contractor to discuss appropriate changes to reduce the GMP and, based on such meetings, make changes in the selection and design of details, materials, finishes, and building systems and equipment of the Project acceptable to CITY. CONSULTANT shall make such changes which shall be incorporated into revised Design Development Phase documents as expeditiously as possible in order to minimize delays and perform in accordance with the Project Schedule. The CONSULTANT shall reconcile the GMP from the General Contractor provided to the CITY. As a condition to completing the Design Development phase, the CONSULTANT shall reconcile the 50% and 100% Design Development Phase CONSULTANT cost estimates with the Program Manager 50% and 100% Design Development Phase cost estimates, and the General Contractor 50% Design Development Phase and GMP cost estimates.
- Y. The CONSULTANT shall not proceed to Construction Document Phase until Notice to Proceed is issued by the ENGINEER.

4.5.4. Construction Documents Phase:

- A. Upon approval of the Design Development Phase by the ENGINEER and the Using Agency, the Consultant will be authorized in writing to proceed with the Construction Document Phase.
- B. The Construction Document Drawings shall include, but are not limited to, complete Civil, Landscape, Demolition, Architectural, Structural, Electrical, Mechanical, Plumbing, Heating, Ventilating, Air Conditioning, and Plans, Fire/Life Safety, Telecommunications, Data and Security Plans, Specialty Systems, Calculations and Specifications in accordance with the approved Design Development Plans and Specifications with detailed requirements for the construction of the Project, except for any modifications authorized in writing by the ENGINEER. The CITY will provide the general and supplementary conditions for the construction of the project and the CONSULTANT will incorporate these requirements into

the Contract Documents.

- C. The Construction Document Drawings shall be on 36" x 48" (to be consistent with existing Convention Center Drawings) with the standard Bureau of Engineering Architectural Division Title Block. The Specifications shall be typewritten on 8-1/2" x 11" bond paper. The CONSULTANT shall provide the necessary drawings, electronic copies, and reproductions of all Drawings and Specifications for the CONSULTANT and subconsultants use during the preparation of the work.
- D. CONSULTANT shall conduct all Construction Document Phase meetings and prepare minutes for distribution to attendees.
- E. CONSULTANT shall provide submittals of the Construction Documents to the ENGINEER for review and approval as prescribed in Paragraphs "P" below.
- F. CONSULTANT shall submit all Construction Documents to the Department of Building and Safety and other governmental agencies having jurisdiction over this PROJECT for plan check, provide the ENGINEER with written verification of submitted plans, and secure approval for all required permits. The CITY will arrange to pay for plan check fees.
- G. CONSULTANT shall participate in necessary reviews and meetings to ensure that the Project design conforms to all Applicable Laws and all requirements of Governmental Authorities and will make any changes to the Construction Documents which are required for issuance of Governmental Approvals needed to construct the Project. CONSULTANT shall comply with the latest versions of all applicable code requirements as identified pursuant to this section, including, but not limited to, the following, to the extent applicable:
 - 1. L.A. Amendment Building Code
 - 2. L.A. Amendment Green Building Code
 - 3. L.A. Amendment Electrical Code
 - 4. L.A. Amendment Mechanical Code
 - 5. L.A. Amendment Plumbing Code
 - 6. L.A. Amendment Elevator Code
 - 7. Los Angeles Fire Prevention Codes (Fire)
 - 8. Los Angeles Zoning Ordinance (Zoning).

- H. The CONSULTANT shall be responsible for coordination and complete checking of all final Construction Documents including, but not limited to, Civil, Demolition, Architectural, Structural, Electrical, Mechanical, Plumbing, Heating, Ventilating, Air Conditioning, Landscape, Fire/Life Safety, Telecommunications, Data and Security, Specialty Systems Plans and Specifications. Construction Detail Drawings, calculations, and specifications shall be sufficient for the construction of this type of PROJECT.
- I. The CONSULTANT shall be responsible for the correction of the Construction Documents, Calculations, and Cost Estimate until acceptable Construction Documents have been approved by the City Engineer.
- J. To be considered acceptable for final Construction Documents Phase submittal, the documents prepared by CONSULTANT and subconsultants shall comply with the requirements listed for the Construction Document Phase of the Bureau of Engineering "Architectural Division Consultant Guide", the approved Design Development Phase documents as determined and approved by the City Engineer, and the requirements of legally constituted public authorities having jurisdiction as necessary to secure approvals and permits for the construction of the PROJECT.
- K. **Building Information Modeling (BIM):** The CONSULTANT shall comply with and provide the BIM services required during the Construction Documents Phase as outlined in Exhibit N of this contract.
- L. When the Construction Documents are twenty-five percent (25%) complete, the CONSULTANT shall submit the 25% percent completed Drawings and Specifications in quantity as specified in Paragraph "Q" below, and an itemized list of the work, by technical specialty for the ENGINEER's review and evaluation of the work at this stage. The CONSULTANT shall continue working towards the 100% Construction Documents after the 25% Construction Document submittal.
- M. When the Construction Documents are fifty percent (50%) complete, the CONSULTANT shall submit the 50% completed Drawings and Specifications in quantity as specified in Paragraph "Q" below, and an itemized list of the work, by technical specialty for the ENGINEER's review and evaluation of the work at this stage. The CONSULTANT shall

continue working towards the 100% Construction Documents after the 50% Construction Document submittal.

- N. When the Construction Documents are ninety-five percent (95%) complete, the CONSULTANT shall submit the 95% completed Drawings and Specifications in quantity as specified in Paragraph "Q" below, and an itemized list of the work, by technical specialty for the ENGINEER's review and evaluation of the work at this stage. The CONSULTANT shall continue working towards the 100% Construction Documents after the 95% Construction Document submittal.
- O. After completing constructability review on the 95% Construction Document submittal, the ENGINEER will provide the CONSULTANT with one (1) set of drawings and specifications containing notations and revisions to the documents. The CONSULTANT shall make all the revisions, including corrections required by the Department of Building and Safety and other permitting agencies. The resulting final Construction Document submittal shall be a complete, fully coordinated, integrated package, suitable for final bidding distribution in quantity as specified in Paragraph "P" above.
- P. When the Construction Documents are one-hundred percent (100%) complete, the CONSULTANT shall submit the 100% completed Drawings and Specifications in quantity as specified in Paragraph "Q" below, and an itemized list of the work, by technical specialty for the ENGINEER's review and evaluation of the work at this stage. The CONSULTANT shall submit all plans to the Department of Building and Safety and other agencies having jurisdictions over this PROJECT for plan check and building permit and shall provide the ENGINEER with written verification of submitted plans. Changes to the Contract Documents requested by the CITY during this phase of the Project that are materially inconsistent with prior approvals may result in Additional Services to the CONSULTANT under this Agreement.
- Q. The CONSULTANT shall furnish to the ENGINEER the following:

Completed 25%, 50% and 95% Construction Documents:

1. Two (2) sets of full size (36"x48") Drawings and Specifications
2. Two (2) electronic copies of the Drawings and Specifications

Completed 100% Construction Documents:

1. One (1) set of full size (36"x48") Construction Drawings and Specifications
2. Two (2) electronic copies of Construction Drawings and Specifications.

R. After correcting the Construction Documents and obtaining the ENGINEER approval and plan check approval, the CONSULTANT shall deliver to the CITY the following:

1. One (1) signed and sealed reproducible set of the Construction Drawings
2. One (1) bound set of Specifications
3. One (1) copy of Final Construction Cost Estimate
4. One (1) bound and sealed set of Final Calculations
5. Two (2) sets of electronic files of the Construction Drawings, Specifications and Final Calculations.
6. One (1) electronic copy of the final Construction Documents Phase BIM Design Model on DVD or appropriate media approved by the CITY (to meet the Level of Development Guidelines for the Construction Documents Phase in Exhibit N of this contract)

S. The CONSULTANT shall prepare and submit a detailed final Construction Cost Estimate for review and reconciliation by the CITY indicating quantity and unit cost using the CSI Format. The CONSULTANT shall use a subconsultant that specializes in construction cost estimating to prepare the cost estimates.

T. CONSULTANT shall be responsible for making submittals of the Construction Documents to the Governmental Authorities for plan check and building permit purposes in accordance with the Project Schedule. CONSULTANT, in close coordination with the ENGINEER, shall be responsible for managing the process of obtaining all Governmental Approvals following the submittals to the Governmental Authorities in order for the Governmental Approvals to be obtained by the target dates set forth on the Project Schedule, or if none, as necessary for construction of the Project to progress on the Construction Schedule; provided, however, that CONSULTANT shall not be responsible for delays in issuance of Governmental Approvals due to causes beyond its reasonable control, including but not limited to acts and omissions of CITY; and provided, further, that in the process of obtaining any such Governmental Approvals CONSULTANT shall not make any changes to the Construction Documents except with the approval of CITY.

