

1 Hundred Fifty Dollars (\$1,653,750), with a contingency amount of Six Hundred
2 Eighty-Nine Thousand Sixty-Three Dollars (\$689,063), for a total contract amount
3 of Two Million Three Hundred Forty-Two Thousand Eight Hundred Thirteen
4 Dollars (\$2,342,813), at the rates or charges shown in Exhibit "A".

5 B. The City's obligation to pay the sum stated above for any one
6 fiscal year shall be contingent upon the City Council of the City appropriating the
7 necessary funds for such payment by the City in each fiscal year during the term of
8 this Agreement. For the purposes of this Section, a fiscal year commences on
9 October 1 of the year and continues through September 30 of the following year. In
10 the event that the City Council of the City fails to appropriate the necessary funds
11 for any fiscal year, then, and in that event, the Agreement will terminate at no
12 additional cost or obligation to the City.

13 C. Contractor may select the time and place of performance for
14 these services; provided, however, that access to City documents, records and the
15 like, if needed by Contractor, shall be available only during City's normal business
16 hours and provided that milestones for performance, if any, are met.

17 D. Contractor has requested to receive regular payments. City
18 shall pay Contractor in due course of payments following receipt from Contractor
19 and approval by City of invoices showing the services or task performed, the time
20 expended (if billing is hourly), and the name of the Project. Contractor shall certify
21 on the invoices that Contractor has performed the services in full conformance with
22 this Agreement and is entitled to receive payment. Each invoice shall be
23 accompanied by a progress report indicating the progress to date of services
24 performed and covered by the invoice, including a brief statement of any Project
25 problems and potential causes of delay in performance, and listing those services
26 that are projected for performance by Contractor during the next invoice cycle.
27 Where billing is done and payment is made on an hourly basis, the parties
28 acknowledge that this arrangement is either customary practice for Contractor's

1 profession, industry or business, or is necessary to satisfy audit and legal
2 requirements which may arise due to the fact that City is a municipality.

3 E. Contractor represents that Contractor has obtained all
4 necessary information on conditions and circumstances that may affect its
5 performance and has conducted site visits, if necessary.

6 F. CAUTION: Contractor shall not begin work until this
7 Agreement has been signed by both parties and until Contractor's evidence of
8 insurance has been delivered to and approved by City.

9 2. TERM. The term of this Agreement shall commence at midnight on
10 May 2, 2020, and shall terminate at 11:59 p.m. on May 1, 2021, unless sooner terminated
11 as provided in this Agreement, or unless the services or the Project is completed sooner.
12 City shall have the option to extend the term of this Agreement for one (1) additional one-
13 year period, at the discretion of City Manager.

14 3. COORDINATION AND ORGANIZATION.

15 A. Contractor shall coordinate its performance with City's
16 representative, if any, named in Exhibit "B", attached to this Agreement and
17 incorporated by this reference. Contractor shall advise and inform City's
18 representative of the work in progress on the Project in sufficient detail so as to
19 assist City's representative in making presentations and in holding meetings on the
20 Project. City shall furnish to Contractor information or materials, if any, described in
21 Exhibit "C", attached to this Agreement and incorporated by this reference, and shall
22 perform any other tasks described in the Exhibit.

23 B. The parties acknowledge that a substantial inducement to City
24 for entering this Agreement was and is the reputation and skill of Contractor's key
25 employee, named in Exhibit "D" attached to this Agreement and incorporated by this
26 reference. City shall have the right to approve any person proposed by Contractor
27 to replace that key employee.

28 4. INDEPENDENT CONTRACTOR. In performing its services,

1 Contractor is and shall act as an independent Contractor and not an employee,
2 representative or agent of City. Contractor shall have control of Contractor's work and the
3 manner in which it is performed. Contractor shall be free to contract for similar services to
4 be performed for others during this Agreement; provided, however, that Contractor acts in
5 accordance with Section 9 and Section 11 of this Agreement. Contractor acknowledges
6 and agrees that (a) City will not withhold taxes of any kind from Contractor's compensation;
7 (b) City will not secure workers' compensation or pay unemployment insurance to, for or
8 on Contractor's behalf; and (c) City will not provide and Contractor is not entitled to any of
9 the usual and customary rights, benefits or privileges of City employees. Contractor
10 expressly warrants that neither Contractor nor any of Contractor's employees or agents
11 shall represent themselves to be employees or agents of City.

