

0220-06050-0001

TRANSMITTAL

TO The Council	DATE 06/26/2023	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT 6	

**Proposed Personal Services Contract with Parkwood Landscape Maintenance, Inc. for
Specialized Site Services for the Japanese Garden at the
Donald C. Tillman Water Reclamation Plant**

Transmitted for further processing and Council consideration.
See the City Administrative Officer report attached.



MAYOR

(Chris Thompson for)

Attachment

MWS/PJH/JVW:jq/amm:10230132

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

To: The Mayor	Date: 06-07-23	C.D. No. 6	CAO File No.: 0220-06050-0001
Contracting Department/Bureau: Public Works: Bureau of Sanitation		Contact: Eduardo Perez – (213) 925-2519	
Reference: Bureau of Sanitation and Bureau of Contract Administration Joint Board Report (BPW-2023-0208) dated April 12, 2023 updating transmittal from Bureau of Sanitation and Bureau of Contract Administration Joint Board Report (BPW-2021-0496) dated July 21, 2021			
Purpose of Contract: For specialized site services for the Japanese Garden at the Donald C. Tillman Water Reclamation Plant			
Type of Contract: (X) New contract () Amendment		Contract Term Dates: 5 years with one two-year renewal option	
Contract/Amendment Amount: \$9,000,000.00			
Proposed amount \$9,000,000.00 + Prior award(s) \$0 = Total \$9,000,000.00			
Source of funds: Sewer Construction and Maintenance Fund			
Name of Contractor: Parkwood Landscape Maintenance, INC.			
16443 Hart Street, Van Nuys, California 91406			
	Yes	No	N/A
1. Council has approved the purpose	X		
2. Appropriated funds are available	X		
3. Charter Section 1022 findings completed	X		
4. Proposals have been requested	X		
5. Risk Management review completed	X		
6. Standard Provisions for City Contracts included	X		
7. Workforce that resides in the City: 77.14%			
8. Business Inclusion Program	X		
9. Equal Benefits & First Source Hiring Ordinances	X		
10. Contractor Responsibility Ordinance	X		
11. Disclosure Ordinances	X		
12. Bidder Certification CEC Form 50	X		
13. Prohibited Contributors (Bidders) CEC Form 55	X		
14. California Iran Contracting Act of 2010	X		

RECOMMENDATION

That the City Council authorize the Board of Public Works (Board), or two members of the Board, on behalf of the Bureau of Sanitation, to execute the proposed Personal Services Contract with Parkwood Landscape Maintenance, Inc. for specialized site services at the Donald C. Tillman Water Reclamation Plant or a five-year term, with a two-year renewal option to be exercised at the City's sole discretion, which has been previously approved by the Board. The total maximum not to exceed contract amount is \$9,000,000 for the services and authority to execute is subject to the City Attorney approval as to form.

SUMMARY

The Bureau of Sanitation (Bureau) requests approval to execute a new personal services contract (Contract) with Parkwood Landscape Maintenance, Inc. (Parkwood/Contractor) to perform specialized landscape maintenance at the Donald C. Tillman Water Reclamation Plant (DCTWRP). The proposed contract term is five years, with a two-year renewal option which can be exercised at the Bureau's

JCY/AMM	Analyst	10230132	City Administrative Officer		

sole discretion. The total maximum contract amount proposed is \$9,000,000. Funding is to be provided from the Sewer Construction and Maintenance Fund.

Background

The City of Los Angeles operates and maintains the Japanese Garden (Garden) located in Council District 6 at the DCTWRP, which is a 6.5-acre authentic Japanese garden that includes a 3.5-acre lake. The Garden incorporates highly stylized, traditional Japanese landscape elements such as bonsai trees, lakes, bamboo elements, and stone lanterns. The Garden uses 100 percent recycled water provided by DCTWRP and is open to the public to demonstrate the use of recycled water.

RFP Process - The previous contract for the maintenance of the Garden expired on September 9, 2020 (C.F. 12-0878). On August 2, 2021, the Board authorized the Bureau to issue a Request for Proposal (RFP) for specialized landscape services for the Garden at the DCTWRP. The Bureau continued services at the Garden until the RFP process was complete through the use of Letters of Agreements. The Bureau received two proposals on the September 20, 2021 submittal deadline. The Bureau evaluated and scored the proposals based on the following criteria:

- Prior Experience: 65 percent
- Record of Past Performance: 15 percent
- Approach to work: 10 percent
- Cost Control: 10 percent

Parkwood was determined to be the best qualified proposer and was selected for contract award. Additional details on the RFP process, evaluations, rankings and the eventual awarding of the contract to Parkwood are discussed in detail on pages 4 and 5 in the joint Bureau and Bureau of Contract Administration (ConAd) Board report.

Scope of Work - Under the proposed contract, the Contractor will provide specialized landscape maintenance for the Garden and adjacent areas located at the DCTWRP. The specialized services to be provided include, but are not limited to:

- Maintenance of paths and dry garden
- Maintenance of lakes and water features
- Specialized sculpting and pruning of shrubbery, trees, bamboo, and dish-sized bonsai
- Specialized Japanese sculpturing of large scale bonsai black pine trees
- Harvesting, preparing, and installing stylized bamboo elements
- Care and planting of California native plants

Failure to comply with these services will result in liquidated damages in accordance with the provisions in Article 9.2.

Standard Provisions and Outreach – On September 30, 2020, the Bureau filed a Notice of Intent to Contract. In 2015, the Personnel Department determined that City forces do not have the technical expertise to perform the proposed work. As the scope of services, thus the labor component, has not changed Personnel did not make a new determination. Local Business Preference, Local Business Enterprise, and Business Inclusion Program participation levels were defined and adhered to and the Bureau provided detailed information on the participation levels on Page 5 and 6 of its report. The

Contractor's reports that 77.14 percent of its workforce reside in the City. The Bureau established anticipated business inclusion participation goals of 10 percent Minority Business Enterprise (MBE), three percent Women Business Enterprise (WBE), one percent Small Business Enterprise (SBE), one percent Emerging Business Enterprise (EBE), and one percent Disabled Veteran Business Enterprise (DVBE). The contractor has pledged participation levels of five percent MBE, zero percent WBE, two and a half percent SBE, two and a half percent EBE, and zero percent DVBE. All other City requirements and standard contract provisions have been adhered to.

The City Attorney has reviewed the proposed Contract as to form and legality. In accordance with Los Angeles City Charter Section 373 and Los Angeles City Administrative Code Section 10.5(a), the Contract requires Council approval due to the total term exceeding three years.

FISCAL IMPACT STATEMENT

There is no additional impact to the General Fund as funding is provided by the Sewer Construction and Maintenance Fund. The contract includes Standard Provisions which contain a City obligation limitation clause which limits the City's obligation to make payments to funds which have been appropriated for this purpose.

FINANCIAL POLICIES STATEMENT

The recommendation in this report complies with the City's Financial Policies in that expenditures of special funds are limited to the mandates of the funding sources.

Attachment - Bureau of Sanitation and Bureau of Contract Administration Joint Board Report (BPW-2023-0208) dated April 12, 2023 updating transmittal from Bureau of Sanitation and Bureau of Contract Administration Joint Board Report (BPW-2021-0496) dated July 21, 2021

MWS/PJH/JVW:jcy/amm:10230132

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EXECUTIVE OFFICER

200 NORTH SPRING STREET
ROOM 361, CITY HALL
LOS ANGELES, CA 90012

TEL: (213) 978-0261
TDD: (213) 978-2310
FAX: (213) 978-0278

<http://bpw.lacity.org>

April 12, 2023

BPW-2023-0208

The Honorable Mayor Bass
City Hall – Room 320
Los Angeles, CA 90012
Attn: Heleen Ramirez

**PERSONAL SERVICES CONTRACT – PARKWOOD LANDSCAPE MAINTENANCE,
INC. – JAPANESE GARDEN SPECIALIZED SITE SERVICES**

As recommended in the accompanying report from the Director of the Bureau of Sanitation, which this Board has adopted, the Board of Public Works (Board) recommends that the Mayor and City Council:

1. APPROVE the request that the Board of Public Works be authorized to execute a Personal Services Contract with Parkwood Landscape Maintenance, Inc. for the Japanese Garden Specialized Site Services; and
2. AUTHORIZE the President or two members of the Board to execute the contract.

(W.O. SJAPANES)

Fiscal Impact: There is no impact to the General Fund.

Sincerely,

TJ Knight,
Asst. Executive Officer, Board of Public Works

TJ:lc

DEPARTMENT OF PUBLIC WORKS
BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
APRIL 12, 2023

CD: ALL

ADOPTED BY THE BOARD
PUBLIC WORKS OF THE CITY
of Los Angeles California
AND REFERRED TO THE MAYOR
APR 12 2023
AND REFERRED TO THE CITY COUNCIL

Executive Officer
Board of Public Works

AUTHORITY TO AWARD AND EXECUTE PERSONAL SERVICES CONTRACT WITH
PARKWOOD LANDSCAPE MAINTENANCE, INC. FOR THE JAPANESE GARDEN
SPECIALIZED SITE SERVICES (W.O. #SJAPANES)

RECOMMENDATIONS

1. Approve and forward this report with transmittals to the Mayor and City Council (Council) with the request that the Board of Public Works (Board) be authorized to execute a Personal Services Contract with Parkwood Landscape Maintenance, Inc. for the Japanese Garden Specialized Site Services.
2. Upon the Mayor and Council's authorization, the President or two members of the Board will execute the contract.

FISCAL IMPACT STATEMENT

There is no General Fund impact resulting from the execution of this contract, or exercising their renewal options. This contract is funded by the Sewer Construction Maintenance and Operations (SCMO) Fund No. 760 in addition to the Public Works Trust Fund No. 834.

TRANSMITTALS

1. Copy of the adopted LA Sanitation and Environment (LASAN) and Bureau of Contract Administration Joint Board Report No. 1, dated July 21, 2021, authorizing LASAN to distribute a Request for Proposal (RFP), to interview, select, and negotiate with the most qualified proposer, and to return to the Board for authority to award and execute any contract(s) to perform the work.
2. Copy of the proposed contract between the City of Los Angeles and Parkwood Landscape, Inc.

PAGE 2

DISCUSSION

BACKGROUND

The Japanese Garden is a part of the Donald C. Tillman Water Reclamation Plant (DCTWRP) and demonstrates the use of recycled water while creating a place of beauty and serenity within the City for the enjoyment of its citizens and visitors.

LA Sanitation and Environment (LASAN) operates the Japanese Garden, a 6½ acre, highly stylized garden located contiguous to DCTWRP at 6100 Woodley Avenue in Van Nuys. The garden incorporates traditional Japanese Garden landscape elements along with several modern features that reflect the Japanese Garden's use of recycled water in a fragile environment.

Completed in late 1984, tours of the garden and water reclamation plant began in 1985. The 52-member Docent/Volunteer group, part of the Mayor's Citizen Advisory Committee, guides the public through the Japanese Garden explaining its mythology and symbolism and educates the public about the wastewater reclamation process and reuse applications. The Japanese Garden also features 'open strolling times' for the public, Monday through Thursday from 11AM to 4PM, and on Sundays from 10AM to 4PM. Fridays and Saturdays are typically closed for additional maintenance, including but not limited to pest and weed control, tree trimming, and path repairs.

Saturdays are reserved for special contracted events held at the garden and in the adjacent Shoin Building, which has an authentic tatami-mat teahouse. Such events include weddings, celebrations of life, ceremonies, meetings, and garden-sponsored cultural programs.

THE RFP PROCESS

The previous contract for the Japanese Garden maintenance expired on September 9, 2020. On August 2, 2021, a Request for Proposal (RFP) was posted to solicit proposals from contractors with experience maintaining highly stylized landscapes to provide site services which include support staff with expertise in Japanese Garden design, along with as-needed professional services at the Japanese Garden. The services included staffing for maintenance and materials augmentation to provide site services for LASAN.

On the submittal deadline, the City received two (2) proposals for The Japanese Garden Services. All proposals were sent to LASAN's Centralized Contract Unit (CCU) for evaluation of the Business Inclusion Program (BIP) outreach requirement. CCU deemed all of the proposers responsive to the City's BIP outreach requirements.

PAGE 3

SCOPE OF WORK

This contract will provide specialized landscape maintenance, site services support, and materials augmentation for the Japanese Garden and adjacent areas located at 6100 Woodley Avenue, Van Nuys, CA 91406. The services to be provided include but are not limited to:

- Maintenance of paths and dry garden elements
- Maintenance of lakes and display fountain water features
- Renovation and construction of garden elements
- Site and facilities cleaning
- Specialized sculpting and pruning of shrubbery, trees, bamboo, and dish-sized bonsai
- Support and set up for Garden cultural and special events
- Care and planting of California native plants
- Purchasing of equipment and materials
- Technical landscape and site support services
- Procurement services for cultural and special programs
- Application, accountability, and reporting of pesticides, herbicides, and fungicides
- Professional specialized Japanese sculpturing of large scale bonsai black pine trees
- Harvesting, preparing, and installing stylized bamboo elements
- Procuring subcontractors (as needed) for projects and support

SELECTION AND EVALUATION PROCESS

In response to the RFP, two (2) proposals were submitted: Mariposa Landscapes, Inc. and Parkwood Landscape Maintenance, Inc.

