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CITY OF LOS ANGELES
STANDARD LANGUAGE
FOR

WORKFORCE INVESTMENT ACT (WIA)
AMERICAN RECOVERY AND REINVESTMENT ACT 2009 (ARRA) JOB TRAINING AGREEMENT

Agreement No. (T4875) C-118835

Project Title: Dislocated Worker Training-
The Patient Care Assistant Training Program

Contractor: City of Long Beach (Administering entity for Pacific
Gateway Workforce Investment Network)

Doing Business As: N/A

Type of Organization: Government Agency

Corporate Number: N/A

CFDA (Catalog of Federal Domestic Assistance) Number: 17.260

Center(s) Harbor WorkSource Center
1851 N. Gaffey Street, # F
San Pedro, CA 90731

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THIS AGREEMENT is entered into between the City of Los Angeles and the Contractor, City of Long Beach (administering entity for Pacific Gateway Workforce Investment Network), a government agency, hereinafter referred to as the Contractor. The Contractor agrees to provide or give access to workforce preparation services to eligible customers, in accordance with the Workforce Investment Act, 29 USC §2851 *et seq.* (WIA), American Recovery and Reinvestment Act also known as the Recovery Act of 2009 (Pub. L. 111-15) (referred to throughout the Agreement as "ARRA" or "ARRA funds") and the rules, regulations and directives of the State of California (State) and the City of Los Angeles (City).

RECITALS

WHEREAS, the City has entered into a Grant Agreement with the State, hereinafter referred to as the Grantor, pursuant to the Workforce Investment Act of 1998 as amended, 29 USC §2801 *et seq.*, to provide employment, training, and job placement services to eligible persons within the City; and

WHEREAS, the Community Development Department, hereafter called the CDD, has been designated by the City to provide for the proper planning, coordination, direction and management of the City's various community development activities; and

WHEREAS, the CDD cooperates with private organizations, other agencies of the City and agencies of other governmental jurisdictions in carrying out certain functions and programs which are its responsibility; and

WHEREAS, the project which is the subject of this agreement, hereinafter called the Agreement, has been established by the City as one of the above described programs, and has been funded in the CDD budget by the U.S. Department of Labor (Grantor/DOL) pursuant to the Workforce Investment Act (WIA) Program; and

WHEREAS, the City has received funding from ARRA to supplement the regular Adult and Dislocated Worker WIA funds and thereby develop plans and strategies to provide employment services to dislocated workers in collaboration with the appropriate State and regional agencies; and

WHEREAS, the City is a Rapid Response service provider, working with employers and affected workers to develop layoff aversion plans that address the needs of dislocated workers and to make available reemployment prospects, job training opportunities, information on unemployment benefits, information on health care insurance, and services offered through the City's WorkSource Centers; and

WHEREAS, the Contractor shall incorporate priority of services for those who are recipients of public assistance, low-income individuals, and for veterans and veterans' eligible spouses; and

WHEREAS, the services to be provided herein are of a professional, expert, temporary and occasional nature; and

WHEREAS, pursuant to Los Angeles City Charter Section 1022, the City Council or designee has determined that the work can be performed more economically or feasibly by independent contractors than by City employees; and

WHEREAS, the City and the Contractor are desirous of executing this Agreement as authorized by the City Council and the Mayor (refer to Council File Number 10-0990 dated March 14, 2011) that authorizes the General Manager of the CDD to prepare and execute the Agreement.

NOW, THEREFORE, the City and the Contractor agree as follows:

1. INTRODUCTION

§101 PARTIES TO THE AGREEMENT

A. The parties to this Agreement and to whom formal notices, demands and communications shall be forwarded are as follows:

1. The City, represented by:

Richard L. Benbow, General Manager
Community Development Department
1200 West 7th Street, Sixth Floor
Los Angeles, CA 90017

With copies to:

Jaime Pacheco-Orozco, Director
Workforce Development System

2. The Contractor, represented by:

Patrick H. West, City Manager
City of Long Beach (as Administering Entity for Pacific Gateway Workforce Investment Network)
3447 Atlantic Ave.
Long Beach, CA 90807

With copies to:

Bryan S. Rogers
Executive Director

~~Greater Long Beach Workforce Development Board~~ PACIFIC GATEWAY WORKFORCE INVESTMENT NETWORK
3447 Atlantic Ave.
Long Beach, CA 90807

§102 SERVICE OF NOTICES

- A. The City's representative as stated above is the party authorized to provide written approvals by City to Contractor in reference to matters addressed in this Agreement.
- B. Formal notices, demands, and communications required by this Agreement to be given by either party shall be made in writing and may be delivered personally or by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed communicated as of the date of mailing.
- C. If the name and/or address of the person designated to receive the notices, demands or communications changes, the affected party shall notify the other party in writing of the change in accordance with this section within five (5) days of the change.

§103 TERM OF THE AGREEMENT

- A. The term of this Agreement shall be from January 1, 2011 to June 30, 2011 and any additional time as may be necessary to close out activities, provided that said term is subject to the provisions of this Agreement. Performance shall not commence until the Contractor has obtained the City's approval of required documents described in this Agreement, and is in receipt of those and/or other documents as described in this Agreement.
- B. The City may, at its discretion, agree to extend this Agreement and/or provide additional funds to Contractor. Funding for contract extensions will be based on the availability to the City of Local, State and Federal funds and upon the Contractor's successful performance of all terms of this Agreement.

§104 CONDITIONS PRECEDENT TO THE EXECUTION OF THE AGREEMENT

- A. Prior to the execution of this Agreement, the Contractor shall submit to the City for approval in writing the following documents:
1. Insurance Certificates - The requirements and instructions for completing, executing, and submitting evidence of insurance to the City are attached to the Agreement as Exhibit A and are incorporated herein by this reference.
 2. A City Affirmative Action Plan, a copy of which is located at <http://bca.lacity.org/site/pdf/aa/aaformwo.pdf>.
 3. A Special Bank Account Agreement with a bank for the deposit of City funds advanced to the Contractor. The Special Bank Account Agreement shall be on a form supplied by the City that sets forth the right of the City to exercise a suspension of business upon proper notice to the bank by the City
 4. A Code of Conduct to the City for approval - The Code of Conduct submitted must meet the requirements of §513 Conflict of Interest of this Agreement.
 5. Budget/Expenditure Plan and Customer Service Plan
 - a. Contractor shall submit to the City for approval in writing a proposed Budget Summary/Expenditure Plan and Customer Service Plan.
 - b. The Budget Summary/Expenditure Plan and the Customer Service Plan are detailed listing of items for expenditure and scope of service (s) under the terms of this Agreement, which is incorporated herein by this reference. The Plans shall be submitted with all backup documentation as required and/or a cost allocation plan, if necessary and appropriate. All requests to modify the Plans must be made in writing and must be approved in writing by the City during the term of this Agreement. The Plans shall also describe all subcontractor services to be used by the Contractor and the payment procedures for subcontractors.
 - c. The City shall issue the budget guidelines to be followed in preparing the budgets for the ARRA funds.
 6. Pursuant to §301, if Contractor elects to receive advance payments, then all funds pertaining to this Agreement advanced to the Contractor by the City shall be deposited in this special Los Angeles City Bank Account upon receipt of the funds. Interest earned on advances under the Agreement is regarded as program income, must be reported on the monthly invoice, and must be returned to the City quarterly by separate check made payable to the City. Contractor shall secure City authorization in writing before any changes are made to the Depository Agreement. The City, at its option, may require that no funds be advanced to Contractor until Contractor has provided for the security of advance funds by one of the following three methods:
 - (1) Surety/Performance Bond
 - (2) Standby or Direct Letter of Credit
 - (3) Blocked Savings Account
- B. Prior to execution of this Agreement, the Contractor shall provide the City with the documents listed below. Contractor shall provide immediate updates to these documents to the City during the term of the Agreement in the event that the information changes.
1. A current list of the Members of the Board of Directors with their individual addresses where they may be reached.
 2. Contractor's Articles of Incorporation and all amendments to those Articles, as filed with the Secretary of State.

3. Contractor's Bylaws, and all amendments to those Bylaws, as adopted by the Contractor and properly attested thereto.
4. Management Representation Statement fully executed in accordance with City's fiscal policies and attached hereto and incorporated by reference as Exhibit E.
5. Resolutions of Executorial Authority or other corporate actions of the Contractor's Board of Directors, properly attested or certified, which specify the name(s) of the person(s) authorized to obligate the Contractor and execute contractual documents, if the authorized person is someone other than Contractor's Corporate President, Contractor shall also submit a copy of a signature specimen(s) on a form, Certification of Authorities, provided by City.
6. A current and valid license to do business in the City - Contractor represents that it has obtained and presently holds the Tax Registration Certificate(s) required by the City's Business Tax Ordinance (Article 1, Chapter 2, §§21.00, *et seq.*, of the Los Angeles Municipal Code). For the term covered by this Agreement, Contractor shall maintain, or obtain as necessary, all Certificates required of it under this Ordinance and shall not allow the Certificate to be revoked or suspended.
7. An Internal Revenue Service taxpayer identification number.
8. A Contractor Responsibility Ordinance Questionnaire, provided by City and currently located at <http://bca.lacity.org/site/pdf/cro/CROQ%20Service.PDF>.
9. A Notice of Prohibition Against Retaliation attached as Exhibit B to this Agreement - Contractor shall comply with the requirements of the Notice of Prohibition Against Retaliation as it relates to the Living Wage Ordinance.
10. Code of Conduct as adopted by the Contractor in accordance with State and Federal Conflict of Interest Law.
11. A Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion, fully executed in accordance with Executive Orders 12459 and 12689, 20 CFR 667.200(d), and 29 CFR Parts 97.35 and 98.510, and attached hereto and incorporated by reference as Exhibit C.
12. A Certification Regarding Lobbying, fully executed in accordance with City Directive 91-3 dated July 27, 1990 and attached hereto and incorporated by reference as Exhibit D - Contractor shall comply with all provisions of 31 USC §1352 *et seq.* and 29 CFR Part 93. No funds shall be released to Contractor until the Certification is filed.
13. Certification Regarding Drug Free Workplace Requirements fully executed and attached hereto and incorporated by reference as Exhibit F.
14. A Certification Regarding Relocation of Business, fully executed in accordance with WIA regulations and attached hereto and incorporated by reference as Exhibit G.

§105 CONTRACTOR'S ADMINISTRATIVE AND PERSONNEL DOCUMENTS

- A. Contractor warrants that it has adopted, shall retain, and make available upon request from the City, the following documents and their amendments:
 1. Contractor's Financial and Accounting Procedures, which incorporate Generally Accepted Accounting Principles (GAAP) including, but not limited to, the preparation and submission of invoices, reconciliation of cash on-hand and earnings with City records, reporting and tracking of customer activity and earnings, repayment of unearned funds, preparation for the resolution of audits and inspections, inventory control, reporting and tracking of program income. This shall be made available to the City upon request.
 2. Contractor's Personnel Policy, which incorporates due process protection of standard personnel procedures, and which the Contractor agrees to abide by in the performance of this Agreement.

3. Agreements with Other Funding Sources:

- a. A copy of any agreements between the Contractor and other public or private organizations that directly impact the activities funded under this Agreement shall be kept on file at the Contractor's offices and be provided to the City upon contract execution. Contractor shall also notify City of any default, termination, or finding of disallowed costs under these agreements. Contractor warrants that no other funding source will be billed for services that are provided and paid for by the City under this Agreement.
- b. Prior to Contractor's submittal directly or indirectly as a collaborator of a workforce development grant application or acceptance of a workforce development grant award, Contractor shall notify the City in writing and give the City an opportunity to comment on the potential impact to the City's workforce delivery system.

4. Board of Director's Meeting Minutes – Contractor shall maintain minutes of all board meetings and provide these records to City upon request.

§106 INDEPENDENT CONTRACTOR STATUS OF THE CONTRACTOR

- A. Pursuant to this Agreement, the Contractor is acting as an independent contractor and not as an agent or employee of the City. No employee of the Contractor has been, is, or shall be an employee of the City by virtue of this Agreement, and the Contractor shall so inform each employee organization and each employee who is hired or retained under this Agreement. Contractor shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the City.

§107 CONTRACTOR'S DUTY TO NOTIFY CITY OF CHANGES

- A. Contractor agrees to provide the City sixty (60) days advance written notice of any facts that may materially affect the performance of this Agreement or impact the City's decision to continue this Agreement with the Contractor. Among the items to be disclosed are an amendment to its Articles of Incorporation or Bylaws, move to dissolve or transfer any assets derived from funds provided under §301 of this Agreement, negotiations leading to the sale, merger or acquisition of the Contractor; debarment or contract termination by any other public entity and/or any final audit findings regarding the Contractor's administration of any contract with public funds.
- B. Contractor shall notify the City within five (5) days of changes affecting this Agreement including:
 1. Any amendments to documents;
 2. Actions that would change Contractor's legal status;
 3. Any action that may materially change the performance of this Agreement (i.e., bankruptcy); or
 4. A change in Contractor's corporate name.

§108 DEFINITIONS

The definitions of words used in this Agreement are as follows:

- A. Federal Grantor Agency – for this Agreement the Federal Grantor Agency is Department of Labor.
- B. The word "days" means calendars days, including weekends and holidays, unless otherwise specifically provided herein.
- C. Performance Measures and Service Level requirements will be defined in a future City Directive.
- D. "City Directive(s)" or "WIA Directive(s)" – for this Agreement the terms "City Directive(s)" and or "WIA Directive" refer to the collection of directives directly applicable to WIA funded agreements. These directives

are located at the Los Angeles CDD website at http://www.ci.la.ca.us/CDD/home_directives.html. All applicable directives in this Agreement may be superseded at any time by new directives issued by City.

2. DUTIES AND REQUIREMENTS OF THE CONTRACTOR

§201 GENERAL STATEMENT OF SERVICES TO BE PROVIDED BY THE CONTRACTOR

- A. Contractor, operator of the Harbor WorkSource Center, shall develop and implement a vocational training and job placement program for dislocated workers. The vocational training is a customized training to dislocated workers in preparation for employment as patient care assistants at Memorial Medical Center of Long Beach (MMC). The goal of the program is to successfully train and place dislocated workers in healthcare related jobs that pay a living wage or greater.
- B. Contractor shall comply with all Federal, State, and City rules and regulations, DOL Training and Employment Guidance Letters (TEGLS), and pertinent City Information Directives and/or Bulletins as they are issued.
- C. Contractor will identify and enroll dislocated workers customers who qualify for the program. Contractor will refer qualified dislocated workers for assessment, vocational training and job placement.
- D. The ARRA funds shall be used on any allowable activities specified under the WIA Adult and Dislocated Worker programs unless otherwise prohibited under the TEGLs issued by the DOL.
- E. The ARRA funds may not be used for activities related to casinos or other gambling establishments, aquariums, zoos, swimming pools, or golf courses (including placing individuals at such work sites).
- F. Pell Grant:
 - 1. Contractor shall ensure that eligible participants apply for Pell Grant monies in order to supplement WIA services and activities. Contractor shall notify City in writing of the amounts and disposition of The Higher Education Act (HEA) Title IV awards (Pell grants) and other types of financial aid to each WIA customer pursuant to WIA §134(d)(4), 20 CFR S663.320.
 - 2. For WIA agreements where Pell Grants or other HEA awards are involved, Contractor shall document in the Individual Employment Plan (IEP) its determination with the educational institution of the customer's training-related financial assistance needs and the proper mix of WIA and Pell Grant funds, since a Pell grant may be used for applicable living expenses as well as for tuition, fees, and books.
 - 3. All WIA customers awarded a Pell grant shall execute an agreement on a form to be provided by the City with the Contractor, which indicates the portion of the HEA grant to be applied to the cost of tuition, fees and books. This information shall be verified during program monitoring. A copy of this agreement shall be maintained in the customer's file. Customers shall not be required to apply for Pell Grants as a condition of participating in a WIA program.
 - 4. A WIA customer may enroll in WIA-funded training while his/her application for a Pell Grant is pending, as long as contractor has made arrangements with the training provider and the WIA customer regarding allocation of the Pell Grant, if it is subsequently awarded. In that case, the training provider must reimburse the contractor the WIA funds used to underwrite the training for the amount the Pell Grant covers. Reimbursement is not required from the portion of the Pell Grant assistance disbursed to the WIA customer for education-related expenses
- G. Consultant Services:
 - 1. Prior to the execution of a subcontract for consultant services, the Contractor shall maintain on file a bid package and proposed subcontract which contains the following items:
 - a. The Request for Proposal (RFP);

- b. The list of firms to which the RFP's were sent;
 - c. A minimum of three bids or as specified in §702 of this Agreement; and
 - d. Specific reasons for the selection of the prospective consultant. A resume of the consultant that fully describes previous experiences, particularly as it relates to the services to be performed under this subcontract, shall be attached.
2. The proposed subcontract which includes the following:
- a. Full description of the work activities that will be performed by the Consultant;
 - b. The term for which the consultant will be retained;
 - c. The fee to be paid to the consultant indicating whether an hourly, weekly, or job completion date is to be the basis for payment; and
 - d. Any work or consultation that would be rendered or considered pro-bono.

§202 STATEMENT OF WORK

A. Purpose

1. The Statement of Work is a general description of the services made available by the Contractor. Should the Contractor determine a need to alter significantly the services described, approval must be requested in writing. Such approval must be received from the City in writing before any change is implemented and may require a contract amendment.
2. Contractor shall provide allowable WIA program services and activities to customers, as determined necessary, appropriate, and reasonable.

B. Program Responsibilities

1. Contractor shall provide a customized vocational training program to twenty-six (26) dislocated workers recruited through the Harbor WorkSource Center for employment as patient care assistants at Memorial Medical Center of Long Beach (MMC), 2801 Atlantic Avenue, Long Beach, CA 90806. This Patient Care Assistant Training Program (Program) is in partnership with MMC and has been specifically developed for the MMC.
2. The Program is comprised of one hundred twenty (120) hours of classroom instruction and one hundred twenty (120) hours clinical hours of training at MMC in each seven (7) week cycle. The curriculum has been developed in collaboration with MMC and includes, but is not limited to, the following: the Role of a Patient Care Assistant; Basic Healthcare Learning Orientation; Customer Service; Observation and Documentation; Specialty Care; and Epic Healthcare Technology Records System training. Program participants are led through clinical and didactic education that begins in the classroom and covers multiple subjects such as Basic Physiology, CPR, Hospital Protocols, etc., and moves into clinical education that includes exercises in a simulation lab and time assisting nurses in patient care. Each seven (7) week cycle of the program is comprised of thirteen (13) participants.
3. Contractor shall provide supportive services to program participants through an assigned case manager. This case manager is responsible for monitoring participants' progress, and is in regular communication with the MMC clinical director to ensure students meet program benchmarks. Participants are encouraged to contact their case manager to request supportive services throughout the duration of the Program leading to employment. Supportive services include reimbursement or payment of requisite medical examinations (i.e., tuberculosis tests), transportation assistance, and hospital uniforms (scrubs) in preparation for their work assignment.

C. Job Placement

1. Participants will obtain employment at MMC upon completion of the Program. MMC has committed to hiring all participants that successfully complete the program and pass basic background and drug testing.
2. Program participants are employed two (2) weeks after completing the Program. The interim two (2) weeks is spent taking requisite drug tests and awaiting test results, completing human resources paperwork, and receiving schedules of work assignments which consist of, at minimum, three 12-hour shifts each week.
3. Employment is permanent and is considered full-time with health and dental benefits and with a starting hourly wage of \$14.81 to \$15.90.

D. Special Conditions

1. If the City imposes additional requirements to this Agreement that the Contractor believes could cause an increase in the cost of, or the time required for, the performance of the services under this Agreement, the Contractor may request an equitable adjustment be made in the price or performance schedule, or both, and if the City concurs, the Agreement shall be amended in writing accordingly.
2. Neither party shall be liable for damages for delays in performance arising out of causes beyond its control and without its fault or negligence, including, but not limited to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, strikes, and unusually severe weather.
3. Other Special Conditions
 - a. None.

3. COMPENSATION

§301 CONTRACTOR COMPENSATION

A. Compensation

1. The City shall pay the Contractor an amount not to exceed Forty Eight Thousand Eight Hundred Sixty Nine Dollars (\$48,869) for the complete and satisfactory performance of the terms of the Agreement. Such funds shall be allocated from the WIA ARRA 25% Dislocated Worker (DW)/Rapid Response (RR) Additional Assistance Grant as set forth in the Funding Allocation Table below, and shall be expended in accordance with a City approved Budget/Expenditure Plan incorporated herein by reference. Contractor's authority to expend such funds shall be for a specific time period as set forth in this Agreement. Contractor's right to receive compensation is conditioned upon compliance with City's indemnification and insurance requirement, satisfactory performance, and compliance with this WIA ARRA Agreement.
2. Funding allocation for the full term of this agreement shall be as follows:

FUNDING ALLOCATION TABLE	
Funding	WIA ARRA 25% DW/RR Additional Assistance Grant
Amount	\$48,869

3. In no event shall the final expenditures for the period specified herein exceed the total compensation set forth above except as provided for by an amendment to this Agreement.

4. The dollar amount set forth above is subject to change and may be reduced by an amendment to this Agreement should the City determine that contractor's performance does not justify the level of funding.
5. Contractor's reimbursement for expenses incurred in the performance of this Agreement shall be made only upon acceptance by the City of the Contractor's invoice and supporting documentation as described in the Reporting Requirements Section of this agreement.
6. Expenditures shall be supported by properly executed payrolls, time records, invoices, vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. Checks, payrolls, invoices, vouchers, orders, or other accounting documents shall be clearly identified and readily accessible. Undocumented expenditures shall not be paid under this Agreement.
7. The City shall pay Contractor for salaries and eligible, allowable, and reasonable expenses as detailed in the City approved Budget Summary/Expenditure Plan, incorporated herein by reference.
8. Contractor shall be paid either on a cost reimbursement or advance basis. If the Contractor were to receive advance funds, it must execute a City approved Special Bank Account Agreement before receipt of funds and shall comply with all contract and regulatory requirements for safeguarding advance funds. Request for advance payment basis is subject to City approval. A Contractor on a cost reimbursement basis of payment shall be paid by the City only upon reporting of actual costs incurred.

B. Funding of Agreement

1. Funding for all periods of this Agreement is subject to the continuing availability of federal funds for this program to the City. This Agreement may be terminated immediately upon written notice to the Contractor of a loss or reduction of grant funds.

C. Payment to the Contractor

1. The City makes no commitment to fund this project beyond the initial term of this Agreement. The City shall review Contractor's performance on a periodic basis. In the event the City determines that the Contractor is not meeting its proposed performance measures, City may unilaterally reduce or withhold the compensation set forth above in compliance with the provisions set forth in §§401, 803 and any other applicable section of this Agreement, upon written notice to Contractor and as set forth by a written amendment.
2. Contractor shall be reimbursed for reasonable and allowable expenses incurred under this Agreement. Unless Contractor has been approved to receive advance payments, all payments shall be on reimbursement basis. Contractors who are on an advance payment plan authorized by the City as described in the Budget/Expenditure Plan, shall bill the City for all reasonable and allowable costs under the terms of this Agreement.
3. Contractors not on an advance payment plan shall request reimbursements by submitting the cash request, monthly expenditure report and all other documents as required by City. Contractor shall be reimbursed after City has received the monthly expenditure report and all other required documents and after City determines that Contractor has incurred and expended funds for reasonable and allowable costs under this Agreement.
4. Contractor shall submit a final closeout fiscal report, pursuant to City's guidelines as set forth by the CDD Financial Management Division, showing final expenditures and other documents as required by City within 15 days after the termination date of this Agreement.
5. Reasonable and allowable costs shall be determined pursuant to the Allowable and Unallowable Cost Section set forth below in this Agreement.

- D. Stand-In Costs: Stand-in costs are non-federal costs that may be substituted for disallowed grant costs when certain conditions are met. Contractor shall identify, document, and account for stand-in costs. These stand-in costs shall be reported to the City on a quarterly basis.

- E. Profit: Contractor shall comply with any City Directives regarding profit or return on investment.
- F. Indirect Costs: Payment for indirect costs, if any, shall be released in accordance with instructions stated in the Federal Cognizant Agency's approval letter of indirect cost rates on file with the City pursuant to the Single Audit Act and OMB circulars.
- G. Applicable Discounts: Contractor warrants that any applicable discounts have been excluded from the costs billed to the City.
- H. Concurrent Enrollment: If the Contractor is serving customers, concurrently utilizing more than one funding stream, the Contractor is responsible for tracking the services delivered and the expenditures reported to ensure that services and expenditures are not duplicated.
- I. Overtime Work: Unless specifically stated within this Agreement or authorized by the City in writing, Contractor shall not incur overtime work expenditures.
- J. Travel: Contractor shall be compensated for Contractor's reasonable expenses incurred in the performance of this Agreement, which include travel and per diem costs, unless otherwise expressed. Contractor's total travel for in-state and/or out-of-state and per diem costs shall be included in this Agreement's Budget Summary/Expenditure Plan.
- K. Reallocation of Funds:
 1. City reserves the right to unilaterally decrease funds allocated to Contractor in the event that the City determines that the Contractor has failed to provide adequate services as required in this Agreement.
 2. The City reserves the right to offer Contractor additional funds. Such reallocation of funds will be by written amendment to this Agreement to be negotiated and mutually agreed to by the parties.

4. METHODS AND PROCEDURES GOVERNING PAYMENT

§401 WITHHELD PAYMENTS

- A. Unearned payments under this Agreement may be suspended or not released if funds granted to the City are suspended or terminated.
- B. The City has the authority to withhold funds under this Agreement pending a final determination by the City of questioned expenditures or indebtedness to the City arising from past or present agreements between the City and the Contractor. Upon final determination by the City of disallowed expenditures or indebtedness, the City may deduct and retain the amount of the disallowance or indebtedness from the amount of the withheld earned funds.
- C. In the event of a final determination of disallowed costs or a determination of unearned grant funds by either the City, the State, or the Federal Grantor Agency, Contractor agrees that it shall pay to the City in non-federal funds, the amount of the final disallowance within thirty (30) days of receipt of notice from the City that such funds are due.
- D. Payments to the Contractor may be unilaterally withheld or reduced by the City if the Contractor fails to comply with the provisions of this Agreement upon written notice to Contractor.

§402 FUNDS EARNED PRIOR TO THE COMMENCEMENT OF THIS AGREEMENT

- A. The Contractor shall not earn funds provided under this Agreement prior to the commencement of this Agreement. The Contractor shall not earn funds subsequent to suspension or termination of this Agreement.

