



1           3.     ACCEPTANCE OF WORK NOT TO CONSTITUTE A WAIVER. The  
2 acceptance of any work or the payment of any money by City shall not operate as a  
3 waiver of any provision of this Contract, of any power reserved to City, or of any right to  
4 damages or indemnity hereunder. The waiver of any breach or any default hereunder  
5 shall not be deemed a waiver of any other or subsequent breach or default.

6           4.     INSURANCE.

7           A.     As a condition precedent to the effectiveness of this Contract,  
8 Contractor shall procure and maintain at Contractor's expense for the duration of  
9 this Contract from insurance companies that are admitted to write insurance in  
10 California or from authorized non-admitted insurance companies that have ratings  
11 of or equivalent to A:VIII by A.M. Best Company the following insurance:

12                   i.     Commercial general liability insurance (equivalent in  
13 scope to ISO form CG 00 01 11 85 or CG 00 01 11 88) in an amount not  
14 less than \$1,000,000 per each occurrence and \$2,000,000 general  
15 aggregate. This coverage shall include but not be limited to broad form  
16 contractual liability, cross liability, independent contractors liability, and  
17 products and completed operations liability. City, its officials, employees  
18 and agents shall be named as additional insureds by endorsement (on  
19 City's endorsement form or on an endorsement equivalent in scope to ISO  
20 form CG 20 10 11 85 or to both CG 20 10 10 01 and CG 20 37 10 01), and  
21 this insurance shall contain no special limitations on the scope of protection  
22 given to City, its officials, employees and agents.

23                   ii.    Workers' Compensation insurance as required by the  
24 California Labor Code and employer's liability insurance in an amount not  
25 less than \$1,000,000.

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

28                   iv.    Commercial automobile liability insurance (equivalent

1 in scope to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto)  
2 in an 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. Each insurance policy  
8 shall be endorsed to state that coverage shall not be reduced, non-renewed, or  
9 canceled except after thirty (30) days prior written notice to City, and shall be  
10 primary and not contributing to any other insurance or self-insurance maintained  
11 by City. Contractor shall notify City in writing within five (5) days after any  
12 insurance has been voided by the insurer or cancelled by the insured. If this  
13 coverage is written on a "claims made" basis, it must provide for an extended  
14 reporting period of not less than one year, commencing on the date this Contract  
15 expires or is terminated, unless Contractor guarantees that Contractor will provide  
16 to City evidence of uninterrupted, continuing coverage for a period of not less than  
17 three (3) years, commencing on the date this Contract expires or is terminated.

18 C. Contractor shall require that all subcontractors that Contractor  
19 uses in the performance of these services maintain insurance in compliance with  
20 this Section unless otherwise agreed in writing by City's Risk Manager or  
21 designee.

22 D. Prior to the start of performance, Contractor shall deliver to  
23 City certificates of insurance and the endorsements for approval as to sufficiency  
24 and form. In addition, Contractor, shall within thirty (30) days prior to expiration of  
25 the insurance, furnish to City certificates of insurance and endorsements  
26 evidencing renewal of the insurance. City reserves the right to require complete  
27 certified copies of all policies of Contractor and Contractor's subcontractors, at any  
28 time. Contractor shall make available to City's Risk Manager or designee all

1 books, records and other information relating to this insurance, during normal  
2 business hours.

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

9 F. The procuring or existence of insurance shall not be  
10 construed or deemed as a limitation on liability relating to Contractor's  
11 performance or as full performance of or compliance with the indemnification  
12 provisions of this Contract.