12 5. INSURANCE.

13 A. As a condition precedent to the effectiveness of this
14 Agreement, Contractor shall procure and maintain, at Contractor's expense for the
15 duration of this Agreement, from insurance companies that are admitted to write
16 insurance in California and have ratings of or equivalent to A:V by A.M. Best
17 Company or from authorized non-admitted insurance companies subject to Section
18 1763 of the California Insurance Code and that have ratings of or equivalent to A:VIII
19 by A.M. Best Company, the following insurance:

20 i. Commercial general liability insurance (equivalent in
21 scope to ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less
22 than \$1,000,000 per each occurrence and \$2,000,000 general aggregate.
23 This coverage shall include but not be limited to broad form contractual
24 liability, cross liability, independent contractors liability, and products and
25 completed operations liability. City, its boards and commissions, and their
26 officials, employees and agents shall be named as additional insureds by
27 endorsement (on City's endorsement form or on an endorsement equivalent
28 in scope to ISO form CG 20 10 11 85 or CG 20 26 11 85 or both CG 20 10

1 07 04 and CG 20 37 07 04 or both CG 20 33 07 04 and CG 20 37 07 04),
2 and this insurance shall contain no special limitations on the scope of
3 protection given to City, its boards and commissions, and their officials,
4 employees and agents. This policy shall be endorsed to state that the insurer
5 waives its right of subrogation against City, its boards and commissions, and
6 their officials, employees and agents.

7 ii. Workers' Compensation insurance as required by the
8 California Labor Code and employer's liability insurance in an amount not
9 less than \$1,000,000. This policy shall be endorsed to state that the insurer
10 waives its right of subrogation against City, its boards and commissions, and
11 their officials, employees and agents.

12 iii. Professional liability or errors and omissions insurance
13 in an amount not less than \$1,000,000 per claim.

14 iv. Commercial automobile liability insurance (equivalent in
15 scope to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in
16 an amount not less than \$500,000 combined single limit per accident.

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

22 C. Each insurance policy shall be endorsed to state that coverage
23 shall not be reduced, non-renewed or canceled except after thirty (30) days prior
24 written notice to City, shall be primary and not contributing to any other insurance
25 or self-insurance maintained by City, and shall be endorsed to state that coverage
26 maintained by City shall be excess to and shall not contribute to insurance or self-
27 insurance maintained by Contractor. Contractor shall notify City in writing within five
28 (5) days after any insurance has been voided by the insurer or cancelled by the

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insured.

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

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

F. Prior to the start of performance, Contractor shall deliver to City certificates of insurance and the endorsements for approval as to sufficiency and form. In addition, Contractor shall, within thirty (30) days prior to expiration of the insurance, furnish to City certificates of insurance and endorsements evidencing renewal of the insurance. City reserves the right to require complete certified copies of all policies of Contractor and Contractor's subconsultants and contractors, at any time. Contractor shall make available to City's Risk Manager or designee all books, records and other information relating to this insurance, during normal business hours.

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

H. The procuring or existence of insurance shall not be construed or deemed as a limitation on liability relating to Contractor's performance or as full

1 performance of or compliance with the indemnification provisions of this Agreement.

2 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement
3 contemplates the personal services of Contractor and Contractor's employees, and the
4 parties acknowledge that a substantial inducement to City for entering this Agreement was
5 and is the professional reputation and competence of Contractor and Contractor's
6 employees. Contractor shall not assign its rights or delegate its duties under this
7 Agreement, or any interest in this Agreement, or any portion of it, without the prior approval
8 of City, except that Contractor may with the prior approval of the City Manager of City,
9 assign any moneys due or to become due Contractor under this Agreement. Any
10 attempted assignment or delegation shall be void, and any assignee or delegate shall
11 acquire no right or interest by reason of an attempted assignment or delegation.
12 Furthermore, Contractor shall not subcontract any portion of its performance without the
13 prior approval of the City Manager or designee, or substitute an approved subconsultant
14 or Contractor without approval prior to the substitution. Nothing stated in this Section shall
15 prevent Contractor from employing as many employees as Contractor deems necessary
16 for performance of this Agreement.