§403 ALLOWABLE AND UNALLOWABLE COSTS

- A. To be eligible for payment under this Agreement, costs or expenditures must be made in compliance with this Agreement, and Office of Management and Budget Circular (OMB) A-122, located at http://www.whitehouse.gov/omb/circulars_a122_2004/, and with the principles set forth below:
1. Be necessary and reasonable for the proper and efficient performance of this Agreement and in accordance with the approved Budget Summary/Expenditure Plan on file and approved by the City; the City shall have final authority to determine in good faith whether an expenditure is necessary and reasonable.
 2. Conform to the limitations within these General Conditions and to any governing statutes, regulations and ordinances
 3. Be fully documented and determined in accordance with GAAP.
 4. Not be included as a cost or used to meet cost sharing or matching requirements for any other government funding source in either the current or a prior period, except when permitted by the respective government funding sources
- B. The following costs, among others, are specifically disallowed:
1. **Bad Debts:** Any losses arising from un-collectible accounts and other claims, and related costs.
 2. **Contingencies:** Contributions to a contingency reserve or any similar provisions for unforeseen events.
 3. **Contributions and/or donations:** Any contributions and/or donations, including, but not limited to, charitable donations, donations to political parties, donations for political lobbying, etc.
 4. **Entertainment:** Costs of amusements, social activities and incidental costs, such as meals, beverages, lodging and gratuities relating to entertainment, or any political or lobbying activity.
 5. **Fines and Penalties:** Costs resulting from violations of, or failure to comply with Federal, State, and local laws and regulations.
 6. **Interest and Other Financial Costs:** Interest or borrowings (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith.
 7. **Membership Expenses:** Costs of membership in any organization that devotes a substantial part of its activities to influencing legislation.
 8. **Travel:** Contractor shall be compensated for Contractor's reasonable expenses incurred in the performance of this Agreement, to include travel and per diem costs, unless otherwise expressed. Contractor's total travel for in-state and/or out-of-state and per diem costs shall be included in the contract budget(s). All travel including out-of-state travel not included in the budget(s) shall not be reimbursed.
 9. **Meeting Attendance:** Costs of attending meetings directly related to the performance of this Agreement that are not open for attendance on a non-segregated basis.
 10. **Non-competitive Subcontracts:** Payments under a subcontract not obtained under competitive bidding procedure unless specifically waived by the City.
 11. **Insurance policies offering protection against debts established by the federal government.**
 12. **Costs prohibited by 29 CFR part 93 (Lobbying Restrictions) or costs related to any activity designed to influence legislation or appropriations pending before the Congress of the United States.**

13. Advancements or reimbursements for expenditures that are determined by the City to be unallowable must be immediately returned to the City.

14. Grant funds may not be used to supplant existing services.

§404 PROGRAM INCOME

- A. Program income is defined as income earned through the activities funded by this Agreement. Program income includes, but is not limited to, grants, fees that duplicate payments; average daily attendance (ADA) payments earned through program funded activities; and public or nonprofit agency revenues in excess of contract costs.
- B. Interest earned on advances received pursuant to the terms of this Agreement is "program income." All interest earned must be reported as part of the Contractor's monthly expenditure report and must be returned to the City quarterly by separate check made payable to the City, which identifies that the amount represents interest earned on advanced funds.
- C. Any program income must be reported to the City on the expenditure report, and must be returned to the City in accordance with the City's written direction to the Contractor. At the City's discretion, program income may be used to augment the Contractor's program. Use of program income is permitted only by written amendment to this Agreement. Should this use of program income be approved, Contractor shall maintain records in support of all earnings and expenditures relating to the use of those funds in accordance with City of Los Angeles record retention and audit requirements. The City shall monitor Contractor's compliance with all program income requirements.
- D. Contractor's failure to comply fully with program income requirements, including any City Directives or regulations, shall result in findings of disallowed costs.

§405 RETURN OF PROGRAM INCOME (Not Applicable to WIA agreement)

- A. The Contractor shall, within forty-five (45) days of the expiration of this Agreement, transmit to the City any and all program income directly generated by funds provided by the Agreement. CDBG Program Income is defined in 24 CFR 85.25 and 24 CFR 570.500. Any program income on hand when this Agreement expires, or received after the Agreement expiration, shall be paid to the City as required by 24 CFR 85.25 and 24 CFR 570.503(b)(8).

§406 RETURN OF UNEXPENDED FUNDS AND CLOSEOUTS

- A. The Contractor agrees that either upon completion or termination of this Agreement any unexpended funds, whether advances, interest earned on advances or unearned funds for WIA and all employment training programs, shall be immediately returned to the City Treasury; in no event later than fifteen (15) days after completion or termination.
- B. The Contractor shall submit a complete and accurate final closeout invoice of costs and reimbursements for services performed under this Agreement to the City within fifteen (15) days following the termination or completion of this Agreement. Failure by the Contractor to comply with the 15-day requirement may result in a unilateral close-out of this Agreement by the City based on previous invoices filed with the City, and/or the imposition of sanctions as specified herein. Requests for payment after the fifteen (15) days may not be paid by the City.

§407 VALIDITY OF FINANCIAL DOCUMENTATION SUBMISSIONS

- A. Financial reports submitted to the City shall be accurate and correct in all respects. Should inaccurate reports be submitted to the City, the City may elect to have the Contractor secure the services of a licensed accounting firm. The costs of such accounting services are to be borne by the Contractor and are not to be reimbursed from the funds authorized by this Agreement unless specifically agreed to between the Contractor and the City in written amendment.

§408 CUSTOMER RELATED THIRD-PARTY COSTS

A. Definition:

1. Customer related third-party costs shall be defined as costs incurred for work experience wages, and fringe benefits; supportive services and needs related payments; and third party training agreements, subcontracts, and procured tuition payment/voucher agreements, as allowed to the Contractor in the approved Budget/Expenditure Plan.

B. Limitations

1. Contractor shall provide necessary and allowable supportive services and needs related payments to eligible customers who would not otherwise be able to participate.
2. Contractor shall comply with supportive services guidelines as defined in §101(46) and §134e(2) and (3) of the WIA, the City Directive 03-40, until superceded by another City Directive and any amendments thereto, which are incorporated herein by this reference.
3. The cost of the supportive service, as identified in the WIA, must be paid directly to the vendor of the particular service whenever possible, and must comply with WIA reporting requirements.
4. All wages earned or other cash funds provided to a customer must be paid in the form of a check or voucher that documents the amount paid and the appropriate withholdings.

C. Documentation: Contractor shall obtain and maintain on file documentation to support all requests for cost reimbursements. At a minimum, documentation shall include the following:

1. Copies of time cards and canceled checks for wages paid to work experience and customized training customers
2. Copies of time cards and canceled checks for wages paid
3. Copies of On the Job Training (OJT) agreements, customer payroll records, timecards, OJT employer invoices, records of monitoring site visits to employers, and employer evaluation of skills acquired by customer.
4. Copies of invoices from vendors and canceled checks paid to vendors for supportive services or tuition.
5. Copies of needs based assessments, payment authorizations, and canceled checks paid to the customer.
6. Copies of learning incentives and bonus assessments, payment authorizations, and canceled checks paid to the customer.
7. Copies of the childcare supportive needs assessments, the agreement forms, and canceled checks paid to the childcare provider.
8. Copies of valid vouchers for Individual Training Account and eligible training provider documentation in accordance with City directives.

5. STANDARD PROVISIONS

§501 INDEMNIFICATION

- A. Each of the parties to this Agreement is a public entity. In contemplation of the provisions of §895.2 of the Government Code of the State of California imposing certain tort liability jointly upon public entities, solely by reason of such entities being parties to an agreement as defined by §895 of said Code the parties hereto, as between themselves, pursuant to the authorization contained in §895.4 and §895.6 of said Code, will each

assume the full liability imposed upon it, or any of its officers, agents or employees by law for injury caused by negligent or wrongful act, or omission occurring in the performance of this Agreement to the same extent that such liability would be imposed in the absence of §895.2 of said Code. To achieve the above-stated purpose, each party indemnifies and holds harmless the other party solely by virtue of said §895.2. The provision of §2778 of the California Civil Code is made a part hereto as if fully set forth herein. Contractor certifies that it has adequate self-insured retention of funds to meet any obligation arising from this Agreement.

§502 INSURANCE

A. General Conditions

1. During the term of this Agreement and without limiting Contractor's indemnification of the City, Contractor shall provide and maintain at its own expense a program of insurance having coverage and limits customarily carried and actually arranged by the Contractor but not less than the amounts and types listed on the Required Insurance And Minimum Limits Sheet (Form Gen. 146) in Exhibit A hereto, covering its operations hereunder. Such insurance shall conform to City requirements established by Charter, ordinance or policy, shall comply with instructions set forth on the City of Los Angeles – Instructions And Information On Complying With City Insurance Requirements (Revised 9/06) document, and shall otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. Specifically, such insurance shall: 1) protect City as an Insured or an Additional Interest Party, or a Loss Payee As Its Interest May Appear, respectively, when such status is appropriate and available depending on the nature of applicable coverages; 2) provide City at least thirty (30) days advance written notice of cancellation, material reduction in coverage or reduction in limits when such change is made at option of the insurer; 3) be primary with respect to City's insurance plan. Except when City is a named insured, Contractor's insurance is not expected to respond to claims which may arise from acts or omissions of the City.

B. Modification of Coverage

1. City reserves the right at any time during the term of this Agreement to change the amounts and types of insurance required hereunder by giving Contractor ninety (90) days advance written notice of such change. If such change should result in substantial additional cost to the Contractor, City agrees to negotiate additional compensation proportional to the increased benefit to City.

C. Failure to Procure Insurance

1. All required insurance must be submitted for approval by the City Administrative Officer/Risk Management/Insurance and Bonds prior to the inception of any operations or tenancy by Contractor. The required coverages and limits are subject to availability on the open market at reasonable cost as determined by City. Non-availability or non-affordability must be documented by a letter from Contractor's insurance broker or agent indicating a good faith effort to place the required insurance and showing as a minimum the names of the insurance carriers and the declinations or quotations received from each.
2. Within the foregoing constraints, Contractor's failure to procure or maintain required insurance or a self-insurance program during the entire term of this Agreement shall constitute a material breach of this Agreement under which City may immediately suspend or terminate this Agreement or, at its discretion, procure or renew such insurance to protect City's interests and pay any and all premiums in connection therewith and recover all monies so paid from Contractor.

D. Workers' Compensation

1. By signing this Agreement, Contractor hereby certifies that it is aware of the provisions of Section 3700 *et seq.*, of the Labor Code, which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all such times as they may apply during the performance of the work pursuant to this Agreement.
2. A Waiver of Subrogation in favor of City will be required when work is performed on City premises under hazardous conditions.

§503 BONDS

- A. Duplicate copies of all bonds that may be required hereunder shall conform to City requirements established by charter, ordinance or policy and shall be filed with the Office of the City Attorney for its review in accordance with Los Angeles Administrative Code sections 11.47 through 11.56.

§504 CONSTRUCTION OF PROVISIONS AND TITLES HEREIN

- A. All titles or subtitles appearing herein have been inserted for convenience and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Agreement shall be construed according to its fair meaning and not strictly for or against the City or the Contractor. The word "Contractor" herein and in any amendments hereto includes the party or parties identified in this Agreement. The singular shall include the plural. If there is more than one Contractor as identified herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

§505 APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT

- A. Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State, and the City. This Agreement shall be enforced and interpreted under the laws of the State and the City.
- B. If any part, term or provision of this Agreement shall be held void, illegal, unenforceable, or in conflict with any law of a federal, state, or local government having jurisdiction over this Agreement, the validity of the remaining portions of provisions shall not be affected thereby.

§506 INTEGRATED AGREEMENT

- A. This Agreement sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous agreements or understandings, whether written or oral, relating thereto. This Agreement may be amended only as provided for herein.

§507 EXCUSABLE DELAYS

- A. In the event that performance on the part of any party hereto shall be delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder shall include, but not be limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; unusually severe weather; epidemics; quarantine restrictions; strikes, freight embargoes, or delays in transportation; to the extent that they are not caused by the party's willful or negligent acts or omissions and to the extent that they are beyond the party's reasonable control.

§508 PROHIBITION AGAINST ASSIGNMENT OR DELEGATION

- A. The Contractor shall not assign, delegate, subcontract, transfer, novate, or otherwise alienate this Agreement, nor assign or transfer any right, interest or obligation in this Agreement, including the right to payment, without prior written consent of the City.
- B. The Contractor shall not enter into any agreement with any other party under which such other party shall become the recipient of claims due or to become due to the Contractor from the City without prior written consent of the City.

§509 PERMITS

- A. The Contractor and its officers, agents, and employees shall obtain and maintain all permits and licenses necessary for the Contractor's performance hereunder and shall pay any fees required. The City is not

permitted to waive any fees for services, except as otherwise required by law. Among the permits and licenses that may be required are Conditional Use Permits, B-Permits, Building Permits, Incorporation Fees, or State Licensing Fees of any kind.

- B. The Contractor further certifies to immediately notify the City of any suspension, termination, lapses, non-renewals or restrictions of licenses, certificates, or other documents.

§510 NONDISCRIMINATION AND AFFIRMATIVE ACTION

- A. The Contractor shall comply with the applicable nondiscrimination and affirmative action provisions of the laws of the United States of America, the State, and the City. In performing this Agreement, the Contractor shall not discriminate in its employment practices against any employee or applicant for employment because of such person's race, color, religion, sex, national origin, ancestry, sexual harassment, sexual orientation, age, physical handicap, mental disability, marital status, domestic partner status, medical condition, citizenship, and political affiliation or belief. The Contractor shall comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
- B. The Contractor shall comply with the provisions of the Los Angeles Administrative Code Sections 10.8 through 10.13, to the extent applicable hereto. If this Agreement contains a consideration in excess of \$1,000, but not more than \$100,000, the Equal Opportunity practices provisions of this Agreement shall be the mandatory contract provisions set forth in Los Angeles Administrative Code Section 10.8.3, in which event said provisions are incorporated herein by this reference. If this Agreement contains a consideration in excess of \$100,000, the Affirmative Action Program of this Agreement shall be the mandatory contract provisions set forth in Los Angeles Administrative Code Section 10.8.4, in which event said provisions are incorporated herein by this reference. The Contractor shall also comply with all rules, regulations, and policies of the City's Board of Public Works, Office of Contract Compliance relating to nondiscrimination and affirmative action, including the filing of all forms required by City.
- C. Any subcontract entered into by the Contractor relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

§511 CLAIMS FOR LABOR AND MATERIALS

- A. The Contractor shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this Agreement so as to prevent any lien or other claim under any provision of law from arising against any City property (including reports, documents, and other tangible matter produced by the Contractor hereunder), against the Contractor's rights to payments hereunder, or against the City, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

§512 LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE

- A. The Contractor represents that it has obtained and presently holds the Tax Registration Certificate(s) required by the City's Business Tax Ordinance (Article 1, Chapter 2, Sections 21.00 and following, of the Los Angeles Municipal Code). For the term covered by this Agreement, the Contractor shall maintain, or obtain as necessary, all such Certificates required of it under said Ordinance and shall not allow any such Certificate to be revoked or suspended.

§513 CONFLICT OF INTEREST

- A. No City-funded Employees as Board Members
 - 1. The City will not execute any Agreements and/or Amendments with Contractors where an employee (an individual who is paid or receives any financial benefit from funds from the Agreement with the City), is a member of the Board of Directors. The Board minutes must reflect this requirement.
- B. Code of Conduct

1. The City requires that all Contractors/Sub-Contractors adopt a Code of Conduct, which, at a minimum, reflects the constraints discussed in CDD Directive Number FY07-0001. No Agreements and/or Amendments will be executed without City approval of this Code of Conduct.
2. Further, the City requires compliance with the following conflict of interest requirements for all City funded contractors:

C. Conflict of Interest

1. Prior to obtaining the City's approval of any subcontract, the Contractor shall disclose to the City any relationship, financial or otherwise, direct or indirect, of the Contractor or any of its officers, directors or employees or their immediate family with the proposed subcontractor and its officers, directors or employees.
2. The Contractor covenants that none of its directors, officers, employees, or agents shall participate in selecting or administering any subcontract supported (in whole or in part) by City funds (regardless of source) where such person is a director, officer, employee or agent of the subcontractor; or where the selection of subcontractors is or has the appearance of being motivated by a desire for personal gain for themselves or others such as family business, etc.; or where such person knows or should have known that:
 - a. A member of such person's immediate family, domestic partner or organization has a financial interest in the subcontract;
 - b. The subcontractor is someone with whom such person has or is negotiating any prospective employment; or
 - c. The participation of such person would be prohibited by the California Political Reform Act, California Government Code §87100 *et seq.* if such person were a public officer, because such person would have a "financial or other interest" in the subcontract.
3. Definitions:
 - a. The term "immediate family" includes but is not limited to domestic partner and/or those persons related by blood or marriage, such as husband, wife, father, mother, brother, sister, son, daughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law.
 - b. The term "financial or other interest" includes but, is not limited to:
 - (1) Any direct or indirect financial interest in the specific contract, including a commission or fee, a share of the proceeds, prospect of a promotion or of future employment, a profit, or any other form of financial reward.
 - (2) Any of the following interests in the subcontractor ownership: partnership interest or other beneficial interest of five percent or more; ownership of five percent or more of the stock; employment in a managerial capacity; or membership on the board of directors or governing body.
 - c. A subcontract is any agreement entered into by Contractor for the purchase of goods or services with any funds provided by this Agreement.
4. Minutes of Board Meetings must reflect disclosure of transactions where Board Members may have had a direct or indirect interest/benefit in the action.
5. No director, officer, employee (or agent) of the Contractor may be on the Board of Directors if they receive any financial benefit provided by any City Agreement.

6. The Contractor further covenants that no officer, director, employee, or agent shall solicit or accept gratuities, favors, anything of monetary value from any actual or potential subcontractor, supplier, a party to a sub agreement, (or persons who are otherwise in a position to benefit from the actions of any officer, employee, or agent).
7. The Contractor shall not subcontract with a former director, officer, or employee within a one-year period following the termination of the relationship between said person and the Contractor.
8. For further clarification of the meaning of any of the terms used herein, the parties agree that references shall be made to the guidelines, rules, and laws of the City, State, and federal regulations regarding conflict of interest.
9. The Contractor warrants that it has not paid or given and will not pay or give to any third person, any money or other consideration for obtaining this Agreement.
10. The Contractor covenants that no member, officer or employee of Contractor shall have interest, direct or indirect, in any contract or subcontract or the proceeds thereof for work to be performed in connection with this project during his/her tenure as such employee, member or officer or for one year thereafter.
11. The Contractor shall incorporate the foregoing subsections of this section into every agreement that its enters into in connection with this project and shall substitute the term "subcontractor" for the term "Contractor" and "sub-subcontractor" for "Subcontractor".
12. The Contractor warrants that it has adopted and shall comply with the Code of Conduct, as approved by the City, that meets the foregoing requirements.

§514 AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 PROVISIONS

A. FLOW DOWN REQUIREMENT – Contractor must include this section in every first-tier subcontract.

B. DEFINITIONS- In this section:

- (1) AGENCY—The term “agency” has the meaning given under Section 551 of Title 5, United States Code.
- (2) BOARD—The term “Board” means the Recovery Accountability and Transparency Board established in Section 1521.
- (3) CHAIRPERSON—The term “Chairperson” means the Chairperson of the Board.
- (4) PANEL—The term “Panel” means the Recovery Independent Advisory Panel established in §§ 1501 and 1541 of the Recovery Act.
- (5) COVERED FUNDS – The term “covered funds” means any contract, grant or other payment received by any non-federal employer if (A) the Federal Government provides any portion of the money or property that is provided, requested, or demanded; and (B) at least some of the funds are appropriated or otherwise made available by the Recovery Act.
- (6) COVERED INFORMATION – The term “covered information” means information that the employee reasonably believes is evidence of gross mismanagement of the contract or subcontract related to covered funds, gross waste of covered funds, a substantial and specific danger to public health or safety related to the implementation or use of covered funds, an abuse of authority related to the implementation or use of covered funds, or a violation of law, rule or regulation related to an agency contract (including competition for or negotiation of a contract) awarded or issued relating to covered funds as defined in 48 CFR 3.907-1.
- (7) INSPECTOR GENERAL – The term “Inspector General” means an Inspector General appointed under the Inspector General Act of 1978. In the case of an agency that does not have an Inspector

General; the duties shall be performed by an official designated by the head of the agency as defined by 48 CFR 3.907-1.

- (8) ABUSE OF AUTHORITY – The term “abuse of authority” means an arbitrary and capricious exercise of authority by a contracting official or employee that adversely affects the rights of any person, or that result in personal gain or advantage to the official or employee or to prefer other persons.
- (9) EMPLOYEE – The term “employee” (A) except as provided in subparagraph (B), means an individual performing services on behalf of an employer; and (B) does not include any Federal employee or member of the uniformed services (as that term is defined in section 101(a)(5) of title 10, United States Code).
- (10) EMPLOYER – The terms “employer” or “non-Federal employer” mean any employer that receives Recovery Act Funds, including a contractor, subcontractor, grantee or other recipient of funds pursuant to a contract or other agreement awarded and administered in accordance with the Federal Acquisition Regulation as defined by 48 CFR 3.907-1.

C. Segregation of Costs – Contractor must segregate the obligations and expenditures related to funding under the Recovery Act. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects. Where Recovery Act funds are authorized to be used in conjunction with other funding to complete projects, tracking and reporting must be separate from the original funding source to meet the reporting requirements of the Recovery Act and OMB Guidance. Invoices must clearly indicate the portion of the requested payment that is for work funded by the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track, and maintain these funds apart from other revenue sources.

D. Prohibition on Use of Funds - None of the funds appropriated or otherwise made available under this agreement which are derived from the Recovery Act may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

E. REPORTING AND REGISTRATION REQUIREMENTS UNDER SECTION 1512 OF THE RECOVERY ACT

- 1. REPORTING REQUIREMENTS – As required by 2 CFR 176.50 (a) (b) and (d), Contractor must report on use of Recovery Act funds provided through this Agreement. Information from these reports will be made available to the public. Information from these reports will be made available to the public.
 - a. The reports are due no later than ten days after each calendar quarter in which the recipient receives the Recovery Act funds.
 - b. Contractor will report the information described in section 1512(c) of the Recovery Act, and in accordance with 48 CFR 4.1500 and with Section 601 of this Agreement, using the reporting instruments and data elements that will be provided online at <http://www.FederalReporting.gov> and ensure that any information that is pre-filled is correct or updated as needed.
- 2. RECOVERY ACT REPORTING REQUIREMENT OF CLAUSE 52.204-11 – Contractor shall comply with all of the reporting requirements contained in clause 52.204-11 of the Recovery Act, incorporating herein by reference as Exhibit H.
- 3. CONTRACTOR PERFORMANCE INFORMATION – City shall make Contractor’s failure to comply with the reporting requirements a part of the Contractor’s performance record as required by 2 CFR 176.20 and/or 48 CFR 42.15.
- 4. REGISTRATION – Contractor and Subcontractors, as required in 2 CFR 176.50 (c), must maintain current registrations in the Central Contractor Registration (CCR) (<http://www.ccr.gov>) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Universal Numbering System (DUNS) Number (<http://www.dnb.com>) is one of the requirements for registration in the Central Contractor Registration or complete other registration requirements as determined by the Director of Office of Management and Budget.

- F. AUDITS AND REVIEWS – This Agreement is subject to Audit and Review by the Recovery Accountability and Transparency Board and any inspector general of a Federal department or executive agency.
1. INSPECTOR GENERAL- Any inspector general of a Federal department or executive agency shall review, as appropriate, any concerns raised by the public about specific investments using Recovery Act funds.
 - a. FINDINGS - Any findings of such reviews not related to an ongoing criminal proceeding shall be relayed immediately to the head of the department or agency concerned. In addition, the findings of such reviews, along with any audits conducted by any inspector general of funds made available in this Act, shall be posted on the inspector general's website and linked to the website established by section 1526, except that portions of reports may be redacted to the extent the portions would disclose information that is protected from public disclosure under Sections 552 and 552a of Title 5, United States Code. (§1514, Act)
 - b. ACCESS OF OFFICES OF INSPECTOR GENERAL TO CERTAIN RECORDS AND EMPLOYEES – Pursuant to §1515 of the Recovery Act, any representative of an appropriate inspector general appointed under Section 3 or 8G of the Inspector General Act of 1978, is authorized:
 - (1) To examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract, that pertain to, and involve transactions relating to, the contract, subcontract, grant, or subgrant; and
 - (2) To interview any officer or employee of the contractor, grantee, subgrantee, or agency regarding such transactions.
 - c. RELATIONSHIP TO EXISTING AUTHORITY —Nothing in this Agreement shall be interpreted to limit or restrict in any way any existing authority of an inspector general. (§ §1515, 1527, Recovery Act)
 2. RECOVERY ACCOUNTABILITY AND TRANSPARENCY BOARD- The Recovery Accountability and Transparency Board has authority pursuant to §1521 et. seq. of the Recovery Act to audit or review the use of Recovery Act funds to determine whether wasteful spending, poor contract, or grant management, or other abuses are occurring and referring matters it considers appropriate to the inspector general of the agency that disbursed the covered funds.
 3. U.S. COMPTROLLER GENERAL – Pursuant to §902 of the Recovery Act, the U.S. Comptroller General and any representative are authorized to:
 - a. Examine any record of the contractor or any of its subcontractors, or any state or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and
 - b. Interview any officer or employee of the contractor or any of its subcontractors, or of any state or local government agency administering the contract, regarding such transactions.
- G. PUBLICATION – An application may contain technical data and other data, including trade secrets and/or privileged or confidential information, which the applicant does not want disclosed to the public or used by the Government for any purpose other than the application. To protect such data, the applicant should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the application with the following Notice as well as referring to the Notice on each page to which the Notice applies: "Notice of Restriction on Disclosure and Use of Data – The data contained in pages --- of this application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, DOE (Department of Energy) shall have the right to use or disclose the data here to the extent provided in the award. This restriction does not limit the Government's right to use or disclose data obtained without restriction from any source, including the application. Information about this agreement will be published on the Internet and linked to the website www.recovery.gov, maintained by the Accountability and Transparency

Board. The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under section 552 and 552a of title 5, United States Code.”

H. WHISTLEBLOWER PROTECTIONS UNDER THE RECOVERY ACT – The requirements of Section 1553 of the Recovery Act are summarized below. They include, but are not limited to:

- (a) PROHIBITION OF REPRISALS — An employee of any non-Federal employer receiving covered funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee’s duties, to the Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee reasonably believes is evidence of—
1. Gross mismanagement of an agency contract or grant relating to covered funds;
 2. A gross waste of covered funds;
 3. A substantial and specific danger to public health or safety related to the implementation or use of covered funds;
 4. An abuse of authority related to the implementation or use of covered funds; or
 5. A violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.
- (b) PROCEDURE FOR FILING COMPLAINTS – A person who believes that he or she has been subjected to reprisal prohibited by subsection (a) may submit a complaint regarding the reprisal to the appropriate inspector general in accordance with 48 CFR 3.907-3.
- (c) PROCEDURES FOR INVESTIGATING COMPLAINTS - Investigations of complaints will be in accordance with Section 1553 of the Recovery Act.
- (d) ACCESS TO INVESTIGATIVE FILE OF INSPECTOR GENERAL – Access to the investigative file of the Inspector General by the employee alleging reprisal under subsection (a) shall be done in accordance with 48 CFR 3.907-5.
- (e) REMEDY AND ENFORCEMENT AUTHORITY – The remedies and enforcement authority provided by the Recovery Act are in accordance with 48 CFR 3.907-6.
- (f) NONENFORCEABILITY OF CERTAIN PROVISIONS WAIVING RIGHTS AND REMEDIES OR REQUIRING ARBITRATION OF DISPUTES –
1. WAIVER OF RIGHTS AND REMEDIES — Except as provided under 48 CFR 3.907-6, subdivision (c), the rights and remedies provided for in this section may not be waived by any agreement, policy, form, or condition of employment, including by any pre-dispute arbitration agreement.
 2. PREDISPUTE ARBITRATION AGREEMENTS — Except as provided under 48 CFR 3.907-6, subdivision (c), no pre-dispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising under this section.
 3. EXCEPTION FOR COLLECTIVE BARGAINING AGREEMENTS — Notwithstanding 48 CFR 3.907-6, subdivisions (a) and (b) an arbitration provision in a collective bargaining agreement shall be enforceable as to disputes arising under the collective bargaining agreement.
- (g) REQUIREMENT TO POST NOTICE OF RIGHTS AND REMEDIES — Any employer receiving covered funds shall post notice of the employees’ rights and remedies for whistleblower protections provided

under Section 1553 of the Recovery Act and in accordance with this section of the Agreement. Contractor shall include the following clause in all subcontracts:
52.203-15 WHISTLEBLOWER PROTECTION UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (MAR 2009)

- a. Contractor shall post notice of employees rights and remedies for whistleblower protections provided under Section 1553 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5).
- b. The Contract shall include the substance of this clause, including this paragraph b. in all subcontracts.