13 5. INDEMNITY. Contractor shall, with respect to services performed in  
14 connection with this Contract, indemnify and hold harmless the City, its Boards,  
15 Commissions, and their officials, employees and agents (collectively in this Section,  
16 "City") from and against any and all liability, claims, demands, damage, loss, causes of  
17 action, proceedings, penalties, costs and expenses (including attorney's fees, court  
18 costs, and expert and witness fees) arising out of or related to the acts of Contractor, its  
19 officers, employees, agents, subcontractors or anyone under Contractor's control  
20 (collectively "Indemnitor"). Independent of the duty to indemnify, Contractor shall defend  
21 City and shall continue this defense until the claim is resolved, whether by settlement,  
22 judgment or otherwise. No finding or judgment of negligence, fault, breach, or the like on  
23 the part of Indemnitor shall be required for the duty to defend to arise. Contractor shall  
24 notify City of any claim within ten (10) days. Likewise, City shall notify Contractor of any  
25 claim, shall tender the defense of the claim to Contractor, and shall assist Contractor, as  
26 may be reasonably requested, in the defense.

27 6. OWNERSHIP OF DATA. All materials, information and data  
28 prepared, developed or assembled by Contractor or furnished to Contractor in connection

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

10 7. CONFIDENTIALITY.

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

20 B. Contractor shall not be liable for a breach of confidentiality  
21 with respect to Data that: (a) Contractor demonstrates Contractor knew prior to the  
22 time City disclosed it; or (b) is or becomes publicly available without breach of this  
23 Contract by Contractor; or (c) a third party who has a right to disclose does so to  
24 Contractor without restrictions on further disclosure; or (d) must be disclosed  
25 pursuant to subpoena or court order.

26 8. NOTICES. Any notice required hereunder shall be in writing and  
27 personally delivered or deposited in the U.S. Postal Service, first class, postage prepaid,  
28 to Contractor at the address first stated herein, and to the City at 333 West Ocean

1 Boulevard, Long Beach, California 90802, Attn: City Clerk. Notice of change of address  
2 shall be given in the same manner as stated herein for other notices. Notice shall be  
3 deemed given on the date deposited in the mail or on the date personal delivery is made,  
4 whichever first occurs.

5 9. ASSIGNMENT. Neither this Contract nor any of the moneys that  
6 may become due Contractor hereunder may be assigned by Contractor without the  
7 written consent of City first had and obtained, nor will City recognize any subcontractor as  
8 such, and all persons engaged in the work of construction will be considered as  
9 independent contractors or agents of Contractor and will be held directly responsible to  
10 Contractor.

11 10. TERMINATION. Either party shall have the right to terminate this  
12 Contract for any reason or no reason at any time by giving fifteen (15) calendar days prior  
13 notice to the other party. In the event of termination under this Section, City shall pay  
14 Contractor for services satisfactorily performed and costs incurred up to the effective date  
15 of termination for which Contractor has not been previously paid.

16 11. THIRD PARTY BENEFICIARY. This Contract is intended by the  
17 parties to benefit themselves only and is not in any way intended or designed to or  
18 entered for the purpose of creating any benefit or right of any kind for any person or entity  
19 that is not a party to this Contract.

20 12. GOVERNING LAW. This Contract shall be governed by and  
21 construed pursuant to the laws of the State of California (except those provisions of  
22 California law pertaining to conflicts of laws).

23 13. COSTS. If there is any legal proceeding between the parties to  
24 enforce or interpret this Contract or to protect or establish any rights or remedies  
25 hereunder, the prevailing party shall be entitled to its costs, including reasonable  
26 attorney's fees.

27  
28

IN WITNESS WHEREOF, the parties have caused this document to be duly


OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

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executed with all formalities required by law as of the date first stated above.

K&H PRINTERS-LITHOGRAPHERS INC., a  
Washington corporation dba K&H INTEGRATED  
PRINT SOLUTIONS

04.24.08, 2008

By   
President  
JAY C. ACKLEY  
(Type or Print Name)

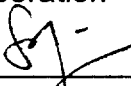
4.24.08, 2008

By   
Secretary  
Dave Haines  
(Type or Print Name)

"Contractor"

CITY OF LONG BEACH, a municipal  
corporation


May 8, 2008

By  Assistant City Manager  
City Manager

"City" **EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER.**

This Contract is approved as to form on 5/1/08,  
2008.