17 7. CONFLICT OF INTEREST. Contractor, by executing this Agreement,
18 certifies that, at the time Contractor executes this Agreement and for its duration,
19 Contractor does not and will not perform services for any other client which would create a
20 conflict, whether monetary or otherwise, as between the interests of City and the interests
21 of that other client. Contractor further certifies that Contractor does not now have and shall
22 not acquire any interest, direct or indirect, in the area covered by this Agreement or any
23 other source of income, interest in real property or investment which would be affected in
24 any manner or degree by the performance of Contractor's services hereunder. And,
25 Contractor shall obtain similar certifications from Contractor's employees, subconsultants
26 and contractors.

27 8. MATERIALS. Contractor shall furnish all labor and supervision,
28 supplies, materials, tools, machinery, equipment, appliances, transportation and services

1 necessary to or used in the performance of Contractor's obligations under this Agreement,
2 except as stated in Exhibit "C".

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

14 10. TERMINATION. Either party shall have the right to terminate this
15 Agreement for any reason or no reason at any time by giving fifteen (15) calendar days
16 prior written notice to the other party. In the event of termination under this Section, City
17 shall pay Contractor for services satisfactorily performed and costs incurred up to the
18 effective date of termination for which Contractor has not been previously paid. The
19 procedures for payment in Section 1.B. with regard to invoices shall apply. On the effective
20 date of termination, Contractor shall deliver to City all Data developed or accumulated in
21 the performance of this Agreement, whether in draft or final form, or in process. And,
22 Contractor acknowledges and agrees that City's obligation to make final payment is
23 conditioned on Contractor's delivery of the Data to City.

24 11. CONFIDENTIALITY. Contractor shall keep all Data confidential and
25 shall not disclose the Data or use the Data directly or indirectly, other than in the course of
26 performing its services, during the term of this Agreement and for five (5) years following
27 expiration or termination of this Agreement. In addition, Contractor shall keep confidential
28 all information, whether written, oral or visual, obtained by any means whatsoever in the

1 course of performing its services for the same period of time. Contractor shall not disclose
2 any or all of the Data to any third party, or use it for Contractor's own benefit or the benefit
3 of others except for the purpose of this Agreement.

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

10 13. ADDITIONAL SERVICES. The City has the right at any time during
11 the performance of the services, without invalidating this Agreement, to order extra work
12 beyond that specified in the RFP or make changes by altering, adding to or deducting from
13 the work. No extra work may be undertaken unless a written order is first given by the City,
14 incorporating any adjustment in the Agreement Sum, or the time to perform this Agreement.
15 Any increase in compensation of ten percent (10%) or less of the Agreement Sum, or in
16 the time to perform of One Hundred Eighty (180) days or less, may be approved by the
17 City Representative. Any greater increases, taken either separately or cumulatively, must
18 be approved by the City Council. It is expressly understood by Contractor that the
19 provisions of this paragraph do not apply to services specifically set forth in the RFP or
20 reasonably contemplated in the RFP. Contractor acknowledges that it accepts the risk that
21 the services to be provided pursuant to the RFP may be more costly or time consuming
22 than Contractor anticipates and that Contractor will not be entitled to additional
23 compensation for the services set forth in the RFP.

24 14. RETENTION OF FUNDS. Contractor authorizes the City to deduct
25 from any amount payable to Contractor (whether or not arising out of this Agreement) any
26 amounts the payment of which may be in dispute or that are necessary to compensate the
27 City for any losses, costs, liabilities or damages suffered by the City, and all amounts for
28 which the City may be liable to third parties, by reason of Contractor's acts or omissions in

1 performing or failing to perform Contractor's obligations under this Agreement. In the event
2 that any claim is made by a third party, the amount or validity of which is disputed by
3 Contractor, or any indebtedness exists that appears to be the basis for a claim of lien, the
4 City may withhold from any payment due, without liability for interest because of the
5 withholding, an amount sufficient to cover the claim. The failure of the City to exercise the
6 right to deduct or to withhold will not, however, affect the obligations of Contractor to insure,
7 indemnify and protect the City as elsewhere provided in this Agreement.

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

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

22 17. PREVAILING WAGES.

23 A. Contractor agrees that all public work (as defined in California
24 Labor Code section 1720) performed pursuant to this Agreement (the "Public
25 Work"), if any, shall comply with the requirements of California Labor Code sections
26 1770 *et seq.* City makes no representation or statement that the Project, or any
27 portion thereof, is or is not a "public work" as defined in California Labor Code
28 section 1720.