(h) RULES OF CONSTRUCTION—

- a. NO IMPLIED AUTHORITY TO RETALIATE FOR NON-PROTECTED DISCLOSURES — Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.
 - b. RELATIONSHIP TO STATE LAWS — Nothing in this section may be construed to preempt, preclude, or limit the protections provided for public or private employees under State whistleblower laws.
- I. REQUEST FOR REIMBURSEMENT – [If the award will have Recovery Act and non-Recovery Act funds, reimbursement must be done by receipt of an SF-270, Request for Advance or Reimbursement, through the Automated Clearing House and VIPERS. Include provision below to require the Recipient to distinguish between the funds. If not applicable, delete the paragraph and type “RESERVED.”] Recipients must provide information with its submission of the SF-270, Request for Advance or Reimbursement, to identify the portion of the request that is associated with Recovery Act projects.
 - J. FALSE CLAIMS ACT - Contractor agrees that it shall promptly notify the State and shall refer to an appointed federal inspector general any credible evidence that a principal, employee, agent, subcontractor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving WIA-ARRA funds.
 - K. INFORMATION IN SUPPORT OF RECOVERY ACT REPORTING – Contractor may be required to submit backup documentation for expenditures of funds under the Recovery Act including such items as timecards and invoices. Contractor shall provide copies of backup documentation at the request of the Contracting Officer or designee.
 - L. AVAILABILITY OF FUNDS – Funds appropriated under the Recovery Act and obligated to this award are available for reimbursement of costs until September 30, 2015.
 - M. FIXED PRICE CONTRACT - To the maximum extent possible, contracts funded under this Act shall be awarded as fixed-price contracts through the use of competitive procedures. A summary of any contract awarded with such funds that is not fixed-price and not awarded using competitive procedures shall be posted in a special section of the website established in section 1526.(§1554, Recovery Act).
 - N. PREFERENCE FOR QUICK-START ACTIVITIES- In using funds made available in this Act for infrastructure investment, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of this Act. Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit. (§1602, Recovery Act)
 - O. REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS – SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 **[When awarding Recovery Act funds for construction, alteration, maintenance, or repair of a public building or public work and the total project value is estimated less than \$7, 443, 000, the agency shall use this award term.]**

If the Recipient determines at any time that any construction, alteration, or repair activity on a public building or public works will be performed during the course of the project, the Recipient shall notify the

Contracting Officer prior to commencing such work and the following provisions shall apply.

(a) *Definitions.* As used in this award term and condition—

(1) *Manufactured good* means a good brought to the construction site for incorporation into the building or work that has been—

(i) Processed into a specific form and shape; or

(ii) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

(2) *Public building and public work* means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

(3) *Steel* means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) *Domestic preference.*

(1) This award term and condition implements Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111–5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) of this section and condition.

(2) This requirement does not apply to the material listed by the Federal Government as follows:

To Be Determined

(3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this section and condition if the Federal Government determines that—

(i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;

(ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) *Request for determination of inapplicability of Section 1605 of the Recovery Act.* (1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this section shall include adequate information for Federal Government evaluation of the request, including—

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

(C) Quantity;

(D) Cost;

(E) Time of delivery or availability;

(F) Location of the project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this section.

(i) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.

(ii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.

(iii) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(1) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).

(2) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.

(d) *Data*. To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Items Cost Comparison

Description	Unit of measure	Quantity	Cost (dollars)*
<i>Item 1:</i>			
Foreign steel, iron, or manufactured good			
Domestic steel, iron, or manufactured good			
<i>Item 2:</i>			
Foreign steel, iron, or manufactured good			
Domestic steel, iron, or manufactured good			

List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.

Include other applicable supporting information.

*Include all delivery costs to the construction site.

REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS (COVERED UNDER INTERNATIONAL AGREEMENTS) – SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT

ACT OF 2009 -

[When awarding Recovery Act funds for construction, alteration, maintenance, or repair of a public building or public work and the total project is over \$7,443,000, this section shall be used.]

(a) *Definitions.* As used in this award term and condition—

Designated country —

- (1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom);
- (2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore); or
- (3) A United States-European Communities Exchange of Letters (May 15, 1995) country: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom.

Designated country iron, steel, and/or manufactured goods —

- (1) Is wholly the growth, product, or manufacture of a designated country; or
- (2) In the case of a manufactured good that consist in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different manufactured good distinct from the materials from which it was transformed.

Domestic iron, steel, and/or manufactured good —

- (1) Is wholly the growth, product, or manufacture of the United States; or
- (2) In the case of a manufactured good that consists in whole or in part of materials from another country, has been substantially transformed in the United States into a new and different manufactured good distinct from the materials from which it was transformed. There is no requirement with regard to the origin of components or subcomponents in manufactured goods or products, as long as the manufacture of the goods occurs in the United States.

Foreign iron, steel, and/or manufactured good means iron, steel and/or manufactured good that is not domestic or designated country iron, steel, and/or manufactured good.

Manufactured good means a good brought to the construction site for incorporation into the building or work that has been—

- (1) Processed into a specific form and shape; or
- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

Public building and public work means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) *Iron, steel, and manufactured goods.*

(1) The award term and condition described in this section implements—

(i) Section 1605(a) of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (Recovery Act), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States; and

(ii) Section 1605(d), which requires application of the Buy American requirement in a manner consistent with U.S. obligations under international agreements. The restrictions of section 1605 of the Recovery Act do not apply to designated country iron, steel, and/or manufactured goods. The Buy American requirement in section 1605 shall not be applied where the iron, steel or manufactured goods used in the project are from a Party to an international agreement that obligates the recipient to treat the goods and services of that Party the same as domestic goods and services. This obligation shall only apply to projects with an estimated value of \$7,443,000 or more.

(2) The recipient shall use only domestic or designated country iron, steel, and manufactured goods in performing the work funded in whole or part with this award, except as provided in paragraphs (b)(3) and (b)(4) of this section.

(3) The requirement in paragraph (b)(2) of this section does not apply to the iron, steel, and manufactured goods listed by the Federal Government as follows:

To Be Determined

(4) The award official may add other iron, steel, and manufactured goods to the list in paragraph (b)(3) of this section if the Federal Government determines that—

(i) The cost of domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, and/or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the overall cost of the project by more than 25 percent;

(ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or

(iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) *Request for determination of inapplicability of section 1605 of the Recovery Act or the Buy American Act.* (1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(4) of this section shall include adequate information for Federal Government evaluation of the request, including—

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

(C) Quantity;

(D) Cost;

(E) Time of delivery or availability;

(F) Location of the project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(4) of this section.

(i) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.

(ii) The cost of iron, steel, or manufactured goods shall include all delivery costs to the construction site and any applicable duty.

(iii) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(1) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other appropriate actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds, as appropriate, by at least the differential established in 2 CFR 176.110(a).

(2) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods other than designated country iron, steel, and/or manufactured goods is noncompliant with the applicable Act.

(d) *Data.* To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the applicant shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Items Cost Comparison

Description	Unit of measure	Quantity	Cost (dollars)*
<i>Item 1:</i>			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____
<i>Item 2:</i>			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____

List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.

Include other applicable supporting information.

*Include all delivery costs to the construction site.

P. WAGE RATE REQUIREMENTS (Davis-Bacon Act) –

[This paragraph is applicable only if Contractor is a commercial business or industrial business, a government entity or an organization, and if Contractor's project using Recovery Act funds will involve construction, alteration, maintenance, or repair (including painting and decorating) valued at over \$2,000.]

(a) In accordance with 2 CFR 176.190, Contractor agrees that it shall comply with Section 1606 of the Recovery Act which requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States

Code (commonly referred to as "Davis-Bacon and related acts"). Prevailing wage rates may be found on <http://www.gpo.gov/davisbacon/allstates.html>. Pursuant to Reorganization Plan No. 14 and The Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5. instruct Contractors concerning application of the standard Davis-Bacon contract clauses set forth in that section.

Recipients of Recovery Act funds shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant contract with contractors (and in subsequent contracts with sub contractors) that are in excess of \$2000 for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant, or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standard provisions of any of the acts listed in 29 CFR 5.1 must include the following clauses:

Q. RECOVERY ACT TRANSACTIONS LISTED IN SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS AND RECIPIENT RESPONSIBILITIES FOR INFORMING SUBRECIPIENTS

(a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act) as required by Congress and in accordance with 2 CFR 215.21 "Uniform Administrative Requirements for Grants and Agreements" and OMB Circular A-102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds. OMB Circular A-102 is available at <http://www.whitehouse.gov/omb/circulars/a102/a102.html>.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. OMB Circular A-133 is available at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. This shall be accomplished by identifying expenditures for Federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

(c) Recipients agree to separately identify to each subrecipient, and document at the time of subaward and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to subrecipients shall distinguish the subawards of incremental Recovery Act funds from regular subawards under the existing program.

(d) Recipients agree to require their subrecipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

R. Davis Bacon Act Requirements

[This Paragraph is applicable only if the Recipient is a commercial business or industrial business, a government entity or an organization, and if the Recipient's project using Recovery Act monies involves construction, alteration, maintenance, or repair (including painting and decorating) valued at over \$2000. If so Recipient is to ensure that the following contractual language is included in any contract with a contractor or sub-contractor for work on any project valued in excess of \$2000.]

(1) Definitions.

- a. "Contractor" or "Recipient" means the organization, individual, or other entity that receives an award of federal funds and is financially accountable for the use of Recovery Fund or property

provided for the performance of the project, and is legally responsible for carrying out the terms and conditions of the award.

- b. "Subcontractor" or "Subrecipient" means the legal entity to which a subaward is made and which is accountable to the Recipient for the use of the funds provided. The term may include foreign or international organizations.
- c. "Site of Work" means as follows:
 - (i) The primary site of the work. The physical place or places where the construction called for in the award will remain when work on it is completed; and
 - (ii) The secondary site of the work, if any. Any other site where a significant portion of the building or work is constructed, provided that such site is –
 - 1. Located in the United States; and
 - 2. Established specifically for the performance of the award or project:
 - (iii) Except as provided for in paragraph (iv) of this definition, includes any fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., provided –
 - 1. They are dedicated exclusively, or nearly so, to the performance of the award or project; and
 - 2. They are adjacent or virtually adjacent to the "primary site of the work" as defined in paragraph (1) (c) (i), or the "secondary site of work" as defined in paragraph (a)(1)(ii) of this definition;
 - (iv) Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a Contractor or subcontractor whose location and continuance in operation are determined wholly without regard to a particular Federal award or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project before opening of bids and not on the Project site, are not included in the "site of the work." Such permanent previously established facilities are not a part of the "site of the work" even if the operations for a period of time may be dedicated exclusively or nearly so, to the performance of an award

(2) Minimum Wages.

- a. All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.
- b. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of subdivision (5) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often

than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

- c. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.
- d. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(3) Additional Classification and Wage Rate -

- a. The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - (i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (ii) The classification is utilized in the area by the construction industry; and
 - (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- b. If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- c. In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- d. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (b) and (c) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

- (4) Fringe Benefit - Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

- (5) Costs of Bona Fide Fringe Benefits - If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
- (6) Withholding.
- a. City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
 - b. The Recipient shall, upon its own action or upon written request of City or an authorized representative of the DOL, withhold or cause to be withheld from any Subrecipient or Contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Subrecipient or Contractor the full amount of wages required by the Subaward or Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the Subaward or Contract, the Recipient may, after written notice to the Subrecipient or Contractor, take such action as necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased or the Government may cause the suspension of any further payments under any contract or Federal award with the same Subrecipient or Contractor, or any other federally assisted Award subject to Davis-Bacon prevailing wage requirements, which is held by the same Subrecipient or Contractor.
- (7) Payrolls and basic records.
- a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (i) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
- (ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- (iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(8) Apprentices and trainees

- a. Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- b. Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.
- (9) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
- (10) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
- (11) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
- (12) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.
- (13) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the DOL set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (and any of its subcontractors) and the contracting agency, the U.S. DOL, or the employees or their representatives.
- (14) Certification of eligibility.
- a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.
- (15) Contract Work Hours and Safety Standards Act. Any contract in an amount in excess of \$ 100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act shall include the following clauses as required by 29 CFR 5.5(a). As used in this paragraph, the terms laborers and mechanics include watchmen and guards.
- a. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
 - b. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this section.
 - c. Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the DOL withhold or cause to be withheld, from any moneys payable

on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this section.

- d. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (15)(a) through (d) of this section.
- e. In addition to the clauses contained in subdivision (15) of this section, any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, shall include the following clause:

Payroll Records. The contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Agency Head shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the DOL, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

§515 SPECIAL ARRA CONDITIONS

1. Contractor shall post a project sign or include an ARRA project logo in its handouts to program participants, which requirements are consistent with criteria set forth and incorporated herein by reference in Exhibit I.
2. Contractor is prohibited from using ARRA funds for lobbying purposes and activities.
3. Contractor agrees to provide services and activities to advance self-sufficiency and reduce economic dependency in accordance with the federal provisions of ARRA authorized and appropriated under WIA.
4. No part of the funds from ARRA shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for ARRA projects. ARRA funds can be used in conjunction with other funding sources as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the ARRA and OMB Guidance.
5. Contractor is charged with the responsibility of ensuring that the strategic objectives, including the transparency and accountability requirements of the ARRA, are met with respect to all WIA-ARRA funded programs.

§516 COMPLIANCE WITH STATE AND FEDERAL STATUTES AND REGULATIONS

- A. The Contractor, in performance of this Agreement, warrants and certifies that it shall comply with all applicable statutes, rules, regulations, and orders of the United States, the State, Los Angeles County and City.. Contractor understands that failure to comply with any of the following assurances may result in suspension, termination or reduction of grant funds, and repayment by Contractor to City of any unlawful expenditures. Contractor further warrants and certifies that it shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement.

B. Statutes and Regulations Applicable To All Grant Contracts

Contractor shall comply with all applicable requirements of State, Federal, County and City laws, executive orders, regulations, program and administrative requirements, policies, and any other requirements governing this Agreement. Contractor shall comply with state and federal laws and regulations pertaining to labor,

wages, hours, and other conditions of employment. Contractor shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement. These requirements include, but are not limited to:

1. Code of Federal Regulations (CFR) and Office of Management and Budget (OMB) Circulars

- a. Contractor shall comply with OMB Circulars, as applicable: OMB Circular A-21 (Cost Principles for Educational Institutions); OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments); OMB Circular A-102 (Grants and Cooperative Agreements with State and Local Governments); Common Rule, Subpart C for public agencies or 2 CFR 215 (former OMB Circular A-110 --Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations); OMB Circular A-122 (Cost Principles for Non-Profit Organizations); 48 CFR 31 (Allowable costs for For-Profit); 45 CFR 74 (Allowable costs for hospitals); OMB Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations.)

2. Single Audit Act

- a. If federal funds are used in the performance of this Agreement, Contractor shall adhere to the rules and regulations of the Single Audit Act, 31 USC Sec. 7501 *et seq.*; City Council action dated February 4, 1987 (C.F. No. 84-2259-S1); and any administrative regulation or field memos implementing the Act. The provisions of this paragraph survive expiration or termination of this Agreement.

3. Americans with Disabilities Act

- a. Contractor hereby certifies that it will comply with the Americans with Disabilities Act 42, USC §§ 12101 *et seq.*, and its implementing regulations and the Americans with Disabilities Act Amendments Act (ADAAA) Pub. L. 110-325 and all subsequent amendments. Contractor will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act and the Americans with Disabilities Act Amendments Act (ADAAA) Pub. L. 110-325 and all subsequent amendments. Contractor will not discriminate against persons with disabilities or against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by the Contractor, relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

4. Political and Sectarian Activity Prohibited

- a. None of the funds, materials, property, or services provided directly or indirectly under this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office. Neither shall any funds provided under this Agreement be used for any purpose designed to support or defeat any pending legislation or administrative regulation. None of the funds provided pursuant to this Agreement shall be used for any sectarian purpose or to support or benefit any sectarian activity.
- b. If this Agreement provides for more than \$100,000 in grant funds or more than \$150,000 in loan funds, Contractor shall submit to the City a Certification Regarding Lobbying and a Disclosure Form, if required, in accordance with 31 USC 1352. A copy of the Certificate is attached hereto as Exhibit D. No funds will be released to Contractor until the Certification is filed.
- c. Contractor shall file a Disclosure Form at the end of each calendar quarter in which there occurs any event requiring disclosure or which materially affects the accuracy of any of the information contained in any Disclosure Form previously filed by Contractor. Contractor shall require that the language of this Certification be included in the award documents for all sub-awards at all tiers and that all subcontractors shall certify and disclose accordingly.

5. Records Inspection

- a. At any time during normal business hours and as often as the City, the U.S. Comptroller General, the U.S. Department of Labor, the Auditor General of the State of California, and the Employment

Development Department or their designees, through any authorized representative, may deem necessary, Contractor shall make available for examination all of its records, paper or electronic, with respect to all matters covered by this Agreement. The City, the U.S. Comptroller General, the U.S. Department of Labor, the Auditor General of the State of California, and the Employment Development Department or their designees, through any authorized representative, shall have the authority to audit, examine, and make excerpts or transcripts from records, including all Contractor's invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Agreement.

- b. Contractor agrees to provide any reports requested by the City regarding performance of the Agreement.

6. Records Maintenance

- a. Records, in their original form, shall be maintained in accordance with requirements prescribed by the City with respect to all matters covered on file for all documents specified in this Agreement. Original forms are to be maintained on file for all documents specified in this agreement. Such records shall be retained for a period of five (5) years after termination of this Agreement and after final disposition of all pending matters. "Pending matters" include, but are not limited to, an audit, litigation or other actions involving records. The City may, at its discretion, take possession of, retain, and audit said records. Records, in their original form pertaining to matters covered by this Agreement, shall at all times be retained within the County of Los Angeles unless authorization to remove them is granted in writing by the City.

7. Subcontracts and Procurement

- a. Contractor shall comply with the federal and City standards in the award of any subcontracts. For purposes of this Agreement, subcontracts shall include, but not be limited to, purchase agreements, rental or lease agreements, third party agreements, consultant service contracts and construction subcontracts.
- b. Contractor shall ensure that the terms of this Agreement with the City are incorporated into all Subcontractor Agreements. The Contractor shall submit all Subcontractor Agreements to the City for review prior to the release of any funds to the subcontractor. The Contractor shall withhold funds to any subcontractor agency that fails to comply with the terms and conditions of this Agreement and their respective Subcontractor Agreement.

8. Labor

- a. Contractor shall comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed requirements for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System Personnel Administration (5 C.F.R. 900, Subpart F).
- b. Contractor shall comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally assisted construction sub agreements.
- c. Contractor shall comply with the Federal Fair Labor Standards Act (29 USC § 201) regarding wages and hours of employment.
- d. None of the funds shall be used to promote or deter union/labor organizing activities. CA Gov't Code Sec. 16645 *et seq.*
- e. Contractor shall comply with the Hatch Act (5 USC §§1501-1508 and 7324-7328).

- f. Contractor shall comply with the provisions of Article 3, Chapter 1, Part 7, Division 2 of the Labor Code of California, the California Child Labor Laws and all other applicable statutes, ordinances, and regulations relative to employment, wages, hours of labor and industrial safety.

9. Civil Rights

- a. Contractor shall comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352, 42 U.S.C. §2000d, and implementing regulations) which prohibits discrimination on the basis of race, color, or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681- 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794, 45 CFR, Part 84), which prohibits discrimination on the basis of handicaps; (d) The Age Discrimination act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation act of 1970 (P.L. 91-616) as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 *et seq.*), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; (j) the requirements of any other nondiscrimination statute(s) which may apply to the application; (k) P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance; (l) Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (42 U.S.C. 2000e); (m) the Americans with Disabilities Act, 42 USC §§12101 *et seq.*, and the Americans with Disabilities Act Amendments Act, Pub.L. 110-325; and (n) the Genetic Information Nondiscrimination Act of 2008 (GiNA) P.L. 110-233.

10. Environmental

- a. Contractor shall comply, or has already complied, with the requirements of Titles II and III of the Uniform relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
- b. Contractor shall comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 *et seq.*); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 *et seq.*); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523) and the California Safe Drinking Water and Toxic Enforcement Act of 1986; (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205); (i) Flood Disaster Protection Act of 1973 §102(a) (P.L. 93-234); and (j) Section 508 of the Clean Water Act (38 U.S.C. 1360).
- c. Contractor shall comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 *et seq.*) related to protecting components or potential components of the national wild and scenic rivers system.
- d. Contractor shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4822 *et seq.*) that prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

- e. Contractor shall comply with the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*) that restores and maintains the chemical, physical and biological integrity of the Nation's waters.
- f. Contractor shall ensure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of this project are not listed in the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal Grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.
- g. By signing this Agreement, Contractor ensures that it is in compliance with the California Environmental Quality Act (CEQA), Public Resources Code §21000 *et seq.* and is not impacting the environment negatively.
- h. Contractor shall comply with the Energy Policy and Conservation Act (P.L. 94-163, 89 Stat. 871).

11. Preservation

- a. Contractor shall comply with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 *et seq.*).

12. Suspension and Debarment

- a. Contractor shall comply with Federal Register, Volume 68, Number 228, regarding Suspension and Debarment, and Contractor shall submit a Certification Regarding Debarment (Exhibit C) required by Executive Orders 12459 and 12689, and any amendment thereto. Said Certification shall be submitted to the City concurrent with the execution of this Agreement and shall certify that neither Contractor nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department head or agency. Contractor shall require that the language of this Certification be included in the award documents for all sub-award at all tiers and that all subcontractors shall certify accordingly.

13. Drug-Free Workplace

- a. Contractor shall comply with the federal Drug-Free Workplace Act of 1988, 41 USC §701, 28 CFR Part 67; the California Drug-Free Workplace Act of 1990, California Government Code §§ 8350-8357.

14. Animal Welfare

- a. Contractor shall comply with the Laboratory Animal Welfare Act of 1966, as amended (P.L. 89-544, 7 USC §§2131 *et seq.*)

- 15. Contractor shall assure, pursuant to the Consolidated Appropriations Act of 2008 (P.L. 110-161) grant funds must not be used in contravention of the federal buildings performance and reporting requirements of Executive Order No. 13123, part 3 of Title V of the National Energy Conservation Policy Act (42 USC 8251 *et seq.*) or subtitle A of Title I of the Energy Policy Act of 2005 (including the amendments made thereby), nor shall grant funds be used in contravention of Section 303 of the Energy Policy Act of 1992 (42 USC 13212).

- 16. Contractor must comply with Public Law 103-227, Part C-Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act). This Act requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State and local governments. Federal programs include grants, cooperative agreements, loans or loan guarantees, and contracts. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug and alcohol treatment.

Contractor further agrees that the above language will be included in any subcontracts that contain provisions for children's services and that all subcontractors shall certify compliance accordingly.

17. Contractor shall assure, pursuant to Section 507 of Public Law 103-333, to the extent practicable, that all equipment and products purchased with funds made available under this Agreement shall be American made.
18. Contractor shall administer this Agreement in accordance with OMB requirements contained in the following Circulars: Common Rule, Subpart C, for public agencies, or 2 CFR 215 for nonprofit organizations.

C. Statutes and Regulations Applicable To This Particular Grant

- a. Contractor warrants and certifies that in the performance of this Agreement, it shall comply with all applicable statutes, rules, regulations, and orders of the United States, the State of California, the County and City of Los Angeles, including laws and regulations pertaining to labor, wages, hours and other conditions of employment and City's anti-discrimination provision, Affirmative Action Plan, and WIA customer's compliance with Selective Service Act. Contractor further warrants and certifies that it shall comply with new, amended, or revised laws, regulations, policies, and/or procedures that apply to the performance of this Agreement.
- b. Examples of applicable statutes, rules or regulations include, but are not limited to, the following:
 - (1) Workforce Investment Act of 1998 (WIA) (20 USC 2801, *et seq.*), and any amendments thereto, and regulations (20 CFR 652 *et. seq.* 20 CFR, Part 31, 32, 96 and 97) and any amendments thereto.
 - (2) Governor's Executive Orders implementing WIA, any amendments thereto and regulations adopted.
 - (3) Wagner-Peyser Act (29 USC 49 *et seq.*).
 - (4) Provisions of the Grant Agreements between the City and the U.S. Department of Labor, and between the City and the State of California, pursuant to WIA, including their General Terms and Conditions, which are hereby incorporated by reference as though set forth herein in full.
 - (5) City WIA policies as set forth in the Request for Certification, as approved by the WIB.
 - (6) City administrative procedures and notices released in the form of City Information Bulletins or City Directives.
 - (7) During the performance of this Agreement, the Contractor and its subcontractors shall not deny WIA benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, domestic partner status, age, sex or sexual orientation. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.
 - (8) Age Discrimination Act of 1975, as amended (42 USC §6101, *et seq.*) and implementing regulations.
 - (9) Americans with Disabilities Act (ADA), PL 101-336 and all applicable regulations and the Americans with Disabilities Act Amendments Act (ADAAA) Pub.L. 110-325 and all subsequent amendments.
 - (10) Archaeological and Historic Preservation Act of 1974 (USC §§469a-1 *et seq.*)

- (11) Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 USC §§1451 *et seq.*)
- (12) California Labor Code §1720 *et seq.*
- (13) Clean Air Act as amended (42 USC 1857, *et seq.*)
- (14) Coastal Barrier Resources Act, PL 97-348 dated October 19, 1982, 16 USC §§3501 *et seq.*
- (15) Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended (PL 91-616).
- (16) Contract Work Hours and Safety Standards Act (40 USC 327-330) (29 CFR, Part 5).
- (17) Contract Work Hours and Safety Standards Act §§103 and 107 (40 USC 327-333, as supplemented by Department of Labor regulations 29 CFR Part 5).
- (18) Contractor will comply with Equal Opportunity/Nondiscrimination Policy (Directive 01-52) and the City of Los Angeles Local Workforce Investment Area Complaint Resolution Procedures (Directive 01-31.)
- (19) Copeland Anti-Kick Back Act (18 USC 874, 4042, 4121-4128, 4162, as supplemented in Department of Labor regulations, 29 CFR Part 3, 40 USC §276c).
- (20) Davis-Bacon Act (40 USC 276a *et seq.*, as supplemented by Department of Labor regulations 29 CFR Part 5).
- (21) Drug Abuse Office and Treatment Act of 1972, as amended (PL 92-255).
- (22) Drug Free Workplace Act of 1988, PL 100-690, Title V, Subtitle D.
- (23) Endangered Species Act of 1973, as amended (PL 93-205).
- (24) Energy Policy and Conservation Act (PL 94-163, December 22, 1975, 42 USC §6201 *et seq.*, as amended).
- (25) Executive Order 11063 dated November 20, 1962
- (26) Executive Order 11593 (Identification and Protection of Historic Properties).
- (27) Executive Order 11738 (Notification of Violating Facilities).
- (28) Executive Order 11988 (Evaluation of Flood Hazards in Floodplains).
- (29) Executive Order 11990 (Protection of Wetlands).
- (30) Executive Orders 12459 and 12689 (Federal regulations regarding debarment contained in the Executive Order), and 20 CFR 667.200(d), 29 CFR Parts 97.35 and 98.510, and any amendment thereto.
- (31) Fair Employment and Housing Act (Government Code, §12900 *et seq.*), the regulations promulgated thereunder (California Administrative Code, Title 2, §285m *et seq.*), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code, §§11135-11139.5) and the regulations or standards adopted by the City to implement such article.
- (32) Family Economic Security Act, CUIS 1500 *et seq.* and any successor legislation.