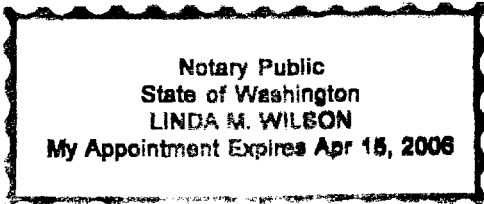
ROBERT E. SHANNON, City Attorney

By   
Assistant

HAM:fl  
4/16/08  
#A08-01162

**WASHINGTON**  
**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of Washington  
 County of Snohomish }  
 On 4.24.08 before me, Linda Wilson, Notary Public  
Date Here Insert Name and Title of the Officer  
 personally appeared Jay C. Ackley and Dave Haines  
Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature]  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

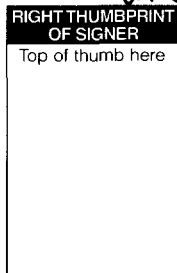
*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: Contract  
 Document Date: 4.01.08 Number of Pages: 7  
 Signer(s) Other Than Named Above: \_\_\_\_\_

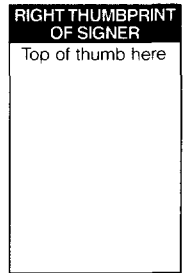
**Capacity(ies) Claimed by Signer(s)**

Signer's Name: Jay C. Ackley  
 Individual  
 Corporate Officer — Title(s): President, Secretary  
 Partner —  Limited  General  
 Attorney in Fact  
 Trustee  
 Guardian or Conservator  
 Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Signer's Name: Dave Haines  
 Individual  
 Corporate Officer — Title(s): Secretary  
 Partner —  Limited  General  
 Attorney in Fact  
 Trustee  
 Guardian or Conservator  
 Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



**CITY OF LONG BEACH**

DEPARTMENT OF THE CITY CLERK

333 W. Ocean Blvd.

Long Beach, CA 90802

(562) 570-8101

FAX (562) 570-8789

April 1, 2008

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

**RECOMMENDATION:**

That City Council authorize the City Manager to execute a contract with K&H Integrated Print Solutions for mailing services and printing of official ballots, sample ballots and vote-by-mail materials in an amount not to exceed \$122,227, plus a seven percent contingency, with an option to authorize the provision of mailing services and printing of official ballots, sample ballots and vote-by-mail materials in an amount not to exceed \$76,360, plus a seven percent contingency, in administration of the April 8, 2008 Primary Nominating Election (PNE), and the June 3, 2008 General Municipal Election (GME).

**DISCUSSION**

After issuance of an Request for Proposal in 2007, the City Clerk Department took necessary action to retain the services of K&H Integrated Print Solutions for mailing services, official ballots and vote-by-mail materials in preparation for the PNE on April 8, 2008, and if necessary the GME on June 3, 2008.

With completion of work, for the April 8, 2008 PNE, K&H provided for: [1] printing and mailing of more than 91,804 sample ballots; [2] printing of 59,882 Official Ballots for use as precinct, vote-by-mail ballots, provisional and test ballots; and [3] preparation and mailing of 17,551 vote-by-mail ballots (as of March 23, 2008).

**TIMING CONSIDERATIONS**

Approval of this action is necessary so that payment for services rendered can be made pursuant to the contract requirements of the City Charter.

**FISCAL IMPACT**

The appropriations necessary to cover the cost of the April 8, 2008 PNE are contained in the City Clerk Department 2008 Fiscal Year Budget. In the event of a June 8, 2008 GME, City Clerk Department will work with Financial Management to determine the source of funding.

**SUGGESTED ACTION:**

Approve recommendation.

Respectfully submitted,

LARRY HERRERA  
CITY CLERK