- U. The CONSULTANT shall submit all design phase LEED documentation to USGBC and provide to the CITY for record one (1) bound copy of all such documentation submitted to USGBC. CONSULTANT shall also provide to the CITY updated documentation for Savings By Design (SBD) and other nonresidential construction energy efficiency incentive programs available to the project team.
- V. The CONSULTANT shall coordinate with the Artist (selected by the CITY) for the installation of any Project related artwork.
- W. The CONSULTANT shall coordinate with the Environmental Impact Report (EIR) consultant (selected by the CITY) and provide any documentation required to complete the California Environmental Quality Act (CEQA) process.
- X. The Contract Documents shall be packaged and completed in accordance with the Project Schedule prepared by the Contractor during Schematic Design and finalized during the Construction Document phase. CONSULTANT acknowledges that there will be multiple plan check and not to exceed five (5) permit packages (i.e. "Foundation Only" permit set, etc.) submitted at various times in accordance with the Project Schedule.
- Y. Guaranteed Maximum Price: If GMP not obtained in prior phases, as a condition to completing the Construction Document phase, the GMP from the General Contractor shall remain at or below the Fixed Limit Construction Cost. If the GMP exceeds the Fixed Limit Construction Cost, the CITY may require that CONSULTANT as a Basic Service and without additional compensation, attend meetings with the ENGINEER, Program Manager, Using Agency, and General Contractor to discuss appropriate changes to reduce the GMP and, based on such meetings, make changes in the selection and design of details, materials, finishes, and building systems and equipment of the Project acceptable to CITY. CONSULTANT shall make such changes which shall be incorporated into revised Construction Document documents as expeditiously as possible in order to minimize delays and perform in accordance with the Project Schedule. The CONSULTANT shall reconcile the 50% and 100% Construction Document Phase CONSULTANT cost estimates with the Program Manager 50% and 100% Construction Document Phase cost estimates, and the General Contractor 50% and 100% Construction Document Phase GMP cost estimates respectively.

- Z. Bidding and Negotiation: If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the CITY, the project budget or Fixed Limit Construction Cost shall be adjusted to reflect changes in the general level of prices in the construction industry between the date of submission of the Construction Documents to the CITY and the date on which proposals are sought.
- AA. The CONSULTANT shall prepare clarifications and addenda that may be required by Governmental Authorities' review and/or may be required by CITY or the General Contractor for the final bid documents.
- BB. Notwithstanding the foregoing provisions of this paragraph, in the event that CONSULTANT reasonably believes that specific code modifications or variances are in the best interest of the CITY, then CONSULTANT shall advise the ENGINEER in writing. If approved by the ENGINEER, then CONSULTANT shall have primary responsibility for pursuing such code modifications or variances and shall keep ENGINEER advised of the status thereof.
- CC. If, as a result of the completion of any of the Construction Documents, the General Contractor submits to the CITY change orders based upon anything other than CITY generated changes in the scope of the Project that cause the General Contractor to increase the Guaranteed Maximum Price, as permitted in the Construction Contract in such cases, then if required by CITY, CONSULTANT shall, as part of Basic Services and without any additional compensation, revise the Construction Documents in a manner approved by CITY to eliminate such increase in the Guaranteed Maximum Price.
- DD. CONSULTANT shall coordinate with the General Contractor to produce Bid Packages.
- EE. CONSULTANT shall attend pre-bid conferences with prospective bidders to review the Project requirements. CONSULTANT shall provide knowledgeable representatives, including, but not limited to, representatives of subconsultants, to participate in these conferences to explain and clarify bid documents, prepare responses to bidder's questions and prepare addenda.
- FF. CONSULTANT shall assist the ENGINEER and General Contractor in reviewing bids from

subcontractors.

4.5.5. Construction Administration Phase:

- A. The Construction Administration Phase will commence with the award of the Construction Contract and notice to proceed to the General Contractor and will terminate when the Substantial Completion payment is made by CITY to the General Contractor and the punch lists described in this Agreement have been identified by CONSULTANT and have been completed by the General Contractor.
- B. The duration of Construction Administration for this PROJECT is _____ months or until the completion of the PROJECT whichever comes first. The CONSULTANT shall be compensated for Additional Services if construction period exceeds _____ months for reasons that are beyond his/her control such as design changes by the CITY or Contractor deficiencies, but exclusive of extensions caused by the CONSULTANT own deficiencies or acts of God (such as rain, floods, storms, etc.). Payment to the CONSULTANT for the Additional Services shall be based on the CONSULTANT rate table as stipulated in Article 10 of the AGREEMENT.
- C. Meetings: The CONSULTANT shall attend the pre-construction meeting and the weekly construction meetings. The ENGINEER shall conduct the construction meetings and the CONSULTANT shall prepare minutes for distribution.
- D. Communications: The ENGINEER shall be the CONSULTANT's single point of contact with the applicable Governmental Authorities (other than for Government Approvals, as discussed above), the General Contractor and any and all Separate Prime Contractors, except when the ENGINEER or CITY shall direct CONSULTANT otherwise. All responses or instructions to the applicable Governmental Authorities, the General Contractor and Separate Prime Contractors shall be issued by and through the ENGINEER except when CONSULTANT is directed otherwise by CITY or the ENGINEER.

Communications by and with the subconsultants shall be through the CONSULTANT. Copies of all significant communications between CITY and General Contractor shall be provided to the CONSULTANT in a timely manner.

- E. Access to Work: CONSULTANT will have reasonable access to the Work at all times, so long as the CONSULTANT complies with all requirements of any Contractor's Safety Program, as approved by the ENGINEER.
- F. Construction Administration Representative: CONSULTANT shall furnish a full-time on-site Construction Administration Representative from the start of construction through the earlier of Final Acceptance or sixty (60) days after Substantial Completion. The CONSULTANT's Construction Administration Representative shall be on site five (5) days per week. CONSULTANT shall not make any change in the identity of the on-site Field Representative unless required by CITY as hereinafter provided. CITY may without cause require CONSULTANT to replace the Construction Administration Representative, in which case CONSULTANT shall replace the Construction Administration Representative at its sole cost within five (5) business days after delivery of CITY's request. Any replacement Construction Administration Representative must be a licensed Architect or other individual with equivalent qualifications and must be approved by CITY.
- G. Construction Administration Representative: CITY shall provide the Construction Administration Representative with office space, a desk, chair and file cabinet with on the Site or in the vicinity of the Site. CONSULTANT at its expense shall provide any other necessary equipment and supplies needed by the Construction Administration Representative to perform his or her job properly, and such costs shall not be Reimbursable Expenses. The Construction Administration Representative shall at all times be familiar with the progress and quality of the Work and determine in general, if the Work is proceeding in accordance with the Contract Documents and the Construction Schedule. On the basis of such on-site observation, CONSULTANT shall recommend steps which are necessary in their professional judgment to guard CITY against defects and deficiencies in the Work of the General Contractor. If CONSULTANT (including but not limited to its Construction Administration Representative) observes any Work that does not conform to the Contract Documents or any errors or omissions in any Construction Documents, CONSULTANT shall immediately make an oral and written report of all such observations to the ENGINEER. Within three (3) business days after CONSULTANT advises the ENGINEER orally of non-conforming work or errors or omissions in any Contract Documents, CONSULTANT shall confirm the non-conformance in writing to the ENGINEER. In addition to CONSULTANT's other obligations under this Agreement, services provided by

the Construction Administration Representative shall include, but are not necessarily limited to, the following:

- Attendance at construction meetings;
- Monitoring compliance with Contract Documents;
- Review of invoices and Change Orders;
- Providing accelerated reviews;
- Evaluating progress of the Work;
- Coordination with the convention center operator, any applicable Governmental Authorities, and any other facility users as designated by the CITY; and
- Responding to requests for information, including with field modification drawings, as appropriate.

H. Construction Administration Project Staffing: In addition to the Construction Administration Representative, CONSULTANT's Principal in Charge of design and the Project Manager, Project Designer and Project Architect for the Project shall make regular periodic visits to the Site. CONSULTANT's Project Manager shall attend regularly scheduled construction meetings and shall be available for other project related meetings as required by CITY. CONSULTANT shall cause each subconsultant to have a qualified engineer on its Project team make periodic visits to the Site not less than once every two (2) weeks, during the course of Work applicable to its discipline. During critical Work phases, each subconsultant may be required by the ENGINEER to have a qualified engineer on its Project team make weekly visits to the Project site, timed to coincide with the weekly construction progress meetings, or more often if and as required by the ENGINEER based upon the progress of the Work or requirements of Governmental Authorities. CONSULTANT and each subconsultant shall prepare and submit a written field report on each visit relating to the observations of the Project to the ENGINEER as soon as practicable in exercising the Standard of Care, but in any event within five (5) business days after the date of the visit.

I. Responsibility: The CONSULTANT shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences, or procedures, for safety precautions and programs in connection with the work, since these are solely the Contractor's responsibility under the Contract for construction. The CONSULTANT shall not be responsible for the Contractor's schedules or failure to carry out the work in accordance with the Construction Documents. The CONSULTANT shall not have control

over or charge of acts or omissions of the Contractor, Subcontractor or their agents or employees, or of any persons performing portions of the work.