- (33) Federal Fair Labor Standards Act, 29 USC §201.
- (34) Federal Water Pollution Control Act, as amended, 33 USC 1251, *et seq.*
- (35) Flood Disaster Protection Act of 1973 §102(a) (PL 93-234).
- (36) Hatch Act (5 USC §§1501-1508 and 7324-7328).
- (37) Intergovernmental Personnel Act of 1970 (42 USC §§4728-4763, Appendix A of OPM's Standards for a Merit System of Personnel Administration, 5CFR 900, Subpart F).
- (38) Laboratory Animal Welfare Act of 1966, as amended (PL 89-544, 7 USC §§2131 *et seq.*).
- (39) Lead-Based Paint Poisoning Prevention Act (42 USC §§4822 *et seq.*).
- (40) Military Selective Service Act, §3 (50 USC App. 453).
- (41) National Environmental Policy Act of 1969 (PL 91-190, Executive Order 11514).
- (42) National Historical Preservation Act of 1966 §106, as amended (16 USC §470).
- (43) Office of Management and Budget (OMB) Circular A-122, Cost Principles for Non-Profit/Non-Governmental Organizations.
- (44) Office of Management and Budget (OMB) Circular A-87, Cost Principles Applicable to Grants and Contracts with State and Local Governments.
- (45) PL 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
- (46) Public Health Service Act of 1912 (§§523 and 527), as amended (42 USC §§290 dd-3 and 290 ee-3).
- (47) Rehabilitation Act of 1973 (§503 and §504), PL 93-112, as amended, 20 USC 794, and implementing regulations issued at 45 CFR, Part 84.
- (48) Rehabilitation Act of 1973 §504, as amended (29 USC §794).
- (49) Safe Drinking Water Act of 1974, as amended (PL 93-523).
- (50) Single Audit Act PL 98-502 and 2 CFR 215 (former OMB Circular A-110) and OMB Circulars A-128 or A-133 as applicable.
- (51) Title IX of the Education Amendments of 1972, as amended (20 USC §§1681-1683 and 1685-1686).
- (52) Titles VI, VII, and VIII of the Civil Rights Act of 1964 (42 USC 2000d) and implementing regulations; PL 88-352, as amended; and 42 USC §§3601 *et seq.*, as amended;
- (53) Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646).
- (54) Wild and Scenic Rivers Act of 1968 (16 USC §§1271 *et seq.*).
- (55) Section 508 of the Clean Water Act (38 U.S.C. §1368).
- (56) Sweatfree Code of Conduct:

(a) All contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment or supplies furnished to the State pursuant to the contract have been laundered or produced in whole or in part by, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The Contractor further declares under penalty of perjury that it adheres to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov and Public Contract Code Section 6108. The Contractor agrees to provide records requested by the Department of Industrial Relations or City to determine compliance with the foregoing requirements.

(57) State of California Nondiscrimination Clause:

(a) During the performance of this agreement, Contractor shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (Cancer, age (over 40)), marital status, pregnancy disability and denial of family care leave. Contractor shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor shall comply with the provisions of the Fair Employment and Housing Act (Gov., Code §12900 *set seq.*) and the application regulations promulgated there under California Code of Regulations Title 2, Sec., 7285 *et seq.* The applicable regulations of the Fair Employment and Housing Commission implementing Gov., Code §12990 set forth in Chapter 5, Div., 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement. The Contractor shall include the non-discrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

(58) Contractor shall comply with the conditions set forth and applicable to subrecipients regarding Labor Organization Consultation and/or Concurrence contained in 29 USC §306 and implementing regulations.

(59) Contractor shall abide by the stipulations in the Maintenance of Effort provisions of WIA and any implementing regulations.

(60) Contractor shall comply with the Salary and Bonus Limitations as provided by PL 109-149 and PL 109-234 restricting the salary level for anyone receiving WIA funds not to exceed Executive Level II.

§517 FEDERAL, STATE AND LOCAL TAXES

A. Federal, State, and local taxes shall be the responsibility of the Contractor as an independent Contractor and not as a City employee.

§518 INVENTIONS, PATENTS AND COPYRIGHTS

A. Reporting Procedure

1. If any project produces any invention or discovery (Invention) patentable or otherwise under Title 35 of the U.S. Code, including, without limitation, processes and business methods made in the course of work under this Agreement, the Contractor shall report the fact and disclose the Invention promptly and fully to the City. The City shall report the fact and disclose the Invention to the Grantor (U.S. Department of Labor.) Unless there is a prior agreement between the City and the Grantor, the Grantor shall determine whether to seek protection on the Invention. The Grantor shall determine how the rights in the Invention, including rights under any patent issued thereon, will be allocated and administered in order to protect the

public interest consistent with the policy ("Policy") embodied in the Federal Acquisition Regulations System, which is based on Ch. 18 of Title 35 U.S.C. §§200 *et seq.* (Pub. L. 95-517, Pub. L. 98-620, 37 CFR part 401); Presidential Memorandum on Government Patent Policy to the Heads of the Executive Departments and Agencies, dated 2/18/1983); and Executive Order 12591, 4/10/87, 52 FR 13414, 3 CFR, 1987 Comp., p. 220 (as amended by Executive Order 12618, 12/22/87, 52 FR 48661, 3 CFR, 1987 Comp., p. 262). Contractor hereby agrees to be bound by the Policy, and will contractually require its personnel to be bound by the Policy.

B. Rights to Use Inventions

1. City/State shall have an unencumbered right, and a non-exclusive, irrevocable, royalty-free license, to use, manufacture, improve upon, and allow others to do so for all government purposes, any Invention developed under this Agreement.

C. Copyright Policy

1. For purposes of this Agreement when copyrightable material (Material) is developed under this Agreement, ownership of the Material shall be governed by the provisions set forth below in Sections E through J. Notwithstanding such ownership rights, the Grantor, State, City and Contractor shall each have an unencumbered right, and a non-exclusive, irrevocable, royalty-free license, to use, access, manufacture, improve upon, and allow others to do so for all government purposes, any Material developed under this Agreement.
2. The Grantor shall have an unencumbered right, and a non-exclusive, irrevocable, royalty-free license, to use, manufacture, improve upon, and allow others to do so for all government purposes, any Material developed under this Agreement or any Copyright purchased under this Agreement. Contractor shall comply with 29 CFR 97.34

D. Rights to Data

1. The Grantor and the City shall have unlimited rights or copyright license to any data first produced or delivered under this Agreement. "Unlimited rights" means the right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform and display publicly, or permit others to do so; as required by 48 CFR 27.401. Where the data are not first produced under this Agreement or are published copyrighted data with the notice of 17 U.S.C. Section 401 or 402, the Grantor acquires the data under a copyright license as set forth in 48 CFR 27.404(f)(2) instead of unlimited rights. (48 CFR 27.404(a)).
2. Obligations Binding on Subcontractors. Contractor shall require all subcontractors to comply with the obligations of this section by incorporating the terms of this section into all subcontracts.

E. Intellectual Property Provisions for California Sub-Grants

1. This Agreement is funded in part with federal "pass through" funds from the State. The following requirements are applicable to this Agreement. In any Contract funded in whole or in part by the federal government, City/State may acquire and maintain the Intellectual Property rights, title, and ownership, which result directly or indirectly from the Contract, except as provided in 37 Code of Federal Regulations Part 401.14. However, pursuant to 29 CFR Part 97.34 the federal government shall have a royalty-free, non-exclusive, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

F. Ownership

1. Except where City/State has agreed in a signed writing to accept a license, City/State shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all intellectual property, from the moment of creation, whether or not jointly conceived, that are made,

conceived, derived from, or reduced to practice by Contractor or City/State and which result directly or indirectly from this Agreement.

2. For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will, any data or information maintained, collected or stored in the ordinary course of business by City/State, and all other legal rights protecting intangible proprietary information as may exist now and/or hereafter come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.
3. For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos, computer software and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. "Works" does not include articles submitted to peer review or reference journals or independent research projects.
4. In the performance of this Agreement, Contractor may exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Contract. In addition, under this Agreement, Contractor may access and utilize certain of City's/State's Intellectual Property in existence prior to the effective date of this Contract. Except as otherwise set forth herein, Contractor shall not use any of City's/State's Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of City/State. Except as otherwise set forth herein, neither the Contractor nor City/State shall give any ownership interest in or rights to its Intellectual Property to the other Party. If, during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to City/State, Contractor agrees to abide by all license and confidentiality restrictions applicable to City/State in the third-party's license agreement.
5. Contractor agrees to cooperate with City/State in establishing or maintaining City/State's exclusive rights in the Intellectual Property, and in assuring City's/State's sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Contract, Contractor shall require the terms of the agreement(s) to include all Intellectual Property provisions herein. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to City/State all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or City/State and which result directly or indirectly from this Contract or any subcontract.
6. The requirement for the Contractor to include all Intellectual Property Provisions in all agreements and subcontracts it enters into with other parties does not apply to agreements or subcontracts that are for customized and on-the-job training as authorized under 20 CFR 663.700-730.
7. Contractor further agrees to assist and cooperate with City/State in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce City's/State's Intellectual Property rights and interests.

G. Retained Rights / License Rights

1. Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or City/State and which result directly or indirectly from this Agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Contract. Contractor hereby grants to City/State, without additional compensation, a permanent, non-

exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose of Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.

2. Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of City/State or third party, or result in a breach or default of any provisions herein or result in a breach of any provisions of law relating to confidentiality.

H. Copyright

1. Contractor agrees that for purposes of copyright law, all works made by or on behalf of Contractor in connection with Contractor's performance of this Contract shall be deemed "works for hire." Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Contract will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to City/State to any work product made, conceived, derived from or reduced to practice by Contractor or City/State and which result directly or indirectly from this Contract.
2. All materials, including, but not limited to, computer software, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or City/State and which result directly or indirectly from this Agreement may not be reproduced or disseminated without prior written permission from City/State.

I. Patent Rights

1. With respect to inventions made by Contractor in the performance of this Contract, which did not result from research and development specifically included in the Agreement's scope of work, Contractor hereby grants to City/State a license for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement's scope of work, then Contractor agrees to assign to City/State, without additional compensation, all its right, title and interest in and to such inventions and to assist City/State in securing United States and foreign patents with respect thereto.

J. Third-Party Intellectual Property

1. Except as provided herein, Contractor agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of Contractor or third party without first: (i) obtaining City/State's prior written approval; and (ii) granting to or obtaining for City/State's, without additional compensation, a license, as described in §718F.3 above, for any of Contractor's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon these terms is unattainable, and City/State determines that the Intellectual Property should be included in or is required for Contractor's performance of this Agreement, Contractor shall obtain a license under terms acceptable to City/State.

K. Warranties

1. Contractor represents and warrants that:
 - (1) It has secured and will secure all rights and licenses necessary for its performance of this Agreement. Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale,

offer to sell, import, export, Its modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or City/State and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There are currently no actual or threatened claims by any such third party based on an alleged violation of any such right by Contractor.

- (2) Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
 - (3) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites locations, property or props that may be used or shown.
 - (4) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to City/State in this Agreement.
 - (5) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
 - (6) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.
2. City/State make no warranty that the intellectual property resulting from this sub-grant Agreement does not infringe upon any patent, trademark, copyright or the like, now existing or subsequently issued.

L. Intellectual Property Indemnity

1. Contractor shall indemnify, defend and hold harmless City/State and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnities") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim action, or proceeding, commenced or threatened) to which any of the Indemnities may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of City/State's use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or City/State and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that was issued after the effective date of this Contract. City/State reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against City/State.
2. Should any Intellectual Property licensed by the Contractor to City/State under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve City/State's right to use the licensed Intellectual Property in accordance with this Agreement at no expense to City/State. City/State shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for City/State to continue using the licensed Intellectual Property or,

replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, City/State may be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.

3. Contractor agrees that damages alone would be inadequate to compensate City/State for breach of any term of these Intellectual Property provisions herein by Contractor. Contractor acknowledges City/State would suffer irreparable harm in the event of such breach and agrees City/State shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

M. Survival

1. The provisions set forth herein shall survive any termination or expiration of this Agreement or any project schedule.

§519 LIVING WAGE ORDINANCE SERVICE CONTRACTOR WORKER RETENTION AND LIVING WAGE POLICY

- A. Unless otherwise exempt in accordance with the provisions of this Ordinance, this contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. The Ordinances require the following:
1. Contractor assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of benefits as defined in the LWO.
 2. Contractor further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. Contractor shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. Contractor shall deliver the executed pledges from each such subcontractor to the City within ninety (90) days of the execution of the subcontract.
 - a. Contractor's delivery of executed pledges from each such subcontractor shall fully discharge the obligation of the Contractor to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
 3. The Contractor, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the City with regard to the employer's compliance or anticipated compliance with the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. Contractor shall post the Notice of Prohibition Against Retaliation provided by the City.
 4. Any subcontract entered into by the Contractor relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of LWO and the SCWRO, and shall incorporate the "Living Wage Ordinance and Service Contractor Worker Retention Ordinance" language.
 5. Contractor shall comply with all rules, regulations, and policies promulgated by the designated administrative agency, which may be amended from time to time.
- B. Under the provisions of Section 10.36.3(c) and Section 10.37.5(c) of the Los Angeles Administrative Code, the City shall have the authority, under appropriate circumstances, to terminate this contract and otherwise pursue legal remedies that may be available if the City determines that the subject Contractor has violated provisions of the LWO and the SCWRO.

- C. Where under the LWO Section 10.37.6(d), the designated administrative agency has determined (a) that the Contractor is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the awarding authority in such circumstances may impound monies otherwise due the Contractor in accordance with the following procedures. Impoundment shall mean that from monies due the Contractor, the awarding authority may deduct the amount determined to be due and owing by the Contractor to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d) (3) and disposed of under procedures there described through final and binding arbitration. Whether the Contractor is to continue work following an impoundment shall remain in the unfettered discretion of the awarding authority. The Contractor may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.

§520 EARNED INCOME TAX CREDIT

- A. This contract is subject to the provisions of Section 10.37.4 of the Los Angeles Administrative Code, requiring employers to inform employees making less than twelve dollars (\$12.00) per hour of their possible right to the federal Earned Income Tax Credit (EITC). Employers must further make available to employees the forms required to secure advance EITC payments from employers.

§521 EQUAL BENEFITS ORDINANCE

- A. This contract may be subject to the Equal Benefits Ordinance in the future. If so, Contractor will be notified of the applicability by the City.
- B. Unless otherwise exempted in accordance with the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, this Agreement is subject to the provisions of the EBO as amended from time to time.
- C. During the performance of the 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:
- "During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles' Equal Benefits Ordinance may be obtained from the Department of Public Works, Bureau of Contract Administrator, Office of Contract Compliance Section at (213) 847-1922."
- D. The failure of the Contractor to comply with the EBO will be deemed to be a material breach of the Agreement by the Awarding Authority.
- E. If the Contractor fails to comply with the EBO, the Awarding Authority may cancel, terminate, or suspend the Agreement, in whole or in part, and all monies due or to become due under may be retained by the City. The City may also pursue any and all other remedies at law or in equity for any breach.
- F. Failure to comply with the EBO may be used as evidence against the Contractor in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.
- G. If the Office of Contract Compliance determines that a Contractor has set up or used its contracting entity for the purpose of evading the intent of the EBO, the Awarding Authority may terminate the Agreement on behalf of the City. Violation of this provision may be used as evidence against the Contractor in actions taken pursuant to the provisions of the Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

§522 CONTRACTOR RESPONSIBILITY ORDINANCE

- A. Unless otherwise exempt in accordance with the provisions of the Ordinance, this Agreement is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 *et seq.*, of Article 14, Chapter 1 of Division 10 of the Los Angeles Administrative Code, which requires Contractor to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided

if such change would affect Contractor's fitness and ability to continue performing the contract. In accordance with the provisions of this Ordinance, by signing this Agreement, Contractor pledges, under penalty of perjury, to comply with all applicable federal, state, and local laws in the performance of this contract, including but not limited to, laws regarding health and safety, labor and employment, wage and hours, and licensing laws which affect employees. The Contractor further agrees to: (1) notify the awarding authority within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the Contractor is not in compliance with all applicable federal, state, and local laws in performance of this contract; (2) notify the awarding authority within thirty calendar days of all findings by a government agency or court of competent jurisdiction that the Contractor has violated the provisions of Section 10.40.3 (a) of the Ordinance; (3) ensure that its subcontractor(s), as defined in the Ordinance, submit a Pledge of Compliance to awarding authorities; and (4) ensure that its subcontractor(s), as defined in the Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify Awarding Authorities within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3 (a) of the Ordinance in performance of the subcontract.

§523 SLAVERY DISCLOSURE ORDINANCE

- A. This contract may be subject to the Slavery Disclosure Ordinance in the future. If so, Contractor will be notified of the applicability by the City.

§524 CHILD SUPPORT ASSIGNMENT ORDERS

- A. This Agreement is subject to Section 10.10 of the Los Angeles Administrative Code, Child Support Assignment Orders Ordinance. Pursuant to this Ordinance, Contractor certifies that it will (1) fully comply with all State and Federal employment reporting requirements applicable to Child Support Assignment Orders; (2) that the principal owner(s) of Contractor are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (3) fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code Section 5230 *et seq.*; and (4) maintain such compliance throughout the term of this Agreement. Pursuant to Section 10.10.b of the Los Angeles Administrative Code, failure of Contractor to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders and Notices of Assignment or the failure of any principal owner(s) of Contractor to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default by the Contractor under the terms of this Agreement, subjecting this Agreement to termination where such failure shall continue for more than ninety (90) days after notice of such failure to Contractor by City. Any subcontract entered into by the Contractor relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph and shall incorporate the provisions of the Child Support Assignment Orders Ordinance. Failure of the Contractor to obtain compliance of its subcontractors shall constitute a default by the Contractor under the terms of this contract, subjecting this Agreement to termination where such failure shall continue for more than ninety (90) days after notice of such failure to Contractor by the City.
- B. Contractor shall comply with the Child Support Compliance Act of 1998 of the State's Employment Development Department. Contractor assures that to the best of its knowledge it is fully complying with the earnings assignment orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in subdivision (1) of the Public Contract Code 7110.

§525 FIRST SOURCE HIRING ORDINANCE

- A. This Contract may be subject to the First Source Hiring Ordinance, as codified in the Los Angeles Administrative Code Section 10.44 *et seq.*, in the future. If so, Contractor will be notified of the applicability by the City.

6. GRANT REQUIREMENTS

§601 REPORTING REQUIREMENTS

- A. General Reporting: The Contractor shall furnish to the City at the times and on the forms and formats, electronically or manually, as the City may require all records, reports, data and information pertaining to matters covered by this Agreement.
- B. Program Reporting: The Contractor shall submit to the City the following program reports as identified below. Contractor shall submit to the City all required documents in accordance with all City procedures and Directives, which are incorporated herein by reference.
 - 1. Monthly Fiscal Report and Closeout Report: The Contractor shall submit to the City the following reports as identified below:
 - a. Expenditure Report – Due on or before the 15th day of each month, the Contractor shall submit the Expenditure Report to the City, which reflects accrued expenditures as of the previous month on forms provided by the City.
 - b. Cash Request – Due on or before the 15th day of the month, a Cash Request shall be submitted on forms provided. Contractors approved for cash advances shall submit a cash request on or before the 5th day of the month but not earlier than the 25th of the preceding month. If approved for cash advance, contractor shall submit an expenditure report for costs incurred as of the 2 months preceding the month for which the cash is requested.
 - 2. Closeout Report
 - a. Within 15 calendar days following the termination of this Agreement, Contractor shall submit to the City, on forms provided by the City, a complete and accurate final closeout invoice including accruals of allowable expenditures and a remittance for all unearned grant funds as identified in the close-out. Final requests to modify Budget/Expenditure Plan shall be submitted to the City before final closeout. By submission of the closeout invoice, the Contractor certifies that: i) Costs reported and payments requested are valid and consistent with the terms of the Agreement; and, ii) Cash payments received from the City shall be used to pay only for expenditures as reported on the Agreement final closeout invoices. Costs reported and payments made are subject to City verification.
 - b. In the event Contractor does not submit a final closeout or other required documentation within the prescribed time frame, the City reserves the right to unilaterally close out the Agreement and use the invoice then on file at City for determination of Contractor's final allowable expenditures. The City will not reimburse the Contractor for expenditures reported after the 15-day closeout date following the termination of this Agreement.
 - 3. Annual Inventory Report:
 - a. Contractor shall submit an annual inventory report to the City as stipulated in this Agreement for all nonexpendable property that has a City identification decal affixed to it. The City shall provide the inventory report form to the Contractor 30 days before the termination date of this Agreement.
 - 4. Report on Reasonable Cost:
 - a. Contractor shall report to the City costs charged to other funding sources for services, which are the same type of fee-for-performance price services as those covered by this Agreement. If the costs are lower, the Contractor shall submit a justification for charging the City a higher cost. This report shall be submitted by the Contractor within 30 calendar days after the execution of the Agreement with the other funding source(s).

§602 MAINTENANCE OF RECORDS

- A. Record Retention

1. Records, in their original form, shall be maintained in accordance with requirements prescribed by the Grantor and the City with respect to all matters covered by this Agreement. Original forms are to be maintained on file for all documents specified in this Agreement. Unaltered copies of eligibility documents are acceptable. These records shall be retained for a period of five years after termination of this Agreement and after final disposition of all pending matters. Pending matters include, but are not limited to, an audit, litigation, or other actions involving records. The City may, at its discretion, take possession of and retain the records. Before destruction of records retained under this Agreement, Contractor shall notify the City and request instructions on disposition of the records.
2. Location of Records: Records (including, but not limited to, customer files and fiscal documents in their original form) pertaining to matters covered by this Agreement shall at all times, be retained within the County of Los Angeles unless authorization to remove them is granted in writing by the City.

§603 CUSTOMER/APPLICANT FILES

- A. Contractor shall complete and maintain on-site in the customer's file the following documents, as prescribed by program requirements: 1) Application for all applicants; 2) Eligibility documents (see Note below); 3) Assessment documents; 4) Standard Worksite Training Agreement (when applicable); 5) Progress reports; 6) Counseling documents, 7) Job development records; 8) Exit documents; 9) Post Placement Follow-up documentation; 10) Documentation of follow-up services; 11) Employer Verification documents; 12) Verification documents for training completion; 13) Written documentation that customer has received: Program Orientation, Supportive Services Information, City Complaint Resolution Procedures, Contractor Customer Complaint Resolution Procedures; 14) Documentation of supportive services received; and 15) Documentation of credential received as a result of training.
- B. NOTE: The City requires the Contractor to verify and certify eligibility and maintain in the customer file, on-site, all eligibility documentation prior to, or as of, the date the applicant is registered in the program.

§604 EQUIPMENT RECORDS

- A. Nonexpendable personal property (equipment) acquired pursuant to this Agreement shall be properly maintained and accounted for as set forth below:
 1. A record shall be maintained for each item of equipment acquired for the program. Equipment is nonexpendable property, which is not consumed or does not lose its identity by being incorporated into another item of equipment, which costs \$1,000 or more per unit, or is expected to have a useful life of one year or more. Items falling into the following categories are also considered equipment, regardless of acquisition costs and records must be maintained for them: (1) electronic communications equipment for stationary or vehicular use, including cellular telephones acquired by purchase, and (2) electronic office equipment as follows – facsimile machines, copiers, electric typewriters, personal computers (monitors and CPU's), terminals, and printers.
 2. The record shall include: (1) Inventory City Tag or Decal Number; (2) description of the item of equipment, including model and serial number, if applicable; (3) date of acquisition; (4) the acquisition cost; (5) assigned value to the program; (6) condition of the equipment; (7) Title Holder; (8) Date of Disposition, if applicable; and (9) location.
- B. All equipment obtained under this Agreement shall have a City identification decal affixed to it. The identification decal, when practical, shall be affixed where it is readily visible.
- C. A physical inventory shall be taken by the Contractor and reconciled with the record card annually or at other times as the City shall prescribe.
- D. Contractor shall comply with the requirements of City Directive Number 07-16 and any amendments thereto in the management of nonexpendable property purchased with WIA funds.

§605 PURCHASE OR LEASE OF EQUIPMENT OR FACILITIES

- A. Prior to the purchase or lease of equipment the Contractor shall receive prior City approval in writing and shall comply with all requirements described in this Agreement. Any purchase of property with an acquisition cost of \$5,000 or more per unit and any of the cost charge to WIA funding in this Agreement shall require a written prior approval of the State.
- B. The term equipment as used in this Agreement shall be defined to mean personal property.
- C. Contractor shall notify the City in writing before using equipment for this Agreement that was or is to be purchased or leased with public funds not provided by this Agreement. Purchase or lease payments for this equipment shall not be made from funds under the terms of this Agreement.
 - 1. Lease of Equipment
 - a. A copy of each executed equipment lease agreement shall be submitted to the City before payment. Written amendments to equipment lease agreement shall comply with the conditions set forth in this Agreement.
 - 2. Purchase of Equipment
 - a. All property, real and personal, purchased under this Agreement with funds provided in this Agreement shall become the property of the City and shall be returned to the City upon termination of this Agreement, except as provided otherwise by the City in writing. Contractor shall file all Uniform Commercial Code statements for any eligible property purchased with funds from this Agreement and deliver a copy of the filing to the City.
 - b. The property shall be used and maintained by the Contractor as follows:
 - (1) Property shall be used solely in the performance of this Agreement.
 - (2) No modifications shall be made to the property without the prior written approval of City.
 - (3) The Contractor shall be liable for any and all loss, damage or destruction of property acquired under this Agreement during the period the property is under the control of the Contractor, except losses, damage or destruction resulting from reasonable wear and tear. Damage, loss, or destruction of the property shall be immediately reported to the City.
- D. Purchase of depreciable equipment including, but not limited to, computer hardware and software and vehicles require prior City written approval.
 - 1. Disposition of nonexpendable personal property shall be governed by the EDD and City Directives and any approved Ordinance, e.g. Ordinance #178450, which codifies procedures related to handling City-owned Electronic Waste (e-Waste), such as computers, printers, cellular devices and all related accessories. Disposition of WIA funded properties shall be governed by EDD Directive No. WIAD03-9. All private for profit contractors shall acquire prior City approval before purchasing any nonexpendable personal property.
- E. Lease of Property or Facilities
 - 1. All lease agreements shall incorporate the following provisions. Contractor shall amend any current lease agreements to incorporate the following provisions:
 - a. All leases of property or facilities procured to house a City Program under this Agreement must contain a provision that allows the City, at its sole option, to assume the lease for its remaining term, under the same terms and conditions then in effect, in the event that the City terminates its Contractor's City Agreement or if Contractor abandons the lease.

