

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

AGREEMENT

**33312**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

THIS AGREEMENT is made and entered, in duplicate, as of November 6, 2013, for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on November 5, 2013, by and between K & H PRINTERS-LITHOGRAPHERS, INCORPORATED, a Washington corporation ("Consultant"), with a place of business at 7720 Hardeson Road, Everett, Washington 98203, and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, City requires specialized services requiring unique skills to be performed in connection with mailing services and printing of official ballots, sample ballots and vote-by-mail materials ("Project"); and

WHEREAS, City has selected Consultant in accordance with City's administrative procedures and City has determined that Consultant and its employees are qualified, licensed, if so required, and experienced in performing these specialized services; and

WHEREAS, City desires to have Consultant perform these specialized services, and Consultant is willing and able to do so on the terms and conditions in this Agreement;

NOW, THEREFORE, in consideration of the mutual terms, covenants, and conditions in this Agreement, the parties agree as follows:

1. SCOPE OF WORK OR SERVICES.

A. Consultant shall furnish specialized services more particularly described in Exhibit "A", attached to this Agreement and incorporated by this reference, in accordance with the standards of the profession, and City shall pay for these services in the manner described below, not to exceed Six Hundred Sixteen Thousand Three Hundred Sixty-Seven Dollars (\$616,367), at the rates or charges shown in Exhibit "B".

B. Consultant may select the time and place of performance for

1 these services; provided, however, that access to City documents, records and the  
2 like, if needed by Consultant, shall be available only during City's normal business  
3 hours and provided that milestones for performance, if any, are met.

4 C. Consultant has requested to receive regular payments. City  
5 shall pay Consultant in due course of payments following receipt from Consultant  
6 and approval by City of invoices showing the services or task performed, the time  
7 expended (if billing is hourly), and the name of the Project. Consultant shall certify  
8 on the invoices that Consultant has performed the services in full conformance  
9 with this Agreement and is entitled to receive payment. Each invoice shall be  
10 accompanied by a progress report indicating the progress to date of services  
11 performed and covered by the invoice, including a brief statement of any Project  
12 problems and potential causes of delay in performance, and listing those services  
13 that are projected for performance by Consultant during the next invoice cycle.  
14 Where billing is done and payment is made on an hourly basis, the parties  
15 acknowledge that this arrangement is either customary practice for Consultant's  
16 profession, industry or business, or is necessary to satisfy audit and legal  
17 requirements which may arise due to the fact that City is a municipality.

18 D. Consultant represents that Consultant has obtained all  
19 necessary information on conditions and circumstances that may affect its  
20 performance and has conducted site visits, if necessary.

21 E. CAUTION: Consultant shall not begin work until this  
22 Agreement has been signed by both parties and until Consultant's evidence of  
23 insurance has been delivered to and approved by City.

24 2. TERM. The term of this Agreement shall commence at midnight on  
25 November 5, 2013, and shall terminate at 11:59 p.m. on September 30, 2014, unless  
26 sooner terminated as provided in this Agreement, or unless the services or the Project is  
27 completed sooner.

28 3. COORDINATION AND ORGANIZATION.

1           A.     Consultant shall coordinate its performance with City's  
2 representative, if any, named in Exhibit "C", attached to this Agreement and  
3 incorporated by this reference. Consultant shall advise and inform City's  
4 representative of the work in progress on the Project in sufficient detail so as to  
5 assist City's representative in making presentations and in holding meetings on  
6 the Project. City shall furnish to Consultant information or materials, if any,  
7 described in Exhibit "D", attached to this Agreement and incorporated by this  
8 reference, and shall perform any other tasks described in the Exhibit.

9           B.     The parties acknowledge that a substantial inducement to City  
10 for entering this Agreement was and is the reputation and skill of Consultant's key  
11 employee, Dave Haines. City shall have the right to approve any person proposed  
12 by Consultant to replace that key employee.