- J. Errors and Omissions: In accordance with Article 4.2, should errors, omissions or conflicts in the Construction Documents or other Contract Documents prepared by CONSULTANT or subconsultants be discovered, the CONSULTANT shall furnish such drawings, calculations, specifications and written memoranda in a form acceptable to the CITY, as necessary, to clarify the intent or rectify errors and omissions in the Construction Documents or other services required pursuant to this AGREEMENT by the CONSULTANT, including submitting and obtaining all required approvals from the Department of Building and Safety and other Government Authorities having jurisdiction. The submittal to the ENGINEER shall be as soon as practicable in exercising the Standard of Care and not to cause any delay in the work, but in any event within three (3) business days unless otherwise authorized by the ENGINEER, for which CONSULTANT shall make no additional charges to CITY.
- K. Change Orders: The CONSULTANT shall interpret the Construction Documents and furnish any clarification drawings and other documentation to the ENGINEER. As a result of such interpretations and/or clarifications, the CONSULTANT shall determine if item is a Change Order to the Construction Documents for approval by the ENGINEER. The CONSULTANT shall analyze price quotations received from the Contractor for proposed Change Orders and advise the ENGINEER as to the acceptability of the Change Orders. The CONSULTANT shall obtain from the Contractor, a breakdown estimate of construction cost showing material and labor quantities when so directed by the ENGINEER.
- L. The CONSULTANT shall advise the ENGINEER on any changes affecting the aesthetics or functions of the PROJECT. The ENGINEER decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.
- M. CONSULTANT shall render written recommendations as Basic Services, within a reasonable time, on all claims, disputes and other matters in question between CITY and any Contractor that may be submitted to CONSULTANT by CITY, relating to the interpretation of the Construction Documents. Unless requested by CITY to do so as Additional Services, CONSULTANT shall not make recommendations concerning disputes between or among any of the Contractors, Subcontractors or Vendors.

- N. Requests for Information: Upon request of the ENGINEER, CONSULTANT shall render to the ENGINEER as Basic Services, and as soon as practicable in exercising the Standard of Care, but in any event within five (5) business days unless otherwise authorized by the ENGINEER, written interpretations of requirements of the Contract Documents. Interpretations and decisions of the CONSULTANT shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial decisions, the CONSULTANT shall endeavor to secure faithful performance by both CITY and Construction Manager, shall not show partiality to either, and shall not be liable for results of interpretations or decisions so rendered in good faith.
- O. Submittals: The CONSULTANT shall review and approve Shop Drawings and Product Data, Samples, Deferred Approvals (see Exhibit U and as listed on approved LADBS drawings) and other submittals of Contractors, including, but limited to, requests for information or clarification, as well as the Work performed by Contractors for conformance with the design concept of the Project and for compliance with the Contract Documents. The review and return of Shop Drawings and Product Data, Samples and other submissions of Contractors shall be accomplished by CONSULTANT as soon as practicable in exercising the Standard of Care, but in any event within ten (10) business days from date of receipt, except when a longer time is authorized by the ENGINEER, such authorization not to be unreasonably withheld or delayed. Certain submittals may require an accelerated review by the CONSULTANT. Upon commencement of construction, the CONSULTANT shall be provided with the General Contractor's submittal schedule which shall indicate submittals requiring an accelerated review. CONSULTANT shall use best efforts in accordance with the Standard of Care to ensure those submittals requiring an accelerated review are reviewed and returned within the timeframe specified in the General Contractor's submittal schedule. The review and return of resubmittals of Shop Drawings and Product Data, Samples and other submissions of Contractors after initial review and return by CONSULTANT shall be accomplished by CONSULTANT as soon as practicable exercising the Standard of Care, but in any event within ten (10) business days from date of receipt except when a longer time is authorized by the ENGINEER. With respect to any disapproved items, CONSULTANT shall include in its review, whether of initial submittals or resubmittals, the details necessary to explain the basis for CONSULTANT's disapproval, including any necessary drawings. CITY shall require each Contractor to provide to

CONSULTANT prior to the commencement of its construction work a schedule of the dates for delivery to CONSULTANT of its Shop Drawings and Product Data, Samples and other Contractor submissions. Such schedules shall be priority based and, to the extent permitted by the Construction Schedule, submittals will be spaced so as not to unduly overburden CONSULTANT or the subconsultants. CITY shall require each Contractor to review for completeness and correctness and approve all of its submittals and those of its subcontractors before they are sent to CONSULTANT for review and approval. CONSULTANT shall review all resubmittals for approval of those items needing to be corrected or changed from the previous submittal, and any and all changes from the previous submittal must be clouded or otherwise brought to the attention of CONSULTANT. CONSULTANT's review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights, or gauges, fabrication processes, construction means or methods, coordination of work with other trades, or construction safety precautions, all of which are the sole responsibility of the Contractors. CONSULTANT shall not be required to review partial submissions or those for which submissions of related items have not been received. CONSULTANT's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

- P. Submittals – Material Samples: The CONSULTANT shall approve material samples for color and finish per Specifications. Any changes must be approved by the ENGINEER.
- Q. Submittals: The CONSULTANT shall review the Contractor furnished maintenance and operating instructions, schedules, guarantees, bonds, and certificates of inspection as required by the Contract Documents and forward approved copies to the ENGINEER. CONSULTANT's review and subsequent turnover of such documents shall occur within fifteen (15) days of CONSULTANT's receipt of documents.
- R. Substitutions: The CONSULTANT shall review and advise the ENGINEER, before approval, as to the acceptability of any substitution(s) proposed by the Contractor. The Contractor is allowed to submit "Or Equal" submittals for CONSULTANT review within thirty (30) calendar days after issuance of Notice to Proceed. Any request or submittal received after the specified period will be considered as NOT EQUAL to that so specified and will be processed as a substitution for review by CONSULTANT. Requests for substitutions must be submitted by the Contractor at least thirty (30) calendar days prior to

starting the work except in exceptional cases where it is determined to be in the best interest of the CITY, as approved by the ENGINEER.

Time for CONSULTANT review of the initial substitution request is not reimbursable and must be included in the Basic Services. Time for CONSULTANT review of re-submittals of substitution requests, in addition to engineering and design services by CONSULTANT that exceeds two hundred (200) total hours required to make changes and adjustments in material and work of trades directly or indirectly affected by substitutions are reimbursable as Additional Services hereunder. Nothing shall prohibit CONSULTANT from making a claim for an Additional Service related to any redesign required to implement a substitution; provided, however, that prior to beginning such redesign, CONSULTANT shall submit to ENGINEER a fee estimate for such redesign effort.

- S. Special Inspection and Testing: The CONSULTANT shall advise the ENGINEER as to acceptability of test reports, methods, materials, equipment, and systems and of any required special inspection or testing regardless of the stage of work. The ENGINEER shall have the authority to require special inspection or testing of any Work in accordance with the provisions of the Contract Documents whether or not such Work is fabricated, installed or completed.
- T. Start-up, Testing and Commissioning: The CONSULTANT shall participate in the equipment and systems start-up, testing adjusting and balancing, and commissioning of the PROJECT, and advise the ENGINEER as to the acceptability of work performed by the Contractor.

The CONSULTANT shall observe and review test data of the original operation of any equipment or system in the Project to make sure that all equipment and systems are properly installed and functioning in accordance with the design and specifications.

- U. LEED™: The CONSULTANT shall submit the application for LEED™ certification, upload the CONSULTANT LEED™ design documentation to USGBC, and shall coordinate with the General Contractor to upload the General Contractor LEED™ documentation to USGBC and provide to the CITY for record one (1) bound copy of all such documentation (including design phase credits) submitted to USGBC. CONSULTANT shall also provide to the CITY updated final documentation for Savings By Design (SBD) and other

nonresidential construction energy efficiency incentive programs available to the project team.

- V. Electronic Document Control (E2020) System: A log showing date of submittals, resubmittals, disapprovals and approvals will be maintained in the CITY provided Electronic Document Control (E2020) system. Consultant shall maintain a separate log and make it available to CITY upon request.
- W. Governmental Approvals: CONSULTANT shall assist, and cause subconsultants to assist, the CITY and the General Contractor in obtaining Governmental Approvals for occupancy of the Project from the applicable Governmental Authorities if any exceptions are raised by such Governmental Authorities related to the design of the Project, specified materials used in the Work or any other matter related to the Services provided by CONSULTANT or subconsultants or their respective areas of specialization.
- X. Inspections and Punch Lists: The CONSULTANT shall participate in the final acceptance job walks for areas or phases of the Work for which Substantial Completion inspections shall be done and provide comments on completed work of the PROJECT and advise the ENGINEER as to the acceptability of work performed by the Contractor. The CONSULTANT shall prepare and submit to the CITY punch lists for each discipline. The CITY shall transmit such punch-lists to the General Contractor. CITY may request that CONSULTANT inspect and prepare a punch-list on any portion of the Work. Upon request of the ENGINEER, CONSULTANT shall re-inspect the Work or portions of the Work as necessary to address any issues raised by any Contractor concerning the content of any punch-list or any other purpose reasonably be required by the ENGINEER.
- Y. Final Completion Inspections and Punch Lists: The CONSULTANT shall conduct up to three (3) comprehensive Final Completion (punchlist) inspections for each construction contract with the Contractor at the request of the CITY. The CONSULTANT shall attend all inspections where a 48 hour written notice of the inspection has been issued to the CONSULTANT. If more than three (3) Final Completion inspections are required, through no fault of CONSULTANT, and CITY requests CONSULTANT to make additional inspections, the additional inspections shall be deemed Additional Services.