- b. All leases of property or facilities procured to house a City Program under this Agreement must contain a provision, which provides that any improvements made to the facility or property by Contractor, inures to the benefit of the City, and the City may elect, at its sole option, to remove the improvements.
 - c. It is recommended that the Contractor, during lease negotiations, request the addition of a section to the lease agreement, whereby the Lessor agrees that if Lessee's grant funding for any calendar year decreases by \$500,000 or more from the previous calendar year, Lessee may terminate the lease with 120 days written notice.
2. A copy of all leases and lease amendments must be reviewed and approved by the City prior to signature and be on file with the City prior to the release of cash.
 3. Contractor shall not sublease, assign, or amend in any manner leases paid for with funds under this Agreement without prior written City approval.
 4. Contractor shall invoice for only that portion of the lease cost that is allocated to the program funded by this Agreement. The Contractor is responsible for collecting any portion of the rent due to Contractor under sublease agreements with partners or other entities.

§606 ACCOUNTING PRACTICES

- A. The Contractor shall maintain a system of internal control in accordance with standard accounting practices.
 1. In accordance with GAAP and City Directives, financial systems shall include:
 - a. Information pertaining to subgrant and contract awards, obligations, unobligated balances, assets, expenditures, and income;
 - b. Effective internal controls to safeguard assets and assure their proper use;
 - c. A comparison of actual expenditures with budgeted amounts for each subgrant and contract;
 - d. Source documentation to support accounting records;
 - e. Proper charging of costs and cost allocation; and be sufficient to:
 - (1) Permit preparation of required reports;
 - (2) Permit the tracing of funds to a level of expenditure adequate to establish that funds have not been used in violation of the applicable restrictions on the use of the funds;
 - f. "Internal Control" for purpose of this Agreement, comprises the plan or organization and all of the coordinated methods and measures adopted within an organization to safeguard its assets, check the adequacy and the reliability of its accounting data, promote operating efficiency, and assure adherence to prescribed management policies.
 2. The Contractor shall submit its system of accounting procedures and Internal Control to the City before the City disburses any funds to the Contractor.

§607 DOCUMENTATION OF EXPENDITURES

- A. Expenditures shall be supported by properly executed payrolls, time records, invoices, vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. Checks, payrolls, invoices, vouchers, orders, or other accounting documents shall be clearly identified and readily accessible.
- B. Payroll expenditures shall be supported by activity reports that may include but not be limited to case reports, mileage logs, attendance rosters and other documents supporting work related to City contract or program.

- C. No Contractor shall release funds to any subcontractor for reimbursement of costs, until it has received adequate documentation from the subcontractor that the expenditures are reasonable and allowable under the subagreement. All documentation must remain on file at Contractor's office.

§608 AUDITS AND INSPECTIONS

- A. At any time during normal business hours and as often as the Grantor, the U.S. Comptroller General, Auditor General of the State or the City may deem necessary, the Contractor shall make available for examination, all of its records with respect to all matters covered by this Agreement. The City, the U.S. Comptroller General, and the Auditor General of the State shall have the authority to audit, examine and make excerpts, or transcripts from records, including all contractor's invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Agreement.
- B. Access by the City, the State, the Employment Development Department, the U.S. DOL, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records (including computer records) of the contractor which are directly pertinent to charges to the program, shall not be denied in order to conduct audits and examinations, and make excerpts, transcripts, and photocopies. This right also includes timely and reasonable access to Contractor's and subcontractor's personnel for the purpose of interviews and discussions related to such documents.
- C. Contractor agrees to provide any reports requested by the City regarding performance of the Agreement.
- D. Contractor shall adhere to the rules and regulations of the Single Audit Act PL 98-502 and the implementing OMB Circulars, and any administrative regulation or field memos implementing the Act.
- E. When total expenditures under all federal programs in a fiscal year equal or exceed \$500,000, the Contractor shall conduct or have conducted on an annual basis, audits in accordance with the Single Audit Act of 1984, PL 98-502, implementing regulations in OMB Circulars A-133 as applicable, (City Council action dated February 4, 1987, C.F. No. 84-2259-S1) and administrative regulations or field memos implementing revisions or updates to the audit requirements. The auditor's reports, prepared in accordance with the aforementioned requirements, and any accompanying management reports on the operation of the contractor or this Agreement, shall be submitted to the City within nine (9) months after the close of the Contractor's fiscal year.
1. Contractors who meet the above threshold shall annually subcontract with a qualified independent auditor.
 2. The audit is to be conducted annually to test the fiscal integrity of financial transactions as well as compliance with the applicable laws and regulations.
 3. The Contractor, not later than thirty (30) days following receipt of the final audit report and within nine (9) months after the close of Contractor's fiscal year, shall submit a copy of the report to the Financial Management Division of the City's CDD.
 4. If the auditor's report or management report identifies deficiencies with internal controls or contract compliance, the Contractor shall prepare and submit a corrective action plan along with the auditor's reports. The plan shall address all deficiencies and provide specific details on corrective actions to be taken along with the date the action was or will be implemented.
 5. If the expenditures under all Federal programs are less than \$500,000, Contractor shall permit the City to conduct a performance review of this Agreement and all related records in accordance with Directives received from the City.
- F. In the event that the Contractor is operating on a for-profit basis, the Contractor shall conduct a program-specific annual independent financial and compliance audit in accordance with generally accepted government auditing standards, or an organization-wide audit that includes coverage of the City program within its scope.

- G. The City reserves the right to impose any or all of the following sanctions for Contractor's failure to comply with the Single Audit Act and the provisions of this Agreement:
1. Withhold a percentage of payments, at the City's sole discretion, until the audit is completed satisfactorily and submitted to the Department;
 2. Suspend payments due to Contractor until the audit is completed satisfactorily and submitted to the City; and/or Impose the Default, Probation, Suspension and Termination provisions of this Agreement as set forth herein.
- H. City, Auditor General of the State, Grantor, Director of the Office of Civil Rights, and the U.S. Comptroller General shall have the authority to audit, examine, and make excerpts or transcripts from records, including contracts, invoices, customer records and other records supporting this Agreement. Audits of earned funds are limited to determining if such funds were earned in accordance with this Agreement.
1. City may require Contractor who has inadequate fiscal or administrative procedures, to use any or all of the City's accounting or administrative procedures used in the planning, controlling, monitoring, and reporting of fiscal matters relating to this Agreement; or secure at Contractor's expense the service of independent experts.
 2. City shall have the authority to make physical inspections and to require such physical safeguarding devices as locks, alarms, safes, fire extinguishers, sprinkler systems, etc., to safeguard property, records and/or equipment used in the performance of this Agreement.
 3. Should a fiscal or special audit determine that the Contractor has earned funds which are questioned under the criteria set forth herein, the Contractor shall be notified and given the opportunity to justify questioned expenditures prior to the City's final determination of disallowed costs, in accordance with the procedures established under the Grant.

§609 CONFIDENTIALITY OF INFORMATION

- A. The Grantor, the City, and the Contractor will exchange various kinds of information pursuant to this Agreement. That information will include data, applications, program files and databases. These data and information are confidential when they define an individual or an employing unit. Confidential information requires special precautions to protect it from unauthorized use, access, disclosure, modification, and destruction. The sources of information may include, but are not limited to, the Employment Development Department, the California Department of Social Services, the California Department of Education, the County Welfare Department(s), the County IV-D Directors Office of Child Support, the Office of the District Attorney, the California Department of Mental Health, the California Office of Community Colleges, and the Department of Alcohol and Drug Programs.
- B. The City and the Contractor agree that:
1. Each party shall keep all information that is exchanged between them in the strictest confidence and make such information available to their own employees only on a "need-to-know" basis.
 2. Each party shall provide written instructions to all of its employees with access to information provided by the other party of the confidential nature of the information and of the penalties for unauthorized use or disclosure found in §1798.55 of the Civil Code, §502 of the Penal Code, §2111 of the Unemployment Insurance Code, §10850 of the Welfare and Institutions Code and other applicable local, State and federal laws.
 3. Each party shall (where appropriate) store and process information in an electronic format, in such a way that unauthorized persons cannot reasonably retrieve the information by computer, remote terminal, or other means.
 4. Each party shall promptly return to the other party confidential information when its use ends or destroy the confidential information utilizing an approved method of destroying confidential information by

shredding, burning, or certified, or witnessed destruction. Magnetic media are to be degaussed or returned to the other party.

5. If the City or Contractor enters into an agreement with a third party to provide services, the City or Contractor agrees to include these data and security and confidentiality requirements in the agreement with that third party. In no event shall said information be disclosed to any individual outside of that third party's authorized staff, subcontractor(s), service providers, or employees.
6. Each party shall designate an employee who shall be responsible for overall security and confidentiality of its data and information systems and, each party shall notify the other of any changes in that designation. In no event shall said information be disclosed to any individual outside of that third party's authorized staff, subcontractor(s), service providers, or employees.

§610 SECURITY CLEARANCE AND TUBERCULOSIS TEST OF STAFF AND VOLUNTEERS

- A. Contractor hereby certifies that by signing this Agreement, Contractor and subcontractor staff working with youth, either as employees or volunteers, who have a supervisory or disciplinary authority over minors must be fingerprinted and pass the background check, as required by California Penal Code §11105.3 and California Education Code §45125.1 and §10911.5. Fingerprinting and a background check may be required of other staff and volunteers depending upon how much contact the staff member will have with minors. The Contractor shall be responsible for obtaining security clearances for staff whose duties require a sufficient level of interaction with youth.
- B. Contractor hereby certifies that by signing this Agreement, Contractor shall have Tuberculosis (TB) tests completed on any staff member working with the youth.
- C. Contractor shall maintain proof of Security Clearance and TB tests of all staff, including those of the subcontractors, and make these records available for future inspection.

§611 RESTRICTION ON DISCLOSURES

- A. Prior to the release of any reports, analyses, studies, information, or data generated as a result of this Agreement Contractor shall notify the City of the request to release the information. Release of information shall be coordinated by the contractor and the City and shall be in compliance with State and federal law.

§612 HEADINGS AND CAPTIONS

- A. This Agreement's section headings shall not be deemed to govern, limit, modify, or in any way affect the scope, meaning, or intent of these conditions. Unless defined as a "working day," all reference to days is to calendar days.

§613 MANAGEMENT INFORMATION SYSTEM RECORDS AND REPORTS

- A. The Contractor shall report to the City numeric data, statistics, facts, news, details and information for its City-funded project(s) using forms and formats such as the electronic Integrated Services Information System (ISIS) prescribed by the City for this purpose.
- B. The City shall rely upon and use records and monthly invoices located at the City, and on-site verifications, as needed, to substantiate Contractor's performance and expenditure data, including but not limited to enrollment, training services, placement activities, wages, business/job creation, and post-program services status.
- C. The City may contact Contractor staff, participants, subcontractors, training institutions or schools to verify the documentation supporting performance and compliance with this Agreement.

§614 INSTALLATION OF FINANCIAL ASSISTANCE SIGN

- A. The Contractor shall install, or allow to be installed, for public display upon the project premises a sign, identifying the Contractor as receiving financial assistance from the City.

§615 PRESS RELEASES-PUBLIC INFORMATION

- A. The Contractor shall make specific reference to the City as the sponsoring agency and that the Contractor is an Equal Opportunity/Affirmative Action Employer in all communications with the press, television, radio or any other means of communicating with the general community. The Contractor shall make specific reference to the City as the sponsoring agency of the project, regarding any items that are related to the program which is funded by this Agreement. Contractor shall also coordinate press releases with the media/public relations project for maximum impact.

§616 NOTICE TO CITY OF LABOR DISPUTES

- A. When Contractor has knowledge that any actual or potential labor dispute involving participants or other employees is delaying or threatens to delay the timely performance of this Agreement the Contractor shall immediately give notice thereof, including all pertinent information, with regard to same to City. No funds in this Agreement shall be used to promote or deter union organizing.

§617 LISTING OF CONTRACTOR'S EMPLOYMENT OPPORTUNITIES WITH EDD

- A. Contractor shall list all Contractor's job openings with the local Employment Development Department Office when such job openings are funded, in full or in part, through monies provided by this Agreement.

§618 TECHNICAL ASSISTANCE

- A. Contractor shall submit a written request to the City identifying the nature of the problem, the action Contractor has taken to resolve the problem, and the type of assistance needed.

§619 EFFECT OF LEGAL JUDGMENT

- A. Should any covenant, condition or provision contained in this Agreement be held to be invalid by final judgment in any court of competent jurisdiction, the invalidity of the covenant, condition or provision shall not affect any other covenant, condition or provision in this Agreement.

§620 PROHIBITION OF LEGAL PROCEEDINGS

- A. Contractor is prohibited from using Grant funds received under this Agreement for the purpose of instituting legal proceeding against the City or their official representatives.

§621 ADMINISTRATIVE HEARING FOR DENIAL OF CLIENT BENEFITS BY CONTRACTOR (NOT APPLICABLE TO WIA AGREEMENT)

- A. Contractor has read and agrees to strictly comply with Title 22 of the California Code of Regulations, Section 100751, as amended, which sets forth elements to be included in client benefit denial appeal procedures and shall advise individuals who have been denied assistance of their 20-day right to appeal to the State for an administrative hearing pursuant to 42 USC 8624(b) (13), as amended.
- B. The client may withdraw request for appeal for administrative hearing at any time during the appeal process by rendering written or oral notice to the State. Where oral notice is given, such notice shall be confirmed in writing by the parties.

§622 FAITH-BASED ACTIVITIES

- A. Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the grant funded program. However, a Contractor that participates in a grant-funded program shall comply with the following provisions if it is deemed to be a religious or faith-based organization.
1. Contractor may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this Contact. If Contractor conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this Agreement, and participation must be voluntary for the beneficiaries of the grant-funded programs or services.
 2. A religious or faith-based Contractor will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct grant funds to support any inherently religious activities, such as worship, religious instruction, or proselytization.
 3. A religious or faith-based Contractor may use space in its facilities to provide grant funded services, without removing religious art, icons, scriptures, or other religious symbols.
 4. A religious or faith-based Contractor retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.
 5. A religious or faith-based Contractor shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
 6. Grant funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities.
 7. Grant funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this section. Where a structure is used for both eligible and inherently religious activities, grant funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to grant funds herein. Sanctuaries, chapels, or other rooms that a grant funded religious congregation uses as its principal place of worship, however, are ineligible for grant funded improvements. Disposition of real property after the term of the grant, or any change in use of the property during the term of the grant, is subject to government-wide regulations governing real property dispositions.

§623 CHILD ABUSE

- A. Contractor shall comply with the provisions of the California Child Abuse and Neglect Reporting Act, CA Penal Code §11164 *et seq.*, and specifically §§ 11165.7, 11165.9, 11166.

7. SUBCONTRACT AND PROCUREMENT PROCEDURES

§701 SUBCONTRACTS

- A. For the purpose of this Agreement, subcontracts shall include, but not be limited to, purchase agreements, lease or rental agreements (excluding real property agreements), third party agreements, consultant services subcontracts, and construction subcontracts.
- B. Subcontracts entered into in the performance of this Agreement shall:
1. Be subject to the terms and conditions set forth in of this Agreement. City may require incorporation of the applicable provisions in a written agreement;

2. Specifically prohibit assignment or transfer of interest without prior written approval by the City;
 3. Contractor must specifically provide proof, when applicable, of the appropriate permits and/or business licenses.
- C. A copy of each executed subcontract, or amendment(s) thereto, shall be submitted to the City prior to payment.

§702 PROCUREMENT PROCEDURES

- A. It is the policy of the City to encourage fair and open competition in its procurement for goods and services. The requirements for a fair and open competition include the development of written procurement policies that include, but are not limited to, all of the following subsections. It is the City's intent that the following rules be binding upon the City and its subcontractors. Several of the provisions herein include City mandated rules and procedures in addition to the other grant requirements. Such policies are applicable to subcontractors to the extent permitted by law.
- B. Purpose. It is the intent of these rules that these procedures shall apply to all subcontracts including, but not limited to, purchase agreements, lease or rental agreements (excluding real property agreements), third party agreements, and consultant services subcontracts. All contractors are required to prepare written procurement procedures. All written procedures and policies for procurement activities are to be available for public inspection.
- C. Competition. The City and each of its contractors shall conduct procurement in a manner that provides full and open competition. Some of the situations considered to be restrictive of competition include, but are not limited to:
1. Placing unreasonable requirements on firms or organizations in order for them to qualify to do business;
 2. Requiring unnecessary experience and excessive bonding;
 3. Noncompetitive pricing practices between firms or organizations or between affiliated companies or organizations;
 4. Noncompetitive awards to consultants that are on retainer contracts;
 5. Organizational conflicts of interest;
 6. Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance of other relevant requirements of the procurement;
 7. Overly restrictive specifications; and
 8. Any arbitrary action in the procurement process.
- D. Responsibilities.
1. The following procedures shall apply to all procurement under this Agreement in order to ensure that all solicitations:
 - a. Incorporate a clear and accurate description of the technical requirements for the material, product or service to be procured. Such description shall not, in competitive procurement, contain features which unduly restrict competition; and
 - b. Identify all requirements that the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

2. Issue a Public Notification. The notification must be made through an announcement in a local public medium (e.g., newspaper) or other media that covers the entire service area.
3. All steps of each procurement must be documented, including a description of the documentation process and where the documentation will be located.
4. Contractor shall provide a copy of the RFP/request for qualifications (RFQ) to anyone who requests it. Contractor shall compile a list of everyone requesting a copy of the RFP/RFQ.
5. The Contractor shall ensure that all pre-qualified lists of persons, firms or other organizations that are used to acquire goods and services are current and include sufficient numbers of qualified sources to ensure maximum open and free competition. The agencies listed on the bidder's list may be individually notified.
6. The Contractor shall not use funds provided under this Agreement to duplicate facilities or services available in the area (with or without reimbursement) from federal, State, or local sources, unless it is demonstrated that the Agreement-funded alternative services or facilities would be more effective or more likely to achieve performance goals.
7. The Contractor shall maintain records that are sufficient to detail the significant history of a procurement procedure in compliance with 29 CFR 97.36. These records shall include, but are not limited to, the following: rationale for the method of procurement, the selection of contract type, contractor selection or rejection, rationale and reasonable rating criteria and the basis for the contract type. Records regarding the history of a procurement procedure shall comply with 29 CFR 7.36.
8. The Contractor shall keep records sufficient to insure that funds have not been spent unlawfully.
9. The Contractor shall retain all records pertinent to any procurement agreement/contract within the County of Los Angeles for a period of five years following termination of the Agreement and after final disposition of all pending matters. "Pending Matters" include, but are not limited to, an audit, litigation, or other activities involving records. Prior to destruction of records retained under this Agreement, the Contractor shall notify the City and request instructions on disposition of said records.
10. The Contractor shall not contract with any party which is debarred, suspended or otherwise excluded from participation in federal assistance programs in accordance with DOL regulations at 29 CFR Part 98. All contracts shall include a self-certification from the contractor that it is not a debarred party.
 - a. The federal government prohibits awards to any party that is debarred. The federal government compiles a list of debarred parties. The federal list is published by the General Services Administration; a copy may be obtained by telephoning the Superintendent of Documents (202/512-1600). The list will be issued as an information Bulletin in May of each year. It is the Contractor's responsibility to ensure that funds are not awarded to entities on the debarment lists.
11. Procurement shall be conducted at least once every three years.
12. Procurement activities must be conducted in a confidential manner. Staff involved in procurement must not divulge advance purchasing information, specific proposal/offer evaluation criteria, negotiations with bidders or in-house discussions regarding a procurement until such time as this information is released to all parties.
13. Contractor shall receive and log in proposals and establish a method for recording the date and time of arrival of proposals using either a login sheet or a date/time stamp. Contractor shall establish a single location for receipt of proposals. Contractor shall ensure that only proposals received by the deadline specified in the RFP/RFQ qualify for the evaluation process unless there is a valid legal reason for otherwise considering a late proposal.
14. Contractor shall establish proposal evaluation procedures that shall include, but not be limited to, the following:

- a. Clear staff responsibilities. A procurement specialist shall be designated for each bid/proposal process. It shall be the responsibility of the specialist to ensure compliance with these procurement rules.
 - b. Develop a standard worksheet or check list for determining responsiveness of each proposal.
 - c. Establish and use evaluation criteria and a standard evaluation worksheet to be used in recording the evaluations of each proposal.
 - d. Prepare an analysis of costs to verify allowability and to determine reasonableness.
 - e. Identify staff responsibilities for completing proposal evaluation and for summarizing evaluation results.
 - f. Develop a description of methods for ensuring independence of ratings by those involved in the evaluation process (i.e., prohibit discussion among staff, sequestered evaluators).
 - g. Identify policy and process by which selection of awardee(s) will be made.
 - h. Provide an opportunity for bidders to appeal staff recommendations.
 - i. Items a-c should be sufficiently completed before issuance of the RFP so relevant parts can be included.
15. Contractor shall identify complete and timely proposals. Contractor shall review the technical merits of these proposals based on the rating criteria contained in the RFP/RFQ. Contractor shall review the cost proposals based on applicable cost principles and the technical proposal. For participant service RFPs/RFQs demonstrated performance and ability must be documented and should include independently verified information and data.
16. Contractor shall determine which proposals are in the competitive range for technical response and based on the cost and price analysis conducted prior to the RFP/RFQ are within the cost and price criteria.
17. Contractor shall negotiate with organization(s) in the competitive range. Contractor shall establish policies and procedures governing face-to-face negotiations. Contractor shall include in the criteria that all responsive offerors in the competitive range are given fair and equal consideration based on the merits of their proposals. Contractor shall document these negotiations in writing.
18. Contractor shall determine for participant service RFPs the demonstrated performance and ability of the highest rated offeror(s). This determination must be documented and should include independently verified information and data.
19. Private for-profit entities must obtain prior written approval from the City for purchases of personal property (other than supplies) using Agreement funds.
20. Contractor shall conduct and document oversight to ensure compliance with these procurement procedures.
21. City may procure goods and services from other governmental entities in accordance with Agreement procurement regulations. Contracts may not charge higher prices than that available to the general public. All such contracts are subject to cost reasonableness requirements.
- a. In-school youth programs may be sole sourced to public and nonprofit private secondary schools.
 - b. City may use as the basis for selecting a provider a procurement process from another government in its market area upon review of the procurement process and City determination that such process complies with this Agreement and local law.

- c. City may use the Central City Purchasing agent in order to procure office supplies, basic equipment and other similar goods.
 - d. The City may authorize its Contractor to use a vendor subcontractor who has been already selected through the City's procurement process without requiring an additional procurement process.
22. If the State or the City has established a debt against an Agreement service provider that has not been repaid or a repayment agreement plan has not been implemented, then the service provider shall be barred from receiving any future grant funds.
23. The City will use the definition of a private postsecondary education institute as defined in the California Education Code Section 94302(w) as any person doing business in California that offers to provide or provides, for a tuition, fee, or other charge, any instruction, training, or education primarily to people who completed or terminated their secondary education or are beyond the age of compulsory high school attendance. Information Bulletin B95-83 provides further guidance regarding post secondary education.
24. Participation of Minorities, Women and Small Businesses
- a. To the fullest extent possible in the administration of this Agreement, Contractor agrees to provide opportunities for minorities, women and small businesses to participate in procurement under this Agreement.
- E. Cost or Price Analysis.
- 1. Contractor shall establish standards for the performance of cost or price analysis.
 - 2. Contractor shall perform a cost or price analysis in connection with every procurement action, including contract modifications to determine that the expenditure is reasonable. The method and degree of analysis depends on the facts surrounding the particular procurement and pricing situation, but at a minimum, the Contractor shall make independent estimates before receiving bids or proposals.
 - a. A cost analysis is necessary when the offeror is required to submit the elements of the estimated cost, when adequate price competition is lacking, and for sole source procurement, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. As part of its bid the offeror shall certify that to the best of its knowledge and belief, the cost data are accurate, complete and current at the time of agreement on price.
 - b. Contracts or modifications negotiated in reliance on such data should provide the awarding agency a right to a price adjustment to exclude any significant sum by which the price was increased because the contractor had submitted data that were not accurate, complete or current as certified.
 - c. Any indirect costs in a proposal must be carefully reviewed to ensure that the costs are not duplicated by direct costs. Indirect costs must be allocated in accordance with an approved cost allocation plan.
 - d. If a bidder proposes to use a subcontractor as part of its proposal, all costs in the proposed subcontract must also be evaluated in the same manner as for the primary proposal.
 - e. Cost analysis must carefully evaluate salaries of owners of sole proprietorships or partnerships who submit offers to ensure that they are in line with the services to be performed.
 - 3. A price analysis shall be used in all other instances to determine the reasonableness of the proposed contract price. The following price analysis techniques shall be used: i) comparison of proposed prices received; ii) comparison of prior prices received and current contract proposed prices for the same or similar requirement; iii) application of rough yardsticks (e.g., dollars per square foot, dollars per placement); iv) comparison with competitive published price lists and published market prices; and v) comparison with agency's independently developed cost estimates.

4. The following cost analysis steps shall be used 1) verify cost or pricing data and evaluate cost elements; 2) evaluate the effect of the offeror's current practices on future costs; 3) compare proposed costs for individual cost elements; 4) verify that offeror's cost submissions are in accordance with cost principles (allowable/allocable); and 5) review to determine that all necessary cost or pricing data have been submitted.
5. Agreement procurement shall not permit excess program income (for nonprofit and governmental entities) or excess profit (for private for-profit entities). If profit or program income is included in the price, the City or the Contractor shall negotiate profit or program income as a separate element of the price for each contract/subcontract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit or program income, consideration shall be given to:
 - a. The complexity of the work to be performed;
 - b. The risk borne by the contractor;
 - c. The Contractor's investment;
 - d. The amount of subcontracting;
 - e. The quality of the Contractor's record of past performance;
 - f. Industry profit rates in the surrounding geographical area for similar work; and
 - g. Market conditions in the surrounding geographical area.
6. The cost plus a percentage of cost method of contracting shall not be used.
7. All Contractors must comply with 24 CFR section 85.25 income regulations and City contract provisions regarding program income.
8. All goods and services procured pursuant to the Agreement must be in compliance with the allowable cost provisions in 29 CFR §97.27, 29 CFR 97.22 and 20 CFR 667.200, and any State or Federal directives on allowable costs.