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

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

19. INDEMNITY.

A. Contractor shall indemnify, protect and hold harmless City, its Boards, Commissions, and their officials, employees and agents ("Indemnified Parties"), from and against any and all liability, claims, demands, damage, loss, obligations, causes of action, proceedings, awards, fines, judgments, penalties, costs and expenses, arising or alleged to have arisen, in whole or in part, out of or in connection with (1) Contractor's breach or failure to comply with any of its obligations contained in this Agreement, including any obligations arising from the Project's compliance with or failure to comply with applicable laws, including all applicable federal and state labor requirements including, without limitation, the requirements of California Labor Code section 1770 *et seq.* or (2) negligent or willful acts, errors, omissions or misrepresentations committed by Contractor, its officers, employees, agents, subcontractors, or anyone under Contractor's control, in the performance of work or services under this Agreement (collectively "Claims" or

1 individually "Claim").

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

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

16 D. The provisions of this Section shall survive the expiration or
17 termination of this Agreement.

18 20. FORCE MAJEURE. If any party fails to perform its obligations
19 because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain
20 labor or materials or reasonable substitutes for labor materials, governmental restrictions,
21 governmental regulations, governmental controls, judicial orders, enemy or hostile
22 governmental action, civil commotion, fire or other casualty, or other causes beyond the
23 reasonable control of the party obligated to perform, then that party's performance will be
24 excused for a period equal to the period of such cause for failure to perform.

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

27 22. NONDISCRIMINATION.

28 A. In connection with performance of this Agreement and subject

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to applicable rules and regulations, Contractor shall not discriminate against any employee or applicant for employment because of race, religion, national origin, color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap or disability. Contractor shall ensure that applicants are employed, and that employees are treated during their employment, without regard to these bases. These actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

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

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

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

1 “During the performance of a contract with the City of Long Beach, the
2 Contractor will provide equal benefits to employees with spouses and its
3 employees with domestic partners. Additional information about the City of
4 Long Beach’s Equal Benefits Ordinance may be obtained from the City of
5 Long Beach Business Services Division at 562-570-6200.”

6 B. The failure of the Contractor to comply with the EBO will be
7 deemed to be a material breach of the Agreement by the City.

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

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

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

20 24. NOTICES. Any notice or approval required by this Agreement shall
21 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,
22 postage prepaid, addressed to Contractor at the address first stated above, and to City at
23 411 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a copy
24 to the City Engineer at the same address. Notice of change of address shall be given in
25 the same manner as stated for other notices. Notice shall be deemed given on the date
26 deposited in the mail or on the date personal delivery is made, whichever occurs first.

27 25. COVENANT AGAINST CONTINGENT FEES. Contractor warrants
28 that Contractor has not employed or retained any entity or person to solicit or obtain this

1 Agreement and that Contractor has not paid or agreed to pay any entity or person any fee,
2 commission or other monies based on or from the award of this Agreement. If Contractor
3 breaches this warranty, City shall have the right to terminate this Agreement immediately
4 notwithstanding the provisions of Section 10 or, in its discretion, to deduct from payments
5 due under this Agreement or otherwise recover the full amount of the fee, commission or
6 other monies.

7 26. WAIVER. The acceptance of any services or the payment of any
8 money by City shall not operate as a waiver of any provision of this Agreement or of any
9 right to damages or indemnity stated in this Agreement. The waiver of any breach of this
10 Agreement shall not constitute a waiver of any other or subsequent breach of this
11 Agreement.

12 27. CONTINUATION. Termination or expiration of this Agreement shall
13 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,
14 17, 19, 22 and 28 prior to termination or expiration of this Agreement.

15 28. TAX REPORTING. As required by federal and state law, City is
16 obligated to and will report the payment of compensation to Contractor on Form 1099-Misc.
17 Contractor shall be solely responsible for payment of all federal and state taxes resulting
18 from payments under this Agreement. Contractor shall submit Contractor's Employer
19 Identification Number (EIN), or Contractor's Social Security Number if Contractor does not
20 have an EIN, in writing to City's Accounts Payable, Department of Financial Management.
21 Contractor acknowledges and agrees that City has no obligation to pay Contractor until
22 Contractor provides one of these numbers.

23 29. ADVERTISING. Contractor shall not use the name of City, its officials
24 or employees in any advertising or solicitation for business or as a reference, without the
25 prior approval of the City Manager or designee.

