

1 C. Consultant represents that Consultant has obtained all necessary
2 information on conditions and circumstances that may affect its performance and has
3 conducted site visits, if necessary.

4 D. **CAUTION:** Consultant shall not begin work until this Agreement has been
5 signed by both parties and until Consultant's evidence of insurance has been delivered to
6 and approved by the City.

7 2. TERM. The term of this Agreement shall commence at midnight on
8 December 6, 2006, and shall terminate at 11:59 p.m. on December 5, 2009, unless sooner
9 terminated as provided in this Agreement, or unless the services or the Project is
10 completed sooner. City shall have the option to extend the term of this Agreement for two
11 (2) consecutive additional periods of one (1) year each by giving notice to Consultant of
12 City's desire to extend.

13 3. COORDINATION AND ORGANIZATION.

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

21 B. The parties acknowledge that a substantial inducement to City for entering
22 this Agreement was and is the reputation and skill of Consultant's key employee, Jeff
23 Smith. City shall have the right to approve any person proposed by Consultant to replace
24 that key employee.

25 4. INDEPENDENT CONTRACTOR. In performing its services,
26 Consultant is and shall act as an independent contractor and not an employee,
27 representative or agent of City. Consultant shall have control of Consultant's work and the
28 manner in which it is performed. Consultant shall be free to contract for similar services

1 to be performed for others during this Agreement; provided, however, that Consultant acts
2 in accordance with Section 9 and Section 11 of this Agreement. Consultant acknowledges
3 and agrees that (a) City will not withhold taxes of any kind from Consultant's compensation;
4 (b) City will not secure workers' compensation or pay unemployment insurance to, for or
5 on Consultant's behalf; and (c) City will not provide and Consultant is not entitled to any
6 of the usual and customary rights, benefits or privileges of City employees. Consultant
7 expressly warrants that neither Consultant nor any of Consultant's employees or agents
8 shall represent themselves to be employees or agents of City.

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

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

24 (b) Workers' Compensation insurance as required by the California
25 Labor Code and employer's liability insurance in an amount not less than
26 \$1,000,000.

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

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

4 Any self-insurance program, self-insured retention, or deductible must be
5 separately approved in writing by City's Risk Manager or designee and shall protect City,
6 its officials, employees and agents in the same manner and to the same extent as they
7 would have been protected had the policy or policies not contained retention or deductible
8 provisions. Each insurance policy shall be endorsed to state that coverage shall not be
9 reduced, non-renewed, or canceled except after thirty (30) days prior written notice to City,
10 and shall be primary and not contributing to any other insurance or self-insurance
11 maintained by City. Consultant 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 coverage is
13 written on a "claims made" basis, it must provide for an extended reporting period of not
14 less than one year, commencing on the date this Agreement expires or is terminated,
15 unless Consultant guarantees that Consultant will provide to City evidence of
16 uninterrupted, continuing coverage for a period of not less than three (3) years,
17 commencing on the date this Agreement expires or is terminated.

18 Consultant shall require that all subconsultants and contractors that
19 Consultant uses in the performance of services maintain insurance in compliance with this
20 Section unless otherwise agreed in writing by City's Risk Manager or designee.

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

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

6 The procuring or existence of insurance shall not be construed or deemed
7 as a limitation on liability relating to Consultant's performance or as full performance of or
8 compliance with the indemnification provisions of this Agreement.

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

24 7. CONFLICT OF INTEREST. Consultant, by executing this Agreement,
25 certifies that, at the time Consultant executes this Agreement and for its duration,
26 Consultant does not and will not perform services for any other client which would create
27 a conflict, whether monetary or otherwise, as between the interests of City under this
28 Agreement and the interests of that other client. And, Consultant shall obtain similar

1 certifications from Consultant's employees, subconsultants and contractors.

2 8. MATERIALS. Consultant shall furnish all labor and supervision,
3 supplies, material, tools, machinery, equipment, appliances, transportation, and services
4 necessary to or used in the performance of Consultant's obligations hereunder, except as
5 stated in Exhibit "C", if any.