F. Awarding of Agreement/Contract.

1. Prior to an award of a contract, the City shall make a determination that the Contractor has demonstrated effectiveness in providing RFP documented services. Agreements/Contracts shall be made only with responsible subcontractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. The selected proposer must be a responsive entity that has submitted a proposal or bid which meets all requirements of the solicitation adequately, which includes responding to the Request for Proposal (RFP)/ Request for Qualification (RFQ) within the required time frames, and completing all forms and documents. A responsible entity is one that has been determined to: 1) have a satisfactory record of integrity and business ethics; 2) have a satisfactory performance record; 3) have adequate financial resources to perform the contract or the ability to obtain such resources; 4) be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and business commitments; 5) have the needed organization, experience, accounting, operational control and technical skills or ability to obtain them; 6) have adequate production, construction or technical equipment and needed facilities or the ability to obtain them; 7) be able to meet the program design specifications; 8) be able to meet performance goals which includes a showing of demonstrated effectiveness in providing employment and training services; 9) be able to provide services that can lead to the achievement of competency standards for participants, and 10) be both qualified and eligible to receive the award under applicable law and regulation. Contractor shall make the award(s) and finalize the contract(s). Contractor shall follow established procedures for formal notification of offerors of the results of the evaluations and selection process.

2. The City and its Contractors shall make positive efforts to utilize small business and minority-owned business as sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed utilizing federal grant funds.
3. Where such advertised bids are obtained, the awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the grantee, price and other factors considered. Factors such as discounts, transportation costs, and taxes may be considered in determining the lowest bid. No points shall be given for status as a sub-contractor or a contractor with an approved childcare policy within existing delivery systems. However, if a bid results in a tie score, preference may be given to the Contractor or a subcontractor with an approved childcare policy.
4. Any or all bids may be rejected when it is in the City/Contractor's interest to do so, and such rejections are in accordance with applicable State and local law, rules, and regulations.

G. Funding Restrictions for High Risk Contracts.

1. Contractor may be considered "high-risk" if an awarding agency determines that the Contractor is otherwise responsible but:
 - a. Has a history of unsatisfactory performance;
 - b. Is not financially stable;
 - c. Has a management system which does not meet the management standards set forth in this part; or
 - d. Has not conformed to terms and conditions of a previously awarded grant or sub-grant.
2. If the City/Contractor agency determines that a grant or sub-grant will be made to a "high-risk" Contractor or subcontractor, then special funding restrictions that address the "high-risk" status may be included in the contract or subcontract. Funding restrictions may include, but are not limited to:
 - a. Use of reimbursements rather than advances or payment upon completion of the project;
 - b. Requiring additional and/or more detailed financial or performance reports;
 - c. Additional monitoring;
 - d. Requiring the Contractor or subcontractor to obtain specific technical or management assistance; and/or
 - e. Establishing additional prior approvals (e.g. requiring awarding agency approval prior to hiring/firing, award of small purchase contracts).
3. If the City/Contractor decides to impose such funding restrictions, the awarding official will notify the Contractor or subcontractor as early as possible, in writing, of:
 - a. The nature of the funding restrictions;
 - b. The reason(s) for imposing them;
 - c. The corrective actions which must be taken before they will be removed and the time allowed for completing the corrective actions;
 - d. The method of requesting reconsideration of the restrictions imposed, and
 - e. Additional prior approvals.

H. City Code of Conduct

1. The Contractor shall comply with the Conflict of Interest provisions found in Section 513 of this Agreement.

I. Methods of Procurement

1. Contractor shall use one of the following methods of procurement, as appropriate for each procurement action. When any purchase is made, it can only be for an allowable cost. Invitations for bids shall clearly set forth all requirements that the bidder must fulfill in order for his bid to be evaluated by the grantee. Complaint process procedures shall be included in each of the following methods of advertised procurement.

- a. Small Purchase Procedures: Small purchases are made from vendors for goods or services under \$50,000. Following the procedures for small purchase will constitute justification of the procurement method chosen. The requirements are:

<u>Dollar Range of Purchase</u>	<u>Contacts and Method</u>
\$0 to \$24,999	2 written quotes or telephone bids [*]
\$25,000 - \$50,000	3 bids with proposers submitting bids with original signatures [†]

- (1) Documentation: Each procurement must be documented. For the "2 written quotes or telephone bids," the documentation can include product or service catalogs, current price lists, or telephone contact with the vendors to obtain quotes (i.e., a memorandum that reflects the oral quotations by source and dated and signed by a staff person of the subrecipient obtaining the bids). Catalogs and price lists should be updated annually.
- (2) For "3 written or telephone bids," the RFQ must either be provided in writing to the vendors or transmitted as uniformly as possible over the telephone. To be considered, the response must be signed and dated by the vendor responding to the RFQ.
- (3) A cost/price analysis must be conducted prior to purchase. Lowest price is the normal criteria for selecting goods and services. Qualifications of the vendor, availability of the goods or services, service to be provided, quality and location are some additional factors that could influence the procurement. The documentation must contain the basis for vendor selection. If the basis is something other than the price, the subrecipient must prepare written documentation describing the additional criteria for selection, its relevance to the need and benefit, and the relative advantage of the offering from the selected vendor. Documentation should be retained as described in the procurement procedures.
- (4) Many governmentally linked subrecipients purchase office supplies and basic office equipment through their central governmental supply house or procurement administration. Items procured for subrecipient use in this manner will be assumed, for the purposes of WIA, to be purchased competitively by the central governmental purchasing agency and to meet the requirements of these regulations. Any item purchased solely for WIA use must be purchased following EDD Directive WIA 00-2, the WIA, and its regulations.

b. Sealed Bids—Formal Advertising

- (1) Contractor shall prepare an Invitation for Bid (IFB) or similar solicitation document that includes full and clear definitions and descriptions of the items to be procured and essential performance criteria, dimensions or specifications. Sealed bids shall be solicited publicly for procurement for a firm-fixed-price contract (lump sum or unit price) or other fixed-price arrangement. Contractor shall distribute the IFB to vendors on established bidders' lists (if available). Contractor shall publicly advertise the procurement in a local newspaper with Workforce Investment area-wide circulation and shall solicit from an adequate number of

^{*} Unless sole source justification exists
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organizations, allowing sufficient time before the bid opening to permit adequate responses to the solicitation. Contractor shall notify the bidders of the dispute resolution process. The bids must be received and opened publicly at the time and place stated in the solicitation. Contracts shall be awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. Contractor shall determine the demonstrated performance and ability of the lowest bidder who meets the technical requirements (for service providers).

- (2) Contractor reserves the right to reject any or all bids when the bid is non-responsive. However, Contractor must state this in the solicitation and the specific reasons must be fully described and documented in the procurement file. Contractor may award a firm fixed-price or fixed-unit price contract by written notice to the responsible offeror whose bid represents the lowest price and conforms with all of the specifications in the IFB. Contractor shall also provide written notification of the awarding of the contract to the bidders who were not accepted. Contractor shall document the procurement in the procurement file.

c. Competitive Proposals

- (1) Proposals shall normally be conducted with more than one source submitting an offer. Either a fixed-price or a cost-reimbursement contract should be awarded. Contractors shall ensure that they use a documented methodology for technical evaluations and shall award the contract to the responsible offeror whose proposals are most advantageous to the program with price, technical, and other factors considered. Requests for proposals must be formally advertised for all contracts above \$50,000.
- (2) This method is typically used when the nature of the goods or services to be acquired cannot be defined as precisely as required by the sealed bid method; and, specifically, when factors other than price are important in the selection decision.
- (3) The subrecipient must indicate in the RFP the scope of work and service area, the method for scoring the proposals, the deadline for receipt, and the dispute process. The various components of the request will be valued and the value assigned should be reasonable in relation to the entire request. The subrecipient can reserve the right to reject any or all bids when the bid is not responsive. However, the subrecipient must state this in the solicitation and the specific reasons must be fully described and documented in the procurement file. The subrecipient must establish a method for recording the date and time that proposals were received. This process must ensure that only proposals received in accordance with the date and time specified in the RFP qualify for the evaluation process. A log is an acceptable method for recording date and time of receipt. The subrecipient must conduct a cost or a price analysis of the proposals selected for consideration.

d. Noncompetitive Proposals – Sole Source

- (1) To conduct a noncompetitive procurement, the criteria established here must be met. Sole source contracts shall be procured through solicitation of a proposal from only one source, the funding of an unsolicited proposal, or, after solicitation of a number of sources, when competition is determined inadequate. All sole source contracts require prior City approval. All sole source procurements must be documented, and the Contractor must have demonstrated performance in supplying the goods or services. Contractor shall minimize the use of sole source procurements to the extent practicable, but in every case, the use of sole source procurements shall be justified and documented.
- (2) Purchases of goods and services for the general administration of the administrative entity should follow normal business practices to ensure receipt and quality of the goods and services. Procurement by noncompetitive proposals may be used only when the award of a contract is unfeasible under small purchase procedures, sealed bids, or competitive proposals and one of the following circumstances applies:

- (a) The item or service is available only from a single source;

- (b) The public exigency or emergency need for the item or service does not permit a delay resulting from competitive solicitation and the procurement is for a limited time only;
- (c) The awarding agency authorizes noncompetitive proposals;
- (d) After solicitation of a number of sources, competition is determined inadequate;
- (e) OJT contracts, except OJT brokering contracts, which shall be selected competitively, or enrollment of individual customers in classroom training.
 - (i) Individual referral to classroom training and OJT procurements require special considerations. For every procurement from a training provider, school, or employer, a determination of demonstrated performance must be conducted. Prior to the enrollment of any customer, a school or training institution must meet the state requirements for conducting training (Private Post-secondary certification, Department of Health Services approval, business license, etc.). The catalog used for course selection must be updated at least annually and a copy must be retained for documentation. The IEP may be used to document the reasons for selection of the classroom training provider or the OJT employer.
 - (ii) The subrecipients may not place customers in OJT with employers who are debarred by the federal or state government.
 - (iii) Classroom training may be provided by either vendors or subrecipients. The type of organization (community college, adult school, high school, private school, etc.) does not determine the vendor or subrecipient designation. The determination is made based on the relationship between the service provider and the program using the definitions found in the regulations.
 - (iv) When purchasing training from an institution or OJT employer, the demonstrated performance of the vendor must be assured using prior history and documenting the source of the data. The LWIA or subrecipient placing a customer in training will need to ensure access to all records regarding the customer. Agreements with vendors and OJT employers must include statements that permit monitoring of the customer's financial and attendance records. For OJT employers the customer's financial records include time sheets, payroll records, and canceled checks. For training provided by vendors, customer's financial records include student loan, grant, and tuition information.
 - (v) The formal agreement between the vendor or OJT employer and the SDA or subrecipient must include language to ensure access to the above referenced records by the responsible entities. The responsible entities include the SDA, the subrecipient, the State, the DOL, the Comptroller General of the United States, or any of their duly authorized representatives. The records include any books, documents, papers, and computer data directly pertinent to the records of the customer. The right to the records includes the right to make excerpts, transcripts, and photocopies. The right also includes the reasonable and timely access to personnel for the purpose of interviews and discussions related to the records of the customer.
 - (vi) Training contracts with institutions of higher education, such as community colleges, need not be on a State list of eligible providers of training services as allowed by ARRA funds. Other providers of training that are not institutions of higher education must be on the state Eligible Training Provider List to be awarded a training contract. However, before entering into such contracts, Contractor shall ensure that contracts are not duplicating existing training courses and curricula. Under this ARRA agreement, Contractor can pay for the full cost of training at the beginning of the course.

J. Appeal and Dispute Procedures

1. The City and its contractors shall have protest procedures to handle and resolve disputes relating to their procurements. A protester shall exhaust all administrative remedies with the Contractor before pursuing a protest at a higher level. Notice of appeal rights and procedures must be given to all bidders. WIA bidders who are dissatisfied may file a complaint in accordance with City WIA complaint procedures.
2. The selected bidders are offered contracts after the evaluation and negotiation process is completed. The contracts with subcontractors must contain all provisions set forth in S702K below, and the requirements of 29 CFR Part 97. The provisions listed under Section 627.420(h)(4)(ii) and (iii) are to be included only in applicable agreements. Agreements, with vendors who are not involved with carrying out the program, are not required to contain the clauses in Section 627.420(4). When purchasing material subject to copyright law, the subrecipient must include the copyright provisions in 29 CFR 97.34.
3. Regardless of the amount of the award, all subrecipients shall certify to a Drug Free Workplace. All awards to subrecipients in excess of \$100,000 shall certify that no funds shall be used for lobbying. All contracts and awards to vendors and subrecipients in excess of \$25,000 shall include debarment certifications.

K. RFP/RFQ Procedures

1. It is a City policy to contract for services on the basis of demonstrated competence and reasonable price by obtaining bids or proposals. Before preparing an RFP for the procurement of services, several preliminary activities should be performed including the determination of the City's/Contractor's needs, consulting with contractors and other local governments, and developing an approach to the procurement process. Excluding small purchases, the Contractors must justify the procurement method used for each purchase. Once these activities are completed, the development of an RFP can begin.
2. The following guidelines apply to the preparation of written RFPs or RFQs. These provisions apply to this Agreement and to City Contractors who will need to make some modification to the language, which clarifies that the solicitation is from the Contractor and not the City. In the RFP process, cost is usually one of several selection criteria that proposers must address in their proposals. By contrast in the RFQ process, cost becomes a selection criterion only after qualified proposers have been identified from a review of their qualifications. RFQs are usually reserved for the selection of engineers, architects, or other highly specialized, technical providers.
3. The purpose of the guidelines is to present ideas and material that are characteristic of well prepared solicitations. The guidelines are not intended to provide total coverage of any topic. While the guidelines apply generally, exceptional circumstances may call for modifying or excluding one or more of the suggested provisions. In any case, the RFP or RFQ should be tailored to the job that needs to be done. The arrangement, adequacy, clarity, simplicity and appeal of the solicitation document shall remain the responsibility of the administering agency. To be most effective, a solicitation document should be clear and complete but avoid repetition, legalism or extraneous information. RFPs must be publicly advertised.

a. Standard RFP Format

- (1) Cover Page. The cover page should describe briefly the scope of services requested, the format, the issuance date and the deadline of date and time for submission of proposals, and the Contractor contact for further information about the RFP. Include the name, address, telephone number and location of the person to whom the submission is to be made. If a proposers conference is appropriate, include information on the location, time and date of the event. All RFPs should include a deadline for receipt. Contractors shall have procedures to ensure that only proposals received in accordance with the date and time specified will be reviewed. All RFPs shall include the approximate date of the award notification.
- (2) Contents. The RFP should contain the following standard items which are discussed below:
 - (a) Introduction
 - (b) RFP Provisions

- (c) Statement of Work and Evaluation Criteria
- (d) Proposal Specifications
- (e) RFP Items Not Covered
- (f) References
- (g) Standard Contract Provisions
- (h) Indemnity and Insurance
- (i) Signatures and Declarations
- (j) Cover letter of proposal
- (k) Proposers Conference
- (l) Proposal evaluation for Request for Proposals
- (m) Disposition of Proposals
- (n) Description of failed competition and the rights and options in the event of a failure
- (o) RFP Revisions
- (p) Staff Reassignments
- (q) Complaint procedures to handle and resolve disputes relating to the procurement
- (r) Inclusion of Contractual Provisions Required by External Funding Source
- (s) City/Contractor Policy Issue Summaries
 - (i) Affirmative Action
 - (ii) MBE, WBE and Other Business Enterprise Outreach Program.
 - (iii) Sample Policy Statement
 - (iv) Supplementary Instructions to Proposers and Proposer's Affidavit
 - (v) Contractual Provisions and Certifications, including, but not limited to, a Certification Regarding Drug-Free Workplace Requirements, only if Contractor receives State CSBG or WIA funds as a funding source under this Agreement; Certification Regarding Lobbying; Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transaction; Certification Regarding Compliance With Service Contract Worker Retention and Living Wage Ordinances; Certification of Compliance With Equal Benefits Ordinance/Reasonable Measures Application for Equal Benefits Ordinance.

(3) Introduction

- (a) Describe in general terms the nature, scope and schedule of the work to be contracted, and the Contractor that will be responsible for administering the contract, including name and address of contracting agency.
- (b) Describe the Contractor's organizational structure that is in place or will be established to facilitate the types of relationships and interactions which will be required to successfully complete the engagement. Present sufficient background and historical information about the project and the Contractor or other agency involved to permit a full understanding of the work to be contracted. State that as a

rule all proposals must be submitted in the English language, and that all numerical data must be the dollar-foot-pound-seconds units of measurement.

- (c) Describe the minimum and maximum amount of funding for the contract.
- (d) Request that proposals be prepared simply and economically, avoiding the use of unnecessary promotional materials. Proposals shall include a table of contents and a signature and date block for the offeror. Specify the number of copies of the proposal to be submitted to the Contractor. State that the Contractor shall accept no responsibility for the cost of preparing any proposal.
- (e) Request that proposals be enclosed in a single, sealed package plainly marked with the words "Proposal for (name of project as referenced in the RFP)." Declare that proposals shall be made as firm offers for a set period of time following the deadline for submittal. To ensure that the release of an RFP and receipt of any proposals are properly coordinated, contact the Purchasing Division of the Department of General Services for assistance.
- (f) Direct proposers to address all questions regarding the RFP and their proposals to the assigned Contractor proposal administrator only. State that failure to comply with this requirement, other than as specifically permitted in the RFP, may disqualify a proposer from further consideration.
- (g) Contractor shall direct staff to respond to questions regarding the RFP and the submission requirements. Contractor shall record all responses, except those that are clearly answered in the RFP. Contractor shall provide a written copy of the responses to all parties to whom the RFP has been distributed, including those who attended the proposers' conference. This should be provided in a timely and frequent manner to ensure that all proposers are aware of the responses when preparing their proposal.
- (h) State that it is the Contractor's intent to award a contract, in a form approved by the Contractor, to the selected proposer. Indicate that the RFP and the Contractor's proposal or any part thereof may be incorporated into and made a part of the contract. State that the Contractor reserves the right to further negotiate the terms and conditions of the contract. State that the Contractor, however, shall reserve the right to withdraw the RFP, to reject any proposal for noncompliance with RFP provisions, or not to award a contract at any time because of unforeseen circumstances or if it is determined to be in the best interest of the Contractor.

(4) Statement of Work

- (a) Describe the tasks that the subcontractor will be responsible to perform. Clearly define the type, scope, schedule, and other relevant characteristics of each task. Use quantitative language whenever possible to establish an objective basis from which to evaluate responses. Describe the status and/or progress reporting that will be required of the subcontractor. Specify any other items that proposers should address, including, but not limited to, the following:
 - (i) Background or project content
 - 1) General requirement description
 - 2) Related projects
 - 3) Problem statement
 - 4) Statutory or regulatory foundation
 - (ii) *Project objectives
 - 1) *Purpose

- 2) *How results will be used
- (iii) *Scope of work
 - 1) *Population to be served
 - 2) *Number to be served
 - 3) Training or services to be provided
- (iv) *Period of Performance
- (v) *Performance Standards
- (vi) *Reporting Requirements

*Must be included in the proposal

- (b) Generally RFP based contracts are awarded on the basis of several criteria, such as the level of effort and method proposed to do the work, the credentials and related work experience of subcontractor personnel assigned to do the work, City/Contractor policy issues and price. Describe in the RFP the general criteria the Contractor intends to use to evaluate the written responses, and the assigned weight of each criterion.
- (c) Proposed evaluation criteria can be complicated by the varying degrees to which the proposals meet, exceed, or fall below the specific requirements of the RFP. Scale the evaluation process to manageable proportions. The more complete and specific the RFP, the better it serves as a standard for measuring and evaluating proposals. Include a statement that the Contractor shall reserve the right to use such other criteria as may be deemed appropriate in evaluating the proposals, even if such criteria are not mentioned in the RFP. State that proposers submitting the highest-rated written responses may be called for an oral interview to further assess their qualifications. Describe the evaluation criteria that will be used in the interview if different from the written criteria in the RFP. A description of assigned weights may be included if appropriate.
- (d) If technical services are to be procured, a technical requirements section should be prepared. The technical requirements section should organize information in a form understandable to potential bidders and Contractor staff. For example, items that might be included in a technical requirements section to procure an automated system include:
 - (i) Description of current hardware and software operating environment;
 - (ii) Detailed description of all hardware and software requirements;
 - (iii) Indication of need for data conversion assistance;
 - (iv) Outline of orientation and training requirements; and,
 - (v) Indication of the need for a benchmark demonstration of system capabilities.
- (5) Proposal Specifications
 - (a) Request proposers to demonstrate their capability to fulfill the work to be contracted. Proposers should provide specific information about the personnel, including subcontractors, if possible, who will be assigned to perform the work; past performance on projects of a similar nature including a client list, if possible; the proposed price to complete the work; adequate documentation on the financial status of the firm which will permit the Contractor to evaluate the proposer's ability to complete the work; and other work elements deemed necessary to evaluate the proposals.
 - (b) State that responses to the RFP must be made in accordance with the format set forth in the RFP. Indicate that a comprehensive index which includes a clear

definition of the content of the proposal and which identifies the information set forth therein by sequential page number and appropriate reference number is required. State that failure to meet this requirement may be cause for rejection of the proposal as non-responsive. Generally, each proposer should be requested to address the following specifications:

- (i) Assigned Personnel. The names of the key personnel, whom the proposer employs or plans to employ or hire through subcontract, to perform the requested services. For each person listed, the following information should be provided:
 - 1) Description of the work he or she will perform;
 - 2) Amount of time he or she will be assigned to work on the project;
 - 3) Academic achievements, including all college undergraduate and graduate education;
 - 4) Relevant work experience in years and level of responsibility.
 - 5) An organization chart depicting the lines of authority, the relationships of the organizational units and the names of the key personnel who will be doing the work.
 - (ii) Project Cost
 - 1) The total cost to the Contractor, broken down in salaries, expenses, equipment, and in hours and total dollar amount by deliverable task.
 - 2) Salary, or wage; billing rate for each employee.
 - 3) The proposed schedule of payment.
 - 4) All resources proposed to be supplied by the Contractor.
 - (iii) Deliverables
 - 1) The products that the subcontractor will deliver to the Contractor according to a set schedule, including the nature of the deliverables, e.g., oral or written reports, videotapes, or architectural models and, if applicable, number of copies to be provided of written products.
- (6) RFP Items Not Covered
- (a) Proposals should cover the statement of work and all the RFP specifications. Otherwise, proposers should state why the RFP requirements are not being addressed. If proposers wish to present qualifications in addition to the required items such information should be presented under the heading "Additional Qualifications We Wish To Present." Proposers who do not wish to present such information should state: "There are no additional qualifications we wish to present."
- (7) References
- (a) Request proposers to support their presentations by listing successfully completed projects that resemble the work to be done and the dates of completion. Request the name, title, address and phone numbers of a contact for each project.
- (8) Standard Contract Provisions
- (a) Sample standard contract provisions have been provided by the City for Contractor's use. The document, which is available from the City, is updated periodically. Check with the City to ascertain use of the latest version. Unless the standard provisions are incorporated by reference and attached to the RFP, the general contract provisions that are expected to be included in the contract should be excerpted from the standard provisions document and provided to prospective proposers.

(9) Indemnity and Insurance

- (a) The standard City insurance conditions are incorporated into the sample standard subcontract provisions. The specific insurance coverages and limits shall be described by contractor in the RFP. These coverages and limits should be tailored to the individual subcontract. For City contracts, **Required Insurance and Minimum Limits** are set by the City Risk Management staff in the Office of the City Administrative Officer of the City of Los Angeles on the Form Gen.146. Electronic submission is the preferred method of submitting your evidence of insurance documents. **Track4LA™** is the City's online insurance compliance system and is designed to make the experience of submitting and retrieving insurance information quick and easy. The system is designed to be used primarily by insurance brokers and agents as they submit client insurance certificates directly to the City. It uses the standard insurance industry form known as the **ACORD 25 Certificate of Liability Insurance** in electronic format. The easiest and quickest way to obtain approval of your insurance is to have your insurance broker or agent access **Track4LA™** at <http://track4la.lacity.org> and follow the instructions to register and submit the appropriate proof of insurance on your behalf. Additional instructions and information on complying with City insurance requirements can be found at: http://cao.lacity.org/risk/Submitting_proof_of_Insurance.pdf

(10) Signatures and Declarations

- (a) Each proposal must be signed on behalf of the proposer by an officer authorized to bind the proposer, and must include the following declaration:
- (i) This proposal is genuine, and not sham or collusive, nor made in the interest or in behalf of any person not herein named; the proposer has not directly or indirectly induced or solicited any other proposer to put in a sham bid, or any other person, firm or corporation to refrain from submitting a proposal; and the proposer has not in any manner sought by collusion to secure for himself an advantage over any other proposer.

(11) Cover Letter of Proposal

- (a) The cover letter of each proposal should be limited to one page. The letter must include the title, address and telephone number of the person or persons who will be authorized to represent the proposer. The letter must be signed by a company officer authorized to bind the company to all commitments made in the proposal.

(12) Proposers Conference

- (a) Determine if a proposers' conference will be conducted. A proposers' conference may be appropriate especially if the work to be contracted has not previously been done by contract or not done at all. If a proposers' conference is to be scheduled, designate a date, time and place at which proposers will be given the opportunity to pose questions about the RFP and notify all parties to whom the RFP has been distributed. The notification can be included in the RFP. Invite proposers to submit their questions in writing prior to the conference, and arrange, to the extent possible, for all questions to be answered at the conference. A memorandum for the proposers listing attendees, documenting in writing each question answered at the conference, any actions taken during the conference, etc. shall be prepared to document the conference and conveyed to the participants. Contractors shall provide this information directly to the proposers who received the RFP but were unable to attend the conference or as an addendum to the RFP for any subsequent requesters. The memorandum should be filed with the record set of contractual documents retained by the Contractor. Materials handed out at the proposer's conference shall be available to all other parties following the conference. If a proposers' conference was not initially planned but the number or extent of questions

regarding the RFP indicates a need for one, a separate notice should be mailed and the RFP due date extended if necessary.

- (13) Proposal Evaluation for RFP's
 - (a) Contractor/City shall develop proposal evaluation procedures in accordance with the requirements of Section D.14 above.
- (14) Failed Competition.
 - (a) The RFP shall provide that it is the Contractor's/City's authority to determine that the procurement process has failed. The basis for failure should include a lack of response to the RFP; not enough bidders; a determination that the responses do not agree with mandatory requirements of the RFP; a determination that no proposer demonstrated effectiveness in providing the services solicited, and/or a determination that the award of a contract at this time to any proposer would not be cost effective, responsible or prudent. In the event that the City/Contractor determines that the procurement has failed, it may elect to negotiate a sole source agreement or develop and issue a new RFP.
- (15) Disposition of Proposals
 - (a) State that all proposals submitted in response to the RFP shall become the property of the Contractor/City and a matter of public record. Also, proposers must identify all copyrighted material, trade secrets or other proprietary information that they claim are exempt from disclosure under the Public Records Act (California Code Sections 6250 *et seq.*). In the event such an exemption is claimed, the proposer shall be requested to state in the proposal that he or she will defend any action brought against the Contractor/City for its refusal to disclose such material, trade secrets or other proprietary information to any party making a request therefore.
- (16) RFP Revisions
 - (a) Any revision made to an issued RFP shall be sent to all parties known to have received a copy of the original RFP.
- (17) Staff Reassignments
 - (a) If the original selection of a subcontractor will be based in part on the qualifications of specific key individuals named in the proposal, state that the Contractor/City must approve in advance any changes in individuals or levels of commitment to the project. State that the Contractor will reserve the right to have the subcontractor replace any subcontractor project personnel.
- (18) Inclusion of Contractual Provision Required by External Funding Source
 - (a) Federal, State and other funding agencies typically impose requirements on recipients of funds that apply to subcontractors. Such requirements should be reflected in RFPs and related contracts.
- (19) City Policy Issue Summaries
 - (a) Affirmative Action. The City of Los Angeles' Administrative Code (Division 10, Chapter 1, Article 1, Section 10.8) establishes an affirmative action program for vendors doing business with the City. State that as a condition of contract award, the selected proposer shall be required to comply with the provisions of the City's Affirmative Action program, including the submission of one of the following affirmative action plans: a) a trade association affirmative action plan, b) the

proposer's own affirmative action plan, or c) an executed copy of the City Affirmative Action Plan. Refer to the provisions herein regarding nondiscrimination and affirmative action and recite the text of this provision in the RFP. Urge proposers to include an affirmative action plan in their proposals. Attach as an appendix to the RFP the City forms (GSS-AA 1) instructing prospective subcontractors about compliance with the City's Affirmative Action Program.