26 30. AUDIT. City shall have the right at all reasonable times during the
27 term of this Agreement and for a period of five (5) years after termination or expiration of
28 this Agreement to examine, audit, inspect, review, extract information from and copy all

1 books, records, accounts and other documents of Contractor relating to this Agreement.

2 31. THIRD PARTY BENEFICIARY. This Agreement is not intended or
3 designed to or entered for the purpose of creating any benefit or right for any person or
4 entity of any kind that is not a party to this Agreement.

5 32. COMPLIANCE WITH THE CONTRACT WORK HOURS AND
6 SAFETY STANDARDS ACT.

7 A. Overtime requirements. No Contractor or subcontractor
8 contracting for any part of the contract work which may require or involve the
9 employment of laborers or mechanics shall require or permit any such laborer or
10 mechanic in any workweek in which he or she is employed on such work to work in
11 excess of forty hours in such workweek unless such laborer or mechanic receives
12 compensation at a rate not less than one and one-half times the basic rate of pay
13 for all hours worked in excess of forty hours in such workweek.

14 B. Violation; liability for unpaid wages; liquidated damages. In the
15 event of any violation of the clause set forth in paragraph (A) of this Section the
16 Contractor and any subcontractor responsible therefor shall be liable for the unpaid
17 wages. In addition, such Contractor and subcontractor shall be liable to the United
18 States (in the case of work done under contract for the District of Columbia or a
19 territory, to such District or to such territory), for liquidated damages. Such liquidated
20 damages shall be computed with respect to each individual laborer or mechanic,
21 including watchmen and guards, employed in violation of the clause set forth in
22 paragraph (A) of this Section, in the sum of \$26 for each calendar day on which
23 such individual was required or permitted to work in excess of the standard
24 workweek of forty hours without payment of the overtime wages required by the
25 clause set forth in paragraph (A) of this Section.

26 C. Withholding for unpaid wages and liquidated damages. The
27 City shall upon its own action or upon written request of an authorized representative
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1 of the Department of Labor withhold or cause to be withheld, from any moneys
2 payable on account of work performed by the Contractor or subcontractor under any
3 such contract or any other Federal contract with the same prime Contractor, or any
4 other federally-assisted contract subject to the Contract Work Hours and Safety
5 Standards Act, which is held by the same prime Contractor, such sums as may be
6 determined to be necessary to satisfy any liabilities of such Contractor or
7 subcontractor for unpaid wages and liquidated damages as provided in the clause
8 set forth in paragraph (B) of this Section.

9 D. Subcontracts. The Contractor or subcontractor shall insert in
10 any subcontracts the clauses set forth in paragraph (A) through (C) of this Section
11 and also a clause requiring the subcontractors to include these clauses in any lower
12 tier subcontracts. The prime Contractor shall be responsible for compliance by any
13 subcontractor or lower tier subcontractor with the clauses set forth in paragraphs
14 (A) through (C) of this Section.

15 33. CLEAN AIR ACT.

16 A. The Contractor agrees to comply with all applicable
17 standards, orders or regulations issued pursuant to the Clean Air Act, as
18 amended, 42 U.S.C. § 7401 et seq.

19 B. The Contractor agrees to report each violation to the (name of
20 applicant entering into the contract) and understands and agrees that the (name of
21 the applicant entering into the contract) will, in turn, report each violation as
22 required to assure notification to the Federal Emergency Management Agency,
23 and the appropriate Environmental Protection Agency Regional Office.

24 C. The Contractor agrees to include these requirements in each
25 subcontract exceeding \$150,000 financed in whole or in part with Federal
26 assistance provided by FEMA.

27 34. FEDERAL WATER POLLUTION CONTROL ACT.

28 A. The Contractor agrees to comply with all applicable

1 standards, orders, or regulations issued pursuant to the Federal Water Pollution
2 Control Act, as amended, 33 U.S.C. 1251 et seq.

3 B. The Contractor agrees to report each violation to the (name of
4 the applicant entering into the contract) and understands and agrees that the
5 (name of the applicant entering into the contract) will, in turn, report each violation
6 as required to assure notification to the Federal Emergency Management Agency,
7 and the appropriate Environmental Protection Agency Regional Office.

8 C. The Contractor agrees to include these requirements in each
9 subcontract exceeding \$150,000 financed in whole or in part with Federal
10 assistance provided by FEMA.

11 35. SUSPENSION AND DEBARMENT.