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

17 10. TERMINATION. Either party shall have the right to terminate this
18 Agreement for any reason or no reason at any time by giving fifteen (15) calendar days
19 prior notice to the other party. On the effective date of termination, Consultant shall deliver
20 to City all Data developed or accumulated in the performance of this Agreement, whether
21 in draft or final form, or in process.

22 11. CONFIDENTIALITY. Consultant shall keep all Data confidential and
23 shall not disclose the Data or use the Data directly or indirectly other than in the course of
24 performing its services during the term of this Agreement and for five (5) years following
25 expiration or termination of this Agreement. In addition, Consultant shall keep confidential
26 all information, whether written, oral or visual, obtained by any means whatsoever in the
27 course of performing its services for the same period of time. Consultant shall not disclose
28 any or all of the Data to any third party or use it for Consultant's own benefit or the benefit

1 of others except for the purpose of this Agreement.

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

8 13. ADDITIONAL COSTS. Any costs incurred by City due to Consultant's
9 failure to meet the standards required by the scope of work or Consultant's failure to
10 perform fully the tasks described in the scope of work which, in either case, causes City
11 to request that Consultant perform again all or part of the scope of work shall be at the sole
12 cost of Consultant and City shall not pay any additional compensation to Consultant for its
13 re-performance.

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

17 15. LAW. This Agreement shall be governed by and construed pursuant
18 to the laws of the State of California (except those provisions of California law pertaining
19 to conflicts of laws). Consultant shall comply with all laws, ordinances, rules and
20 regulations of and obtain all permits, licenses and certificates required by all federal, state
21 and local governmental authorities.

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

25 17. INDEMNITY. Consultant shall indemnify and hold harmless City, its
26 Boards, Commissions, and their officials, employees and agents (collectively in this Section
27 "City") from and against any and all liability, claims, demands, damage, causes of action,
28 proceedings, penalties, loss, costs and expenses (including attorney's fees, court costs,

1 and expert and witness fees) (collectively "Claims" or individually "Claim"). Claims include
2 allegations and include by way of example but are not limited to: Claims for property
3 damage, personal injury or death arising in whole or in part from any negligent act or
4 omission of Consultant, its officers, employees, agents, sub-consultants or anyone under
5 Consultant's control (collectively "Indemnitor"); misrepresentation; willful misconduct; and
6 Claims by any employee of Indemnitor relating in any way to worker's compensation.
7 Independent of the duty to indemnify and as a free-standing duty on the part of Consultant,
8 Consultant shall defend City and shall continue this defense until the Claim is resolved,
9 whether by settlement, judgment or otherwise. Consultant shall notify City of any Claim
10 within ten (10) days. Likewise, City shall notify Consultant of any Claim, shall tender the
11 defense of the Claim to Consultant, and shall assist Consultant at Consultant's sole
12 expense, as may be reasonably requested, in the defense.

13 18. AMBIGUITY. In the event of any conflict or ambiguity between this
14 Agreement and any Exhibit, the provisions of this Agreement shall govern.

15 19. COSTS. If there is any legal proceeding between the parties to
16 enforce or interpret this Agreement or to protect or establish any rights or remedies under
17 this Agreement, the prevailing party shall be entitled to its costs, including reasonable
18 attorneys' fees.

19 20. NONDISCRIMINATION. In connection with performance of this
20 Agreement and subject to applicable rules and regulations, Consultant shall not
21 discriminate against any employee or applicant for employment because of race, religion,
22 national origin, color, age, sex, sexual orientation, AIDS, HIV status, handicap or disability.
23 Consultant shall ensure that applicants are employed, and that employees are treated
24 during their employment, without regard to these bases. These actions shall include, but
25 not be limited to, the following: employment, upgrading, demotion or transfer, recruitment
26 or recruitment advertising, layoff or termination, rates of pay or other forms of
27 compensation, and selection for training, including apprenticeship.