The two (2) proposers, successfully completed their BIP outreach, were evaluated, and ranked according to the evaluation criteria set forth in the RFP: prior experience 65%, record of past performance 15%, approach to work 10%, and cost control 10%.

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
APRIL 12, 2023

PAGE 4

Table 1. Evaluation Criteria listed in RFP

EVALUATION CRITERIA	PERCENTAGE OF SCORE
Technical Qualifications and Past Experience - This includes the PROPOSERS' background, experience, and familiarity with landscape services for this type of project and tasks, and the qualifications of staff personnel.	65%
Record of Past Performance - This includes quality of work, timely completion of assigned tasks, safety, record keeping, and the response of references	15%
Approach to Work - This includes project management and coordination methodologies	10%
Cost Control - This includes cost control procedures, preliminary cost estimates and personnel utilization	10%
TOTAL (Minimum Qualifying Total Score – 75%)	100%

The evaluation and scoring of the proposals for The Japanese Garden specialized site services were completed by an evaluation panel consisting of two (2) LASAN Japanese Garden staff who evaluated the proposals based on the criteria established in the RFP. Table 2 shows the scores for each proposer evaluated.

Table 2. Proposal Evaluation Scores

Criteria	Parkwood Landscape Maintenance Inc.	Mariposa Landscape Inc.
Technical Qualifications and Past Experience 65%	61	56
Record of Past Performance 15%	13	13.25
Approach to Work 10%	8.75	5
Cost Control 10%	8.5	6.5
LBE Program 8% (if applicable)	0	8
Total 108%	91.25	88.75

Parkwood Landscape Maintenance, Inc. was selected for contract award as they were the best qualified.

LOCAL BUSINESS PREFERENCE (LBP) PROGRAM

Los Angeles Administrative Code Division 10, Chapter 1, Article 4, Section 10.25 adopted the LBP Program which was designed to increase local employment and expenditures in the local private sector. All Proposers are eligible to participate in the LBP Program by qualifying as a Local Business Enterprise (LBE). The City shall grant eight percent (8%) of the total possible evaluation points added to their evaluation score to those Proposers who are certified as an LBE firm. If the LBE is also a Local Small Business (LSB) and/or Local Transitional Employer (LTE), they may be granted an additional two (2) percent of the total possible evaluation points added to their evaluation score for each of those certifications, up to a total of twelve percent (12%). Additionally, all non-LBE Proposers may be granted an additional percentage, up to a total of five (5) percent, of the total possible evaluations points added to their evaluation score for each of those certifications, for every ten (10) percent of their proposal that is to be performed by a LBE, LSB, and/or LTE subconsultant.

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
APRIL 12, 2023

PAGE 5

The BCA has verified that Mariposa Landscapes, Inc. is certified as a LBE firm and therefore were awarded eight additional points. Whereas, Parkwood Landscape Maintenance, Inc. is not certified as a LBE firm and therefore were not awarded any additional points.

TERM OF AGREEMENT AND COST CEILING

The contract term will be for five (5) years, with one (1) two-year renewal option to be exercised at the City's sole discretion. In addition, the City may elect to extend the contract terms to a month-to-month basis for a maximum of twelve (12) months. The total estimated contract ceiling for the contract term, including the renewal option is \$9,000,000.

BUSINESS INCLUSION PROGRAM

Mariposa Landscapes, Inc. and Parkwood Landscape Maintenance, Inc. have been found responsive in successfully completing their respective BIP evaluations.

At the time of distribution, LASAN established anticipated participation levels of ten (10) percent Minority Business Enterprise (MBE), three (3) percent Women Business Enterprise (WBE), one (1) percent Small Business Enterprise (SBE), one (1) percent Emerging Business Enterprise (EBE), one (1) percent Disabled Veteran Business Enterprise (DVBE) and zero (0) percent (LGBTBE) Lesbian, Gay, Bi-sexual, Transgender Business Enterprise (for statistical tracking purposes). Parkwood Landscape Maintenance, Inc. has pledged participation levels of 5 percent MBE, 0 percent WBE, 2.5 percent SBE, 2.5 percent EBE, 0 percent DVBE, and 0 percent OBE (Table 3).

Gender/Ethnicity Codes:

AA = African American

SAA = Subcontinent Asian American

C = Caucasian

M = Male

HA = Hispanic American

APA = Asian Pacific American

NA = Native American

F = Female

Table 3. Parkwood Landscape Maintenance, Inc. Schedule A

SUBCONTRACTOR	MBE/WBE/SBE/ EBE/DVBE/LBE/ OBE	GENDER/ ETHNICITY	% OF CONTRACT AMOUNT	SUBCONTRACT AMOUNT
BriteWorks, Inc.	<u>MBE</u>	F/HA	5.0%	\$150,000.00
The Pond Company*	<u>SBE/EBE</u>	-/-	2.5%	\$75,000.00
Total MBE Participation			5.0%	\$150,000.00
Total WBE Participation			0.0%	\$0.00
Total OBE Participation			0.0%	\$0.00
Total SBE Participation			2.5%	\$75,000.00
Total EBE Participation			2.5%	\$75,000.00
Total DVBE Participation			0.0%	\$0.00
Base Estimated Contract Amount**				\$3,000,000.00

*Certified LBE Company

**Estimate provided by the Prime based on the cost to perform the RFP's scope of work.

OTHER CITY POLICIES AND REQUIREMENTS

Parkwood Landscape Maintenance, Inc. shall comply with all City requirements, including:

- Non-Discrimination/Equal Employment Practices/Affirmative Action
- Living Wage and Worker Retention Ordinances
- Equal Benefits Ordinance
- Business Tax Registration Certificate
- Child Support Obligations Ordinance
- Insurance and Performance Bond Requirements
- Slavery Disclosure and Disclosure of Border Wall Contracting Ordinances
- Americans with Disabilities Act
- Municipal Lobbying Ordinance
- Los Angeles Residence Information
- City of Los Angeles Contract History
- Non-Collusion Affidavit
- First Source Hiring Ordinance
- Contractor Bidder Campaign Contribution and Fundraising Restriction
- Iran Contracting Act of 2010
- City Contractors' Use of Criminal History for Consideration of Employment Applications Ordinance
- COVID-19 Requirements

NOTIFICATION OF INTENT TO CONTRACT

The Notification of Intent to Contract (NOI) was filed with the Office of the City Administrative Officer (CAO) Clearinghouse on September 30, 2020.

CHARTER SECTION 1022

The CAO issued the 1022 determination report on July 22, 2019 and determined that there was an insufficient number of City staff to perform the work proposed to be contracted. This determination was reaffirmed by the Personnel Department on July 27, 2020.

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
APRIL 12, 2023

PAGE 7

CONTRACTOR RESPONSIBILITY ORDINANCE

All contractors participating in this program are subject to compliance with the requirements specified in the City of Los Angeles's Contractor Responsibility Ordinance No. 173677, [Article 14, Chapter 1, Division 10, L.A.C.C.]. Failure to comply with the requirements specified in this ordinance will render the bidder's contract subject to termination pursuant to the conditions expressed therein.

CONTRACTOR PERFORMANCE EVALUATION

In accordance with Article 13, Chapter 1, Division 10 of the City of Los Angeles Administrative Code, the appropriate City personnel responsible for quality control of this personal services contract shall submit Contractor Performance Evaluation Reports to the Bureau of Contract Administration upon completion of this contract.

HEADQUARTERS ADDRESS AND WORKFORCE INFORMATION

The headquarters of Parkwood Landscape Maintenance, Inc. is **located at** 16443 Hart Street, Van Nuys, California 91406. Parkwood Landscape Maintenance, Inc. employs 350 people, of which 270 reside in the City of Los Angeles.

APPROVED AS TO FORM

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

CONTRACT ADMINISTRATION

Responsibility for the administration of this contract will be with the DCTWRP of LASAN.

PROJECT REVIEW BY DIRECTOR (PRD) APPROVAL

This contract was approved by PRD on October 21, 2020, in the amount of \$9,000,000.

STATUS OF FINANCING

There is no impact to the General Fund. The total funding for this project is not to exceed \$9,000,000. Funding is available in Fund No. 760, Sewer Construction and Maintenance Fund, Department No. 50 PW-Sanitation Expense & Equipment and in Fund No. 834, Public Works Trust Fund, Department No. 50, Appropriation Account Special Projects.

Full funding information is outlined in the table below:

Budget Year	Fund/Department	Appropriation Account No.	Amount
2023-2031	760/50	TBD	\$8,215,500
2023-2031	834/50	TBD	\$784,500
Total:			\$9,000,000

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
APRIL 12, 2023

PAGE 8

Funds and appropriations for future fiscal years are not yet identified and existing appropriations may change based on available cash balances. Therefore, funds and appropriations will be determined by the Director and General Manager of LASAN or designee.

Funding as of the date of this Board Report has been verified and approved by the Director of the Office of Accounting subject to terms and conditions and cash availability described above.

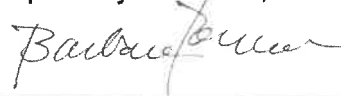
Notwithstanding any other provision of this Contract, including any exhibits or attachments incorporated therein, and in order for the City to comply with its governing legal requirements, the City shall have no obligation to make any payments to the Contractor unless the City shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this Contract.

The Contractor agrees that any services provided by the Contractor, purchases made by the Contractor or expenses incurred by the Contractor in excess of the appropriation(s) shall be free and without charge to the City and the City shall have no obligation to pay for the services, purchases or expenses. The Contractor shall have no obligation to provide any services, provide any equipment, or incur any expense in excess of the appropriation, amount(s) until the City appropriates additional funds for this Contract.

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
APRIL 12, 2023

PAGE 9

Respectfully submitted,



BARBARA ROMERO
Director and General Manager
Bureau of Sanitation

COMPLIANCE REVIEW PERFORMED
AND APPROVED BY:

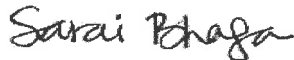

Lynda McGlinchey (Apr 4, 2023 16:32 PDT)

LYNDA McGLINCHEY, Program Manager II
Office of Contract Compliance
Bureau of Contract Administration



JOHN L. REAMER, JR.
Inspector of Public Works
Bureau of Contract Administration

REVIEWED AND APPROVED BY:



SARAI BHAGA, Chief Financial Officer
Bureau of Sanitation

Date: 3/30/2023

Prepared by:
Eduardo Perez, DCTWRP
(213) 925-2519

TRANSMITTAL 1

BPW-2023-0208
BPW-2021-0496

DEPARTMENT OF PUBLIC WORKS

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
JULY 21, 2021

ADOPTED BY THE BOARD
PUBLIC WORKS OF THE CITY
of Los Angeles California
AS AMENDED*

JUL 21 2021


Executive Officer
Board of Public Works

CD: 6

AUTHORITY TO DISTRIBUTE A REQUEST FOR PROPOSALS AND NEGOTIATE
CONTRACT(S) FOR THE JAPANESE GARDEN SPECIALIZED SITE SERVICES (W.O.
S10DJPNG)

RECOMMENDATIONS

Authorize the Director and General Manager of LA Sanitation and Environment (LASAN) or
designee to:

1. Distribute and advertise the transmitted Request for Proposals (RFP) for the Japanese
Garden Specialized Site Services
2. Evaluate the proposals and based on the established rating criteria, select and interview
the most qualified proposer(s).
3. Negotiate a contract(s) with the most responsive proposer(s) * **for a three-year term
with two (2) one-year renewal options** *.
4. Return to the Board of Public Works (Board) for authority to award and execute the
contract(s).

TRANSMITTAL

1. Copy of the RFP for the Japanese Garden Specialized Site Services.

DISCUSSION

Request for Proposals (RFP)

This RFP is a solicitation for proposals from contractors with experience maintaining highly
stylized landscapes to provide site services which include support staff with expertise in Japanese
Garden design, along with as-needed professional services at the Japanese Garden located at
6100 Woodley Avenue, Van Nuys, CA 91406. These services are sought as a staff, site services
and materials augmentation for LA Sanitation and Environment (LASAN).

Background

The Japanese Garden is a part of the Donald C. Tillman Water Reclamation Plant (DCTWRP)
and demonstrates the use of recycled water while creating a place of beauty and serenity within
the City for the enjoyment of its citizens and visitors.