13           4.     INDEPENDENT CONTRACTOR.     In performing its services,  
14 Consultant is and shall act as an independent contractor and not an employee,  
15 representative or agent of City. Consultant shall have control of Consultant's work and  
16 the manner in which it is performed. Consultant shall be free to contract for similar  
17 services to be performed for others during this Agreement; provided, however, that  
18 Consultant acts in accordance with Section 9 and Section 11 of this Agreement.  
19 Consultant acknowledges and agrees that (a) City will not withhold taxes of any kind from  
20 Consultant's compensation; (b) City will not secure workers' compensation or pay  
21 unemployment insurance to, for or on Consultant's behalf; and (c) City will not provide  
22 and Consultant is not entitled to any of the usual and customary rights, benefits or  
23 privileges of City employees. Consultant expressly warrants that neither Consultant nor  
24 any of Consultant's employees or agents shall represent themselves to be employees or  
25 agents of City.

26           5.     INSURANCE.

27           A.     As a condition precedent to the effectiveness of this  
28 Agreement, Consultant shall procure and maintain, at Consultant's expense for the

1 duration of this Agreement, from insurance companies that are admitted to write  
2 insurance in California and have ratings of or equivalent to A:V by A.M. Best  
3 Company or from authorized non-admitted insurance companies subject to  
4 Section 1763 of the California Insurance Code and that have ratings of or  
5 equivalent to A:VIII by A.M. Best Company, the following insurance:

6 (a) Commercial general liability insurance (equivalent in scope to  
7 ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less than  
8 \$1,000,000 per each occurrence and \$2,000,000 general aggregate. This  
9 coverage shall include but not be limited to broad form contractual liability,  
10 cross liability, independent contractors liability, and products and  
11 completed operations liability. City, its boards and commissions, and their  
12 officials, employees and agents shall be named as additional insureds by  
13 endorsement (on City's endorsement form or on an endorsement  
14 equivalent in scope to ISO form CG 20 10 11 85 or CG 20 26 11 85 or  
15 both CG 20 10 07 04 and CG 20 37 07 04 or both CG 20 33 07 04 and  
16 CG 20 37 07 04), and this insurance shall contain no special limitations on  
17 the scope of protection given to City, its boards and commissions, and  
18 their officials, employees and agents. This policy shall be endorsed to  
19 state that the insurer waives its right of subrogation against City, its boards  
20 and commissions, and their officials, employees and agents.

21 (b) Workers' Compensation insurance as required by the California  
22 Labor Code and employer's liability insurance in an amount not less than  
23 \$1,000,000. This policy shall be endorsed to state that the insurer waives  
24 its right of subrogation against City, its boards and commissions, and their  
25 officials, employees and agents.

26 (c) Professional liability or errors and omissions insurance in an  
27 amount not less than \$1,000,000 per claim.

28 (d) Commercial automobile liability insurance (equivalent in scope

1 to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an  
2 amount not less than \$500,000 combined single limit per accident.

3 B. Any self-insurance program, self-insured retention, or  
4 deductible must be separately approved in writing by City's Risk Manager or  
5 designee and shall protect City, its officials, employees and agents in the same  
6 manner and to the same extent as they would have been protected had the policy  
7 or policies not contained retention or deductible provisions.

8 C. Each insurance policy shall be endorsed to state that  
9 coverage shall not be reduced, non-renewed or canceled except after thirty (30)  
10 days prior written notice to City, shall be primary and not contributing to any other  
11 insurance or self-insurance maintained by City, and shall be endorsed to state that  
12 coverage maintained by City shall be excess to and shall not contribute to  
13 insurance or self-insurance maintained by Consultant. Consultant shall notify City  
14 in writing within five (5) days after any insurance has been voided by the insurer or  
15 cancelled by the insured.