12 A. This contract is a covered transaction for purposes of 2 C.F.R.
13 pt. 180 and 2 C.F.R. pt. 3000. As such, the Contractor is required to verify that
14 none of the Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates
15 (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or
16 disqualified (defined at 2 C.F.R. § 180.935).

17 B. The Contractor must comply with 2 C.F.R. pt. 180, subpart C
18 and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with
19 these regulations in any lower tier covered transaction it enters into.

20 C. This certification is a material representation of fact relied
21 upon by (insert name of recipient/subrecipient/applicant). If it is later determined
22 that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R.
23 pt. 3000, subpart C, in addition to remedies available to (insert name of
24 recipient/subrecipient/applicant), the Federal Government may pursue available
25 remedies, including but not limited to suspension and/or debarment.

26 D. The bidder or proposer agrees to comply with the
27 requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while
28 this offer is valid and throughout the period of any contract that may arise from this

1 offer. The bidder or proposer further agrees to include a provision requiring such
2 compliance in its lower tier covered transactions.

3 36. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (as
4 amended).

5 A. Contractors who apply or bid for an award of \$100,000 or
6 more shall file the required certification. Each tier certifies to the tier above that it
7 will not and has not used Federal appropriated funds to pay any person or
8 organization for influencing or attempting to influence an officer or employee of
9 any agency, a Member of Congress, officer or employee of Congress, or an
10 employee of a Member of Congress in connection with obtaining any Federal
11 contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall
12 also disclose any lobbying with non-Federal funds that takes place in connection
13 with obtaining any Federal award. Such disclosures are forwarded from tier to tier
14 up to the recipient who in turn will forward the certification(s) to the awarding
15 agency.

16 B. If applicable, contractors must sign and submit to the non-
17 federal entity the following certification.

18 37. PROCUREMENT OF RECOVERED MATERIALS.

19 A. In the performance of this contract, the Contractor shall make
20 maximum use of products containing recovered materials that are EPA-designated
21 items unless the product cannot be acquired:

22 i. Competitively within a timeframe providing for
23 compliance with the contract performance schedule;

24 ii. Meeting contract performance requirements; or

25 iii. At a reasonable price.

26 B. Information about this requirement, along with the list of EPA
27 designated items, is available at EPA's Comprehensive Procurement Guidelines
28 web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg->

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4511

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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.

CURATIVE, INC. formerly SNAP
GENOMICS, INC., a Delaware corporation

_____, 2020

By Tami D. Ciranna
Name Tami D.W. Ciranna
Title CEO

_____, 2020

By _____
Name _____
Title _____

"Contractor"

CITY OF LONG BEACH, a municipal corporation

June 15, 2020

By Rebecca G. Garner
EXECUTED PURSUANT TO SECTION 301 OF
"THE CITY CHARTER"

This Agreement is approved as to form on June 9, 2020.

CHARLES PARKIN, City Attorney

By [Signature]
Deputy

EXHIBIT “A”

Rates or Charges

QUOTE



DATE

05/02/2020

Curative Inc.
430 S Cataract Ave
San Dimas, CA 91773
(650) 713-8928
support@curativeinc.com

TO: City of Long Beach
Purchasing Department
Long Beach, CA
ATTN: Michelle King
Carrie Sinohui

SHIPPING METHOD	SHIPPING TERMS	DELIVERY DATE	PAYMENT TERMS
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Delivery covered by Curative

Next day

TBD

Due on Receipt

Samples to be returned to San Dimas lab.

QUANTITY	ITEM #	DESCRIPTION	UNIT PRICE
2000	CV1	<p>Covid-19 testing kit with instructions, swab, collection tube with media for room temperature collection and storage. Includes biohazard bag and box for UN3373 compliant transport.</p> <p>Covid-19 lab test from oral fluid, validated and run in CLIA-certified lab in San Dimas</p> <p>Estimated 36-hour turnaround.</p>	\$125.00

Subtotal	\$250,000.00
Sales Tax (10.25%)	\$25,625.00
Total	\$275,625.00

EXHIBIT “B”

City’s Representative:

Kelly Colopy,

Director of Health & Human Services,

Health & Human Services Department

kelly.colopy@longbeach.gov

562-570-4016

EXHIBIT “C”

Additional Materials/Information Furnished:

NONE

EXHIBIT “D”

Contractor’s Key Employee:

Frederick Turner
650-713-8928
fred@curative.com