LASAN operates the Japanese Garden, a 6 ½ acre highly stylized garden located contiguous to
DCTWRP at 6100 Woodley Avenue in Van Nuys. The garden incorporates traditional Japanese

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
JULY 21, 2021

Page 2

Garden landscape elements along with several modern features that reflect the Japanese Garden's use of recycled water in a fragile environment.

Completed in late 1984, tours of the garden and water reclamation plant began in 1985. The 52-member Docent/Volunteer group, part of the Mayor's Citizen Advisory Committee, guides the public through the Japanese Garden explaining its mythology and symbolism and educates the public about the wastewater reclamation process and reuse applications. The Japanese Garden also features 'open strolling times' for the public, Monday through Thursday 11AM to 4PM and on Sundays from 10AM to 4PM. Fridays and Saturdays are typically closed for additional maintenance, including but not limited to pest and weed control, tree trimming, and path repairs.

Saturdays are reserved for special contracted events held at the garden and in the adjacent Shoin Building, which has an authentic tatami-mat teahouse. Such events include weddings, celebrations of life, ceremonies, meetings, and garden-sponsored cultural programs. The Japanese Garden is currently ranked number 10 in North America out of 300 Japanese gardens.

Scope of Work

This contract will provide specialized landscape maintenance, site services support, and materials augmentation for the Japanese Garden and adjacent areas located at 6100 Woodley Avenue, Van Nuys, CA 91406. The services to be provided include but are not limited to:

- Maintenance of paths and dry garden elements
- Maintenance of lakes and display fountain water features
- Renovation and construction of garden elements
- Site and facilities cleaning
- Specialized sculpting and pruning of shrubbery, trees, bamboo and dish-sized bonsai
- Support and set up for Garden cultural and special events
- Care and planting of California native plants
- Purchasing of equipment and materials
- Technical landscape and site support services
- Procurement services for cultural and special program
- Application, accountability and reporting of pesticides, herbicides and fungicides
- Professional specialized Japanese sculpturing of large scale bonsai black pine tree
- Harvesting, preparing and installing stylized bamboo elements
- Procuring subcontractors (as needed) for projects and support

Proposed Term of Contract

The contract(s) will be for a term of five (5) years with two (2) renewal option(s) of three (3) years and two (2) years, respectively, totaling up to 10 years.

Rationale for Using an RFP

The RFP process is being used to solicit the best available services at the most competitive price. A proposal review committee of LASAN staff will evaluate all proposals in order to determine which proposal(s) will bring the greatest benefits to the City.

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
JULY 21, 2021

Page 3

Selection Process and Evaluation Criteria

The proposal review committee will evaluate and rate all proposals. Based upon the evaluation panel's final report, LASAN will submit a report to the Board, containing a recommendation to award and execute a contract(s) with the selected Proposer(s). Contract(s) will then be submitted to the Board, the Mayor, and the City Council for approval.

The criteria for the selection of the respondents are outlined in the RFP and are summarized as follows (See Section 5.8.1 in Transmittal 1 for details):

TABLE 1

EVALUATION CRITERIA	Point Range
1. Prior Experience • The Company must provide project and maintenance experience equal to or greater in scope to this RFP for the last five (5) years • Possess an active State of California Landscape Contractors License (C-27) • Qualifications of the staff personnel	0 – 65
2. Record of Past Performance • Quality of work • Timely completion of assigned tasks • Safety • Recordkeeping • Response of references	0 – 15
3. Approach to Work • Project Management • Coordination methodologies	0 - 10
4. Cost Control • Control Procedures • Preliminary cost estimates • Personnel utilization	0 – 10
Total Score	0 - 100

TABLE 2

Evaluation Criteria	Percentage
Qualifications	80%
Approach to Work	10%
Cost Control	10%
Total	100%

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
JULY 21, 2021

Page 4

World Wide Web

The RFP will be posted on the City's World Wide Web site in compliance with City Council motion 95-1060S2. It will be available for download on www.labavn.org.

Notification of Intent to Contract (NOI)

The NOI was filed with the CAO Clearinghouse on June 3, 2019.

Charter Section 1022

The CAO made a Charter 1022 determination on July 22, 2019 and concluded that there was an insufficient number of City staff to perform these services. This determination was reaffirmed by Personnel on July 27, 2020.

Business Inclusion Program (BIP)

The BIP will be in compliance with the Mayor's Executive Directive No. 14. LASAN has established anticipated participation levels of ten (10) percent Minority Business Enterprise (MBE), three (3) percent Women Business Enterprise (WBE), one (1) percent Small Business Enterprise (SBE), one (1) percent Emerging Business Enterprise (EBE), one (1) percent Disabled Veteran Business Enterprise (DVBE), and zero (0) percent (LGBTBE) Lesbian, Gay, Bi-sexual, Transgender Business Enterprise (for statistical tracking purposes).

Proposers submitting a proposal in response to this RFP are required to perform a BIP Outreach using the City's Business Assistance Virtual Network (LABAVN) system. Failure to comply with the City's BIP Outreach requirements will render the proposal non-responsive.

In addition to the BIP Outreach, the Proposers are required to complete and submit the MBE/WBE/SBE/EBE/DVBE/LGBTBE/OBE Subcontractors Information Form (Schedule A). The Schedule A must be submitted with the Proposer's RFP response. Additionally, during the term of the contract, the Proposer must submit the MBE/WBE/SBE/EBE/DVBE/LGBTBE/OBE Utilization Profile (Schedule B) when submitting an invoice to the City.

Compliance with Board RFP Policy

As per Board policy, this RFP was delivered to the Secretary of the Board prior to Board consideration thereof.

Other City Policies and Requirements

The proposers shall be required to comply with the City's policies and requirements including the following:

- Nondiscrimination/Equal Employment Practices/Affirmative Action Program
- Equal Benefits Ordinance
- Living Wage and Worker Retention Ordinances
- Slavery Disclosure Ordinance
- Americans with Disabilities Act
- Child Support Obligations Policy
- Los Angeles Residence Information
- Non-Collusion Affidavit

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
JULY 21, 2021

Page 5

- Performance Bond and Insurance requirements
- Business Tax Registration Certificate
- City of Los Angeles Contract History
- First Source Hiring Ordinance
- Contract Bidder Campaign Contribution and Fundraising Restrictions
- Municipal Lobbying Ordinance
- Iran Contracting Act of 2010 Compliance Affidavit
- City Contractor's use of Criminal History for Consideration of Employment Applications

Attachments and forms pertaining to these requirements are included in the RFP and on www.labavn.org.

Disclosure of Border Wall Contracting Ordinance

Contractors shall comply with Los Angeles Administrative Code Section 10.50 et seq., "Disclosure of Border Wall Contracting". City may terminate the contracts at any time if City determines that the Contractors failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in LAAC Section 10.50.1.

Local Business Preference (LBP) Program

All Proposers are eligible to participate in the LBP Program by qualifying as a Local Business Enterprise (LBE). The City shall grant eight percent (8%) of the total possible evaluation points added to their evaluation score to those Proposers who are certified as an LBE firm. Those Proposers who do not qualify as an LBE, but identify qualified LBE-certified subcontractors to perform work under this RFP, will received a one percent (1%) preference, up to a maximum of five percent (5%), of the total possible evaluation points added to their evaluation score for every ten percent (10%) of the cost of the proposed work to be performed by certified LBE subcontractors.

Contractor Responsibility Ordinance

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

Contractor Performance Evaluation

In accordance with Article 13, Chapter 1, Division 10 of the City of Los Angeles Administrative Code, the appropriate City personnel responsible for the quality control of this personal services contract shall submit Contractor Performance Evaluation Reports to the Department of Public Works, Bureau of Contract Administration upon completion of this contract.

Contract Administration

Responsibility for the administration and management of this contract will rest with the Water Reclamation Division, LASAN.

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
JULY 21, 2021

Page 6

PROGRAM REVIEW BY DIRECTOR (PRD) APPROVAL

The project budget was approved by PRD on November 16, 2020 in the amount of \$9,000,000.

STATUS OF FINANCING

No funding is required at the time. Specific funding information will be provided at the time Task Order Solicitations are issued to consultants following the approval of this RFP. Funding sources may include the Sewer Operations and Maintenance Fund and the Public Works Trust Fund 834 (Japanese Garden).

FUTURE ACTIONS

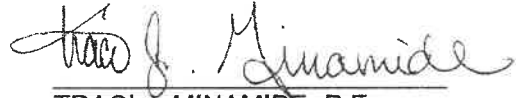
Upon authorization by the Board, the RFP and attachments will be posted on www.labavn.org.

A review committee will evaluate the proposals. The most qualified proposer(s), who submitted the best proposal(s) in response to the RFP, will be interviewed, ranked, and selected. LASAN will then negotiate a personal services contract with the highest rated firm to provide the required services. Subsequent to the negotiation of the contract, LASAN will request the Board for authority to award and execute a contract with the selected proposer.

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
JULY 21, 2021

Page 7

Respectfully submitted,



TRACI J. MINAMIDE, P.E.
Interim Director and General Manager
Bureau of Sanitation

COMPLIANCE REVIEW PERFORMED
AND APPROVED BY:

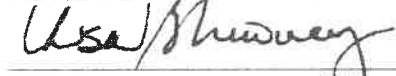


LYNDA McGLINCHEY, Program Manager II
Office of Contract Compliance
Bureau of Contract Administration



JOHN L. REAMER, JR.
Inspector of Public Works
Bureau of Contract Administration

REVIEWED AND APPROVED BY:



LISA B. MOWERY, P.E., Chief Financial Officer
Bureau of Sanitation
Date: 7-2-21

Prepared by:
Nicholas Milos, DCTWRP
(818) 778-4134

DRAFT

TRANSMITTAL 2

CONTRACT NO. C- _____

SERVICE AGREEMENT
BETWEEN
THE CITY OF LOS ANGELES
AND
PARKWOOD LANDSCAPE MAINTENANCE, INC.
FOR
THE JAPANESE GARDEN SPECIALIZED SITE SERVICES



City of Los Angeles
Department of Public Works
Los Angeles Sanitation

Barbara Romero, Director and General Manager
Traci Minamide, Assistant Director

Donald C. Tillman Water Reclamation Division
Fernando Gonzalez, Manager

The Japanese Garden Specialized Site Services

TABLE OF CONTENTS

ARTICLE 1 – CONSTRUCTION OF PROVISIONS AND TITLES HEREIN	6
ARTICLE 2 – DEFINITIONS	6
ARTICLE 3 – PROJECT DESCRIPTION	7
ARTICLE 4 – RESPONSIBILITIES OF AND SERVICES/TASKS TO BE	7
ARTICLE 5 – KEY CONTRACTOR PERSONNEL	14
ARTICLE 6 – RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY CITY	15
ARTICLE 7 – TERM OF AGREEMENT AND TIME OF EFFECTIVENESS	16
ARTICLE 8 – SUSPENSION	16
ARTICLE 9 – TERMINATION	16
ARTICLE 10 – SUBCONTRACT APPROVAL	19
ARTICLE 11 - COMPENSATION, INVOICING, AND PAYMENT	19
ARTICLE 12 – AMENDMENTS, CHANGES, OR MODIFICATIONS	24
ARTICLE 13 – INDEMNIFICATION AND INSURANCE	24
ARTICLE 14 – INDEPENDENT CONTRACTORS	25
ARTICLE 15 – WARRANTIES AND RESPONSIBILITY OF CONTRACTOR	25
ARTICLE 16 - INTELLECTUAL PROPERTY INDEMNIFICATION	26
ARTICLE 17 – INTELLECTUAL PROPERTY WARRANTY	26
ARTICLE 18 – OWNERSHIP AND LICENSE	26
ARTICLE 19 – SUCCESSORS AND ASSIGNS	27
ARTICLE 20 – CONTACT PERSONS - PROPER ADDRESSES - NOTIFICATION	27
ARTICLE 21 – FORCE MAJEURE (EXCUSABLE DELAYS)	28
ARTICLE 22 – SEVERABILITY	28
ARTICLE 23 – DISPUTES	29
ARTICLE 24 – ENTIRE AGREEMENT	29
ARTICLE 25 – APPLICABLE LAW, INTERPRETATION, AND ENFORCEMENT	29

ARTICLE 26 – CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED	29
ARTICLE 27 – WAIVER	30
ARTICLE 28 – PROHIBITION AGAINST ASSIGNMENT OR DELEGATION	30
ARTICLE 29 – PERMITS	30
ARTICLE 30 – BEST TERMS	30
ARTICLE 31 – CLAIMS FOR LABOR AND MATERIALS	30
ARTICLE 32 – BREACH	30
ARTICLE 33 – MANDATORY PROVISIONS PERTAINING TO NON-	31
ARTICLE 34 – CHILD SUPPORT OBLIGATIONS ASSIGNMENT ORDERS	31
ARTICLE 35 – LIVING WAGE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE	32
ARTICLE 36 – ACCESS AND ACCOMMODATIONS	33
ARTICLE 37 – CONTRACTOR RESPONSIBILITY ORDINANCE	33
ARTICLE 38 – LOS ANGELES BUSINESS INCLUSION PROGRAM	33
ARTICLE 39 – DISCLOSURE ORDINANCES	34
ARTICLE 40 – CONTRACTOR PERFORMANCE EVALUATION ORDINANCE	34
ARTICLE 41 – MUNICIPAL LOBBYING ORDINANCE	34
ARTICLE 42 – FIRST SOURCE HIRING ORDINANCE	35
ARTICLE 43 – COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470(c)(12) FOR MEASURE H/CONTRACTOR CONTRIBUTIONS/ FUNDRAISING	35
ARTICLE 44 – COMPLIANCE WITH THE IRAN CONTRACTING ACT OF 2010	36
ARTICLE 45 – INTEGRATED CONTRACT	36
ARTICLE 47 – LOCAL BUSINESS PREFERENCE ORDINANCE	37
ARTICLE 48 – CITY CONTRACTOR’S USE OF CRIMINAL HISTORY FOR	37
ARTICLE 49 – COMPLIANCE WITH IDENTITY THEFT LAWS AND PAYMENT	37
ARTICLE 50 – COMPLIANCE WITH CALIFORNIA PUBLIC RESOURCES CODE	37
ARTICLE 51 – POSSESSORY INTERESTS TAX	38
ARTICLE 52 – CONFIDENTIALITY	38
ARTICLE 53 – COUNTERPARTS	38

EXHIBITS

[This is a sample list. Please include all project specific exhibits as well.]