- Z. Warranty Period Inspections: The CONSULTANT shall conduct an inspection of the Project prior to expiration of the GC Warranty Period (as set forth in the Construction Contract) and provide to CITY a written report specifying any warranty deficiencies which may exist not later than ten (10) business days prior to the expiration of such warranty.

4.5.6. Record Documents:

- A. Record Documents shall consist of construction documents incorporating changes in the Work made during the construction process, based on neatly and clearly marked-up contract drawings, specifications, prints, and other data issued by the CONSULTANT during the course of construction, including but not limited to, applicable addenda, change orders, RFIs, plan clarifications, and deferred approvals. Additionally, having received and reviewed the Contractor's "as-built" documents as a part of the formal Submittal process established for the Project, the CONSULTANT shall compile the approved Record Documents and deliver them together with the as-built documents to the ENGINEER.
- B. Contingent upon the execution of the Electronic Data Transfer Agreement (EDTA), the CONSULTANT will provide REVIT files of the construction documents listed in 4.5.4 (I) to the Contractor for its use in developing civil, structural, mechanical, electrical, plumbing and IT coordination drawings and Revit file format "as-built" drawings. The CONSULTANT will include in the Construction Documents, the requirement for the Contractor or its relevant Subcontractors to produce these coordination drawings and "as-built documents" in the electronic formats indicated in this paragraph. These "as-built" drawings shall include additional information than that contained in the contract documents such as actual locations of site utilities, conduits, ductwork and associated equipment and will include any deviations from the contract documents. Since "as-built" documents are created and provided by the Contractors, the CONSULTANT shall have no responsibility for the accuracy of the information contained in such "as-built" documents.
- C. Not later than forty-five (45) days after completion of construction or within forty-five (45) days after receipt of data from the Contractor, whichever is later, the CONSULTANT shall prepare and deliver the following items of which shall become the property of the CITY:
1. One (1) set of Final Construction Documents (Record Documents) incorporating changes in the Work made during the construction process, based on neatly and clearly

marked-up contract drawings, specifications, prints, and other data furnished by the Contractor, including but not limited to, applicable addenda, change orders, RFIs, plan clarifications, and deferred approvals. Each drawing sheet shall be on bond paper with the Bureau of Engineering Architectural Division Title Block and be prominently noted "Record Drawing".

2. One (1) set of Record Drawings to the ENGINEER in PDF format and in electronic drawing file format using Autodesk REVIT or AutoCAD software and one (1) set of specifications in PDF format for all disciplines on DVD or other media as directed by the CITY.
3. Two (2) sets of 8"x 10" color photographs of the exterior and interior views of the building and one (1) set of digital copies of the photographs. The exterior views shall have a minimum of three (3) shots and interior views shall have a minimum of six shots.

4.6 Consultant Schedule of Services

4.6.1 Time Period for Completion of Services

This time period for completion of services schedule shall be in accordance with the time periods in the preliminary project schedule as set forth in **Exhibit A**. The total duration (total time period for completion of services) for the project is **257 weeks**.

The CONSULTANT shall prepare and submit to the ENGINEER a schedule of the services to be performed, within fifteen (15) calendar days, after receiving the CITY'S notice to proceed. This schedule shall consist of a detailed bar chart and shall be in the same format as the preliminary project schedule set forth in **Exhibit A**. The CONSULTANT shall perform the work in accordance with the approved schedule and prepare revisions and updates in a timely manner. The CITY may withhold payment to the CONSULTANT for failure to comply with requirements of this procedure.

- 4.6.2 The CONSULTANT schedule of services shall show the dates on which each part or division of the work is expected to be started and completed and shall show all

submittals associated with each work activity, allowing a minimum of twenty-eight (28) calendar days for the ENGINEER review of each submittal unless a longer period of time is specified elsewhere in this Contract. The work activities making up the schedule shall be of sufficient detail to assure that adequate planning has been done for proper execution of the work and such that it provides an appropriate basis for monitoring and evaluating the progress of the work. The bar chart shall show all major work items, points of interface with the CITY and milestone submittals. The CONSULTANT shall also submit a separate progress schedule listing all submittals required under the Contract and when it is anticipated that each submittal will be submitted. The ENGINEER will review the CONSULTANT schedules and provide comments relative to overall compliance with requirements of the Contract documents.

- 4.6.3 An updated schedule of services shall be submitted to the ENGINEER as specified in the Contract. The submittal of the updated CONSULTANT schedule of services, which will satisfy the requirements of this Section, accurately reflects the status of the work and incorporates all changes into the schedule. Updated schedules shall also be submitted at such other times as the ENGINEER may direct. Upon approval of an amendment or issuance of a notice to proceed with a change, the approved amendments shall be reflected in the next schedule update submittal by the CONSULTANT, or other update submittal approved by the ENGINEER. If specified in the Contract, as a condition precedent to final payment, the CONSULTANT shall submit to the ENGINEER a final schedule of services that accurately reflects the manner in which the services were actually completed.
- 4.6.4 The CONSULTANT shall submit a written explanation with the original schedule submittal and show sufficient detail as to how the work is to be performed to enable the CITY to make an evaluation. If the explanation is not adequate to establish that the schedule is valid and practical, a review conference may be held to reach an understanding on required revisions. The CONSULTANT shall make such revisions in the schedule and narrative and resubmit within ten (10) calendar days after the conference unless granted an extension by the ENGINEER.
- 4.6.5 The CONSULTANT shall submit a monthly Design Progress Report to consist of a monthly narrative progress report and an updated schedule of services. The purpose

of the report is to provide a brief description of the status of the work and to identify any problems and open issues that may affect timely completion.

- 4.6.6 As directed in the Contract, the CONSULTANT shall participate in progress meetings with the ENGINEER. These meetings shall be held monthly at the discretion of the ENGINEER. All meetings are to be comprehensively documented by the CONSULTANT and related documentation distributed to attendees.

ARTICLE 5 - KEY CONSULTANT PERSONNEL

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

- 5.2 CONSULTANT designates the persons listed in the Consultant Organizational Chart (Exhibit S) to implement the work.

All technical specialists assigned to each project under this contract shall be subject to the ENGINEER'S approval.

- 5.3 CONSULTANT agrees that personnel assigned to these positions at the commencement of services under this Contract shall serve in these positions as long as required by the Project, and CONSULTANT shall not change personnel assigned to these positions without the consent and approval of the ENGINEER, provided such consent shall not be unreasonably withheld. For additional CONSULTANT and subconsultant staff, see Exhibit R "Consultant Organization Chart".

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

- 6.1 CITY designates Allan Kawaguchi (Program Manager) as its ENGINEER, representing the CITY in all matters within the scope of this Contract relating to the conduct and approval of the work to be performed. Whenever the term "approval of CITY," "consult with CITY," "confer with CITY," or similar terms are used, they shall refer to the ENGINEER. The ENGINEER may designate an assistant to act in his stead.

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

Name	Role
PROJECT DATA:	The CITY shall deliver to the CONSULTANT for its use as part of the "Notice to Proceed", all available information related to the project site, building program (if any) and space requirements. The CITY shall also deliver to the CONSULTANT, sample of Title Block, Standard Specifications (to be edited and updated to fit the project) and other data prepared by the City Engineer.
PLANS:	The CITY shall furnish to the CONSULTANT prints of the original plans, elevations, sections and details that reflect existing architectural, structural, mechanical, electrical, and appurtenant conditions when available. However, the CITY assumes no liability for their accuracy.
INSPECTION:	The INSPECTOR shall provide inspection of construction materials and workmanship necessary to assure compliance with the CONSULTANT approved drawings and specifications.
COORDINATION:	The CITY shall cooperate with the CONSULTANT in all matters pertaining to services to be rendered under this AGREEMENT, so that the PROJECT may proceed without undue delay; the CONSULTANT shall consult the City Engineer or his/her representative on all matters relative to this AGREEMENT.
PLAN CHECK AND PERMITS:	The CITY shall arrange for the payment of all fees (including plan check fees) that may be required to obtain a building permit, fees to the Department of Water & Power, fees to the Cultural Affairs Department and/or other permits necessary for the PROJECT. The CONSULTANT shall secure approval for all necessary permits.
SURVEY:	The CITY shall furnish to the Consultant a general topographic survey of the Project site showing all existing structures, power or telephone poles, fences, signs, trees, concrete curbs, gutters, sidewalks, property lines, center lines of streets and elevations. The CONSULTANT shall investigate all utility connections with the

	appropriate agencies.
ASBESTOS, TOXIC WASTE AND HAZARDOUS MATERIALS:	If required, the CITY shall engage an appropriately licensed hygienist to prepare a survey of asbestos, toxic waste and hazardous materials, which include types and location of the materials, found in the existing facilities and if materials are found furnish a copy to the CONSULTANT.
SOILS REPORT:	The CITY shall furnish Geotechnical Reports as needed for the Project.