- (b) MBE, WBE and Other Business Enterprise Outreach Program. It is the policy of the City to provide minority business enterprises (MBEs), women business enterprises (WBEs) and all other business enterprises an equal opportunity to participate in the performance of all Contractor contracts, including procurement, construction and personal services. This policy applies to all Contractors. Be sure to comply with the provisions of City Executive Directive I-B and 1-C to ensure that MBEs, WBEs, and all other businesses are offered the greatest opportunity to compete for and perform subcontracts and provide personal services to the Contractor.
 - (i) Include a statement that proposers are to assist the Contractor in implementing this policy by taking all reasonable steps to ensure that all available business enterprises, including MBEs and WBEs, have an equal opportunity to compete for and participate in Contractor subcontracts. Inform proposers that equal opportunity will be determined by their good faith efforts comply with the Contractor's outreach program. Advise proposers that participation by MBEs, WBEs, and all other businesses may be in the form of joint ventures or subcontracting. Contractor is responsible for the implementation of MBE/WBE procedures.
- (c) Child Care Policy. It is the policy of the City to encourage all its vendors to adopt a stated policy on child care. This policy acknowledges the importance of quality, affordable and accessible child care and commits the Contractor to use its resources as an educator, employer, role model and facilitator to act as a catalyst in expanding the supply of quality, affordable and accessible child care.

- 4. Consultant Directory. To assist Contractors in identifying potential subcontractors, the Office of the City Administrative Officer of the City of Los Angeles (CAO) maintains a computerized consultant directory. Firms are listed according to their fields of expertise, e.g., bond counsel, CPA, and human resources. Contact the CAO Productivity Group for access to the directory and for lists of firms in the form of mailing labels, hard copy reports or both.

L. Contract Provisions

- 1. All contracts must contain at a minimum the following provisions:
 - a. Specific deliverables and the basis for payment;
 - b. Provisions requiring compliance with grant regulations;
 - c. Provisions that describe remedies for breach;
 - d. Provisions that describe Agreement's patent and copyright rules;
 - e. Provisions for termination for cause and convenience;
 - f. Access to records for audit purposes;
 - g. Audit requirements;
 - h. Provisions for payment and delivery;
 - i. Provisions describing contract amendment procedures;

- j. Provisions against assignment;
- k. Provisions for equal opportunity and non-discrimination; and
- l. Provisions prohibiting conflicts of interest.

§703 RECORDS AND AUDITS OF SUBCONTRACTS

- A. Records shall be maintained in accordance with requirements prescribed by the City with respect to all matters covered by any subcontract. Such records shall be retained within the Los Angeles Area for a period of five (5) years after receipt of final payment under this Agreement, unless authorization to remove them is granted in writing by the City.
- B. Expenditures pertaining to subcontracts shall be supported by properly executed documents evidencing in detail the nature of the charges.
- C. At such times and in such forms as the City may require, there shall be furnished to the City such statements, records, reports, data and information as the City may request pertaining to matters covered by any subcontract.
- D. These records shall be made available to the City for copying, audit, and inspection at any time during normal business hours.

§704 COST-PLUS-A-PERCENTAGE-OF-COST-SUBCONTRACTING

- A. Under no circumstances shall the Contractor enter into Cost-Plus-a-Percentage-of-Cost subcontracts.

§705 RESTRICTION ON DISBURSEMENTS

- A. No money received pursuant to this Agreement by the Contractor shall be disbursed to any subcontractor except pursuant to a written agreement which incorporates the applicable General Contract Conditions as described herein and unless the subcontractor is in compliance with City requirements with regard to accounting and fiscal matters, to the extent that they are applicable.

§706 PARTICIPATION OF SMALL, MINORITY, AND WOMEN'S BUSINESS

- A. Consistent with Executive Order Nos. 11625, 12432, and 12138, Contractor shall provide opportunities for small, minority, and women's businesses to participate in contracting and procurement activities generated under this Agreement. The Contractor shall:
 - 1. Invite small, minority, and women's businesses to participate in procurements under this Agreement.
 - 2. Divide total requirements into small requirements to permit maximum small, minority, and women's business participation whenever economically feasible.
 - 3. Use the services and assistance of the Small Business Administration, the Minority Business Development Agency of the Department of Commerce, and the Community Services Administration (or its successor), as required.
 - 4. The Contractor shall include the requirements of this section in every subcontract for work in connection with this Agreement and project.

8. REMEDIES

§801 WAIVERS

- A. Waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the City.
- B. No waiver by the City or breach of any provision of these conditions shall be deemed for any purpose to be waiver or a breach of any other provision or of a continuing or subsequent breach of the same provision.

§802 AMENDMENTS

- A. Either party may request an amendment to this Agreement. Amendments to this Agreement must be in writing and properly executed by both the City and the Contractor. No verbal agreement or conversation with any officer or employee of either party shall affect or modify any terms and conditions of this Agreement.
- B. The Contractor agrees to comply with all future City Directives or any rules, amendments or requirements promulgated by the City affecting this Agreement.

§803 DEFAULTS

- A. Should the Contractor fail for any reason to comply with the contractual obligations of this Agreement, including, but not limited to, failure to meet the Performance Standards, failure to start up the program on time, failure to provide services according to plan and/or to benefit customers and the provisions of the Agreement, failure to maintain expenditures at an approved rate in the Budget/Expenditure Plan failure to resolve performance problems in a timely manner, failure to demonstrate the capabilities to solve identified problems within a specific time, failure to provide necessary fiscal or Management Information Services documents to City in a timely manner, failure to maintain agreed cost per placement or failure to utilize City funds in accordance with the terms and conditions of the Agreement, the City reserves the right to take any or all of the following actions at its discretion:
 - 1. Notify Contractor of performance deficiencies in accordance with §804 of this Agreement.
 - 2. Withhold the release of funds .
 - 3. Require that no funds be advanced to Contractor until Contractor has provided for the security of funds advanced by a Surety/performance bond. The amount and form of the security, if required, shall be determined by the City as noted on Exhibit A (Insurance Requirement Form) and is subject to prior City approval.
 - 4. Modify and/or renegotiate the funding/service level and/or make any changes in the general scope of this Agreement
 - 5. Require Contractor to secure at its own expense the services of independent experts.
 - 6. Require specific performance progress reports for identified time periods.
 - 7. Reduce compensation within the scope of the City's reallocation policy.
 - 8. Suspend operations in accordance with §805 below of this Agreement.
 - 9. Terminate the Agreement.

§804 NOTICE TO CORRECT PERFORMANCE

- A. The City may notify the Contractor of its failure to comply with the terms and conditions of this Agreement by giving written notice, effective upon date of posting, which states the specific performance deficiencies to be corrected.

- B. Within ten (10) working days, the Contractor shall reply in writing setting forth the corrective actions that will be undertaken to remedy the performance deficiencies, which actions are subject to City approval in writing.
- C. Contractor shall thereafter submit monthly progress reports to the City in accordance with the City approved corrective action plan specifying the actions taken and resolution of the performance deficiencies.

§805 SUSPENSION OF THE AGREEMENT

- A. The City may, by giving written notice, suspend all or part of the project operations for Contractor's failure to comply with the terms and conditions of this Agreement; and may notify the bank identified on the City form referenced in §104A.3 above that all funds are frozen pending further notice from the City. This Notice of Suspension shall be effective upon the date of posting.
- B. This notice shall set forth the specific conditions of noncompliance and the period provided for corrective action.
- C. Within ten (10) working days from the date of written City notification, the Contractor shall reply in writing setting forth the corrective actions which will be undertaken, subject to City approval in writing.

§806 TERMINATION OF AGREEMENT

- A. The parties agree that at any time during the term of this Agreement, either party may terminate this Agreement, or any part of the Agreement, upon giving the other party at least 30 days written notice prior to the effective date of the termination, which date shall be specified in the notice. The City is not required to use other remedies provided in this Agreement prior to issuing a 30-day notice to terminate the Agreement.
- B. Contractor shall retain and dispose of all customers' documents and related records required by the Contractor under this Agreement, in accordance with City Directives or written instructions.
- C. Contractor shall return to the City all equipment that was purchased with City grant funds pursuant to this Agreement.
- D. In the event Contractor dissolves or otherwise goes out of existence, copies of all records relating to the project or activity that are the subject of this Agreement shall be furnished to the City.
- E. Upon satisfactory completion and documentation of termination activities, the City shall determine the total amount of funds earned by the Contractor.
- F. The City may withhold any payments due to the Contractor after notice of termination has been issued for the purpose of set-aside until the exact amount of damages or unearned dollars due to the City from the Contractor is determined.
- G. Subsections B, C, D, E, and F above shall also apply to Agreements terminating upon the date specified in §103 of the foregoing Agreement or upon completion of performance of this Agreement.

§807 BREACH

- A. In the event any party fails to perform, in whole or in part, any promise or covenant in this Agreement, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights and remedies, at law or equity, in the courts of law. These rights and remedies are cumulative of those provided for in this Agreement with respect to termination, if any, except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

§808 NOTICES OF SUSPENSION OR TERMINATION

- A. In the event that this Agreement is suspended or terminated, the Contractor shall immediately notify all employees and customers and shall notify in writing all other parties contracted with under the terms of Agreement within five (5) working days after receiving the notice from the City.

§809 GRIEVANCE AND COMPLAINT RESOLUTION PROCEDURES

A. City WIA Complaint Resolution Procedures

1. Contractor shall comply with the City WIA Complaint Resolution Procedures, and any changes incorporated therein during the term of this Agreement, in the resolution of complaints alleging a violation of the WIA, the WIA regulations, the grant, or any other Agreements under the Act. City shall furnish a copy of its procedures to Contractor upon execution of this Agreement.
2. Contractor shall provide to each eligible customer and staff employee a copy and/or summary of the City's WIA Complaint Resolution Procedures during orientation. In the event that Contractor subcontracts with another party for the provisions of training or job development services to a customer, the subcontract shall require that the customer receive access to WIA complaint procedures at each tier of service. Contractor shall maintain written documentation on file that each WIA staff person and customer has received information regarding the City's WIA Complaint Resolution Procedures.
3. Contractor shall designate a staff person as the EO Complaints Officer. The EO Complaints Officer WIA responsibilities will be to: notify the City, CDD, and EO Compliance Unit within 24 hours of acceptance of a WIA complaint; conduct an informal resolution meeting and attempt to resolve the complaint filed within 15 calendar days of its receipt and acceptance; refer all WIA discrimination complaints directly to the CDD EO Compliance Unit; represent the contractor in WIA administrative hearings conducted under the complaint procedures.

B. Contractor WIA Customer Complaint Resolution Procedures

1. Contractor shall designate an EO Complaints Officer whose duties will be to develop, administer, and maintain procedures for the resolution of complaints involving Individual Training Accounts and customer employment (OJT). Contractor shall advise complainant that all discrimination complaints should be filed directly with the City's EO Compliance Unit.
2. Contractor shall post in a public location initial and continuing notice of the local grievance and complaint procedures and instructions on how to file a complaint. Copies shall be made available to the general public upon request.
3. Contractor shall provide each customer with a copy of its internal WIA customer complaint resolution procedures upon registration into the program or during orientation. In the event that Contractor subcontracts with another party for the provision of training or job development services to a customer, the subcontract shall require that the customer receive access to WIA complaint procedures at each tier of service. Contractor shall maintain written documentation that each customer has received a copy of Contractor's WIA customer complaint resolution procedures and signature acknowledging receipt shall be in its original form.
4. Where a hard copy case file is maintained, a copy of the acknowledgment of receipt of the Grievance and Complaint Procedures shall be signed by the participant and included in each participant's case file. Where an electronic case file is maintained, Contractor must make a note indicating this notification did occur, the date of the notification, and the name of Contractor staff person who provided it.

C. Contractor shall not discriminate or retaliate against any person, or deny to any person a benefit to which that person is entitled under the provisions of the WIA or WIA regulations because such person has filed a complaint, has instituted or caused to be instituted any proceeding under or related to the Act, has testified or is about to testify in any such proceeding or investigation, or has provided information or assisted in any investigation.

D. Contractor shall provide technical assistance (TA) to the complainants, including those grievances or complaints against the Contractor. Such TA shall include providing instructions on how to file a grievance or complaint, providing relevant copies of documents such as the WIA, regulations, rules, contracts, etc. and providing clarifications and interpretations of relevant provisions. This requirement shall not be interpreted as requiring Contractor to violate rules of confidentiality.

- E. Contractor shall permit the Civil Rights Center (CRC), DOL (or a representative) access to its premises, customers, employees, books, and papers should the need arise during a complaint investigation.

9. ENTIRE AGREEMENT COMPLETE AND INTEGRATED AGREEMENT

§901 COMPLETE AND INTEGRATED AGREEMENT

- A. This Agreement contains the full, complete and integrated Agreement between the two parties. No verbal agreement or conversation with any officer or employee of either party shall affect or modify any of the terms and conditions of this Agreement. Except as amended, all terms and conditions shall remain in full force and effect. The provisions of this Agreement which impose an on-going duty shall survive beyond the termination of expiration of the Agreement.

§902 NUMBER OF PAGES AND ATTACHMENTS

- A. This Agreement is executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement includes Eighty Two (82) pages and Nine (9) Exhibits which constitute the entire understanding and agreement of the parties.

10. SIGNATURE PAGE

IN WITNESS WHEREOF, the City of Los Angeles and the Contractor have caused this Agreement to be executed by their duly authorized representatives.

APPROVED AS TO FORM AND LEGALITY:

Executed this 11th day of May, 2011

CARMEN A. TRUTANICH, City Attorney

For: THE CITY OF LOS ANGELES

By: [Signature]
Deputy/ Assistant City Attorney

RICHARD L. BENBOW
General Manager
Community Development Department

Date May 12, 2011

By: [Signature]

ATTEST:
JUNE LAGMAY, City Clerk



ROBERT SAINZ
Assistant General Manager

By: [Signature]
Date: 05-13-2011

Executed this 07th day of April, 2011

For: CITY OF LONG BEACH (ADMINISTERING ENTITY FOR PACIFIC GATEWAY WORKFORCE INVESTMENT NETWORK)

(Contractor's Corporate Seal)

Assistant City Manager

By: [Signature]
PATRICK H. WEST, City Manager
EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

APPROVED AS TO FORM AND LEGALITY

By: [Signature]
ROBERT E. SHANNON, City Attorney
Deputy

ATTEST

By: [Signature] **MAY - 5 2011**
LARRY HERRERA, City Clerk

D-U-N-S® Number: [Redacted]

City Business License Number: 999999999

Internal Revenue Service ID Number: [Redacted]

Council File Number: 10-0990; Date of Approval: March 14, 2011

Said Agreement is Number C-118835 of City Contracts
(T4875)

Required Insurance and Minimum Limits

(Government Agency Self Insured)

Name: City of Long Beach

Date: 04/06/2011

Agreement/Reference: Dislocated Worker Training Program C-118835

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

Limits

Workers' Compensation - Workers' Compensation (WC) and Employer's Liability (EL)

WC Statutory
EL \$1,000,000

Waiver of Subrogation in favor of City

Longshore & Harbor Workers

Jones Act

General Liability

\$1,000,000

Products/Completed Operations

Sexual Misconduct

Fire Legal Liability

Automobile Liability (for any and all vehicles used for this contract, other than commuting to/from work)

\$1,000,000

Professional Liability (Errors and Omissions)

Discovery Period 12 Months After Completion of Work or Date of Termination

Property Insurance (to cover replacement cost of building - as determined by insurance company)

All Risk Coverage

Boiler and Machinery

Flood

Builder's Risk

Earthquake

Pollution Liability

Surety Bonds - Performance and Payment (Labor and Materials) Bonds

100% of the contract price

Crime Insurance

Other: Sent to Sucy Yu @ CDD

EXHIBIT A
INSTRUCTIONS AND INFORMATION
ON COMPLYING WITH CITY INSURANCE REQUIREMENTS

(Share this information with your insurance agent or broker.)

PERSON TO CONTACT

Direct all correspondence, questions, requests for additional forms, etc., to the contact person listed here or to the department that administers your contract, lease or permit:

NAME	LaFaye Jones
CITY AGENCY	Community Development Dept. Financial Management Div.
ADDRESS	1200 W. 7 th Street, 4 th Floor Los Angeles, CA 90017
TEL (213) 744-7321	FAX (213) 744-7362

GENERAL INFORMATION

1. **Agreement/Reference** All evidence of insurance must identify the nature of your business with the CITY. Clearly show any assigned number of a bid, contract, lease, permit, etc. or give the project name and the job site or street address to ensure that your submission will be properly credited. Provide the **types of coverage and minimum dollar amounts** specified on the Required Insurance and Minimum Limits sheet (Form Gen. 146) included in your CITY documents.

2. **When to submit** Normally, no work may begin until a CITY insurance certificate approval number ("CA number") has been obtained, so insurance documents should be submitted as early as practicable. For **As-needed Contracts**, insurance need not be submitted until a specific job has been awarded. **Design Professionals** coverage for new construction work may be submitted simultaneously with final plans and drawings, but before construction commences.

3. **Acceptable Evidence and Approval** Electronic submission is the preferred method of submitting your documents. **Track4LA™** is the CITY's online insurance compliance system and is designed to make the experience of submitting and retrieving insurance information quick and easy. The system is designed to be used primarily by insurance brokers and agents as they submit client insurance certificates directly to the City. It uses the standard insurance industry form known as the **ACORD 25 Certificate of Liability Insurance** in electronic format. Track4LA™ advantages include standardized, universally accepted forms, paperless approval transactions (24 hours, 7 days per week), and security checks and balances. The easiest and quickest way to obtain approval of your insurance is to have your insurance broker or agent access **Track4LA™** at <http://track4la.lacity.org> and follow the instructions to register and submit the appropriate proof of insurance on your behalf.

Insurance industry certificates other than the ACORD 25 may be accepted. **All** Certificates must provide a thirty (30) days' cancellation notice provision (ten (10) days for non-payment of premium) AND an Additional Insured Endorsement naming the CITY an additional insured completed by your insurance company or its designee. If the policy includes an automatic or blanket additional insured endorsement, the Certificate must state the CITY is an automatic or blanket additional insured. An endorsement naming the CITY an Additional Named Insured and Loss Payee as Its Interests May Appear is required on property policies. All evidence of insurance must be authorized by a person with authority to bind coverage, whether that is the authorized agent/broker or insurance underwriter.

Acceptable Alternatives to Acord Certificates and other Insurance Certificates:

- A **copy of the full insurance policy** which contains a thirty (30) days' cancellation notice provision (ten (10) days for non-payment of premium) and additional insured and/or loss-payee status, when appropriate, for the CITY.
- **Binders and Cover Notes** are also acceptable as interim evidence for up to 90 days from date of approval.

Additional Insured Endorsements DO NOT apply to the following:

- Indication of compliance with statute, such as Workers' Compensation Law.
- Professional Liability insurance.

EXHIBIT A - Continue
INSTRUCTIONS AND INFORMATION
ON COMPLYING WITH CITY INSURANCE REQUIREMENTS

Completed **Insurance Industry Certificates other than ACORD 25 Certificates** can be sent electronically (CAO.insurance.bonds@lacity.org) or faxed to the Office of the City Administrative Officer, Risk Management (213) 978-7616. **Please note that submissions other than through Track4LA™ will delay the insurance approval process as documents will have to be manually processed.**

Verification of approved insurance and bonds may be obtained by checking **Track4LA™**, the CITY's online insurance compliance system, at <http://track4la.lacity.org>.

4. **Renewal** When an existing policy is renewed, have your insurance broker or agent submit a new Acord 25 Certificate through **Track4LA™** at <http://track4la.lacity.org> or submit an Insurance Industry Certificate or a renewal endorsement as outlined in Section 3 above. If your policy number changes you must also submit a new Additional Insured Endorsement with an Insurance Industry Certificate.

5. **Alternative Programs/Self-Insurance** Risk financing mechanisms such as Risk Retention Groups, Risk Purchasing Groups, off-shore carriers, captive insurance programs and self-insurance programs are subject to separate approval after the CITY has reviewed the relevant audited financial statements. To initiate a review of your program, you should complete the Applicant's Declaration of Self Insurance form (<http://cao.lacity.org/risk/InsuranceForms.htm>) to the Office of the City Administrative Officer, Risk Management for consideration.

6. **General Liability** insurance covering your operations (and products, where applicable) is required whenever the CITY is at risk of third-party claims which may arise out of your work or your presence or special event on City premises. **Sexual Misconduct** coverage is a required coverage when the work performed involves minors. **Fire Legal Liability** is required for persons occupying a portion of CITY premises. (Information on two CITY insurance programs, the SPARTA program, an optional source of low-cost insurance which meets the most minimum requirements, and the Special Events Liability Insurance Program, which provides liability coverage for short-term special events on CITY premises or streets, is available at (www.2sparta.com), or by calling (800) 420-0555.)

7. **Automobile Liability** insurance is required only when vehicles are used in performing the work of your Contract or when they are driven off-road on CITY premises; it is not required for simple commuting unless CITY is paying mileage. However, compliance with California law requiring auto liability insurance is a contractual requirement.

8. **Errors and Omissions** coverage will be specified on a project-by-project basis if you are working as a licensed or other professional. The length of the claims discovery period required will vary with the circumstances of the individual job.

9. **Workers' Compensation and Employer's Liability** insurance are not required for single-person contractors. However, under state law these coverages (or a copy of the state's Consent To Self Insure) must be provided if you have any employees at any time during the period of this contract. Contractors with no employees must complete a Request for Waiver of Workers' Compensation Insurance Requirement (<http://cao.lacity.org/risk/InsuranceForms.htm>). **A Waiver of Subrogation** on the coverage is required only for jobs where your employees are working on CITY premises under hazardous conditions, e.g., uneven terrain, scaffolding, caustic chemicals, toxic materials, power tools, etc. The Waiver of Subrogation waives the insurer's right to recover (from the CITY) any workers' compensation paid to an injured employee of the contractor.

10. **Property Insurance** is required for persons having exclusive use of premises or equipment owned or controlled by the CITY. **Builder's Risk/Course of Construction** is required during construction projects and should include building materials in transit and stored at the project site.

11. **Surety** coverage may be required to guarantee performance of work and payment to vendors and suppliers. A **Crime Policy** may be required to handle CITY funds or securities, and under certain other conditions. **Specialty coverages** may be needed for certain operations. For assistance in obtaining the CITY required bid, performance and payment surety bonds, please see the City of Los Angeles Bond Assistance Program website address at <http://cao.lacity.org/risk/BondAssistanceProgram.pdf> or call (213) 258-3000 for more information.

EXHIBIT B
NOTICE OF PROHIBITION AGAINST RETALIATION

An employer subject to the Living Wage Ordinance shall post in a prominent place in an area frequented by employees a copy of the below notice to employees regarding the LWO prohibition against retaliation (also available in English at [http://bca.lacity.org/site/pdf/lwo/Notice To Employees Of Retaliation \(english\).pdf](http://bca.lacity.org/site/pdf/lwo/Notice%20To%20Employees%20Of%20Retaliation%20(english).pdf) and in Spanish at [http://bca.lacity.org/site/pdf/lwo/Notice To Employees Of Retaliation \(spanish\).pdf](http://bca.lacity.org/site/pdf/lwo/Notice%20To%20Employees%20Of%20Retaliation%20(spanish).pdf). The retaliation notice must be posted by an employer even if the employer has been exempted from the LWO.

**NOTICE TO EMPLOYEES
WORKING ON CITY CONTRACTS
RE: LIVING WAGE ORDINANCE AND
PROHIBITION AGAINST RETALIATION**

“Section 10.37.5 Retaliation Prohibited” of the Living Wage Ordinance (LWO) provides that any employer that has a contractual relationship with the City **may not** discharge, reduce the pay of, or discriminate against his or her employees working under the City contract for any of the following reasons:

1. Complaining to the City if your employer is not complying with the Ordinance.
2. Opposing any practice prohibited by the Ordinance.
3. Participating in proceedings related to the Ordinance, such as serving as a witness and testifying in a hearing.
4. Seeking to enforce your rights under this Ordinance by any lawful means.
5. Asserting your rights under the Ordinance.

Also, you may not be fired, lose pay or be discriminated against for asking your employer questions about the Living Wage Ordinance, or asking the City about whether your employer is doing what is required under the LWO. If you are fired, lose pay, or discriminated against, you have the right to file a complaint with the City’s Equal Employment Opportunity Enforcement Section, as well as file a claim in court.

For more information, or to obtain a complaint form, please call the Equal Employment Opportunity Enforcement Section at (213) 847-2625.

**CITY OF LOS ANGELES
Department of Public Works
Bureau of Contract Administration
Office of Contract Compliance
1149 S. Broadway Street, Suite 300
Los Angeles, CA 90015
Phone: (213) 847-2625— Fax: (213) 847-2777**

EXHIBIT C
CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION
LOWER TIER COVERED TRANSACTIONS

This certification is required by the regulations implementing Executive Orders 12459 and 12689, Debarment and Suspension, 24 CFR Part 24 Section 24.510, and 29 CFR Parts 97.35 and 98.510, Participants' responsibilities.

(READ ATTACHED INSTRUCTIONS FOR CERTIFICATION BEFORE COMPLETING)

1. The prospective recipient of Federal assistance funds certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective recipient of Federal assistance funds is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

AGREEMENT NUMBER: C-118835

CITY OF LONG BEACH (ADMINISTERING ENTITY FOR PACIFIC GATEWAY WORKFORCE INVESTMENT NETWORK)
CONTRACTOR/BORROWER/AGENCY

PATRICK H. WEST, City Manager
NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

Assistant City Manager

SIGNATURE

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

DATE

APPROVED AS TO FORM
April 25, 2011
ROBERT F. SHANNON, City Attorney
By Jay J. Anderson
MARY J. ANDERSON
DEPUTY CITY ATTORNEY

Exhibit C (cont.)
INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this document, the prospective recipient of Federal assistance funds is providing the certification as set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective recipient of Federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective recipient of Federal assistance funds shall provide immediate written notice to the person to whom this agreement is entered, if at any time the prospective recipient of Federal assistance funds learns that its certification was erroneous, when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Orders 12459 and 12689.
5. The prospective recipient of Federal assistance funds agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective recipient of Federal assistance funds further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Procurement or Non-Procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntary excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

EXHIBIT D
CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans
and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying" in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352 Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less that \$10,000 and not more than \$100,000 for each such failure.