- Exhibit 01 Schedule A, List of MBE/WBE/SBE/EBE/DVBE/OBE Subcontractors
- Exhibit 02 Schedule B, MBE/WBE/SBE/EBE/DVBE/OBE Utilization Profile for Task/Project Work
- Exhibit 03 Insurance Contractual Requirements
- Exhibit 04 Slavery Disclosure Ordinance
- Exhibit 05 Declaration of Compliance with Living Wage Ordinance
- Exhibit 06 Contractor Responsibility Ordinance
- Exhibit 07 Business Tax Registration Certificate
- Exhibit 08 Los Angeles Residence Information
- Exhibit 09 Non-Collusion Affidavit
- Exhibit 10 Contract History
- Exhibit 11 Municipal Lobbying Ordinance
- Exhibit 12 First Source Hiring Ordinance
- Exhibit 13 Contract Bidder Campaign Contribution and Fundraising Restrictions
- Exhibit 14 Iran Contracting Act of 2010
- Exhibit 15 Equal Benefits Ordinance Affidavit
- Exhibit 16 Project Services Cost Estimate
- Exhibit 17 Hourly Billing Rate

DRAFT

THE JAPANESE GARDEN SPECIALIZED SITE SERVICES

This AGREEMENT, made and entered into by and between the City of Los Angeles, a municipal corporation acting by order of and through its Board of Public Works, hereinafter called the "CITY", and "Parkwood Landscape Maintenance, Inc." hereinafter referred to as the "CONTRACTOR "; is set forth as follows:

WITNESSETH

WHEREAS, the CITY has a need for specialized site services for The Japanese Garden and adjacent areas at the Donald C. Tillman Water Reclamation Plant; and

WHEREAS, the CITY is committed to maintain and provide the necessary site services for The Japanese Garden and the public's enjoyment; and

WHEREAS, Parkwood Landscape Maintenance, Inc. services are deemed to be vital to meet the CITY's commitment to [provide the services herein referred to as specialized site services]; and

WHEREAS, the CITY plans to utilize Parkwood Landscape Maintenance, Inc. to provide services for specialized landscaping and site services, during the course of a five (5) year period with one (1) two-year renewal options; and

WHEREAS, on July 21, 2021, the Board of Public Works authorized the Bureau of Sanitation (LASAN) to distribute a Request for Proposals for proposals from contractors with experience maintaining highly stylized landscapes to provide site services which include support staff with expertise in Japanese Garden design along with as-needed professional services at the Japanese Garden and to negotiate a contract with a qualified proposer; and

WHEREAS, on September 20, 2021 LASAN received two (2) of proposals in response to the RFP; and

WHEREAS, Parkwood Landscape Maintenance, Inc. was deemed the most qualified proposer with the best experience, and expertise to perform said services as determined by CITY staff based on the evaluation criteria set forth in the RFP; and

WHEREAS, Parkwood Landscape Maintenance, Inc. meets the State requirements to perform landscape work work as defined by the State of California Contractors License and Board; and

WHEREAS, the services to be provided by Parkwood Landscape Maintenance, Inc. are of an expert and technical nature; and

NOW, THEREFORE, in consideration of the foregoing and of the benefits which will accrue to the parties hereto in carrying out the terms and conditions of this AGREEMENT, it is understood and agreed by and between the parties hereto as follows:

ARTICLE 1 – CONSTRUCTION OF PROVISIONS AND TITLES HEREIN

All titles, subtitles, and/or section headings appearing in this CONTRACT have been inserted for convenience and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning, intent, or construction of any of the terms or provisions hereof. The language of this AGREEMENT shall be construed according to its fair meaning and not strictly for or against the CITY or the CONTRACTOR. The word "CONTRACTOR" herein in this AGREEMENT includes the party or parties identified in the AGREEMENT. The singular shall include the plural; if there is more than one CONTRACTOR 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.

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:

AGREEMENT/CONTRACT	This contractual agreement between the CITY and Parkwood Landscape Maintenance, Inc. for The Japanese Garden Specialized Site Services.
BOARD	The Board of Public Works of the City of Los Angeles.
CALENDAR DAYS	Each day beginning at 12:01 a.m. and ending twenty-four (24) hours thereafter at 12:00 midnight.
CITY	The City of Los Angeles, Board of Public Works or its subordinate Bureaus. Depending on the context in which it is used, the term CITY may also refer to the geographic area known as the City of Los Angeles, the City Council, other Departments of the City of Los Angeles, or any person employed by the City of Los Angeles who is authorized to represent the City of Los Angeles in manners concerning this document.
CITY PROJECT MANAGER	The CITY'S designated representative for all issues related to this AGREEMENT

CONTRACTOR	Parkwood Landscape Maintenance, Inc.
CONTRACT MANAGER	The CONTRACTOR'S designated representative for all issues related to this CONTRACT.
CONTRACTOR SERVICES	All services to be provided by the CONTRACTOR specified in this AGREEMENT.
DCT	Donald C. Tillman Water Reclamation Plant
DIRECTOR	Director of LASAN or his/her designated representative
HOLIDAYS	New Year's Day, Independence Day, Labor Day, Thanksgiving, Christmas and other holidays officially designated and observed as such by the CITY.
LASAN	Bureau of Sanitation, Department of Public Works, City of Los Angeles.
MBE/WBE/SBE/EBE/DVBE/OBE	Minority/Women/Small/Emerging/Disabled Veteran/Other Business Enterprises
SDS	Safety Data Sheet
SUBCONTRACTOR	An individual or company having an agreement with the CONTRACTOR to provide services, equipment, or materials to the CONTRACTOR

ARTICLE 3 – PROJECT DESCRIPTION

Provide specialized site services for the Japanese Garden and adjacent areas located at the Donald C. Tillman Water Reclamation Plant, 6100 Woodley Avenue, Van Nuys, California 91406.

These specialized site services may include, but are not limited to: application of chemicals and fertilizers, pruning, trimming, and training of plant material, irrigation, planting, weeding, renovation and/or development of garden/site elements and programs, and support and set up for Garden Cultural and special events.

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

- 4.1 The CONTRACTOR shall perform the services described in Article 4.3 [SCOPE OF SERVICES ARTICLE]. The CONTRACTOR shall perform such work with a degree of skill and diligence normally employed by professional analysts or contractors performing the same or similar services. The CONTRACTOR warrants that the services will be performed consistent with generally accepted industry standards.

4.2 Maintenance of Records

The CONTRACTOR shall maintain all records, including records of financial transactions, pertaining to the performance of this CONTRACT, in their original form or as otherwise approved by the CITY. These records shall be retained for a period of no less than three (3) years from the later of the following: (1) the final payment made by the CITY, (2) the expiration of this CONTRACT, or (3) termination of this CONTRACT. The records will be subject to examination and audit by authorized CITY personnel or the CITY'S representatives at any time. The CONTRACTOR shall provide any reports requested by the CITY regarding the performance of this CONTRACT. Any subcontract entered into by the CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

In lieu of retaining the records for the term as prescribed in this provision, the CONTRACTOR may, upon the CITY'S written approval, submit the required information to the CITY in an electronic format, e.g. USB flash drive, at the expiration or termination of this CONTRACT.

4.3 Scope of Services

A. GENERAL DESCRIPTION

Provide site-related specialized services at The Japanese Garden and adjacent areas located at 6100 Woodley Avenue, Van Nuys, CA 91406. These specialized site services shall include, but will not be limited to the following:

- Maintenance of paths and dry garden elements
- Maintenance of lakes and display fountain water features
- Renovation and construction of garden elements
- Site and facilities cleaning
- Specialized sculpting and pruning of shrubbery, trees, bamboo and dish-sized bonsai
- Support and set up for Garden cultural and special events
- Care and planting of California native plants
- Purchasing of equipment and materials

- Technical landscape and site support services
- Procurement services for cultural and special programs
- Application, accountability and reporting of pesticides, herbicides and fungicides
- Professional specialized Japanese sculpturing of large scale bonsai black pine trees
- Harvesting, preparing and installing stylized bamboo elements
- Procuring subcontractors (as needed) for projects and support

B. LOCATIONS

Locations where work shall be performed shall include, but not be limited to the following:

Entry to the water reclamation facility
 Main parking lot at the south entry roadway to the Garden
 Administration Building
 Admission and Ancillary Buildings
 Native dike area on the southeast and south boundaries
 Niwa Road located north of the Garden
 All areas interior and adjacent to the 6 ½ acre Japanese Garden
 Nursery along the north plant boundary

C. PROCUREMENT

Materials and supplies to be procured shall include but not be limited to the following:

Materials, power equipment, supplies, chemicals, parts, tools, rentals and maintenance of equipment necessary to successfully complete the required services, program support materials, subcontracting and site services for cultural/special programs as directed by the CITY PROJECT MANAGER.

All items purchased shall become the property of the CITY. The CITY PROJECT MANAGER or designee shall authorize all purchases in writing prior to procurement. The CITY PROJECT MANAGER or designee may direct the CONTRACTOR to the source which it shall utilize for any or all procurement. The CONTRACTOR may be required to obtain a minimum of three (3) bids from vendors prior to procurement, if directed to do so by the CITY PROJECT MANAGER.

D. PEST CONTROL ADVISOR

CONTRACTOR shall provide a Pest Control Advisor who shall provide annual recommendations for all chemical applications as part of this CONTRACT. The

Advisor shall have an active Pest Control Advisors License for Category "B" (Landscape Maintenance) from the State of California, Department of Pesticide Regulation. Original recommendations shall be kept on file at the Garden office. Safety Data Sheets (SDS's) shall be provided with each pest control recommendation. Two (2) copies placed in binders of all recommendations, chemical labels, and SDS's shall be supplied to the Garden office and the CONTRACTOR'S on-site staff and made available to them at all times to review. Types of chemicals used are, but not limited to: Pesticides, Herbicides and Fungicides.

General Criteria for Recommendations

- No restricted chemicals shall be used unless the amount used does not require a use permit. No restricted chemicals are currently used at the site.
- No chemicals requiring more than 24 hours re-entry shall be used.

Site Visits and Chemical Application

- Conduct one (1) annual site visit for the purpose of developing annual recommendations which will be used by the CONTRACTOR's staff for a one-year period. The current number of annual recommendations is 50. Recommendations for chemicals which are not currently in use shall be added as needed and renewed annually by the CITY PROJECT MANAGER.
- Conduct six (6) on-call site visits annually as determined by the CITY CONTRACT MANAGER or designee. Each site visit may be for more than one purpose and require more than one recommendation. Each recommendation shall be written for up to one year's use and renewed with all other annual recommendations. Site visits and recommendation(s) must be provided within 72 hours of request and approved by the City Contract Manager. After 72 hours, if the service has not been provided, the CITY will proceed as necessary to provide the required service and charge all associated costs to the CONTRACTOR.
- Provide at least three (3) on-site staff who are qualified for the applications of chemicals to all on-site areas. Safety training and monitoring shall be the responsibility of the CONTRACTOR. All associated costs shall be the responsibility of the CONTRACTOR.
- All persons working within the described work locations within the RFP (staff and contractors) shall be trained as necessary to work within and around the application of chemicals. Records of all training shall be provided to the CITY PROJECT MANAGER.