6.3 The CITY shall select the Artist and provide artwork in compliance with the 1% for the Arts Program.

ARTICLE 7 - TERM AND COST CEILING OF CONTRACT

7.1 Unless otherwise provided, the term of this Contract shall begin on the date of full execution of this Contract and shall expire in **six (6) years** unless terminated as provided under Article 8 or extended by amendment to this Contract.

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

- (a) This Contract has been signed on behalf of CONSULTANT by the person or persons authorized to bind CONSULTANT hereto;
- (b) This Contract has been approved by the City Council or by the Board, officer or employee authorized to give such approval;
- (c) The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and
- (d) This Contract has been signed on behalf of the CITY by the person designated by the City Council or by the Board, officer or employee authorized to enter into this Contract.

7.2 Total Cost Ceiling for this Contract is **\$33,537,590**.

ARTICLE 8 - TERMINATION

8.1 Termination for Convenience

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

8.2 Termination for Breach of Contract

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

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

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

- 8.2.4 In the event the CITY terminates this Contract as provided in this Section, the CITY may procure, upon such terms and in such manner as the CITY may deem appropriate, services similar in scope and level of effort to those so terminated, and CONSULTANT shall be liable to the CITY for all of its costs and damages, including, but not limited, any excess costs for such services.
- 8.2.5 All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become CITY property upon date of such termination. CONSULTANT agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY'S ownership of rights provided herein.
- 8.2.6 If, after notice of termination of this Contract under the provisions of this Section, it is determined for any reason that CONSULTANT was not in default under the provisions of this Section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Article 8.1 Termination for Convenience.
- 8.2.7 The rights and remedies of the CITY provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

ARTICLE 9 - SUBCONSULTANT APPROVAL

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

Exhibit I is not exclusive and upon written request by the CONSULTANT, additional subconsultants may be added with the approval of the ENGINEER. Substitution of any subconsultant requires approval from the BOARD.

ARTICLE 10 - COMPENSATION, INVOICING AND PAYMENT

10.1 Compensation

CONSULTANT agrees to perform the work specified in Article 4.5, and CITY shall compensate CONSULTANT on a Lump Sum basis. This lump sum payment includes salary, fringe benefits, overhead, profit, other direct costs, subcontract expenses, and all other expenses incurred by CONSULTANT. Payments shall be made upon the satisfactory completion of the tasks or milestones as set forth in Exhibit B, Proposed Project Cost Breakdown.

10.1.1 The CITY agrees to pay the CONSULTANT for Reimbursable Expenses incurred by the CONSULTANT directly attributable to the Project only with prior written approval by the City Engineer. Such Reimbursable Expenses shall be the actual cost or actual amount paid to the vendor or supplier. Reimbursables shall include reproduction costs and mail/delivery costs in addition to submittals listed in Article 4.5 and travel authorized by the City Engineer beyond the requirements described in Article 4. The CONSULTANT shall not be entitled to any mark-up on reimbursable expenses.

10.1.2. For all the CONSULTANT's Total Basic Services, a fee of \$28,000,000 will be paid to the CONSULTANT based on Construction Cost (FIXED LIMIT CONSTRUCTION COST) of \$350 million including Construction Cost Escalation, Overhead and Profit at midpoint of construction.

10.2 Prevailing Wages

This article is applicable only if CONSULTANT engages a construction contractor or other such company that is subject to Prevailing Wage Laws in California. For only those workers qualifying for Prevailing Wages, the CONSULTANT shall comply with the following requirements.

10.2.1 The CONSULTANT shall comply with all provisions of the Labor Code of the State of California relating to Public Works wages, and in specific, with those requiring the CONSULTANT: (1) to pay not less than the "General Prevailing Wage Rates" to all workers employed during the work, and (2) to post a copy of the "General Prevailing Wage Rate" at the employee's place of work, in a conspicuous place available to all employees and applicants for employment.

10.2.2 The "General Prevailing Wage Rates" shall be the rates determined by the Director of the Department of Industrial Relations of the State of California. Copies of said rates are on file with the BOARD.

10.2.3 The CONSULTANT and the CONSULTANT'S subconsultants shall pay the full amount due at the time of payment computed at wage rates not less than those contained in the wage determination division applicable to the work regardless of any contractor relationship which may be alleged to exist between the CONSULTANT and such subconsultant.

10.2.4 Prevailing Wages set by the State of California can differ depending on the area within the State and may be set outside the anniversary date of the CONSULTANT'S Contract execution.

10.3 Invoicing and Payment

10.3.1 No later than forty-five (45) calendar days after the conclusion of each task milestone, CONSULTANT shall submit to ENGINEER an original and three (3) copies of a complete and valid invoice in a format acceptable to the CITY. ENGINEER shall review CONSULTANT'S invoice and notify CONSULTANT of exceptions or disputed items and their dollar value within fifteen (15) days of receipt. The total invoice amount, less any exceptions or disputed items shall be considered approved for payment fifteen (15) days after receipt by the ENGINEER. If the ENGINEER does not notify CONSULTANT within thirty (30) days of receipt, then the entire invoice amount shall be deemed approved for payment.

10.3.2 Invoices shall be prepared in such form and supported by such documentation as

may be required by ENGINEER to establish the amount of such invoices for allowable expenses.

10.3.3 A MBE/WBE/SBE/EBE/DVBE/OBE Utilization Profile (**Exhibit C-Schedule B**), listing MBE/WBE/SBE/EBE/DVBE/OBE amounts invoiced shall also be submitted as part of the monthly invoice. CONSULTANT must provide an explanation for any item that falls short of the planned utilization with specific plans and recommendations for recovering any shortfalls in utilization. No such invoice shall be paid without the MBE/WBE/SBE/EBE/DVBE/OBE Utilization Profile.

10.3.4 All invoices shall be subject to audit.

10.3.5 CITY shall not be obligated to reimburse CONSULTANT for costs incurred in excess of the total Cost Ceiling set forth in **Article 7**.

10.3.6 CITY liability under this Contract shall only be to the extent of the present appropriation to fund the Contract. No action, statement, or omission of any officer, agent, or employee of CITY shall impose any obligation upon CITY, such officer, agent, or employee, except to the extent CITY has appropriated funds and otherwise in accordance with the terms of this Contract.

10.3.7 CONSULTANT and CITY agree that no indebtedness for work performed which results in costs under this Contract shall arise against CITY until and unless there is an appropriation of funds to pay for such work. However, if CITY shall appropriate funds for any successive fiscal years, CITY'S liability shall be extended to the extent of such appropriation subject to the terms and conditions of this Contract.

10.4 Compensation for Amendments and Task Orders

Should the CITY issue a Contract Amendment or Task Order using the Cost Reimbursement method of compensation, the terms and conditions in this Article 10.4 shall apply. "Cost" as used herein is defined as the sum of: (1) Billing Salary Rates; (2) Indirect Expenses; (3) Other Direct Cost with no markup; (4) Subcontract Expenses; and (5) Profit as defined below.

10.4.1 "Billing Salary Rates" shall be at the rates approved by the ENGINEER, to be

charged by CONSULTANT for employees' time directly chargeable to their performance of the project work. Any adjustments to the CONSULTANT's direct salary rate shall be in accordance with established Bureau of Engineering policies, existing at the time the adjustment is approved. Billing salary rate increases are limited to once per year per employee and are subject to the approval of the CITY. In no case shall the "Billing Salary Rates" exceed the actual salary rates paid to the employee. Any adjustments to subcontractor's and subconsultants' salaries and "all-inclusive" billing rates shall be reviewed and approved by the CITY's ENGINEER prior to invoicing. Any such increases shall be in accordance with established Bureau of Engineering policy existing at the time the adjustment is approved.

- 10.4.2 "Indirect Expenses" (including payroll burden, overhead, and General and Administrative Expenses) shall be at a rate applied to billing salary rate. Based on the results of the pre-award audit conducted by the CITY the Indirect Expenses for CONSULTANT services under this Contract shall not exceed the following rates for the CONSULTANT and primary subconsultants for the Final Design Services authorized at Contract execution:

Indirect Expense rates for CONSULTANT, primary subconsultants and any other subconsultant for the duration of this Contract shall be the actual audited rate of that CONSULTANT, primary subconsultants and other subconsultants in effect at the time any subsequent Task Order or Contract Amendment is authorized. The Indirect Expense Rates shall be limited to a maximum increase of 10% above the rates shown above for CONSULTANT, primary subconsultants and any other subconsultant for the duration of this contract.

- 10.4.3 "Other Direct Cost" includes those costs of CONSULTANT directly identifiable to or incurred in the performance of services hereunder, including but not limited to reproduction, freight, messenger service, travel (in accordance with established CITY policies), equipment owned or rented by CONSULTANT, auto rental and mileage charges (based on IRS allowable amounts), supplies used in the work, communication expenses, cost of office space, equipment, and supplies furnished to CITY personnel at CONSULTANT's location. The CITY shall receive the full benefit of any free travel, frequent flyer mileage, discounts and/or any other advantages which are acquired by the CONSULTANT as a result of CITY

sponsored travel.