16 D. If this coverage is written on a "claims made" basis, it must  
17 provide for an extended reporting period of not less than one hundred eighty (180)  
18 days, commencing on the date this Agreement expires or is terminated, unless  
19 Consultant guarantees that Consultant will provide to City evidence of  
20 uninterrupted, continuing coverage for a period of not less than three (3) years,  
21 commencing on the date this Agreement expires or is terminated.

22 E. Consultant shall require that all subconsultants or contractors  
23 that Consultant uses in the performance of these services maintain insurance in  
24 compliance with this Section unless otherwise agreed in writing by City's Risk  
25 Manager or designee.

26 F. Prior to the start of performance, Consultant shall deliver to  
27 City certificates of insurance and the endorsements for approval as to sufficiency  
28 and form. In addition, Consultant shall, within thirty (30) days prior to expiration of

1 the insurance, furnish to City certificates of insurance and endorsements  
2 evidencing renewal of the insurance. City reserves the right to require complete  
3 certified copies of all policies of Consultant and Consultant's subconsultants and  
4 contractors, at any time. Consultant shall make available to City's Risk Manager  
5 or designee all books, records and other information relating to this insurance,  
6 during normal business hours.

7 G. Any modification or waiver of these insurance requirements  
8 shall only be made with the approval of City's Risk Manager or designee. Not  
9 more frequently than once a year, City's Risk Manager or designee may require  
10 that Consultant, Consultant's subconsultants and contractors change the amount,  
11 scope or types of coverages required in this Section if, in his or her sole opinion,  
12 the amount, scope or types of coverages are not adequate.

13 H. The procuring or existence of insurance shall not be  
14 construed or deemed as a limitation on liability relating to Consultant's  
15 performance or as full performance of or compliance with the indemnification  
16 provisions of this Agreement.

17 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement  
18 contemplates the personal services of Consultant and Consultant's employees, and the  
19 parties acknowledge that a substantial inducement to City for entering this Agreement  
20 was and is the professional reputation and competence of Consultant and Consultant's  
21 employees. Consultant shall not assign its rights or delegate its duties under this  
22 Agreement, or any interest in this Agreement, or any portion of it, without the prior  
23 approval of City, except that Consultant may with the prior approval of the City Manager  
24 of City, assign any moneys due or to become due Consultant under this Agreement. Any  
25 attempted assignment or delegation shall be void, and any assignee or delegate shall  
26 acquire no right or interest by reason of an attempted assignment or delegation.  
27 Furthermore, Consultant shall not subcontract any portion of its performance without the  
28 prior approval of the City Manager or designee, or substitute an approved subconsultant

1 or contractor without approval prior to the substitution. Nothing stated in this Section  
2 shall prevent Consultant from employing as many employees as Consultant deems  
3 necessary for performance of this Agreement.

4 7. CONFLICT OF INTEREST. Consultant, by executing this  
5 Agreement, certifies that, at the time Consultant executes this Agreement and for its  
6 duration, Consultant does not and will not perform services for any other client which  
7 would create a conflict, whether monetary or otherwise, as between the interests of City  
8 and the interests of that other client. And, Consultant shall obtain similar certifications  
9 from Consultant's employees, subconsultants and contractors.

10 8. MATERIALS. Consultant shall furnish all labor and supervision,  
11 supplies, materials, tools, machinery, equipment, appliances, transportation and services  
12 necessary to or used in the performance of Consultant's obligations under this  
13 Agreement, except as stated in Exhibit "D".

14 9. OWNERSHIP OF DATA. All materials, information and data  
15 prepared, developed or assembled by Consultant or furnished to Consultant in  
16 connection with this Agreement, including but not limited to documents, estimates,  
17 calculations, studies, maps, graphs, charts, computer disks, computer source  
18 documentation, samples, models, reports, summaries, drawings, designs, notes, plans,  
19 information, material and memorandum ("Data") shall be the exclusive property of City.  
20 Data shall be given to City, and City shall have the unrestricted right to use and disclose  
21 the Data in any manner and for any purpose without payment of further compensation to  
22 Consultant. Copies of Data may be retained by Consultant but Consultant warrants that  
23 Data shall not be made available to any person or entity for use without the prior approval  
24 of City. This warranty shall survive termination of this Agreement for five (5) years.