- All reporting of chemical use shall be made by the CONTRACTOR to the County of Los Angeles Agriculture Department with copies as well as Daily Application Reports shall be provided to the CITY PROJECT MANAGER.

E. CONTRACTOR'S VEHICLE

The CONTRACTOR's vehicle will be used for hauling, pick-up and delivery of materials on and off-site for the day-to-day site services at the Garden and adjacent areas. The CONTRACTOR will supply a full size, (1/2) ton and 8ft bed, company pick-up vehicle and a licensed operator, on site, every workday during work hours and emergency call-in. The company pick-up vehicle shall be a one-half ton, full size long bed truck (minimum) with a receiver hitch. All associated costs, which include insurance, fuel, maintenance, repairs, etc., are to be included as part of the CONTRACTOR's overhead. The CONTRACTOR will house this vehicle at the project site. This vehicle shall remain on site at all times and shall be available for after hours, over-time work as directed.

F. PERSONNEL REQUIREMENTS

The CITY will require the following number of personnel for the site services:

Table 1

DESCRIPTION	NO. REQUIRED	HRS. PER DAY	DAYS PER WEEK
Landscape Maintenance Supervisor	1	8	5
Landscape Maintenance Laborer	5	8	5
Nurseryman	1	8	5
Additional Seasonal Personnel (as requested)	Varies	8	Varies
TOTAL NO. OF PERSONNEL	7 (estimated)		

- WorkForce Requirement- The CONTRACTOR shall meet the CITY's workforce requirements regardless of employee sick time, vacation, etc. The proposed regular work schedule will be Monday through Friday 6:30 a.m. – 3:00 p.m. for all employees except one Landscape Maintenance Laborer whose proposed regular work schedule will be Sunday through Thursday 6:30 a.m. – 3:00 p.m.
- Job Reporting - All Staff including any additional On-Call Staff should report to The Japanese Garden at the beginning of their work shift.

- Overtime - Overtime rates shall apply for a workday in excess of eight (8) hours and weekend work (when requested) when an employee exceeds 40 hours in a work week. Emergency call-in's (when requested) shall be billed separately. All CONTRACTOR's staff assigned to work at this location must be available for overtime work (weekdays, Saturday, Sunday and some holidays).
- Rain Day(s) - The CITY reserves the right to suspend daily services due to rain. When written notification is given a day prior to the CONTRACTOR to not provide services for the next day, the CITY will not be charged by the CONTRACTOR for any staff time. If the CONTRACTOR staff has reported at the start of their work shift, the CITY reserves the right to release the staff, when notified within the first four (4) hours of the work shift. When the CONTRACTOR is notified within the first four (4) hours, the CITY will only be liable to pay four (4) hours of CONTRACTOR staff time.

G. EXPERIENCE

The CONTRACTOR shall possess an active State of California, Landscape Contractors License (C-27) and must keep the license active for the duration of this AGREEMENT. The CONTRACTOR who possesses this license must actually engage in a minimum of 70% of this AGREEMENTS scope of work and provide staff with the following minimum experience.

- Landscape Maintenance Supervisor

Landscape Maintenance Supervisor must possess the following minimum qualifications and qualities and provide supporting documentation as confirmation:

- (a) A minimum of three (3) years of experience as a landscape maintenance supervisor.
- (b) A minimum of five (5) years landscape maintenance work experience on job sites of equal or greater size and scope of work as found in the Garden.
- (c) Ability to multi-task assignments.
- (d) Ability to explicitly follow directions and assignments as directed by the CITY PROJECT MANAGER.
- (e) Ability to comprehend, speak, read and write in both English and Spanish.
- (f) Possess an active State of California driver's license for operation of the company pick-up truck.
- (g) Ability to properly operate all types of landscape maintenance, landscape construction, power tools and landscape ride on equipment (except heavy equipment).
- (h) Experience troubleshooting irrigation problems; maintaining irrigation systems and directing repairs.
- (j) Application of chemical and related report/record keeping.

- Nurseryman

The CONTRACTOR shall assign a Nurseryman to this project on a daily basis that has a minimum of one (1) year experience within the past two (2) years working in a retail or wholesale nursery and was responsible for: watering, fertilizing, care and planting of liners to 36" box plant material. This position may be used in other areas of this site for non-nursery work as instructed by the CITY PROJECT MANAGER.

- Landscape Maintenance Laborer

PROPOSER shall provide documentation confirming that the landscape maintenance laborers have a minimum of six (6) months of landscape maintenance experience within the past twelve (12) months.

- Seasonal Personnel

The CONTRACTOR shall have the ability to provide seasonal personnel. Staff provided shall possess a minimum of six (6) months of landscape maintenance experience within the past twelve (12) months.

- Tree Pruner/Climber

The CONTRACTOR shall have the ability to provide personnel, as required, to complete tree pruning. The Tree Pruner/Climber must possess the following minimum qualifications and qualities and provide supporting documentation as confirmation:

- (a) Possess an active and current certification as an ISA Tree Worker Climber Specialist or Arborist; or
- (b) Have eighteen (18) months full-time consecutive tree climbing experience and knowledge of arboriculture science and tree identification equal to an ISA certified arborist.

- Irrigation Technician

The CONTRACTOR shall have the ability to provide personnel, as required, who is skilled in the repair of pressure and non-pressure lines, troubleshoot and repair of electrical, hydraulic and control system such as valves, timers, regulators, strainers, backflow device and associated assembly's, weather stations, smart irrigation components, and use of various location devices relating to irrigation systems. The Irrigation Technician shall also demonstrate efficiency in time management and coordination skills necessary to deliver a completed repair,

installation or trouble shoot with economic efficiency. The Irrigation Technician must possess the following minimum qualifications:

- (a) Possess certification, in good standing, from the Irrigation Association as a Certified Irrigation Technician; or
- (b) Have five (5) years irrigation installation experience with advancing skills to the level described above and the past two (2) years continuous work at that level.

The CONTRACTOR shall include the staff organization chart, which shows the relationship of the CONTRACTOR and SUBCONTRACTOR(S), if any. The minimum work to be performed by the CONTRACTOR'S own firm shall not be less than 70%.

H. MISCELLANEOUS

- Additional Support - As needed, the CITY PROJECT MANAGER may elect to alter and/or revise services to cover unforeseen situations and/or additions or changes in the scope of the work.
- Safety Related Requirements - All safety related requirements are the responsibility of the CONTRACTOR and shall be supplied by the CONTRACTOR at no additional cost to the CITY. All training, tailgates, etc. shall not be conducted during work hours unless otherwise approved by the CITY.

I. CITY'S RIGHT TO INSPECT WORK

The CITY PROJECT MANAGER and the Bureau of Contract Administration Inspector shall have the right to review completed work and work in progress to ascertain that the requirements of the CONTRACT are being fulfilled. Deficiencies noted shall be promptly corrected at the CONTRACTOR'S expense.

J. CONTRACTOR/SUBCONTRACTOR LICENSING

The CONTRACTOR and/or its SUBCONTRACTOR(S) or agents must possess and maintain current, valid, and appropriate California licenses, if applicable, for performance of work in the Project, and must be properly registered with the State of California Department of Industrial Relations.

ARTICLE 5 – KEY CONTRACTOR PERSONNEL

- 5.1 The CONTRACTOR designates the following person to represent the CONTRACTOR in all matters pertaining to this AGREEMENT:

Name, Title: [INSERT NAME, TITLE]
Address: [INSERT ADDRESS]
Telephone: [INSERT PHONE]
E-mail: [INSERT E-MAIL]

Additional technical specialists shall be assigned subject to the CITY PROJECT MANAGER'S approval.

- 5.2 The CONTRACTOR agrees that personnel assigned to these positions at the commencement of services under this AGREEMENT shall serve in these positions as long as required by the CONTRACT, and the CONTRACTOR shall not change personnel assigned to these positions without the written consent and approval of the CITY'S PROJECT MANAGER five (5) days prior, whose consent shall not be withheld unreasonably.
- 5.3 Unless otherwise approved by the CITY, the CONTRACTOR shall use its own employees to perform the services described in this CONTRACT. The CITY has the right to review and approve any personnel who are assigned to work under this CONTRACT. The CONTRACTOR shall remove personnel from performing work under this CONTRACT if requested to do so by the CITY.
- 5.4 The CONTRACTOR shall not use SUBCONTRACTORS to assist in the performance of this CONTRACT without the prior written approval of the CITY. If the CITY permits the use of SUBCONTRACTORS, the CONTRACTOR shall remain responsible for performing all aspects of this CONTRACT and paying all SUBCONTRACTORS. The CITY has the right to approve the CONTRACTOR'S SUBCONTRACTORS, and the CITY reserves the right to request replacement of any SUBCONTRACTOR. The CITY does not have any obligation to pay the CONTRACTOR'S SUBCONTRACTORS, and nothing herein creates any privity of contract between the CITY and any SUBCONTRACTOR.

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

The CITY designates Patrick Rigney as its CITY PROJECT MANAGER to represent the CITY in all matters within the scope of this AGREEMENT 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 CITY PROJECT MANAGER. The CITY PROJECT MANAGER may designate an assistant to act in his/her stead. The CITY may designate another CITY employee to succeed Patrick Rigney as the CITY PROJECT MANAGER. The CONTRACTOR will be notified in writing in such event.

The CITY shall furnish, without charge, facilities and resources available to the CONTRACTOR as deemed reasonably necessary and appropriate by the CITY.

ARTICLE 7 – TERM OF AGREEMENT AND TIME OF EFFECTIVENESS

The term of this AGREEMENT shall be for five (5) years with one (1) renewal option of two (2) years at the CITY's sole discretion, from the date of full execution unless terminated as provided under Article 9 [TERMINATION ARTICLE] or extended by a duly approved amendment to this AGREEMENT and signed by the parties. In addition to the one (1) renewal option for two (2) years] the CITY may elect to extend the AGREEMENT on a month-to-month basis for a maximum of twelve (12) months, during which period the CITY and the CONTRACTOR shall continue performance under the terms of this AGREEMENT. The CITY may extend the AGREEMENT on month-to-month basis prior to the end of either the initial five (5)-year term if the CITY elects not to renew, or the end of the seven (7)-year term if the CITY elects to renew, by providing the CONTRACTOR a written notice at least 90 days prior to expiration of the AGREEMENT. During the period of extension, the CITY shall increase the expenditure amount for services performed by the CONTRACTOR by a maximum of five percent (5%) of the total CONTRACT cost. During such period of month-to-month operation, if either party decides to terminate the relationship, the CONTRACTOR shall be obligated to continue performance for at least sixty (60) days after written notice from the terminating party.

Unless otherwise provided, this CONTRACT shall take effect when all of the following events have occurred:

- A. This CONTRACT has been signed on behalf of the CONTRACTOR by the person or persons authorized to bind the CONTRACTOR;
- 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.

ARTICLE 8 – SUSPENSION

At the CITY'S sole discretion, the CITY may suspend any or all services provided under this CONTRACT by providing the CONTRACTOR with a written notice of suspension. Upon receipt of the notice of suspension, the CONTRACTOR shall immediately cease the services suspended and shall not incur any additional obligations, costs, or expenses to the CITY until the CITY gives written notice to recommence the services.

ARTICLE 9 – TERMINATION

9.1 Termination for Convenience

The CITY may terminate this CONTRACT, in whole or in part, for the CITY'S convenience at any time by providing the CONTRACTOR thirty days (30) written notice. Upon receipt of the notice of termination, the CONTRACTOR shall immediately take action not to incur any additional obligations, costs, or expenses, except as may be necessary to terminate its activities. The CITY shall pay the CONTRACTOR its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by the CONTRACTOR to effect the termination. Thereafter, the CONTRACTOR 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 the CITY is entitled to, shall become CITY property upon the date of the termination. The CONTRACTOR agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY'S ownership of rights provided herein.

9.2 Termination for Breach of Contract

9.2.1 Except as provided in Article 21 [FORCE MAJEURE/EXCUSABLE DELAYS ARTICLE], if the CONTRACTOR 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 the CONTRACTOR written notice of the default. The CITY'S default notice will indicate whether the default may be cured and the time period to cure the default to the sole satisfaction of the CITY. Additionally, the CITY'S default notice may offer the CONTRACTOR an opportunity to provide the CITY with a plan to cure the default, which shall be submitted to the CITY within the time period allowed by the CITY. At the CITY'S sole discretion, the CITY may accept or reject the CONTRACTOR'S plan. If the default cannot be cured or if the CONTRACTOR fails to cure within the period allowed by the CITY, then the CITY may terminate this CONTRACT due to the CONTRACTOR'S breach of this CONTRACT.