28 It is the policy of City to encourage the participation of Disadvantaged,

1 Minority and Women-owned Business Enterprises in City's procurement process, and
2 Consultant agrees to use its best efforts to carry out this policy in the hiring of
3 subconsultants and contractors to the fullest extent consistent with the efficient
4 performance of this Agreement. Consultant may rely on written representations by
5 subconsultants and contractors regarding their status. City's policy is attached as Exhibit
6 "D". Consultant shall report to City in May and in December the names of all
7 subconsultants and contractors hired by Consultant for this Project and information on
8 whether or not they are a Disadvantaged, Minority or Women-owned Business Enterprise,
9 as defined in Section 8 of the Small Business Act (15 U.S.C. Sec. 637).

10 21. NOTICES. Any notice or approval required under this Agreement shall
11 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,
12 postage prepaid, addressed to Consultant at the address first stated above, and to the City
13 at 333 West Ocean Boulevard, Long Beach, California 90802 Attn: City Manager. Notice
14 of change of address shall be given in the same manner as stated for other notices. Notice
15 shall be deemed given on the date deposited in the mail or on the date personal delivery
16 is made, whichever occurs first.

17 22. COPYRIGHTS AND PATENT RIGHTS.

18 A. Consultant shall place the following copyright protection on all
19 Data: © City of Long Beach, California ____, inserting the appropriate year.

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

24 C. Consultant warrants that the Data does not violate or infringe any patent,
25 copyright, trade secret or other proprietary right of any other party. Consultant agrees to
26 and shall protect, defend, indemnify and hold City, its officials and employees harmless
27 from any and all claims, demands, damages, loss, liability, causes of action, costs or
28 expenses (including reasonable attorneys' fees), whether or not reduced to judgment,

1 arising from any breach or alleged breach of this warranty.

2 23. COVENANT AGAINST CONTINGENT FEES. Consultant warrants
3 that Consultant has not employed or retained any entity or person to solicit or obtain this
4 Agreement and that Consultant has not paid or agreed to pay any entity or person any fee,
5 commission or other monies based on or from the award of this Agreement. If Consultant
6 breaches this warranty, City shall have the right to terminate this Agreement immediately
7 notwithstanding the provisions of Section 10 or, in its discretion, to deduct from payments
8 due under this Agreement or otherwise recover the full amount of the fee, commission, or
9 other monies.

10 24. WAIVER. The acceptance of any services or the payment of any
11 money by City shall not operate as a waiver of any provision of this Agreement, or of any
12 right to damages or indemnity stated in this Agreement. The waiver of any breach of this
13 Agreement shall not constitute a waiver of any other or subsequent breach of this
14 Agreement.

15 25. CONTINUATION. Termination or expiration of this Agreement shall
16 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,
17 16, 18, 21 and 27 prior to termination or expiration of this Agreement.

18 26. TAX REPORTING. As required by federal and state law, City is
19 obligated to and will report the payment of compensation to Consultant on
20 Form 1099-Misc. Consultant shall be solely responsible for payment of all federal and
21 state taxes resulting from payments under this Agreement. Consultant shall submit its
22 Employer Identification Number in writing to City's Accounts Payable, Department of
23 Financial Management. If Consultant has a Social Security Number rather than an
24 Employer Identification Number, then Consultant shall submit that Social Security Number
25 in writing to City's Accounts Payable, Department of Financial Management. Consultant
26 acknowledges and agrees that City has no obligation to pay Consultant until Consultant
27 provides one of these numbers.

28 27. ADVERTISING. Consultant shall not use the name of City, its officials

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City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802-4664
Telephone (562) 570-2200

1 or employees in any advertising or solicitation for business or as a reference, without the
2 prior approval of the City Manager or designee.

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

7 29. THIRD PARTY BENEFICIARY. This Agreement is intended by the
8 parties to benefit themselves only and is not in any way intended or designed to or entered
9 for the purpose of creating any benefit or right for any person or entity of any kind that is
10 not a party to this Agreement.

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

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

OSI COLLECTION SERVICES, INC., a Delaware corporation

12/27, 2006

By Kevin T. Keleghan
President

Kevin T. Keleghan
(Type or Print Name)

12/27, 2006

By Richard N. Seelberg
Secretary

Richard N. Seelberg
(Type or Print Name)

"Consultant"

CITY OF LONG BEACH

1.8, 2007

By Mark A. ...
City Manager

"City"

This Agreement is approved as to form on 1/2, 2007.