25 10. TERMINATION. Either party shall have the right to terminate this  
26 Agreement for any reason or no reason at any time by giving fifteen (15) calendar days  
27 prior notice to the other party. In the event of termination under this Section, City shall  
28 pay Consultant for services satisfactorily performed and costs incurred up to the effective

1 date of termination for which Consultant has not been previously paid. The procedures  
2 for payment in Section 1.B. with regard to invoices shall apply. On the effective date of  
3 termination, Consultant shall deliver to City all Data developed or accumulated in the  
4 performance of this Agreement, whether in draft or final form, or in process. And,  
5 Consultant acknowledges and agrees that City's obligation to make final payment is  
6 conditioned on Consultant's delivery of the Data to City.

7 11. CONFIDENTIALITY. Consultant shall keep all Data confidential and  
8 shall not disclose the Data or use the Data directly or indirectly, other than in the course  
9 of performing its services, during the term of this Agreement and for five (5) years  
10 following expiration or termination of this Agreement. In addition, Consultant shall keep  
11 confidential all information, whether written, oral or visual, obtained by any means  
12 whatsoever in the course of performing its services for the same period of time.  
13 Consultant shall not disclose any or all of the Data to any third party, or use it for  
14 Consultant's own benefit or the benefit of others except for the purpose of this  
15 Agreement.

16 12. BREACH OF CONFIDENTIALITY. Consultant shall not be liable for  
17 a breach of confidentiality with respect to Data that: (a) Consultant demonstrates  
18 Consultant knew prior to the time City disclosed it; or (b) is or becomes publicly available  
19 without breach of this Agreement by Consultant; or (c) a third party who has a right to  
20 disclose does so to Consultant without restrictions on further disclosure; or (d) must be  
21 disclosed pursuant to subpoena or court order.

22 13. ADDITIONAL COSTS AND REDESIGN.

23 A. Any costs incurred by City due to Consultant's failure to meet  
24 the standards required by the scope of work or Consultant's failure to perform fully  
25 the tasks described in the scope of work which, in either case, causes City to  
26 request that Consultant perform again all or part of the Scope of Work shall be at  
27 the sole cost of Consultant and City shall not pay any additional compensation to  
28 Consultant for its re-performance.



1           B.     If the Project involves construction and the scope of work  
2 requires Consultant to prepare plans and specifications with an estimate of the  
3 cost of construction, then Consultant may be required to modify the plans and  
4 specifications, any construction documents relating to the plans and specifications,  
5 and Consultant's estimate, at no cost to City, when the lowest bid for construction  
6 received by City exceeds by more than ten percent (10%) Consultant's estimate.  
7 This modification shall be submitted in a timely fashion to allow City to receive new  
8 bids within four (4) months after the date on which the original plans and  
9 specifications were submitted by Consultant.

10           14.    AMENDMENT. This Agreement, including all Exhibits, shall not be  
11 amended, nor any provision or breach waived, except in writing signed by the parties  
12 which expressly refers to this Agreement.

13           15.    LAW. This Agreement shall be construed in accordance with the  
14 laws of the State of California, and the venue for any legal actions brought by any party  
15 with respect to this Agreement shall be the County of Los Angeles, State of California for  
16 state actions and the Central District of California for any federal actions. Consultant  
17 shall cause all work performed in connection with construction of the Project to be  
18 performed in compliance with (1) all applicable laws, ordinances, rules and regulations of  
19 federal, state, county or municipal governments or agencies (including, without limitation,  
20 all applicable federal and state labor standards, including the prevailing wage provisions  
21 of sections 1770 *et seq.* of the California Labor Code); and (2) all directions, rules and  
22 regulations of any fire marshal, health officer, building inspector, or other officer of every  
23 governmental agency now having or hereafter acquiring jurisdiction.