9.2.2 If the default under this CONTRACT is due to the CONTRACTOR'S failure to maintain the insurance required under this CONTRACT, the CONTRACTOR shall immediately: (1) suspend performance of any services under this CONTRACT for which insurance was required; and (2) notify its employees and SUBCONTRACTORS of the loss of insurance coverage and the CONTRACTOR'S obligation to suspend performance of services. The CONTRACTOR shall not recommence performance until the CONTRACTOR is fully insured and in compliance with the CITY'S requirements.

9.2.3 If a federal or state proceeding for relief of debtors is undertaken by or against the CONTRACTOR, or if the CONTRACTOR makes an assignment

for the benefit of creditors, then the CITY may immediately terminate this CONTRACT.

9.2.4 If the CONTRACTOR engages in any dishonest conduct related to the performance or administration of this CONTRACT or violates the CITY'S laws, regulations, or policies relating to lobbying, then the CITY may immediately terminate this CONTRACT.

9.2.5 Acts of Moral Turpitude

- a) The CONTRACTOR shall immediately notify the CITY if the CONTRACTOR or any Key Person, as defined below, is charged with, indicted for, convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, any act which constitutes an offense involving moral turpitude under federal, state, or local laws ("Act of Moral Turpitude").
- b) If the CONTRACTOR or a Key Person is convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to an Act of Moral Turpitude, the CITY may immediately terminate this CONTRACT.
- c) If the CONTRACTOR or a Key Person is charged with or indicted for an Act of Moral Turpitude, the CITY may terminate this CONTRACT after providing the CONTRACTOR an opportunity to present evidence of the CONTRACTOR'S ability to perform under the terms of this CONTRACT.
- d) Acts of Moral Turpitude include, but are not limited to: violent felonies as defined by Penal Code Section 667.5, crimes involving weapons, crimes resulting in serious bodily injury or death, serious felonies as defined by Penal Code Section 1192.7, and those crimes referenced in the Penal Code and articulated in the California Public Resources Code Section 5164(a)(2); in addition to and including acts of murder, rape, sexual assault, robbery, kidnapping, human trafficking, pimping, voluntary manslaughter, aggravated assault, assault on a peace officer, mayhem, fraud, domestic abuse, elder abuse, and child abuse, regardless of whether such acts are punishable by felony or misdemeanor conviction.
- e) For the purposes of this provision, a Key Person is a principal, officer, or employee assigned to this CONTRACT, or owner (directly or indirectly, through one or more intermediaries) of ten percent or more of the voting power or equity interests of the CONTRACTOR.

9.2.6 In the event the CITY terminates this CONTRACT as provided in this section, the CITY may procure, upon such terms and in the manner as the CITY may deem appropriate, services similar in scope and level of effort to those so terminated and the CONTRACTOR shall be liable to the CITY for all of its costs and damages, including, but not limited to, any excess costs for such services.

9.2.7 If, after notice of termination of this CONTRACT under the provisions of this section, it is determined for any reason that the CONTRACTOR 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 PSC-9(A) Termination for Convenience.

9.2.8 The rights and remedies of the CITY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this CONTRACT.

9.3 In the event that this CONTRACT is terminated, the CONTRACTOR shall immediately notify all employees and SUBCONTRACTORS and shall notify in writing all other parties contracted with under the terms of this CONTRACT within five (5) working days of the termination.

ARTICLE 10 – SUBCONTRACT APPROVAL

All subcontracts that are one half of one percent (0.5%) of the total CONTRACT amount or \$10,000, whichever is greater, shall require the prior approval of the CITY. A copy of all subcontracts shall be submitted to the CITY PROJECT MANAGER showing the SUBCONTRACTOR'S name and dollar amount of each subcontract. Wholly-owned subsidiaries of the CONTRACTOR shall not be considered SUBCONTRACTORS/SUBCONSULTANTS. The CONTRACTOR shall not substitute SUBCONTRACTORS listed in this AGREEMENT without the prior written approval of the CITY. The CONTRACTOR shall not add SUBCONTRACTORS to assist in the performance of this AGREEMENT without the prior written approval of the CITY. If the CITY permits the use of SUBCONTRACTORS, the CONTRACTOR shall remain responsible for performing all aspects of this CONTRACT. The CITY has the right to approve the CONTRACTOR'S SUBCONTRACTORS, and the CITY reserves the right to request replacement of SUBCONTRACTORS. The CITY does not have any obligation to pay the CONTRACTOR'S SUBCONTRACTORS, and nothing herein creates any privity of contract between the CITY and the SUBCONTRACTORS.

ARTICLE 11 - COMPENSATION, INVOICING, AND PAYMENT

11.1 Definitions

- 11.1.1 "Cost" as used herein is defined as the sum of: (1) Billing Salary Rates; (2) Indirect Expenses; (3) Other Direct Costs; and (4) Profit of as defined below. "Billing Salary Rates" shall be at the rates approved by the CITY PROJECT MANAGER, to be charged by the CONTRACTOR for employees' time directly chargeable to their performance of the project work. Any adjustments to the CONTRACTOR'S direct salary rate shall be in accordance with established BUREAU policies existing at the time the adjustment is approved. Billing Salary Rate increases are limited to once per year, per employee, on the anniversary date of the CONTRACTOR'S AGREEMENT execution and are subject to the approval of the CITY. In no case shall the "Billing Salary Rates" exceed the actual salary rate paid to the employee.

Any adjustment to the SUBCONTRACTORS' salaries and Hourly Billing Rates shall be reviewed and approved by the CITY PROJECT MANAGER prior to invoicing. Adjustments to the SUBCONTRACTORS' salaries and Hourly Billing Rates may be increased one time per year, per employee, on the anniversary date of the CONTRACTOR'S AGREEMENT execution. Any such increases shall be in accordance with established BUREAU policy at the time the adjustment is approved.

- 11.1.2 "Indirect Expenses" (including payroll burden, overhead, and general and administrative expenses) shall be at the rate applied to Billing Salary Rate. Indirect Expenses for this Contractor Services Agreement is fixed at a rate of eighteen percent (18%) for CONTRACTOR personnel for the duration of the AGREEMENT.
- 11.1.3 "Other Direct Costs" includes those costs of the CONTRACTOR directly identifiable to or incurred in the performance of services hereunder, including but not limited to reproduction, equipment owned or rented by the CONTRACTOR (any equipment purchased and paid for under this project shall become the property of the CITY), materials and supplies used in the work. These shall be the actual amount paid by the CONTRACTOR plus an administrative fee of fifteen percent (15%) not including freight and all associated taxes.
- 11.1.4 "Subcontract Expenses" shall be the actual amount paid by the CONTRACTOR to the SUBCONTRACTOR for their services to the CITY plus an administrative fee of fifteen percent (15%).
- 11.1.5 "Profit" shall be limited to twelve percent (12%) and shall be applied to the summation of "Indirect Expenses" and "Billing Salary Rates".

- 11.1.6 Costs incurred by the CONTRACTOR prior to the actual date of full execution of this AGREEMENT shall only be payable to the CONTRACTOR if said costs were incurred in completing any task specifically authorized by this AGREEMENT and said costs are reviewed and approved by the CITY in writing and said approval for payment occurs after this AGREEMENT is fully executed.
- 11.1.7 Exhibit 16 [PROJECT SERVICES COST ESTIMATE], Project Services Cost Estimate, attached hereto and incorporated herein by this reference, shall be the format used for the estimated total cost by task for each Task Order. For Task Orders specifying a Cost Reimbursement Plus Profit 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 costs, and profit. For 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.
- 11.1.8 Hourly Billing Rate is a method of compensation whereby the CONTRACTOR is compensated on an hourly basis pursuant to established Hourly Billing Rates set forth in Exhibit 17 [HOURLY BILLING RATE]. The hourly billing rates shall be approved by the CITY PROJECT MANAGER for the CONTRACTOR employees' time directly chargeable to their performance of the project work and includes salary, fringe benefits, overhead, profit, and all other expenses incurred by the CONTRACTOR. Payments shall be made upon the satisfactory completion of the tasks or milestones as set forth in Article 4.3.
- 11.1.9 The CITY will not pay for the CONTRACTOR'S nor SUBCONTRACTOR'S personnel for invoice preparation. The CITY will not pay for the CONTRACTOR'S nor SUBCONTRACTOR'S communication expenses and computer time charges.

11.2 Compensation

The CONTRACTOR agrees to perform the work specified in Article 4.3 [SCOPE OF SERVICES ARTICLE], and the CITY shall compensate the CONTRACTOR either on a Lump Sum basis, a Cost Reimbursement Plus Profit basis, or an Hourly Billing Rate basis upon mutual written agreement. The CITY shall designate the compensation method in the Task Orders to be issued under this AGREEMENT. If the Task Order specifies the compensation as being on a Cost Reimbursement Plus Profit or Hourly Billing Rate basis, payment shall be made in accordance with the Task Cost Estimates to be provided for CITY approval prior to issuance of Notice to Proceed for any task under this AGREEMENT. Hourly rates, SUBCONTRACTOR

fees, and other direct/indirect charges shall be in accordance with rates set herein. Individuals who the CONTRACTOR wishes to add to the project must have their compensation rate approved by the CITY'S PROJECT MANAGER, and a revised Scope of Services must be prepared as evidence of this addition. The total cost ceiling shall be stated in the Task Order.

The total cost ceiling for this AGREEMENT is \$6,770,000.

11.3 Invoicing and Payment

11.3.1 The CONTRACTOR shall, once each month, submit to the 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 the CONTRACTOR for services provided during the preceding month. Payments shall be made upon the submission of a complete and accurate invoice and supporting documentation. The CITY shall review the CONTRACTOR'S invoice in accordance with the CITY's review procedures. The CITY shall make a good faith effort to process payments in 60 days.

11.3.2 [MUST INSERT THIS LANGUAGE] 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 reasonably required by the CITY to establish the amount of such invoices as allowable expenses. The CONTRACTOR shall submit a Subcontractor Utilization Form, Exhibit 2 [Schedule B, MBE/WBE/SBE/EBE/DVBE/OBE UTILIZATION PROFILE], as part of the monthly invoice, listing current MBE/WBE/SBE/EBE/ DVBE/OBE amounts invoiced as part of the invoicing procedures. The CONTRACTOR 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 invoices shall be paid without the Subcontractor Utilization Form attachment. All invoices shall be subject to audit for a period of four (4) years from the termination of this AGREEMENT.

11.3.3 [MUST INSERT SIMILAR LANGUAGE] The CITY shall not be obligated to reimburse the CONTRACTOR for costs incurred in excess of the Project Services Cost Estimate set forth. The CONTRACTOR shall not be obligated to continue performance (including actions under the temporary stop work or termination clauses) or otherwise incur costs in excess of the Project Services Cost Estimate unless and until the CITY shall have notified the CONTRACTOR in writing that such Project Services Cost Estimate has been increased and shall have specified in such notice an estimated Project Services Cost Estimate, which shall thereupon constitute the cost

performance of this AGREEMENT. In the absence of the specified notice, the CITY shall not be obligated to reimburse the CONTRACTOR for any costs in excess of the Project Services Cost Estimate set forth, whether those costs were incurred during the course of the AGREEMENT or as a result of termination.

11.3.4 [MUST INSERT] When and to the extent that the Project Services Cost Estimate has been increased, any costs incurred by the CONTRACTOR in excess of the Project Services Cost Estimate for any Task Order, prior to such increase, shall be allowable to the same extent as if such costs had been incurred after the increase.

11.3.5 [MUST INSERT] Notwithstanding any other provision of this CONTRACT, including any exhibits or attachments incorporated therein, and in order for the CITY to comply with its governing legal requirements, the CITY shall have no obligation to make any payments to the CONTRACTOR unless the CITY shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this CONTRACT. The CONTRACTOR agrees that any services provided by the CONTRACTOR, purchases made by the CONTRACTOR, or expenses incurred by the CONTRACTOR in excess of the appropriation(s) shall be free and without charge to the CITY and the CITY shall have no obligation to pay for the services, purchases, or expenses. The CONTRACTOR shall have no obligation to provide any services, provide any equipment, or incur any expenses in excess of the appropriated amount(s) until the CITY appropriates additional funds for this CONTRACT.

11.3.6 Billing breakdown shall be identified as Labor, Materials, and Subcontracting. Invoices shall be submitted on the first of the month and all appropriate supporting documentation shall be included in the invoice package. Labor related billing documents shall include weekly timesheets. Materials related documents shall include the original invoice documentation. Subcontracting related billing documents shall be submitted upon the completion and acceptance by the City Contract Manager or designee and shall include all invoices and related documentation. Subcontract work shall be paid by the CONTRACTOR within thirty (30) days of receipt of the invoice by the CONTRACTOR.