ROBERT E. SHANNON, City Attorney

By How A Conway
Deputy

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EXHIBIT “A”

Scope of Work

EXHIBIT "A"

1. Scope of Work

The CITY is contracting with the CONSULTANT to provide collection services on subject accounts ranging in dollar amount from \$25.00 and above. Unless the Agreement is sooner terminated, the CONSULTANT will have a period of three (3) years from the date the account is assigned to the CONSULTANT to effect collection on subject accounts, at which point these accounts will be returned to the CITY, unless the CITY in its sole discretion, elects to extend the time that the CONSULTANT may retain said account(s). The CITY may elect to transmit files for second placement at a future date.

1.1 **Work to be Performed**

The CONSULTANT hereby agrees to provide the following services to the CITY at the time and places set forth herein, pursuant to the terms and conditions of this Agreement. The CONSULTANT will perform collections on unpaid commercial and residential closed accounts that have been determined uncollectible by the CITY. Closing bills are final statements issued for various services provided or damage to City property. The term "uncollectible" for the purpose of this Agreement refers to any unpaid bills for which the CITY has made a reasonable attempt to collect and has been unsuccessful. Accounts will be referred in the amount of \$25.00 and above. The assignment date will be synonymous with the date on which the account is sent to the CONSULTANT.

1.1.1 **Work Included In Agreement**

Services furnished under this Agreement include, but are not limited to, mailing dunning notices, skip-tracing delinquent customers, filing delinquent notifications with credit bureaus, and communicating with former CITY customers to pay their unpaid bills.

The CITY may equally distribute work among the collection agency(s) and no account will be assigned to more than one agency. The CITY reserves the right to add primary collection agency(s) during the contractual period, which will change the amount of work distributed among the primary agency(s).

The CITY will refer closed accounts to the CONSULTANT after in-house pre-collections activity has concluded. The CONSULTANT will receive files containing pertinent information, process them for payments, receive information regarding recalls and payments received by the CITY, and transmit information to the CITY regarding collections, disputes, and recall.

1.1.2 **Method of Transmission**

Encrypted data will be transmitted via electronic file transfer. The CONSULTANT fully agrees to accept data and to ensure compatibility with CITY's format. Failure to receive and transmit electronic data successfully may result in termination of the Agreement. The CONSULTANT must use a secured FTP process to send and receive files from the CITY. The CITY requires the CONSULTANT to use **SSH Tectia**, or compatible software to FTP files.

The CONSULTANT will deliver revenue from collection of referred accounts to the CITY in the manner described in Section 1.1.4. In addition, the CONSULTANT will deliver, via electronic transfer, any accounts recalled by the CITY as well as those accounts determined to be uncollectible by CONSULTANT (i.e., those accounts that remain unpaid

EXHIBIT "A"

at the expiration of the contract, termination of the contract, or at the direction of the CITY). This includes, but is not limited to, those accounts that require legal action and those that have been affected by bankruptcy.

1.1.3 Recall of Accounts

The CITY reserves the right to recall delinquent accounts already assigned if a payment is received by the CITY prior to the CONSULTANT contacting the debtor. If less than the full amount due on the account is collected, the amount collected will be deducted from the amount assigned and the CONSULTANT will not have the right to any commission with respect to such amount.

Unless otherwise stated herein, once accounts are assigned to the CONSULTANT, the CITY may not recall accounts from the CONSULTANT until three (3) years from the date of assignment has passed without money being collected on the delinquent account or this Agreement is terminated or not renewed, except in the following situations: 1) the CITY has determined that an account has been referred to the agency in error, 2) the account is under protest, or 3) the account is in litigation. Notice will be given to the CONSULTANT, by telephone or electronic mail, to recall a delinquent account. The CONSULTANT shall return the account and all documents and other data pertaining thereto to the CITY within seven (7) days after receiving such notice and shall update the status on the monthly electronic file transfer(s). After the first notice of recall, the CONSULTANT shall have no right to any monies collected from the recalled amount. Any delinquent account that has been referred to the CONSULTANT must be cancelled and returned to the CITY no later than three (3) years after the referred date. However, the time may be extended, at the CITY's option and approved in writing by the CITY.