24           16.    PREVAILING WAGES.

25           A.     Consultant agrees that all public work (as defined in California  
26 Labor Code section 1720) performed pursuant to this Agreement (the "Public  
27 Work"), if any, shall comply with the requirements of California Labor Code  
28 sections 1770 *et seq.* City makes no representation or statement that the Project,

1 or any portion thereof, is or is not a "public work" as defined in California Labor  
2 Code section 1720.

3 B. In all bid specifications, contracts and subcontracts for any  
4 such Public Work, Consultant shall obtain the general prevailing rate of per diem  
5 wages and the general prevailing rate for holiday and overtime work in this locality  
6 for each craft, classification or type of worker needed to perform the Public Work,  
7 and shall include such rates in the bid specifications, contract or subcontract.  
8 Such bid specifications, contract or subcontract must contain the following  
9 provision: "It shall be mandatory for the contractor to pay not less than the said  
10 prevailing rate of wages to all workers employed by the contractor in the execution  
11 of this contract. The contractor expressly agrees to comply with the penalty  
12 provisions of California Labor Code section 1775 and the payroll record keeping  
13 requirements of California Labor Code section 1771."

14 17. ENTIRE AGREEMENT. This Agreement, including all Exhibits,  
15 constitutes the entire understanding between the parties and supersedes all other  
16 agreements, oral or written, with respect to the subject matter in this Agreement.

17 18. INDEMNITY.

18 A. Consultant shall indemnify, protect and hold harmless City, its  
19 Boards, Commissions, and their officials, employees and agents ("Indemnified  
20 Parties"), from and against any and all liability, claims, demands, damage, loss,  
21 obligations, causes of action, proceedings, awards, fines, judgments, penalties,  
22 costs and expenses, including attorneys' fees, court costs, expert and witness  
23 fees, and other costs and fees of litigation, arising or alleged to have arisen, in  
24 whole or in part, out of or in connection with (1) Consultant's breach or failure to  
25 comply with any of its obligations contained in this Agreement, including any  
26 obligations arising from the Project's compliance with or failure to comply with  
27 applicable laws, including all applicable federal and state labor requirements  
28 including, without limitation, the requirements of California Labor Code section

1 1770 *et seq.* or (2) negligent or willful acts, errors, omissions or misrepresentations  
2 committed by Consultant, its officers, employees, agents, subcontractors, or  
3 anyone under Consultant's control, in the performance of work or services under  
4 this Agreement (collectively "Claims" or individually "Claim").

5 B. In addition to Consultant's duty to indemnify, Consultant shall  
6 have a separate and wholly independent duty to defend Indemnified Parties at  
7 Consultant's expense by legal counsel approved by City, from and against all  
8 Claims, and shall continue this defense until the Claims are resolved, whether by  
9 settlement, judgment or otherwise. No finding or judgment of negligence, fault,  
10 breach, or the like on the part of Consultant shall be required for the duty to defend  
11 to arise. City shall notify Consultant of any Claim, shall tender the defense of the  
12 Claim to Consultant, and shall assist Consultant, as may be reasonably requested,  
13 in the defense.

14 C. If a court of competent jurisdiction determines that a Claim  
15 was caused by the sole negligence or willful misconduct of Indemnified Parties,  
16 Consultant's costs of defense and indemnity shall be (1) reimbursed in full if the  
17 court determines sole negligence by the Indemnified Parties, or (2) reduced by the  
18 percentage of willful misconduct attributed by the court to the Indemnified Parties.

19 D. The provisions of this Section shall survive the expiration or  
20 termination of this Agreement.

21 19. AMBIGUITY. In the event of any conflict or ambiguity between this  
22 Agreement and any Exhibit, the provisions of this Agreement shall govern.

23 20. NONDISCRIMINATION.