11.4 [MUST INSERT] False Claims Act

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

ARTICLE 12 – AMENDMENTS, CHANGES, OR MODIFICATIONS

All amendments, changes, or modifications to this CONTRACT shall be in writing and signed and approved pursuant to the provisions of Article 7 [TERM OF AGREEMENT AND TIME OF EFFECTIVENESS ARTICLE].

ARTICLE 13 – INDEMNIFICATION AND INSURANCE

13.1 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, the CONTRACTOR undertakes and agrees to defend, indemnify, and hold harmless the CITY and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits 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 the CONTRACTOR'S employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of negligent acts, errors, omissions, or willful misconduct incident to the performance of this AGREEMENT on the part of the CONTRACTOR or its subcontractors of any tier. The rights and remedies available to the CITY under this provision are cumulative of those provided for elsewhere in this AGREEMENT and those allowed under the laws of the United States, the State of California, and the CITY. The provisions of this paragraph shall survive termination or expiration of this AGREEMENT.

13.2 INSURANCE

During the term of this CONTRACT and without limiting the CONTRACTOR'S obligation to indemnify, hold harmless, and defend the CITY, the CONTRACTOR shall provide and maintain at its own expense during the term of this CONTRACT a program of insurance having the coverage and limits customarily carried and actually arranged by the CONTRACTOR but not less than the required amounts and types as determined by the Office of the City Administrative Officer of Los Angeles, Risk Management (template Form General 146 in Exhibit 3 [INSURANCE CONTRACTUAL REQUIREMENTS EXHIBIT] hereto). The insurance must: (1) conform to the CITY'S requirements; (2) comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 3 hereto); and (3) otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. The CONTRACTOR shall comply with all Insurance Contractual Requirements shown on Exhibit 3 hereto. The CITY may update or change the requirement levels set forth in Exhibit 3 at the CITY's sole discretion and must provide a minimum of

30 days for the CONTRACTOR to comply with any change in requirements. Exhibit 3 is hereby incorporated by reference and made a part of this CONTRACT.

ARTICLE 14 – INDEPENDENT CONTRACTORS

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

ARTICLE 15 – WARRANTIES AND RESPONSIBILITY OF CONTRACTOR

- 15.1 The CONTRACTOR warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within the CONTRACTOR'S profession, doing the same or similar work under the same or similar circumstances.
- 15.2 The CONTRACTOR shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by the CONTRACTOR and its SUBCONTRACTORS under this AGREEMENT. The CONTRACTOR shall perform such services as may be necessary to accomplish the work required to be performed under this AGREEMENT, in accordance with this AGREEMENT.
- 15.3 The CONTRACTOR shall exhibit proper professional judgment in the use of information furnished by the CITY in Article 6 [RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY CITY]. In the event that said information is not delivered timely or that it is discovered to be incorrect or misleading, the CONTRACTOR will notify the CITY in a reasonable manner within three (3) business days after the discovery of such tardiness or incorrect or misleading information and promptly make a determination of its costs and schedule impact on this AGREEMENT, as well as recommendations for the correction of such incorrect or misleading information.
- 15.4 The CONTRACTOR shall perform such professional services as may be necessary to accomplish the work required to be performed under this AGREEMENT in accordance with this AGREEMENT.
- 15.5 Except as specified in Article 13 [INTELLECTUAL PROPERTY INDEMNIFICATION ARTICLE] and as otherwise provided in this AGREEMENT, the CONTRACTOR shall be and shall remain liable, in accordance with applicable law, for all damages to

the CITY caused by the CONTRACTOR'S negligent performance of any of the services furnished under this AGREEMENT, except for errors, omissions, or other deficiencies to the extent attributable to the CITY, CITY-furnished data, or any third party (excepting any CONTRACTOR or SUBCONTRACTOR of any tier).

ARTICLE 16 - INTELLECTUAL PROPERTY INDEMNIFICATION

The CONTRACTOR, 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 lawsuits 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 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 (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by the CONTRACTOR, or its SUBCONTRACTORS of any tier, in performing the work under this CONTRACT; or (2) as a result of the CITY'S actual or intended use of any Work Product (as defined in Article 18 [OWNERSHIP AND LICENSE ARTICLE]) furnished by the CONTRACTOR, or its SUBCONTRACTORS of any tier, under this CONTRACT. The rights and remedies of the CITY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this CONTRACT. This provision will survive expiration or termination of this CONTRACT.

ARTICLE 17 – INTELLECTUAL PROPERTY WARRANTY

The CONTRACTOR 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, right of publicity, and/or proprietary information.

ARTICLE 18 – OWNERSHIP AND LICENSE

Unless otherwise provided for herein, all finished and unfinished works, tangible or not, created under this CONTRACT including, without limitation, documents, materials, data, reports, manuals, specifications, artworks, drawings, sketches, blueprints, studies, memoranda, computation sheets, 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 originated and prepared by the CONTRACTOR or its SUBCONTRACTORS under this CONTRACT (each a "Work Product"; collectively "Work Products") shall be and remain the exclusive property of the

CITY for its use in any manner the CITY deems appropriate. The CONTRACTOR hereby assigns, and agrees to assign, to the CITY all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared under this CONTRACT. The CONTRACTOR further agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY'S ownership of rights provided herein.

The CONTRACTOR agrees that a monetary remedy for breach of this CONTRACT may be inadequate, impracticable, or difficult to prove and that a breach may cause the CITY irreparable harm. The CITY may therefore enforce this requirement by seeking injunctive relief and specific performance, without any necessity of showing actual damage or irreparable harm. Seeking injunctive relief or specific performance does not preclude the CITY from seeking or obtaining any other relief to which the CITY may be entitled.

For all Work Products delivered to the CITY that are not originated or prepared by the CONTRACTOR or its SUBCONTRACTORS of any tier under this CONTRACT, the CONTRACTOR shall secure a grant, at no cost to the CITY, for a non-exclusive perpetual license to use such Work Products for any CITY purpose(s).

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

Any subcontract entered into by the CONTRACTOR relating to this CONTRACT shall include this provision to contractually bind or otherwise oblige its SUBCONTRACTORS 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 the CONTRACTOR to comply with this requirement or to obtain the compliance of its SUBCONTRACTORS with such obligations shall subject the CONTRACTOR to the imposition of any and all sanctions allowed by law, including but not limited to termination of the CONTRACTOR'S CONTRACT with the CITY.

ARTICLE 19 – SUCCESSORS AND ASSIGNS

All of the terms, conditions, and provisions hereof shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns provided, however, that no assignment of the AGREEMENT or any right or interest herein shall be made without written consent of the parties to this AGREEMENT as required under Article 28 [PROHIBITION AGAINST ASSIGNMENT OR DELEGATION ARTICLE].

ARTICLE 20 – CONTACT PERSONS - PROPER ADDRESSES - NOTIFICATION

All notices shall be made in writing and may be given by personal delivery, regular mail, or electronic mail. Notices sent by regular 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: Patrick Rigney
Address: 6100 Woodley Avenue, Van Nuys CA 91406
Telephone: (818) 756-4135
E-mail: Patrick.Rigney@lacity.org

To the CONTRACTOR:

Contact Person: [Name]
Address: [Address]
Telephone: [Phone]
E-mail: [E-mail]

ARTICLE 21 – FORCE MAJEURE (EXCUSABLE DELAYS)

Neither party shall be liable for its delay or failure to perform any obligation under and in accordance with this CONTRACT, if the delay or failure arises out of fires, floods, earthquakes, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by the party or any of the party's subcontractors), freight embargoes, terrorist acts, insurrections or other civil disturbances, or other similar events to those described above, but in each case the delay or failure to perform must be beyond the control and without any fault or negligence of the party delayed or failing to perform (these events are referred to in this provision as "Force Majeure Events").

Notwithstanding the foregoing, a delay or failure to perform by a SUBCONTRACTOR of the CONTRACTOR shall not constitute a Force Majeure Event, unless the delay or failure arises out of causes beyond the control of both the CONTRACTOR and SUBCONTRACTOR, and without any fault or negligence of either of them. In such case, the CONTRACTOR shall not be liable for the delay or failure to perform, unless the goods or services to be furnished by the SUBCONTRACTOR were obtainable from other sources in sufficient time to permit the CONTRACTOR to perform timely. As used in this CONTRACT, the term "SUBCONTRACTOR" means a subcontractor at any tier.

In the event the CONTRACTOR'S delay or failure to perform arises out of a Force Majeure Event, the CONTRACTOR agrees to use commercially reasonable best efforts to obtain the goods or services from other sources, and to otherwise mitigate the damages and reduce the delay caused by the Force Majeure Event.

ARTICLE 22 – SEVERABILITY

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

ARTICLE 23 – DISPUTES

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

ARTICLE 24 – ENTIRE AGREEMENT

This AGREEMENT contains all of the agreements, representations, and understandings of the parties hereto and supersedes and/or incorporates any previous understandings, proposals, commitments, or agreements, whether oral or written, and may be modified or amended only as herein provided.

ARTICLE 25 – 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. This CONTRACT and its performance shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. The CONTRACTOR shall comply with new, amended, or revised laws, regulations, or procedures that apply to the performance of this CONTRACT with no additional compensation paid to the CONTRACTOR.

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

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

ARTICLE 26 – CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED

For the duration of this CONTRACT, the CONTRACTOR shall maintain valid Business Tax Registration Certificate(s) as required by the CITY'S Business Tax Ordinance, Section 21.00 et seq. of the Los Angeles Municipal Code ("LAMC"), and shall not allow the Certificate to lapse or be revoked or suspended.

Should any such certificate(s) become suspended or revoked, it is the CONTRACTOR'S responsibility to report the matter immediately to the CITY PROJECT MANAGER.

ARTICLE 27 – 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 28 – PROHIBITION AGAINST ASSIGNMENT OR DELEGATION

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

- A. Assign or otherwise alienate any of its rights under this CONTRACT, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties under this CONTRACT.

ARTICLE 29 – PERMITS

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

ARTICLE 30 – BEST TERMS

Throughout the term of this CONTRACT, the CONTRACTOR shall offer the CITY the best terms, prices, and discounts that are offered to any of the CONTRACTOR'S customers for similar goods and services provided under this CONTRACT.

ARTICLE 31 – CLAIMS FOR LABOR AND MATERIALS

The CONTRACTOR shall promptly pay when due all amounts owed 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 the CONTRACTOR hereunder) and shall pay all amounts due under the Unemployment Insurance Act or any other applicable law with respect to labor used to perform under this CONTRACT.

ARTICLE 32 – BREACH

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

ARTICLE 33 – MANDATORY PROVISIONS PERTAINING TO NON-DISCRIMINATION IN EMPLOYMENT

Unless otherwise exempt, this CONTRACT is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

- A. The CONTRACTOR shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the CITY. In performing this CONTRACT, the CONTRACTOR shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status, or medical condition.
- B. The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this CONTRACT by reference.
- C. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this CONTRACT by reference and will be known as the "Equal Employment Practices" provisions of this CONTRACT.
- D. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this CONTRACT by reference and will be known as the "Affirmative Action Program" provisions of this CONTRACT.

Any subcontract entered into by the CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

ARTICLE 34 – CHILD SUPPORT OBLIGATIONS ASSIGNMENT ORDERS

This AGREEMENT is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, the CONTRACTOR shall fully comply with all applicable State and Federal employment reporting requirements for the CONTRACTOR'S employees. The CONTRACTOR shall also certify (1) that the Principal

Owner(s) of the CONTRACTOR are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that the CONTRACTOR will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, et seq. of the California Family Code; and (3) that the CONTRACTOR will maintain such compliance throughout the term of this AGREEMENT.

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

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

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

ARTICLE 35 – LIVING WAGE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE

35.1 LIVING WAGE ORDINANCE

The CONTRACTOR shall comply with the Living Wage Ordinance, LAAC Section 10.37 et seq., as amended from time to time. The CONTRACTOR further agrees that it shall comply with federal law proscribing retaliation for union organizing. Any subcontract entered into by the CONTRACTOR for work to be performed under this CONTRACT must include an identical provision. (Exhibit 5) [DECLARATION OF COMPLIANCE WITH LIVING WAGE ORDINANCE EXHIBIT]

35.2 SERVICE CONTRACTOR WORKER RETENTION ORDINANCE

The CONTRACTOR shall comply with the Service Contractor Worker Retention Ordinance, LAAC Section 10.36 et seq., as amended from time to time. Any

subcontract entered into by the CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

ARTICLE 36 – ACCESS AND ACCOMMODATIONS

The CONTRACTOR represents and certifies that:

- A. the CONTRACTOR shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 et seq., the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 et seq., the Fair Housing Act, and its implementing regulations and any subsequent amendments, and the California Government Code Section 11135;
- B. The CONTRACTOR shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;
- C. The CONTRACTOR shall provide reasonable accommodation upon request to ensure equal access to CITY-funded programs, services, and activities;
- D. Construction will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and
- E. The buildings and facilities used to provide services under this CONTRACT are in compliance with the federal and state standards for accessibility as set forth in the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

The CONTRACTOR understands that the CITY is relying upon these certifications and representations as a condition to funding this CONTRACT. Any subcontract entered into by the CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

ARTICLE 37 – CONTRACTOR RESPONSIBILITY ORDINANCE

The CONTRACTOR shall comply with the Contractor Responsibility Ordinance, LAAC Section 10.40 et seq., as amended from time to time.