- 10.4.4 "Subcontract Expenses" shall be the actual amount paid by CONSULTANT to subconsultant for their services to the CITY. No administrative fee is allowed on Subconsultant or Other Direct Costs of the subconsultant.
- 10.4.5 "Profit" shall be limited to ten (10) percent and shall be applied to the summation of "Indirect Expenses" and "Billing Salary Rates."
- 10.4.6 The amount shown for each task on a Project Services Cost Estimate are estimates only, and unexpended funds allocated for one task may be used for another task as long as the total Cost Estimate specified in the Amendment or Task Order is not exceeded. Such reallocation of funds must have the prior written approval of the ENGINEER.
- 10.4.7 Exhibit B, attached hereto and incorporated herein by this reference, shall be the format used for the estimated total cost by task for each Amendment or Task Order. For Amendments or Task Orders specifying a Cost Reimbursement compensation method, the Project Services Cost Estimate shall be based upon the estimated hours of labor at estimated direct labor rates, the allocated indirect expenses, other direct cost, and profit. For Amendments and Task Orders specifying a Lump Sum compensation method, the Project Services Cost Estimate shall set forth the total project cost and the appropriate payment milestones.
- 10.4.8 Cost Reimbursement of Hourly Billing

Hourly Billing Rate is a method of compensation whereby CONSULTANT is compensated on an hourly basis pursuant to established hourly billing rates set forth in Exhibit B. The billing rates shall be approved by the ENGINEER for CONSULTANT employees' time directly chargeable to their performance of the project work and includes salary, fringe benefits, overhead, profit and all other expenses incurred by CONSULTANT. Payments shall be made upon the satisfactory completion of the tasks or milestones as set forth in the Amendment or Task Order.

For CONSULTANT's work in Amendments and Task Orders compensated on an Hourly Billing Rate basis, payment shall be made in accordance with the Amendment or Project Services Cost Estimate to be provided to CITY for approval prior to issuance of Notice to Proceed for any Amendment or Task Order under this Contract. Hourly rates, subcontractor fees and other direct/indirect charges shall be in accordance with rates set herein. Individuals who CONSULTANT wishes to add to the project must have their compensation rate approved by the CITY's ENGINEER, and a revised Scope of Services must be prepared as evidence of this addition. The total cost ceiling shall be stated in the Amendment or Task Order.

10.5 Invoicing and Payment for Amendments and Task Orders

10.5.1 For Amendments and Task Orders specifying a Cost Reimbursement Billing Salary Rate method of payment, CONSULTANT shall, once each month, submit to CITY an original and three (3) copies of an invoice in a format acceptable to the CITY which will include all costs and a proportionate amount of profit due CONSULTANT for services provided during the preceding month. CITY shall review CONSULTANT's invoice and notify CONSULTANT of exceptions or disputed items and their dollar value within fifteen (15) days of receipt. The total invoice amount, less any exceptions or disputed items shall be considered approved for payment fifteen (15) days after receipt by the CITY. If the CITY does not notify CONSULTANT within thirty (30) days of receipt, then the entire invoice amount shall be deemed approved for payment. CITY shall pay CONSULTANT all amounts approved for payment within sixty (60) days after ENGINEER receives CONSULTANT's correct and valid invoice.

10.5.2 Invoices shall be prepared in such form and supported by such copies of invoices, payrolls, time sheets, and other documents of proof as may be required by CITY to establish the amount of such invoices for allowable expenses. A Sub-consultant Utilization Invoice Attachment Exhibit C, listing MBE/WBE/SBE/EBE/DVBE/OBE amounts invoiced shall also be submitted as part of the monthly invoice. CONSULTANT must provide an explanation for any item that falls short of the planned utilization with specific plans and recommendations for recovering any shortfalls in utilization. No such invoice shall be paid without the Sub consultant Utilization Invoice Attachment. All invoices

shall be subject to audit. Support for any other direct cost items less than \$25 need not be submitted by CONSULTANT unless specifically requested by CITY.

10.5.3 CITY shall not be obligated to reimburse CONSULTANT for costs incurred in excess of the Proposed Project Cost Breakdown set forth. CONSULTANT shall not be obligated to continue performance (including actions under the temporary stop work or termination clauses) or otherwise incur costs in excess of the Proposed Project Cost Breakdown, either, unless and until ENGINEER shall have notified CONSULTANT in writing, or, unless and until CONSULTANT notifies ENGINEER prior to work and ENGINEER agrees to additional work in writing, that such Proposed Project Cost Breakdown has been increased and shall have specified in such notice an estimated Proposed Project Cost Breakdown which shall thereupon constitute the cost performance of this Contract. In the absence of the specified notice, CITY shall not be obligated to reimburse CONSULTANT for any costs in excess of the Proposed Project Cost Breakdown set forth, whether those costs were incurred during the course of the Contract or as a result of termination.

10.5.4 CONSULTANT shall notify the ENGINEER in writing when costs reach 75 percent (75%) of the amount authorized for the Contract as stated in Article 7 or the Task Order. Failure to provide written notification may result in late payment of invoices.

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

10.5.6 For Amendments and Task Orders specifying an Hourly Billing Rate method of payment, CONSULTANT shall submit to CITY, upon the satisfactory completion

of each task/milestone, an original and three (3) copies of an invoice in a format acceptable to the CITY. CITY shall review CONSULTANT's invoice and notify CONSULTANT of exceptions or disputed items and their dollar value within fifteen (15) days of receipt. The total invoice amount, less any exceptions or disputed items shall be considered approved for payment thirty (30) days after receipt by the CITY. If the CITY does not notify CONSULTANT within fifteen (15) days of receipt, then the entire invoice amount shall be deemed approved for payment. CITY shall pay CONSULTANT all amounts approved for payment within sixty (60) days after ENGINEER receives CONSULTANT's invoice.

10.6 Right of Suspension for Failure to Make Timely Payment

If the CITY fails to make payments to the CONSULTANT in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the CONSULTANT'S option, cause for suspension of performance of services under this Agreement. If the CONSULTANT elects to suspend services, the CONSULTANT shall give seven days' written notice to the ENGINEER before suspending services. In the event of a suspension of services, the CONSULTANT shall have no liability to the CITY for delay or damage caused the CITY because of such suspension of services. Before resuming services, the CONSULTANT shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the CONSULTANT'S services. The CONSULTANT'S fees for the remaining services and the time schedules shall be equitably adjusted.

ARTICLE 11 - AMENDMENTS, CHANGES OR MODIFICATIONS

Amendments, Task Orders, changes or modifications to the terms of this Contract may be made at any time by mutual written agreement between the parties hereto and shall be signed by the persons authorized to bind the parties thereto and approved pursuant to the provisions of Article 7.

CONSULTANT shall only commence work covered by an Amendment or Task Order after the Amendment or Task Order is executed and notification to proceed has been provided by the ENGINEER.

ARTICLE 12 - INDEMNIFICATION AND INSURANCE

12.1 Indemnification

Except for the active negligence or willful misconduct of the CITY, or any of its Boards, officers, agents, employees, assigns and successors in interest, CONSULTANT undertakes and agrees to defend, indemnify and hold harmless the CITY and any of its Boards, officers, agents, employees, assigns and successors in interest from and against all suits and causes of action, claims, losses, demands and expenses, including but not limited to attorney's fees (both in-house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the CITY, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including CONSULTANT'S employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by CONSULTANT or its subconsultants of any tier. Rights and remedies available to the CITY under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the CITY. The provisions of Article 12 shall survive expiration or termination of this Contract.

15.1.1 Indemnification for Professional Negligence

Except for the active negligence or willful misconduct of the CITY, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, CONSULTANT undertakes and agrees to indemnify (but not defend) and hold harmless the CITY and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the CITY, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including CONSULTANT'S employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner out of the negligent acts, errors or omissions of the CONSULTANT or anyone for whom the CONSULTANT is legally responsible during the performance of professional services under this Contract by CONSULTANT. Rights and remedies available to the CITY under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of

California, and the CITY.

12.2 Insurance

During the term of this Contract and without limiting CONSULTANT'S indemnification of the CITY, CONSULTANT shall provide and maintain at its own expense, a program of insurance having the coverage and limits customarily carried and actually arranged by CONSULTANT, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form Gen 146 in **Exhibit D** hereto), covering its operations hereunder. Such insurance shall conform to CITY requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in **Exhibit D** hereto) and shall otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. CONSULTANT shall comply with all Insurance Contractual Requirements shown on **Exhibit D** hereto. **Exhibit D** is hereby incorporated by reference and made a part of this Contract.

ARTICLE 13 - INDEPENDENT CONTRACTORS

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

ARTICLE 14 - WARRANTY AND RESPONSIBILITY OF CONSULTANT

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

14.2 CONSULTANT shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by CONSULTANT under this Contract. CONSULTANT shall, at no additional cost to CITY, correct or revise any errors, omissions, or other deficiencies in its designs, drawings, specifications, reports, calculations, and other services.