24 A. In connection with performance of this Agreement and subject  
25 to applicable rules and regulations, Consultant shall not discriminate against any  
26 employee or applicant for employment because of race, religion, national origin,  
27 color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap or  
28 disability. Consultant shall ensure that applicants are employed, and that

1 employees are treated during their employment, without regard to these bases.  
2 These actions shall include, but not be limited to, the following: employment,  
3 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or  
4 termination; rates of pay or other forms of compensation; and selection for training,  
5 including apprenticeship.

6 B. It is the policy of City to encourage the participation of  
7 Disadvantaged, Minority and Women-Owned Business Enterprises in City's  
8 procurement process, and Consultant agrees to use its best efforts to carry out  
9 this policy in its use of subconsultants and contractors to the fullest extent  
10 consistent with the efficient performance of this Agreement. Consultant may rely  
11 on written representations by subconsultants and contractors regarding their  
12 status. Consultant shall report to City in May and in December or, in the case of  
13 short-term agreements, prior to invoicing for final payment, the names of all  
14 subconsultants and contractors hired by Consultant for this Project and information  
15 on whether or not they are a Disadvantaged, Minority or Women-Owned Business  
16 Enterprise, as defined in Section 8 of the Small Business Act (15 U.S.C. Sec.  
17 637).

18 21. EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in  
19 accordance with the provisions of the Ordinance, this Agreement is subject to the  
20 applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the  
21 Long Beach Municipal Code, as amended from time to time.

22 A. During the performance of this Agreement, the Consultant  
23 certifies and represents that the Consultant will comply with the EBO. The  
24 Consultant agrees to post the following statement in conspicuous places at its  
25 place of business available to employees and applicants for employment:

26 "During the performance of a contract with the City of Long Beach,  
27 the Consultant will provide equal benefits to employees with spouses and its  
28 employees with domestic partners. Additional information about the City of

1 Long Beach's Equal Benefits Ordinance may be obtained from the City of  
2 Long Beach Business Services Division at 562-570-6200."

3 B. The failure of the Consultant to comply with the EBO will be  
4 deemed to be a material breach of the Agreement by the City.

5 C. If the Consultant fails to comply with the EBO, the City may  
6 cancel, terminate or suspend the Agreement, in whole or in part, and monies due  
7 or to become due under the Agreement may be retained by the City. The City  
8 may also pursue any and all other remedies at law or in equity for any breach.

9 D. Failure to comply with the EBO may be used as evidence  
10 against the Consultant in actions taken pursuant to the provisions of Long Beach  
11 Municipal Code 2.93 et seq., Contractor Responsibility.

12 E. If the City determines that the Consultant has set up or used  
13 its contracting entity for the purpose of evading the intent of the EBO, the City may  
14 terminate the Agreement on behalf of the City. Violation of this provision may be  
15 used as evidence against the Consultant in actions taken pursuant to the  
16 provisions of Long Beach Municipal Code Section 2.93 et seq., Contractor  
17 Responsibility.

18 22. NOTICES. Any notice or approval required by this Agreement shall  
19 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,  
20 postage prepaid, addressed to Consultant at the address first stated above, and to City at  
21 333 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a  
22 copy to the City Engineer at the same address. Notice of change of address shall be  
23 given in the same manner as stated for other notices. Notice shall be deemed given on  
24 the date deposited in the mail or on the date personal delivery is made, whichever occurs  
25 first.

26 23. COPYRIGHTS AND PATENT RIGHTS.

27 A. Consultant shall place the following copyright protection on all  
28 Data: © City of Long Beach, California \_\_\_\_\_, inserting the appropriate year.

1 B. City reserves the exclusive right to seek and obtain a patent  
2 or copyright registration on any Data or other result arising from Consultant's  
3 performance of this Agreement. By executing this Agreement, Consultant assigns  
4 any ownership interest Consultant may have in the Data to City.