ARTICLE 38 – LOS ANGELES BUSINESS INCLUSION PROGRAM

Unless otherwise exempted prior to bid submission, the CONTRACTOR shall comply with all aspects of the Business Inclusion Program as described in the Request for Proposal process, throughout the duration of this CONTRACT. The CONTRACTOR shall utilize the Business Assistance Virtual Network ("BAVN") at <https://www.labavn.org/> to perform and document outreach to Minority, Women, and Other Business Enterprises. The

CONTRACTOR shall perform subcontractor outreach activities through BAVN. The CONTRACTOR shall not change any of its designated SUBCONTRACTORS or pledged specific items of work to be performed by these SUBCONTRACTORS, nor shall the CONTRACTOR reduce their level of effort, without prior written approval of the CITY.

ARTICLE 39 – DISCLOSURE ORDINANCES

Unless otherwise exempt in accordance with the provisions of this Ordinance, this CONTRACT is subject to the Slavery Disclosure Ordinance, Section 10.41 et seq., of the Los Angeles Administrative Code, as may be amended from time to time. The CONTRACTOR certifies that it has complied with the applicable provisions of this Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this CONTRACT. Any subcontract entered into by the CONTRACTOR for work to be performed under this CONTRACT must include an identical provision. Exhibit 4 [SLAVERY DISCLOSURE ORDINANCE EXHIBIT] is attached hereto and incorporated herein by this reference.

The CONTRACTOR shall comply with Los Angeles Administrative Code Section 10.50 et seq., 'Disclosure of Border Wall Contracting.' The City or the Department, may terminate this CONTRACT at any time if the City or the Department, determines that the CONTRACTOR failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in LAAC Section 10.50.1.

ARTICLE 40 – CONTRACTOR PERFORMANCE EVALUATION ORDINANCE

At the end of this AGREEMENT, the CITY will conduct an evaluation of the CONTRACTOR'S performance. The CITY may also conduct evaluations of the CONTRACTOR'S performance during the term of the AGREEMENT. As required by Section 10.39.2 of the Los Angeles Administrative Code, evaluations will be based on a number of criteria, including the quality of the work product or service performed, the timeliness of performance, financial issues, and the expertise of personnel that the CONTRACTOR assigns to the AGREEMENT. A contractor who receives a "Marginal" or "Unsatisfactory" rating will be provided with a copy of the final CITY evaluation and allowed fourteen (14) CALENDAR DAYS to respond. The CITY will use the final CITY evaluation, and any response from the CONTRACTOR, to evaluate proposals and to conduct reference checks when awarding other service contracts.

ARTICLE 41 – MUNICIPAL LOBBYING ORDINANCE

The CONTRACTOR for the CITY shall submit a certification, on a form prescribed by the City Ethics Commission, that the CONTRACTOR acknowledges and agrees to comply with the disclosure requirements and prohibitions established in the Los Angeles Municipal Lobbying Ordinance, Exhibit 11 [MUNICIPAL LOBBYING ORDINANCE EXHIBIT], if the CONTRACTOR qualifies as a lobbying entity under the Ordinance. The exemptions

contained in Los Angeles Administrative Code Section 10.40.4 shall not apply to this subsection.

ARTICLE 42 – FIRST SOURCE HIRING ORDINANCE

The CONTRACTOR shall comply with the First Source Hiring Ordinance, LAAC Section 10.44 et seq., as amended from time to time. Any subcontract entered into by the CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

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

Unless otherwise exempt, if this CONTRACT is valued at \$100,000 or more and requires approval by an elected CITY office, the CONTRACTOR, CONTRACTOR'S principals, and the CONTRACTOR'S SUBCONTRACTORS expected to receive at least \$100,000 for performance under this CONTRACT, and the principals of those SUBCONTRACTORS (the "Restricted Persons") shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles the CITY to terminate this CONTRACT and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected CITY officials or candidates for elected CITY office for twelve months after this CONTRACT is signed. Additionally, a CONTRACTOR subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any CONTRACTOR subject to Charter Section 470(c)(12) shall include the following notice in any contract with any SUBCONTRACTOR expected to receive at least \$100,000 for performance under this CONTRACT:

"Notice Regarding Restrictions on Campaign Contributions and Fundraising in City Elections

You are a subcontractor on City of Los Angeles Contract #_____. Pursuant to the City of Los Angeles Charter Section 470(c)(12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles ("CITY") officials and candidates for elected CITY office for twelve months after the CITY Contract is signed. You are required to provide the names and contact information of your principals to the CONTRACTOR and to amend that information within ten business days if it changes during the twelve-month time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at ethics.lacity.org or by calling the Los Angeles City Ethics Commission at (213) 978-1960." The CONTRACTOR, Subcontractors, and their Principals shall comply with these

requirements and limitations. Violation of this provision shall entitle the CITY to terminate this AGREEMENT and pursue any and all legal remedies that may be available.

ARTICLE 44 – COMPLIANCE WITH THE IRAN CONTRACTING ACT OF 2010

In accordance with California Public Contract Code Sections 2200-2208, all contractors entering into, or renewing contracts with the CITY 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." (Exhibit 14)

ARTICLE 45 – INTEGRATED CONTRACT

This CONTRACT sets forth all of the rights and duties of the parties with respect to the subject matter of this CONTRACT 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 the provisions of Article 12 [AMENDMENTS ARTICLE] hereof.

ARTICLE 46 – DATA PROTECTION

- A. The CONTRACTOR shall protect, using the most secure means and technology that is commercially available, CITY-provided data or consumer-provided data acquired in the course and scope of this CONTRACT, including but not limited to customer lists and customer credit card or consumer data, (collectively, the "City Data"). The CONTRACTOR shall notify the CITY in writing as soon as reasonably feasible, and in any event within twenty-four (24) hours, of the CONTRACTOR'S discovery or reasonable belief of any unauthorized access of City Data (a "Data Breach"), or of any incident affecting, or potentially affecting City Data related to cyber security (a "Security Incident"), including, but not limited to, denial of service attack, and system outage, instability or degradation due to computer malware or virus. The CONTRACTOR shall begin remediation immediately. The CONTRACTOR shall provide daily updates, or more frequently if required by the CITY, regarding findings and actions performed by the CONTRACTOR until the Data Breach or Security Incident has been effectively resolved to the CITY'S satisfaction. The CONTRACTOR shall conduct an investigation of the Data Breach or Security Incident and shall share the report of the investigation with the CITY. At the CITY'S sole discretion, the CITY and its authorized agents shall have the right to lead or participate in the investigation. The CONTRACTOR shall cooperate fully with the CITY, its agents, and law enforcement.
- B. If the CITY is subject to liability for any Data Breach or Security Incident, then the CONTRACTOR shall fully indemnify and hold harmless the CITY and defend against any resulting actions.

ARTICLE 47 – LOCAL BUSINESS PREFERENCE ORDINANCE

The CONTRACTOR shall comply with the Local Business Preference Ordinance, LAAC Section 10.47 et seq., as amended from time to time. Any subcontract entered into by the CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

ARTICLE 48 – CITY CONTRACTOR’S USE OF CRIMINAL HISTORY FOR CONSIDERATION OF EMPLOYMENT APPLICATIONS

The CONTRACTOR shall comply with the City Contractors’ Use of Criminal History for Consideration of Employment Applications Ordinance, LAAC Section 10.48 et seq., as amended from time to time. Any subcontract entered into by the CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

ARTICLE 49 – COMPLIANCE WITH IDENTITY THEFT LAWS AND PAYMENT CARD DATA SECURITY STANDARDS

The CONTRACTOR shall comply with all identity theft laws including without limitation, laws related to: (1) payment devices; (2) credit and debit card fraud; and (3) the Fair and Accurate Credit Transactions Act (“FACTA”), including its requirement relating to the content of transaction receipts provided to customers. The CONTRACTOR also shall comply with all requirements related to maintaining compliance with Payment Card Industry Data Security Standards (“PCI DSS”). During the performance of any service to install, program, or update payment devices equipped to conduct credit or debit card transactions, including PCI DSS services, the CONTRACTOR shall verify proper truncation of receipts in compliance with FACTA.

ARTICLE 50 – COMPLIANCE WITH CALIFORNIA PUBLIC RESOURCES CODE SECTION 5164

California Public Resources Code Section 5164 prohibits a public agency from hiring a person for employment or as a volunteer to perform services at any park, playground, or community center used for recreational purposes in a position that has supervisory or disciplinary authority over any minor if the person has been convicted of certain crimes as referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2).

If applicable, the CONTRACTOR shall comply with California Public Resources Code Section 5164, and shall additionally adhere to all rules and regulations that have been adopted or that may be adopted by the CITY. The CONTRACTOR is required to have all employees, volunteers, and SUBCONTRACTORS (including all employees and volunteers of any SUBCONTRACTOR) of the CONTRACTOR working on the premises to pass a

fingerprint and background check through the California Department of Justice at the CONTRACTOR'S sole expense, indicating that such individuals have never been convicted of certain crimes as referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2), if the individual will have supervisory or disciplinary authority over any minor.

ARTICLE 51 – POSSESSORY INTERESTS TAX

Rights granted to the CONTRACTOR by the CITY may create a possessory interest. The CONTRACTOR agrees that any possessory interest created may be subject to California Revenue and Taxation Code Section 107.6 and a property tax may be levied on that possessory interest. If applicable, the CONTRACTOR shall pay the property tax. The CONTRACTOR acknowledges that the notice required under California Revenue and Taxation Code Section 107.6 has been provided.

ARTICLE 52 – CONFIDENTIALITY

All documents, information, and materials provided to the CONTRACTOR by the CITY or developed by the CONTRACTOR pursuant to this CONTRACT (collectively "Confidential Information") are confidential. The CONTRACTOR shall not provide or disclose any Confidential Information or their contents or any information therein, either orally or in writing, to any person or entity, except as authorized by the CITY or as required by law. The CONTRACTOR shall immediately notify the CITY of any attempt by a third party to obtain access to any Confidential Information. This provision will survive expiration or termination of this CONTRACT.

ARTICLE 53 – COUNTERPARTS

This AGREEMENT may be executed in one or more counterparts, and by the parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. The parties further agree that facsimile signatures or signatures scanned into .pdf (or signatures in another electronic format designated by the CITY) and sent by email shall be deemed original signatures.

ARTICLE 54 – COVID-19 VACCINATION REQUIREMENTS

Employees of the CONTRACTOR and/or persons working on its behalf, including, but not limited to, subcontractors (collectively, "Contractor Personnel") must be fully vaccinated against the novel coronavirus 2019 ("COVID-19") prior to (1) interacting in person with CITY employees, contractors, or volunteers, (2) working on CITY property while performing services under this Agreement, and/or (3) coming into contact with the public while performing services under this AGREEMENT (collectively, "In-Person Services"). "Fully vaccinated" means that 14 or more days have passed since Contractor Personnel

have received the final dose of a two-dose COVID-19 vaccine series (Moderna or Pfizer-BioNTech) or a single dose of a one-dose COVID-19 vaccine (Johnson & Johnson/Janssen) and all booster doses recommended by the Centers for Disease Control and Prevention. Prior to assigning Contractor Personnel to perform In-Person Services, the CONTRACTOR shall obtain proof that such Contractor Personnel has been fully vaccinated. The CONTRACTOR shall retain such proof for the document retention period set forth in this AGREEMENT. The CONTRACTOR shall grant medical or religious exemptions to Contractor Personnel as required by law.

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

CITY OF LOS ANGELES

By: _____

Title: Commissioner, Board of Public Works

Date: _____

By: _____

Title: Commissioner, Board of Public Works

Date: _____

APPROVED AS TO FORM:

MICHAEL N. FEUER, City Attorney

By: _____
Adena Hopenstand

Title: Deputy City Attorney

Date: _____

ATTEST:

HOLLY L. WOLCOTT, City Clerk

By: _____

Title: Deputy City Clerk

Date: _____

[CONTRACTOR NAME]

By: _____
[Name]

Title: _____

Date: _____