1.1.4 Deliverable Products

1.1.4.1 Within fifteen (15) days from the end of the prior month, the CONSULTANT shall send the CITY the full amount of funds collected during the proceeding month. Such distributions shall be made using the CONSULTANT'S company disbursement check and shall be documented in a payment information file stored in a CD or diskette. The CONSULTANT shall guarantee that payment funds have cleared prior to sending monthly payments to the CITY.

1.1.4.2 Payment reports detailing collections must be furnished to the CITY once a month. This payment information should be in hard copy and electronic form and should be delivered with the payment file.

Payment reports shall include:

- Name
- Account Number
- Assignment Date
- Collections
- Commission
- Remaining Balance Due
- Date of Payment
- Original Amount of the Debt
- Total Amount Owed to City

EXHIBIT "A"

1.1.4.3 The CONSULTANT will also provide, at the CITY's request, ad hoc reports (hard copy and electronic file) of all accounts assigned. Failure to provide this information within fourteen (14) calendar days of request will be deemed a breach of this Agreement. Each such report will set forth the status of all current accounts, which have been referred to the CONSULTANT by the CITY and shall include but not be limited to the following information:

- Name
- Account Number
- Assignment Date
- Remaining Balance
- Payment Arrangements
- Post-Dated Checks
- Action Taken and Dates
- Original Amount of the Debt
- Total Amount Owed to City

1.1.4.4 The CONSULTANT will provide electronic verification confirming receipt of all files sent to it by the CITY by the next business day. The CONSULTANT will also provide electronically a weekly listing of all accounts recalled by the CITY as well as accounts determined to be uncollectible by the CONSULTANT during the previous week.

1.1.5 Description of Work

The CITY requires that the CONSULTANT performing its collection services adhere to the highest legal, ethical, and professional standards. Without limiting the foregoing, the CONSULTANT will be required to abide by the limitations set forth in the Agreement and the following additional limitations:

- a. The CONSULTANT shall not collect more than the amount of the unpaid bill, which may include late payment charges and/or collection fee due the CITY, plus the authorized CONSULTANT collection fee.
- b. The CONSULTANT shall not use any letters, notices, or collection procedures unless prior written approval has been obtained from the CITY.
- c. The CONSULTANT shall have no authority to compromise or settle any subject account referred to it, and shall not imply either directly or indirectly that it has such authority.
- d. The CONSULTANT shall bear all expenses and costs incurred to effect collection of any account referred to it.
- e. The CONSULTANT shall neither institute any legal action against any debtor nor perform any service that would constitute the practice of law in the State of California. If the CITY determines that legal action or legal services are required, the CONSULTANT shall return the account to the CITY unless additional services are requested from the CONSULTANT.
- f. All monies collected by the CONSULTANT shall be deposited in a special trust fund and shall remain the property of the CITY, including all interest accrued. Said fund shall be kept separate from and shall not be commingled with other funds of the CONSULTANT or other client funds of the CONSULTANT. The CONSULTANT shall at all times be liable for any penalties or fees charged against the Trust Account including penalties or fees for Non-Sufficient Funds received by the CONSULTANT

EXHIBIT "A"

on subject accounts. The CONSULTANT shall make arrangements for the CITY to receive monthly statements directly from the financial institution in which the fund resides.