5 C. Consultant warrants that the Data does not violate or infringe  
6 any patent, copyright, trade secret or other proprietary right of any other party.  
7 Consultant agrees to and shall protect, defend, indemnify and hold City, its officials  
8 and employees harmless from any and all claims, demands, damages, loss,  
9 liability, causes of action, costs or expenses (including reasonable attorney's fees)  
10 whether or not reduced to judgment, arising from any breach or alleged breach of  
11 this warranty.

12 24. COVENANT AGAINST CONTINGENT FEES. Consultant warrants  
13 that Consultant has not employed or retained any entity or person to solicit or obtain this  
14 Agreement and that Consultant has not paid or agreed to pay any entity or person any  
15 fee, commission or other monies based on or from the award of this Agreement. If  
16 Consultant breaches this warranty, City shall have the right to terminate this Agreement  
17 immediately notwithstanding the provisions of Section 10 or, in its discretion, to deduct  
18 from payments due under this Agreement or otherwise recover the full amount of the fee,  
19 commission or other monies.

20 25. WAIVER. The acceptance of any services or the payment of any  
21 money by City shall not operate as a waiver of any provision of this Agreement or of any  
22 right to damages or indemnity stated in this Agreement. The waiver of any breach of this  
23 Agreement shall not constitute a waiver of any other or subsequent breach of this  
24 Agreement.

25 26. CONTINUATION. Termination or expiration of this Agreement shall  
26 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,  
27 17, 19, 22 and 28 prior to termination or expiration of this Agreement.

28 27. TAX REPORTING. As required by federal and state law, City is

1 obligated to and will report the payment of compensation to Consultant on Form 1099-  
2 Misc. Consultant shall be solely responsible for payment of all federal and state taxes  
3 resulting from payments under this Agreement. Consultant shall submit Consultant's  
4 Employer Identification Number (EIN), or Consultant's Social Security Number if  
5 Consultant does not have an EIN, in writing to City's Accounts Payable, Department of  
6 Financial Management. Consultant acknowledges and agrees that City has no obligation  
7 to pay Consultant until Consultant provides one of these numbers.

8           28. ADVERTISING. Consultant shall not use the name of City, its  
9 officials or employees in any advertising or solicitation for business or as a reference,  
10 without the prior approval of the City Manager or designee.

11           29. AUDIT. City shall have the right at all reasonable times during the  
12 term of this Agreement and for a period of five (5) years after termination or expiration of  
13 this Agreement to examine, audit, inspect, review, extract information from and copy all  
14 books, records, accounts and other documents of Consultant relating to this Agreement.

15           30. THIRD PARTY BENEFICIARY. This Agreement is not intended or  
16 designed to or entered for the purpose of creating any benefit or right for any person or  
17 entity of any kind that is not a party to this Agreement.

18 ///  
19 ///  
20 ///  
21 ///  
22 ///  
23 ///  
24 ///  
25 ///  
26 ///  
27 ///  
28 ///

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

K & H PRINTERS-LITHOGRAPHERS, INCORPORATED, a Washington corporation

12/3, 2013

By [Signature]  
Name Dave Haines  
Title Senior V.P.

12/3, 2013

By [Signature]  
Name Steven J. Hoff  
Title Sr - V.P.

"Consultant"

CITY OF LONG BEACH, a municipal corporation  
**Assistant City Manager**

12.12, 2013

By [Signature]  
City Manager

"City"

EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

This Agreement is approved as to form on 12/9, 2013.

CHARLES PARKIN, City Attorney  
By [Signature]  
Deputy



# EXHIBIT "A"

Scope of Work

EXHIBIT "A "

This is not an invoice.  
For information only.