AGREEMENT NUMBER: e-118835

CITY OF LONG BEACH (ADMINISTERING ENTITY FOR PACIFIC GATEWAY WORKFORCE INVESTMENT NETWORK)
CONTRACTOR/BORROWER/AGENCY

PATRICK H. WEST, City Manager

NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

 Assistant City Manager 4.27.11
SIGNATURE DATE

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

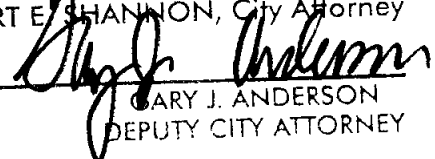
APPROVED AS TO FORM
April 25, 2011
ROBERT E. SHANNON, City Attorney
By 
GARY J. ANDERSON
DEPUTY CITY ATTORNEY

EXHIBIT E

MANAGEMENT REPRESENTATION

As a prerequisite to receipt of a City funded Contract, and as material facts upon which the City may rely in preparing the Contract, I, an authorized representative of the Contractor, make the following representations:

1. I am responsible for the fair presentation of the Contractor's financial records/reports in conformity with Generally Accepted Accounting Principles (GAAP) and have provided such records/reports accordingly to the City. I will make available to City all related data and information. I am not aware of any material transactions that have not been properly recorded and disclosed.

True False

2. The Contractor has adopted sound accounting policies and procedures in accordance with GAAP that include procedures for maintaining internal controls, and preventing and detecting fraud and abuse.

True False

3. I have advised and will continue to advise the City of any actions taken at meetings of Contractor's Board of Directors, and Committees of the Board of Directors which may have a material impact on Contractor's ability to perform the City's Contract.

True False

4. Except as recorded or disclosed to you herein, I know of no instances of:

- a. Conflict of interests (direct or indirect), nepotism, related (direct or indirect) party transactions including revenues, expenses, loans, transfers, leasing arrangements, and guarantees, and amounts receivable from or payable to related parties.

True False

- b. Guarantees, whether written or oral, under which the Contractor is contingently liable.

True False

- c. Actual, forthcoming or possible terminations of funding from regulatory agencies or other sources due to noncompliance, deficiencies, or for any other reason, that would affect the financial records and/or continuing viability of the Contractor as an on-going concern.

True False

5. I have no knowledge that a board member/s is/are also an employee of this Contractor whose salary costs are reimbursed under this agreement.

True False

6. I have no knowledge of and am not in receipt of any communication regarding allegations of fraud, suspected fraud or abuse affecting the Contractor involving management, employees who have significant roles in internal control, or others where fraud/abuse could have a material effect on the financial records or performance of the City Contract.

True False

7. I have no knowledge of any allegations, written or oral, of misstatements or misapplication of funds in the Contractor's conduct of its financial affairs or in its financial records.

True False

8. I am not aware of any pending litigation, bankruptcy, judgment, liens and other significant issues that may threaten the financial viability, legal and continuing existence of the Contractor.

True False

- 9. The Contractor has satisfactory title to all assets being used in the City's program, and there are no liens or encumbrances on such assets, nor has any asset been pledged as collateral.
True False
- 10. The Contractor has complied with all aspects of contractual agreements, related laws and regulations that could have a material effect on the financial records, the program/s, or on the organization as a whole.
True False
- 11. I have properly reported and paid to the appropriate governmental agencies all payroll taxes due on employees' (City program related or otherwise) compensation.
True False
- 12. I have responded fully to all the City's inquiries related to the Contractor's financial records and/or reports.
True False
- 13. I understand that the City's auditing and monitoring procedures of Contractor are limited to those which the City determines best meet its informational needs and may not necessarily disclose all errors, irregularities, including fraud or defalcation, or illegal acts, that may exist.
True False
- 14. I understand that the City audit and monitoring reports are intended solely for use by the Contractor and the other authorized parties, and are not intended for other purposes, unless otherwise required by law.
True False
- 15. If one or more of the above statements is found to be false, I understand that the City may terminate this contract immediately. I also understand that I have a continuing duty to report to City any material factual change to any of these statements.
True False


Use this space to provide any additional information:

I declare under penalty of perjury that I have read the foregoing statements and they are true and complete to the best of my knowledge.

AGREEMENT NUMBER: C-118835

CITY OF LONG BEACH (ADMINISTERING ENTITY FOR PACIFIC GATEWAY WORKFORCE INVESTMENT NETWORK)
CONTRACTOR/BORROWER/AGENCY

PATRICK H. WEST, City Manager
NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

 Assistant City Manager 4.27.11
SIGNATURE DATE

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

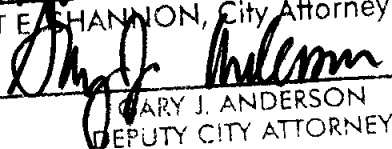
APPROVED AS TO FORM
April 25, 2011
ROBERT E. SHANNON, City Attorney
By 
GARY J. ANDERSON
DEPUTY CITY ATTORNEY

EXHIBIT F
CERTIFICATION REGARDING DRUG FREE WORKPLACE REQUIREMENTS

The Contractor certifies that it will provide a drug-free workplace, in accordance with the California Drug Free Workplace Act of 1990 (Title 2 Govt. Code of State of California §§8351 *et seq.*) by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
2. Establishing a drug-free awareness program to inform employees about:
 - a. The dangers of drug abuse in the workplace;
 - b. The Contractor's policy of maintaining a drug-free workplace;
 - c. Any available drug counseling, rehabilitation and employee assistance programs; and
 - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
3. Making it a requirement that each employee to be engaged in the performance of the WIA program be given a copy of the statement required by paragraph 1. above.
4. Notifying the employee in the statement required by paragraph 1. that, as a condition of employment under the WIA program, the employee will:
 - a. Abide by the terms of the statement, and
 - b. Notify the Contractor of any criminal drug statute convictions for a violation occurring in the workplace no later than five days after such conviction.
5. Notifying the City within ten days after receiving notice under subparagraph 4. b. from an employee or otherwise receiving actual notice of such conviction.
6. Taking one of the following actions, within 30 days of receiving notice under subparagraph 4.b. with respect to any employee who is so convicted:
 - a. Taking appropriate personnel action against such an employee, up to and including termination, or
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of the provision of this certification.

AGREEMENT NUMBER: C-118835

CITY OF LONG BEACH (ADMINISTERING ENTITY FOR PACIFIC GATEWAY WORKFORCE INVESTMENT NETWORK)
CONTRACTOR/BORROWER/AGENCY

PATRICK H. WEST, City Manager

NAME AND TITLE OF AUTHORIZED REPRESENTATIVE


 Assistant City Manager 4-27-11
SIGNATURE EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER. DATE

EXHIBIT F

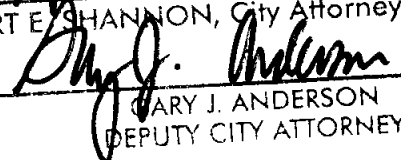
APPROVED AS TO FORM
April 25, 2011
ROBERT E. SHANNON, City Attorney
By 
MARY J. ANDERSON
DEPUTY CITY ATTORNEY

EXHIBIT G
CERTIFICATION REGARDING RELOCATION OF BUSINESS

This certification is required of all the Contractors who have relocated their place of business within the preceding 120 days of receiving this Agreement. This certification is required pursuant to the regulations implementing the WIA as amended, 29 USC §2731 *et seq.* The regulations prohibit the use of any WIA funds by an entity that has relocated within the previous 120 days, where such relocation has caused the loss of employment of any employee at the original location.

The Contractor certifies as follows:

"I have read the foregoing regulations and I certify on behalf of the Contractor mentioned below that if this Contractor has relocated its place of business within the past 120 days, that such relocation has not resulted in the loss of employment for any employee at the original location. I also certify that any funds provided by us to any subcontractor(s) shall require the same certification."

AGREEMENT NUMBER: C-118835

CITY OF LONG BEACH (ADMINISTERING ENTITY FOR PACIFIC GATEWAY WORKFORCE INVESTMENT NETWORK)
CONTRACTOR/BORROWER/AGENCY

PATRICK H. WEST, City Manager

NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

 Assistant City Manager 4.27.11
SIGNATURE DATE

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

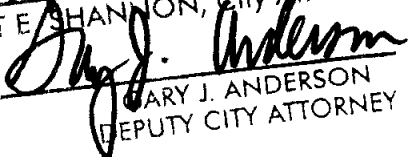
APPROVED AS TO FORM
April 25, 2011
ROBERT E. SHANNON, City Attorney
By 
MARY J. ANDERSON
DEPUTY CITY ATTORNEY

EXHIBIT H

52.204-11 AMERICAN RECOVERY AND REINVESTMENT ACT - REPORTING REQUIREMENTS (MAR 2009)

(a) Definitions. As used in this clause—

Contract, as defined in FAR 2.101, means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301, et seq. For discussion of various types of contracts, see FAR Part 16.

First-tier subcontract means a subcontract awarded directly by a Federal Government prime contractor whose contract is funded by the Recovery Act.

Jobs created means an estimate of those new positions created and filled, or previously existing unfilled positions that are filled, as a result of funding by the American Recovery and Reinvestment Act of 2009 (Recovery Act). This definition covers only prime contractor positions established in the United States and outlying areas (see definition in FAR 2.101). The number shall be expressed as "full-time equivalent" (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule, as defined by the contractor. For instance, two full-time employees and one part-time employee working half days would be reported as 2.5 FTE in each calendar quarter.

Jobs retained means an estimate of those previously existing filled positions that are retained as a result of funding by the American Recovery and Reinvestment Act of 2009 (Recovery Act). This definition covers only prime contractor positions established in the United States and outlying areas (see definition in FAR 2.101). The number shall be expressed as "full-time equivalent" (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule, as defined by the contractor. For instance, two full-time employees and one part-time employee working half days would be reported as 2.5 FTE in each calendar quarter.

Total compensation means the cash and noncash dollar value earned by the executive during the contractor's past fiscal year of the following (for more information see 17 CFR 229.402(c)(2)):

- (1) *Salary and bonus.*
- (2) *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- (3) *Earnings for services under non-equity incentive plans.* Does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- (4) *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.
- (5) *Above-market earnings on deferred compensation which is not tax-qualified.*
- (6) *Other compensation.* For example, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property if the value for the executive exceeds \$10,000

(b) This contract requires the contractor to provide products and/or services that are funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act). Section 1512(c) of the Recovery Act requires each contractor to report on its use of Recovery Act funds under this contract. These reports will be made available to the public.

(c) Reports from contractors for all work funded, in whole or in part, by the Recovery Act, and for which an invoice is submitted prior to June 30, 2009, are due no later than July 10, 2009. Thereafter, reports shall be submitted no later than the 10th day after the end of each calendar quarter.

(d) The Contractor shall report the following information, using the online reporting tool available at www.FederalReporting.gov.

- (1) The Government contract and order number, as applicable.
- (2) The amount of Recovery Act funds invoiced by the contractor for the reporting period. A cumulative amount from all the reports submitted for this action will be maintained by the government's on-line reporting tool.
- (3) A list of all significant services performed or supplies delivered, including construction, for which the contractor invoiced in this calendar quarter.
- (4) Program or project title, if any.
- (5) A description of the overall purpose and expected outcomes or results of the contract, including significant deliverables and, if appropriate, associated units of measure.
- (6) An assessment of the contractor's progress towards the completion of the overall purpose and expected outcomes or results of the contract (i.e., not started, less than 50 percent completed, completed 50 percent or more, or fully completed). This covers the contract (or portion thereof) funded by the Recovery Act.
- (7) A narrative description of the employment impact of work funded by the Recovery Act. This narrative should be cumulative for each calendar quarter and only address the impact on the contractor's workforce. At a minimum, the contractor shall provide—

- (i) A brief description of the types of jobs created and jobs retained in the United States and outlying areas (see definition in FAR 2.101). This description may rely on job titles, broader labor categories, or the contractor's existing practice for describing jobs as long as the terms used are widely understood and describe the general nature of the work; and

- (ii) An estimate of the number of jobs created and jobs retained by the prime contractor, in the United States and outlying areas. A job cannot be reported as both created and retained.

(8) Names and total compensation of each of the five most highly compensated officers of the Contractor for the calendar year in which the contract is awarded if—

- (i) In the Contractor's preceding fiscal year, the Contractor received—
 - (A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and
 - (B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and

- (ii) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

(9) For subcontracts valued at less than \$25,000 or any subcontracts awarded to an individual, or subcontracts awarded to a subcontractor that in the previous tax year had gross income under \$300,000, the Contractor shall only report the aggregate number of such first tier subcontracts awarded in the quarter and their aggregate total dollar amount.

(10) For any first-tier subcontract funded in whole or in part under the Recovery Act, that is over \$25,000 and not subject to reporting under paragraph 9, the contractor shall require the subcontractor to provide the information described in (i), (ix), (x), and (xi) below to the contractor for the purposes of the quarterly report. The contractor shall advise the subcontractor that the information will be made available to the public as required by section 1512 of the Recovery Act.

The contractor shall provide detailed information on these first-tier subcontracts as follows:

- (i) Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.

- (ii) Name of the subcontractor.

- (iii) Amount of the subcontract award.

- (iv) Date of the subcontract award.

(v) The applicable North American Industry Classification System (NAICS) code.

(vi) Funding agency.

(vii) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.

(viii) Subcontract number (the contract number assigned by the prime contractor).

(ix) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.

(x) Subcontract primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.

(xi) Names and total compensation of each of the subcontractor's five most highly compensated officers, for the calendar year in which the subcontract is awarded if—

(A) In the subcontractor's preceding fiscal year, the subcontractor received—

(1) 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and

(2) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and

(B) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

EXHIBIT I
CRITERIA FOR PROJECT SIGNAGE



American Recovery and Reinvestment Act

General Guidelines for Emblem and Logo Applications

Version 1.0
03 / 20 / 09

Projects funded by the American Recovery and Reinvestment Act (ARRA) will bear a newly-designed emblem. The emblem is a symbol of President Obama's commitment to the American People to invest their tax dollars wisely to put Americans back to work.

The purpose of this document is to provide general guidelines and specifications for using the ARRA emblem and corresponding logomark.

Contact Information

For information regarding this document, please email:
recoveryquestions@gsa.gov

Please refer to this document as:
General Guidelines for Emblem and Logo Applications, Version 1.0

Variations and Usage

There are two approved “marks” associated with the ARRA. To preserve the integrity of the ARRA emblem and logomark, make sure to apply them correctly. Altering, distorting or recreating the “marks” in any way weaken the power of the image and what it represents. Layout and design of signs and communication materials will vary, so care must be taken when applying the emblem or logomark.

Primary Emblem



All projects which are funded by the ARRA should display signage that features the Primary Emblem throughout the construction phase. The signage should be displayed in a prominent location on site. Some exclusions may apply. The Primary Emblem can also be displayed on signs at events or conferences associated with the ARRA or the individual projects funded by the ARRA.

The Primary Emblem should not be displayed at a size less than 6 inches in diameter.

Horizontal Logomark



An alternate variation of the emblem exists for use in press releases and other online or offline communications. It should be used to brand the communications piece, but *not* in reference to the Primary Emblem usage.

Color

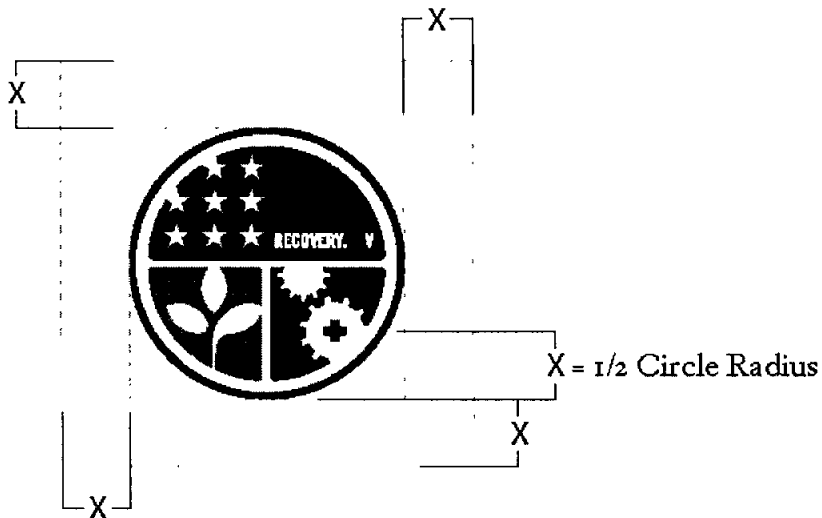
All colors in the ARRA logos have precise color references, shown in the color specifications chart below. Always use the exact color values listed. Do not use screens or tints of any of the colors for any part of the logo. The CMYK values should be used for print applications. The RGB and HEX# values should be used for on-screen applications.

COLOR	CMYK	RGB	HEX#
Navy	00 / 00 / 00 / 00	0 / 51 / 102	003366
Red	30 / 100 / 100 / 50	102 / 0 / 0	660000
Green	65 / 25 / 100 / 7	103 / 144 / 62	67903E
Light Blue	67 / 37 / 6 / 00	89 / 141 / 192	598DC0

Clear Space

The clear space is shown as the value "X" in this exhibit. The minimum clear space must always be at least "X" on all sides of the logo. Whenever possible, increase the amount of clear space.

Primary Emblem



Horizontal Logomark



Community Development Department

Transmittal of City Contract Ordinance Status

- Living Wage Ordinance
- Comply
 - Exempt
 - Not Subject to (Governmental; or \$25,000 or under; under 3 months)

- Equal Benefits Ordinance
- Fully Comply
 - Reasonable Measures
 - Provisional Compliance
 - On Contract-by-Contract Basis
 - Statutory Waiver with OCC Approval
 - Not Subject to (under \$5,000 or WIA funded)

- Slavery Disclosure Ordinance
- Affidavit
 - Exemption with OCC Approval
 - Statutory Waiver (Grant Funded; Governmental; Non-profit)

LWO – DEPARTMENTAL DETERMINATION FORM

REQUIRED DOCUMENTATION FOR ALL CONTRACTS

This form will aid Awarding Departments with determining whether or not a contract is subject to the LWO. It must be completed by the AWARDING DEPARTMENT and submitted to the Office of Contract Compliance **AFTER THE CONTRACT HAS BEEN EXECUTED**. INCOMPLETE SUBMISSIONS WILL BE RETURNED. Please refer to the endnotes for more details.

AWARDING DEPARTMENT INFO				
Dept: <u>CDD</u>		Contract Administrator: <u>Stella S. Catanzarite</u> Contact Phone: <u>(310) 732-4657</u> MS# <u>226</u>		
CONTRACT INFO				
Contractor Name: <u>City of Long Beach (Admin for Pacific Gateway WIN)</u>		Contract # <u>C-118835</u>		
Contractor Address: <u>3447 Atlantic Ave.</u>		City: <u>Long Beach</u>	State: <u>CA</u> Zip: <u>90807</u>	
Project/Contract Name: <u>WIA ARRA Dislocated Worker Training</u>				
Purpose of Contract: <u>To provide customized Patient Care Assistant Training to 26 DW for job at MMC Long Beach</u>				
Contract Amount: \$ <u>48,869.-</u>		Term: Start Date <u>01/01/2011</u> End Date <u>06/30/2011</u>		
SECTION I: DETERMINING APPLICABILITY TO LWO				
1	Check off ONE box that best describes the contract, then Continue to #2: This is a <input checked="" type="checkbox"/> New Contract <input type="checkbox"/> Contract Amndmt # <u>--</u>			
2	If you checked off "New Contract" above, SKIP to Question #5 to determine whether this New contract is subject to the LWO.			
3	If you checked off "Contract Amendment" Please answer the following questions about the original contract:			
	a Was the original contract subject to the LWO?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	b Was the original contract approved for an exemption?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If YES, please note what type of exemption it received:	
4	If you checked off YES to 3a OR 3b, THIS FORM IS NOW COMPLETE – PLEASE SUBMIT PAGE 1 ONLY TO OCC. If you checked off NO to 3a AND 3b, Continue to #5 to determine whether this Contract Amendment is subject to the LWO.			
5	Check off ONE box in Parts A, B, C or D below that best describes the contract, then Continue to #6:			
These are contracts NOT SUBJECT, NOT APPLICABLE to LWO:		These contracts MAY or MAY NOT BE SUBJECT, or MAY or MAY NOT BE APPLICABLE to LWO:		
PART A		PART B	PART C	PART D
<input type="checkbox"/>	Service contract that is less than 3 months OR \$25,000 or less ¹	<input type="checkbox"/>	Service contract that is at least 3 months AND over \$25,000.	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Other governmental entity ²			<input type="checkbox"/>
<input type="checkbox"/>	Purchase or rental of goods, equipment, property ³			<input type="checkbox"/>
<input type="checkbox"/>	Construction contract ⁴			<input type="checkbox"/>
<input type="checkbox"/>	Funded by Business Improvement District (BID) assessment money ⁵			<input type="checkbox"/>
<input type="checkbox"/>	Financial assistance is below both LWO CFAR thresholds. ⁶ <small>(a) Financial assistance must be less than \$1 Million in a 12-month period AND (b) Is less than \$100,000 if on a continuing basis (such as a loan at a rate lower than the Applicable Federal Rate).</small>			<input type="checkbox"/>
6	If you checked off any box in Part A - THIS FORM IS NOW COMPLETE – PLEASE SUBMIT PAGE 1 ONLY TO OCC.			
7	If you checked off a box in Part B or C, SKIP TO #9.			
8	If you checked off the box in Part D, SKIP TO #13.			
9	If you have a service contract, answer questions a, c and d ONLY, then Continue to #10. If you have a public lease/license, answer questions b, c and d ONLY, then Continue to #10.		YES	NO
	a	Are some of the services rendered by employees whose work site is on property owned by the City?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	b	Are the services rendered on premises at least a portion of which is visited by substantial numbers of the public on a frequent basis (including, but not limited to, airport passenger terminals, parking lots, golf courses, recreational facilities)?	<input type="checkbox"/>	<input type="checkbox"/>
	c	Could the services feasibly be performed by City employees if the awarding authority had the requisite financial and staffing resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	d	Has the DAA determined in writing that coverage would further the proprietary interests of the City?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
10	If you checked off ANY boxes in the YES column, this contract is APPLICABLE TO THE LWO (it is SUBJECT). Continue onto SECTION II. Otherwise, continue to #11.			
11	You DID NOT check off ANY boxes in the YES column. This contract is NOT APPLICABLE TO THE LWO (it is NOT SUBJECT). Fill and submit LW-10, OCC Exemption Application for approval prior to contract execution found here: http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm , then Continue to #12.			
12	Has the exemption been approved? If YES, THIS FORM IS NOW COMPLETE – Once the contract has been executed, SUBMIT LW-1, Page 1 ONLY and the APPROVED EXEMPTION FORM to OCC. If NO, Continue onto SECTION IV.			
13	Answer the following question to determine whether the CFAR is subject to the LWO, then Continue to #14.		YES	NO
	a	Does the agreement intend to promote economic development?	<input type="checkbox"/>	<input type="checkbox"/>
14	If you checked off NO this contract is NOT APPLICABLE TO THE LWO (it is NOT SUBJECT). PLEASE SUBMIT PAGE 1 ONLY TO OCC. Otherwise, Continue to Question #15.			
15	Answer the following questions to determine whether the CFAR is subject to the LWO:		YES	NO
	a	Is the Financial Assistance given in a 12-month period and above \$1 Million?	<input type="checkbox"/>	<input type="checkbox"/>
	b	Is the Financial Assistance \$100,000 or more on a continuing basis?	<input type="checkbox"/>	<input type="checkbox"/>
16	If you checked off ANY boxes in the YES column, this contract is APPLICABLE TO THE LWO (it is SUBJECT). Continue onto SECTION II. Otherwise, this contract is NOT APPLICABLE TO THE LWO (it is NOT SUBJECT). PLEASE SUBMIT PAGE 1 ONLY TO OCC.			

SDO EXEMPTION

CITY OF LOS ANGELES

Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance
1149 S. Broadway Street, 3rd Floor, Los Angeles, CA 90015
Phone: (213) 847-1922 Fax: (213) 847-2777

SLAVERY DISCLOSURE ORDINANCE (SDO) REQUEST FOR EXEMPTION

All agreements are subject to the SDO unless otherwise exempted. If the Awarding Authority believes that a contract should be exempted because of exigent circumstances or because the contract involves proprietary goods/services that are available only from a single source, an exemption application must be submitted. **The exemption MUST be approved by the Office of Contract Compliance, Equal Employment Opportunities Enforcement Section prior to contract execution, and Awarding Authorities MUST submit a memorandum explaining why the exemption is justified.**

Section 1: Awarding Department

Name of contact person:	SUCY YU	Title:	MAI
Department:	CDD	Phone:	(213) 744-7212
Signature:	<i>Sucy Yu</i>	Date:	05/11/2011

Section 2: Contractor and Contract Information

Company Name:	City of Long Beach (Admin for WIN) Pacific Gateway	Federal ID #:	[REDACTED]
Company Address:	3447 Atlantic Ave.		
City:	Long Beach	State:	CA
Purpose:	To provide customized Patient Care Assistant Training program	Contract # (if any):	(T4875)
Start Date:	01/01/2011	End Date:	06/30/2011
		Amount:	\$ 48,869.-

Section 3: Basis for Exemption – Check one. A memorandum must be attached explaining why exemption is justified.

The contract is for the furnishing of articles covered by letters patent granted by the government of the United States or the goods or services are proprietary or only available from a single source.

The City would suffer a financial loss or that City operations would be adversely impacted unless exempted.

OCC USE ONLY

Approved: _____	Not Approved. (See attached memorandum.)
OCC Analyst: _____	Date: _____

THE FOLLOWING ARE STATUTORILY EXEMPT AND DO NOT REQUIRE OCC APPROVAL

Contracts relating to: (a) the investment of City trust moneys or bond proceeds; (b) Pension funds; (c) Indentures, security enhancement agreements for City tax-exempt and taxable financings; (d) Deposits of City surplus funds in financial institutions; (e) The investment of City moneys in securities permitted under the California State Government Code and/or the City's investment policy; (f) Investment agreements, whether competitively bid or not; (g) Repurchase agreements; and (h) City moneys invested in United States government securities.

Contracts involving City moneys in which the Treasurer or the City Administrative Officer finds that the City will incur a financial loss or forego a financial benefit, and which in the opinion of the Treasurer or the City Administrative Officer would violate his or her fiduciary duties.

Grant funded Contracts if the application of this article would violate or be inconsistent with the terms or conditions of a grant or Contract with an agency of the United States, the State of California or the instruction of an authorized representative of any of those agencies with respect to any grant or Contract.

Contracts with a governmental entity such as the United States of America, the State of California, a county, city or public agency of one of these entities, or a public or quasi-public corporation located in the United States and declared by law to have a public status.

Contracts with any Company that has been designated as a non-profit organization pursuant to the United States Internal Revenue Code Section 501(c)(3).

Contracts entered into pursuant to Charter Section 371(e)(5) as approved by Council.

Contracts entered into pursuant to Charter Section 371(e)(6) as approved by Council.

Contracts entered into pursuant to Charter Section 371(e)(7).