14.3 The CONSULTANT shall exhibit proper professional judgment in the use of information

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

- 14.4 CONSULTANT shall perform such professional services as may be necessary to accomplish the work required to be performed under this Contract in accordance with this Contract.
- 14.5 Except as specified in Article 12 and as otherwise provided in this Contract, the CONSULTANT shall be and shall remain liable, in accordance with applicable law, for all damages to CITY caused by CONSULTANT'S negligent performance of any of the services furnished under this Contract, except for errors, omissions, or other deficiencies to the extent attributable to CITY, CITY-furnished data, or any third party.

ARTICLE 15 - OWNERSHIP OF DATA AND INTELLECTUAL PROPERTY

15.1 Ownership of Data and License

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

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

15.2 Intellectual Property Warranty

- 15.2.1 CONSULTANT represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third

party's intellectual property rights, including, without limitation, patents, copyrights, trademarks, trade secrets, rights of publicity, and proprietary information.

15.3 Intellectual Property Indemnification

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

15.3.2 In CONSULTANT'S defense of the CITY Defendants, negotiation, compromise, and settlement of any such infringement action, the Los Angeles City Attorney's Office shall retain discretion in and control of the litigation, negotiation, compromise, settlement, and appeals therefrom, as required by the Los Angeles City Charter, particularly Article II, Sections 271, 272 and 273 thereof.

15.3.3 Where any Work Product furnished by CONSULTANT (a) becomes the subject of an action, (b) is adjudicated as infringing a third party's Intellectual Property right, or (c) has its use enjoined or license terminated; CONSULTANT shall, with the

CITY'S consent, do one of the following immediately. CONSULTANT shall at its expense either:

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

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

15.4 Re-Use of Consultant's Work Product

The City agrees that any re-use of CONSULTANT'S professional work product in connection with any other project, without the involvement of CONSULTANT, will be at the City's risk. In the event of re-use of CONSULTANT'S professional work product by the City for any other project, City waives any claims against CONSULTANT arising from the re-use of such work product.

ARTICLE 16 - NONDISCRIMINATION

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

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

ARTICLE 17 - BUSINESS INCLUSION PROGRAM

CONSULTANT agrees and obligates itself to utilize the services of Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Small Business Enterprise (SBE), Emerging Business Enterprise (EBE), Disabled Veteran Business Enterprise (DVBE), and Other Business Enterprise (OBE) firms on a level so designated in its proposal. CONSULTANT certifies that it has complied with the Business Inclusion Program outreach requirements of Mayoral Executive Directive 14, which is included with the Request for Proposals (Exhibit 17 of the **Competition Brief, issued on June 11, 2014**). CONSULTANT shall not change any of the designated subconsultants or reduce their level of effort without prior written approval of the CITY provided that such approval will not be unreasonably withheld.

CONSULTANT has submitted the Subcontractor Information Form (**Exhibit C – Schedule A**) along with their proposal. During the term of the contract, the CONSULTANT must submit the MBE/WBE/SBE/EBE/DVBE/OBE Utilization Profile (**Exhibit C - Schedule B**) when submitting an invoice to the CITY. Upon completion of the project, a summary of these records shall be prepared on the "Final Subcontracting Report" form (**Exhibit C - Schedule C**) and certified correct by the CONSULTANT or its authorized representative. The completed form shall be furnished to the CITY within fifteen (15) working days after completion of the contract.

CONSULTANT agrees and obligates itself to utilize the services of Minority, Women, Small, Emerging, Disabled Veteran, and Other Business Enterprise (MBE/WBE/SBE/EBE/DVBE/OBE) firms on a level so designated in its proposal, if any. The CITY has set anticipated participation levels of 18% MBE, 4% WBE, 25% SBE, 6% EBE, and 3% DVBE.

ARTICLE 18 - SUCCESSORS AND ASSIGNS

All of the terms, conditions, and provisions hereof shall inure to the benefit of and be

binding upon the parties hereto and their respective successors and assigns provided, however, that no assignment of the Contract shall be made without written consent of the parties to this Contract as required under Article 32.

ARTICLE 19 - CONTACT PERSONS - PROPER ADDRESSES - NOTIFICATION

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

To the CITY:

Contact Person: **Allan Kawaguchi, P.E.**
Program Manager

Address: **Bureau of Engineering, Bond Programs Division**
1149 S. Broadway, Suite 820
Los Angeles, CA 90015

To CONSULTANT:

Contact Person: **Todd Voth, Sr. Principal**

Address: **4800 Main St.**
Kansas City, MO. 64112

ARTICLE 20 - EXCUSABLE DELAYS

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

ARTICLE 21 - SEVERABILITY

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

ARTICLE 22 - DISPUTES

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

ARTICLE 23 - ENTIRE CONTRACT

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in Article 11 hereof.

ARTICLE 24 - APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT

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

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

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

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

If applicable, CONSULTANT represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the CITY'S Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this Contract, CONSULTANT shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

ARTICLE 26 - BONDS

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

ARTICLE 27 - CHILD SUPPORT ASSIGNMENT ORDERS

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. CONSULTANT is required to complete a Certification of Compliance with Child Support Obligations which is attached hereto as **Exhibit E** and incorporated herein by this reference. Pursuant to the Child Support Assignment Orders Ordinance, CONSULTANT will fully comply with all applicable state and federal employment reporting requirements for CONSULTANT'S employees. CONSULTANT shall also certify (1) that the principal owner(s) of CONSULTANT is (are) in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that CONSULTANT will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, *et seq.* of the California Family Code; and (3) that CONSULTANT will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of CONSULTANT to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any principal owner(s) of CONSULTANT to comply with any Wage and Earnings Assignment Orders

or Notices of Assignment applicable to them personally, shall constitute a default by the CONSULTANT under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to CONSULTANT by the CITY.

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

CONSULTANT certifies that, to the best of its knowledge, it is fully complying with the Earnings Assignment Orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

ARTICLE 28 - LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE

Unless otherwise exempt, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:

1. CONSULTANT assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.
2. CONSULTANT further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. CONSULTANT shall require each of its subconsultants within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. CONSULTANT shall deliver the executed pledges from each

such subconsultant to the CITY within ninety (90) days of the execution of the subcontract. CONSULTANT'S delivery of executed pledges from each such subconsultant shall fully discharge the obligation of CONSULTANT with respect to such pledges and fully discharge the obligation of CONSULTANT to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.

3. CONSULTANT, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the CITY with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. CONSULTANT shall post the Notice of Prohibition Against Retaliation provided by the CITY.
4. Any subcontract entered into by CONSULTANT relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of Article 28 and shall incorporate the provisions of the LWO and the SCWRO.
5. CONSULTANT shall comply with all rules, regulations and policies promulgated by the CITY'S Designated Administrative Agency, which may be amended from time to time.

Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the CITY shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the CITY determines that the subject CONSULTANT has violated provisions of either the LWO or the SCWRO, or both.

Where under the LWO Section 10.37.6(d), the CITY'S Designated Administrative Agency has determined (a) that CONSULTANT is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the CITY in such circumstances may impound monies otherwise due CONSULTANT in accordance with the following procedures. Impoundment shall mean that from monies due CONSULTANT, CITY may deduct the amount

determined to be due and owing by CONSULTANT to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether CONSULTANT is to continue work following an impoundment shall remain in the sole discretion of the CITY. CONSULTANT may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.

Earned Income Credit

CONSULTANT shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). CONSULTANT shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from CONSULTANT.

ARTICLE 29 - AMERICANS WITH DISABILITIES ACT

CONSULTANT hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations. CONSULTANT will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. CONSULTANT will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by CONSULTANT, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph. The Certification Regarding Compliance with the Americans with Disabilities Act is attached hereto as Exhibit F and incorporated herein by this reference.

ARTICLE 30 - EQUAL BENEFITS ORDINANCE

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

1. During the performance of the Contract, CONSULTANT certifies and represents that CONSULTANT will comply with the EBO.

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

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

"During the performance of a Contract with the City of Los Angeles, the Consultant will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles' Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-2605."

ARTICLE 31 - WAIVER

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

ARTICLE 32 - PROHIBITION AGAINST ASSIGNMENT OR DELEGATION

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

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

ARTICLE 33 - PERMITS

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

ARTICLE 34 - CLAIMS FOR LABOR AND MATERIALS

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

ARTICLE 35 - DISCOUNTS

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

ARTICLE 36 - CONTRACTOR RESPONSIBILITY ORDINANCE

Unless otherwise exempt, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time, which requires CONSULTANT to update its responses to the Responsibility Questionnaire within thirty (30) calendar days after any change to the responses previously provided if such change would affect CONSULTANT'S fitness and ability to continue performing this Contract.

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

1. Notify the CITY within thirty (30) calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that CONSULTANT is not in compliance with all applicable federal, state and local laws in performance of this Contract;
2. Notify the CITY within thirty (30) calendar days of all findings by a government agency or court of competent jurisdiction that CONSULTANT has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance;
3. Unless exempt, ensure that its subconsultant(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the CITY; and
4. Unless exempt, ensure that its subconsultant(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the CITY within thirty (30) calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subconsultant has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

ARTICLE 37 - BREACH

Except for excusable delays as described in Article 20, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation

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

ARTICLE 38 - SLAVERY DISCLOSURE ORDINANCE

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. CONSULTANT certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this Contract.