- g. Within fourteen (14) calendar days of the expiration or termination of the Agreement, the CONSULTANT must provide the CITY with a written and electronic listing of all accounts on which it is currently working. The CONSULTANT will be paid the agreed upon commission for any accounts on such list collected within ninety (90) days of expiration or termination of the Agreement. Any monies received by the CONSULTANT after the 90-day period ends, or on any account which was not listed by the CONSULTANT, will be immediately delivered to the CITY by the CONSULTANT and the CONSULTANT will receive no commission. The CONSULTANT agrees to endorse any and all checks with CONSULTANT as payee to the CITY to allow the CITY to deposit said checks.
- h. Within ninety (90) days of expiration or termination of the Agreement, the CONSULTANT shall be required to do the following:
 - Return all accounts assigned by the CITY, and any monies due the CITY.
 - Close the special Trust Fund, remitting any monies due the CITY, and submitting proof of closure.
 - Remove all accounts reported to any credit bureaus, provide a file of these accounts, and provide proof that removal has been requested.
- i. For a period of ninety (90) days after expirations or termination of the Agreement, the CONSULTANT shall be provided with files, which contain updated payment information needed for the completion of any outstanding work.
- j. Compliance with State Law under S.B. 1386 and A.B. 1950
 - S.B. 1386 and A.B. 1950 require a person or entity that owns, or licenses data that includes personal information of a California resident to:
 - (a) expeditiously disclose any breach of the database security system and implement and maintain procedures and practices to protect personal information from unauthorized access, destruction, use, modification, or disclosure; and
 - (b) require by contract, that non-affiliated third party recipients of such personal information do the same. Accordingly, the CONSULTANT agrees to implement and maintain such security procedures and practices, in conformance with S.B. 1386 and A.B. 1950, with respect to any personal identification information received under this Agreement.
 - The CONSULTANT further agrees to notify the CITY of any breach in security. In addition, the CONSULTANT agrees not to share, disclose, or in anyway transfer the personal identification information without the written approval of the CITY.
 - The CONSULTANT shall be responsible for any and all liabilities, including but not limited to those stated below in this paragraph, that result from any violation of S.B. 1386 or A.B. 1950 that the CONSULTANT, its employees, agents, or subconsultants may cause pursuant to the activities performed under this

EXHIBIT "A"

Agreement. Accordingly, the CONSULTANT agrees to indemnify, defend and hold harmless the CITY, its respective agencies, Boards, Commissions, City Council, officers, employees, and agents, and, at the option of the CITY, to provide a defense, acceptable to the CITY, against any and all suits and causes of action, claims, charges, damages, demands, judgments, civil fines and penalties, or losses of any kind or nature whatsoever caused or brought on by any person, including any aggregated party, as defined in S.B. 1386 or A.B. 1950. The indemnification herein includes all awards, damages, interest, cost and attorney's fees, if any.

2. Suspension and Termination

2.1 Cancellation Without Cause

This Agreement may be canceled by the CITY, without cause, on ninety (90) calendar days' written notice or at any time by mutual agreement of the parties. The Contract Administrator will give said notice, on the CITY's behalf. Upon receipt of such notice, the CONSULTANT shall immediately stop all work under this Agreement. The CONSULTANT shall be entitled to payment for all services performed to date of cancellation and shall be compensated at the established rates for all work required to organize and deliver all material developed in the course of the work to date of termination. The CONSULTANT shall then deliver to the CITY, in an organized and usable form (hard copy and electronic file), all work done prior to the date of cancellation.

3. Compensation

3.1 Specific Rates of Compensation

The CONSULTANT shall add up to 17.9 percent commission to each subject account. The CONSULTANT shall remit any overpayment to the CITY. The CONSULTANT may also receive a commission on monies paid directly to the CITY on subject accounts as a result of the CONSULTANT'S collection activities, subject to restrictions set forth in the Agreement. Should accounts be returned to the CITY, unpaid, the CONSULTANT'S commission amount should not be included, only the CITY'S authorized debt. The CONSULTANT shall retain up to 17.9 percent commission of the amount collected and remit the balance to the CITY.

3.1.1 Fees

The CONSULTANT will add up to 17.9 percent commission to the City's debt.

EXHIBIT “B”

City’s Representative is:

Pamela Horgan, Manager, Commercial Services

EXHIBIT “C”

Materials/Information Furnished: None

CITY OF LONG BEACH POLICY FOR DISADVANTAGED, MINORITY-OWNED
AND WOMEN-OWNED BUSINESS ENTERPRISES

It is the policy of the City of Long Beach to utilize Disadvantaged, Minority-Owned and Women-Owned Business Enterprises in all aspects of contracting including construction, the purchase of materials and services, including professional services, leases and the granting of concessions.

EXHIBIT "D"