**K&H Integrated Print Solutions**

**Election Invoice Detail Report**

**City of Long Beach**

Election Date: 2014 ESTIMATE

Hart Ballots

APRIL 2014 ESTIMATE ONLY

Election Specifications:

Ballot Size	8 1/2 x 11
Number of Cards per Ballot	1
Number of Unique VBM Ballot Faces Received	375
Number of Unique Test Ballot Faces Received	0
Total Ballots Printed	216,635
Total Cards Printed	216,635

<b>Account Management</b>	<b>QTY</b>	<b>COST</b>
Admin Fee		\$400.00
Number of Unique Ballot Face Setups	375	\$39,375.00

<b>Mail Ballot Printing</b>	<b>Ballot Qty</b>	<b>Card Qty</b>	
VBMP Ballots	81,963	81,963	
VBMO Ballots	0	0	
MP Ballots	0	0	
Military/Overseas Ballots	0	0	
Total Mail Ballots Printed	81,963	81,963	\$19,261.31

<b>Non-Mail Ballot Printing</b>			
Poll Ballots	112,550	112,550	
Counter Ballots	5,592	5,592	
Dupe Ballots	16,100	16,100	
Test Ballots (Unmarked)	430	430	
Training Ballots	0	0	
Military/Overseas Ballots (non inserted)	0	0	
Total Non-Mail Ballots Printed	134,672	134,672	\$31,647.92

<b>Assembly &amp; Mailing Services</b> <b>(Data Processing/Imprinting/Assembly)</b>			
Number of Unique Ballot Setups	375		\$5,625.00
Total Mail Ballot Packets Assembled	81,963		\$21,310.38
Counter Ballot Packets Assembled	5,592		\$1,453.92

<b>Multi-card Assembly Surcharge</b>			
Total Ballot Packets Assembled			\$0.00

<b>Subsequent Extracts</b>			
Subsequent Ballot Cards Printed	0	0	\$0.00
Subsequent Ballot Packets Assembled	0		\$0.00

<b>Misc</b>			
Blank Ballot Base - 8.5"x11" plus 3" stub	1,000	1,000	\$140.00
Inkjet Outer Mail Envelopes	81,963		\$819.63

<b>Sub Total</b>	<b>\$120,033.16</b>
Tax Exempt #SR AB 16-058589 DP	\$0.00
Freight	\$3,000.00
Postage	\$31,965.57
<b>Total</b>	<b>\$154,998.73</b>
<b>Postage Deposit</b>	<b>\$0.00</b>
<b>Balance Due</b>	<b>\$154,998.73</b>

# EXHIBIT “B”

Rates or Charges

## EXHIBIT "B "

### *Printing Cost*

	<b>Sample</b>					
	<b>Ballot</b>				<b>Each</b>	
	<b>books</b>	<b>Pages</b>	<b>Size</b>	<b>Total cost</b>	<b>SBB</b>	<b>SBB Based on the following</b>
SBB	256,316	52	8.5 x 11, 52 pages	<b>\$356,279</b>	\$1.39	35 BT'S, 60 Candidates total
POSTAGE	256,316	52	8.5 x 11, 52 pages	<b>\$105,090</b>	\$0.41	
			TOTAL	<b>\$461,369</b>		

SBB	256,316	76	8.5 x 11, 76 pages	<b>\$479,311</b>	\$1.87	35 BT'S, 60 Candidates total
POSTAGE	256,316	76	8.5 x 11, 76 pages	<b>\$117,905</b>	\$0.46	
			TOTAL	<b>\$597,216</b>		

1/1 POSTCARD	256,316	1	4.25 X 6, 2 Sided	<b>\$10,252.64</b>	\$0.04	Postcard is black ink, 2 sided
POSTAGE	256,316	1	4.25 X 6, 2 Sided	<b>\$64,079</b>	\$0.25	variable text on box sides
			TOTAL	<b>\$74,332</b>		

### *Postage*

	256,316	1	4X6 postcard	<b>\$64,079</b>	\$0.25
	256,316	52	8.5 x 5.5, 72 pages	<b>\$105,090</b>	\$0.41
	256,316	76	8.5 x 5.5, 105 pages	<b>\$117,905</b>	\$0.46

EXHIBIT "C"

City's Representative:

Larry Herrera

# EXHIBIT "D"

Materials/Information Furnished: None