ARTICLE 39 - CONTRACT BIDDER ETHICS

Pursuant to the Los Angeles Municipal Lobbying Ordinance, any bidder for a contract shall submit with its proposal a Bidder Certification CEC Form 50 (Exhibit H), proscribed by the City Ethics Commission, in which the bidder acknowledges and agrees to comply with the disclosure requirements and prohibitions established in the Ordinance if the bidder qualifies as a lobbying entity under the Ordinance.

Moreover, all bidders are subject to Charter section 470(c)(12) and related ordinances and were required to submit Bidder Contributions CEC Form 55 (Exhibit H) with their response. As a result, bidders may not make campaign contributions to and or engage in fundraising for certain elected City officials or candidates for elected City office from the time they submitted their response until either the contract is approved or, for the successful bidders, 12 months after the contract is signed. The bidder's principals and subcontractors performing \$100,000 or more in work on the contract, as well as the principals of those subcontractors, are also subject to the same limitations on campaign contributions and fundraising.

Bidders must also notify their principals and subcontractors in writing of the restrictions and include the notice in contracts with subcontractors. Bidders who fail to comply with City law may be subject to penalties, termination of contract, and debarment. Additional information regarding these restrictions and requirements may be obtained from the City Ethics Commission at (213) 978-1960.

ARTICLE 40 - AFFIRMATIVE ACTION PROGRAM

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

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

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

discriminated against in violation of the provisions of a CITY contract.

- H. Notwithstanding any other provisions of a CITY contract, the CITY shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in CITY contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. CONSULTANT shall submit an Affirmative Action Plan which shall meet the requirements of this Article at the time it submits its bid or proposal or at the time it registers to do business with the CITY. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the Contract. The awarding authority may also require consultants and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this Section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a Plan, CONSULTANT may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, CONSULTANT must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the Contract is awarded.
 - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
 - 2. CONSULTANT may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.

- L. The Office of Contract Compliance shall annually supply the awarding authorities of the CITY with a list of consultants and suppliers who have developed Affirmative Action Programs. For each consultant and supplier, the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of Contract award for the entire Contract term without the mutual agreement of the awarding authority and CONSULTANT.
- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
 2. Classroom preparation for the job when not apprenticeable;
 3. Pre-apprenticeship education and preparation;
 4. Upgrading training and opportunities;
 5. Encouraging the use of consultants, subconsultants and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this Ordinance shall require the consultant, subconsultant or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the consultant's, subconsultant's or supplier's geographical area for such work;
 6. The entry of qualified women, minority and all other journeymen into the industry; and
 7. The provision of needed supplies or job conditions to permit persons with

disabilities to be employed, and minimize the impact of any disability.

- N. Any adjustments which may be made in the CONSULTANT'S or supplier's work force to achieve the requirements of the CITY'S Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the CONSULTANT at his or her discretion. Approved Affirmative Action Agreements become the property of the CITY and may be used at the discretion of the CITY in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.
- Q. All consultants subject to the provisions of this Section shall include a like provision in all subcontracts awarded for work to be performed under the Contract with the CITY and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subconsultants as are applicable to the CONSULTANT. Failure of the CONSULTANT to comply with this requirement or to obtain the compliance of its subconsultants with all such obligations shall subject the CONSULTANT to the imposition of any and all sanctions allowed by law, including but not limited to termination of the CONSULTANT'S Contract with the CITY.

ARTICLE 41 - FALSE CLAIMS ACT

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

ARTICLE 42 - EQUAL EMPLOYMENT PRACTICES

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

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

- D. CONSULTANT shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of CITY contracts. On their or either of their request CONSULTANT shall provide evidence that he or she has or will comply therewith.
- E. The failure of any CONSULTANT to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of CITY contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard have been given to CONSULTANT.
- F. Upon a finding duly made that CONSULTANT has failed to comply with the Equal Employment Practices provisions of a CITY contract, the Contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the CITY. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the CONSULTANT is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, CONSULTANT shall be disqualified from being awarded a contract with the CITY for a period of two years, or until CONSULTANT shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the CITY shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.

- J. At the time a supplier registers to do business with the CITY, or when an individual bid or proposal is submitted, CONSULTANT shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of CITY Contracts.
- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Hiring practices;
 2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
 3. Training and promotional opportunities; and
 4. Reasonable accommodations for persons with disabilities.
- L. Any subcontract entered into by CONSULTANT, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of CONSULTANT to comply with this requirement or to obtain the compliance of its subconsultants with all such obligations shall subject CONSULTANT to the imposition of any and all sanctions allowed by law, including but not limited to termination of the CONSULTANT'S Contract with the CITY.

ARTICLE 43 – FIRST SOURCE HIRING ORDINANCE

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

1. CONSULTANT shall, prior to the execution of the Contract, provide to the designated administrative agency a list of anticipated employment opportunities that CONSULTANT estimates they will need to fill in order to perform the services under the Contract.

2. CONSULTANT further pledges that, during the term of the Contract, it shall:
 - a) At least seven (7) business days prior to making an announcement of a specific employment opportunity, provide notifications of that employment opportunity to the Community Development Department (CDD), which will refer individuals for interview;
 - b) Interview qualified individuals referred by CDD; and
 - c) Prior to filling any employment opportunity, the CONSULTANT shall inform the designated administrative agency of the names of the Referral Resources used, the names of the individuals they referred, the names of the referred individuals who the CONSULTANT interviewed and the reasons why referred individuals were not hired.
3. Any subcontract entered into by the CONSULTANT relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of the FSHO, and shall incorporate the FSHO.
4. CONSULTANT shall comply with all rules, regulations and policies promulgated by the designated administrative agency, which may be amended from time to time.

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

Under the provisions of Section 10.44.8 of the Los Angeles Administrative Code, the

Awarding Authority shall, under appropriate circumstances, terminate this Contract and otherwise pursue legal remedies that may be available if the designated administrative agency determines that the subject CONSULTANT has violated provisions of the FSHO.

ARTICLE 44 – IRAN CONTRACTING ACT OF 2010

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

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

POPULOUS, INC.

By:

Title:

Date:

CITY OF LOS ANGELES

By:

Title: President, Board of Public Works

Date:

By:

Date:

ATTEST:

HOLLY L. WOLCOTT, City Clerk

By:

Date:

APPROVED AS TO FORM:

MICHAEL N. FEUER, City Attorney

By:

Title: Assistant City Attorney

Date:

Attachment B

Los Angeles Convention Center 2015 Budget

**LOS ANGELES CONVENTION CENTER
2015 BUDGET**

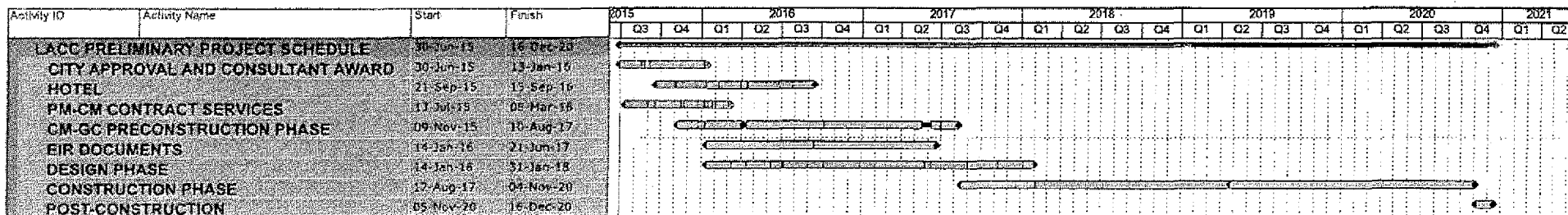
Item Description	Percent	Budget
Construction	LS	\$350,000,000
Design Fee	9.6%	\$33,537,590
Project Management/Construction Management (PM/CM)	6.0%	
Project Administration (Bureau of Engineering)		\$11,200,000
PM/CM (Consultant)		\$9,800,000
Furniture, Fixture and Equipment	1.0%	\$3,500,000
Other Office Support (Accounting/CAO/CLA/GSD/DWP/LACC/Survey/Geotech)	1.2%	\$4,200,000
Bureau of Contract Administration	3.5%	\$12,250,000
Permits/Testing	4.0%	\$14,000,000
1% Art Fee	1.0%	\$3,500,000
CEQA (Environmental Impact Report)	LS	\$1,750,000
Subtotal		\$443,737,590
Project Contingency (Executive Committee)	7.5%	\$26,250,000
Grand Total		\$469,987,590

Note:

1. Percents is based off Construction dollar of \$350 million

Attachment C

LACC Preliminary Project Schedule



LACC Preliminary Project Schedule

Date	Revision	Checked	Approved
22-Oct-15	Municipal Facilities Committee Report - Attachment No. 3	CC	AK