

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

AGREEMENT

34122

1
2
3 THIS AGREEMENT is made and entered, in duplicate, as of October 15,
4 2015, for reference purposes only, pursuant to a minute order adopted by the City Council
5 of the City of Long Beach at its meeting on July 21, 2015, by and between
6 COMPREHENSIVE HOUSING SERVICES, INC., a California corporation ("Consultant"),
7 with a place of business at 8840 Warner Avenue, #203, Fountain Valley, California 92708,
8 and the CITY OF LONG BEACH, a municipal corporation ("City").

9 WHEREAS, City requires specialized services requiring unique skills to be
10 performed in connection with as-needed professional compliance monitoring services
11 ("Project"); and

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

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

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

21 1. SCOPE OF WORK OR SERVICES.

22 A. Consultant shall furnish specialized services more particularly
23 described in Exhibit "A", attached to this Agreement and incorporated by this
24 reference, in accordance with the standards of the profession, and City shall pay for
25 these services in the manner described below, not to exceed Eighty Thousand
26 Dollars (\$80,000), at the rates or charges shown in Exhibit "B".

27 B. The City's obligation to pay the sum stated above for any one
28 fiscal year shall be contingent upon the City Council of the City appropriating the

1 necessary funds for such payment by the City in each fiscal year during the term
2 of this Agreement. For the purposes of this Section, a fiscal year commences on
3 October 1 of the year and continues through September 30 of the following year.
4 In the event that the City Council of the City fails to appropriate the necessary
5 funds for any fiscal year, then, and in that event, the Agreement will terminate at
6 no additional cost or obligation to the City.

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

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

25 E. Consultant represents that Consultant has obtained all
26 necessary information on conditions and circumstances that may affect its
27 performance and has conducted site visits, if necessary.

28 F. CAUTION: Consultant shall not begin work until this

1 Agreement has been signed by both parties and until Consultant's evidence of
2 insurance has been delivered to and approved by City.

3 2. TERM. The term of this Agreement shall commence at midnight on
4 November 15, 2015, and shall terminate at 11:59 p.m. on November 14, 2018, unless
5 sooner terminated as provided in this Agreement, or unless the services or the Project is
6 completed sooner. The parties have the option to extend the term for two (2) additional
7 one-year periods.

8 3. COORDINATION AND ORGANIZATION.

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

17 B. The parties acknowledge that a substantial inducement to City
18 for entering this Agreement was and is the reputation and skill of Consultant's key
19 employee, Heidi Hagan. City shall have the right to approve any person proposed
20 by Consultant to replace that key employee.

21 4. INDEPENDENT CONTRACTOR. In performing its services,
22 Consultant is and shall act as an independent contractor and not an employee,
23 representative or agent of City. Consultant shall have control of Consultant's work and the
24 manner in which it is performed. Consultant shall be free to contract for similar services to
25 be performed for others during this Agreement; provided, however, that Consultant acts in
26 accordance with Section 9 and Section 11 of this Agreement. Consultant acknowledges
27 and agrees that (a) City will not withhold taxes of any kind from Consultant's compensation;
28 (b) City will not secure workers' compensation or pay unemployment insurance to, for or

1 on Consultant's behalf; and (c) City will not provide and Consultant is not entitled to any of
2 the usual and customary rights, benefits or privileges of City employees. Consultant
3 expressly warrants that neither Consultant nor any of Consultant's employees or agents
4 shall represent themselves to be employees or agents of City.

5 5. INSURANCE.

6 A. As a condition precedent to the effectiveness of this
7 Agreement, Consultant shall procure and maintain, at Consultant's expense for the
8 duration of this Agreement, from insurance companies that are admitted to write
9 insurance in California and have ratings of or equivalent to A:V by A.M. Best
10 Company or from authorized non-admitted insurance companies subject to Section
11 1763 of the California Insurance Code and that have ratings of or equivalent to A:VIII
12 by A.M. Best Company, the following insurance:

13 (a) Commercial general liability insurance (equivalent in scope to
14 ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less than
15 \$1,000,000 per each occurrence and \$2,000,000 general aggregate. This
16 coverage shall include but not be limited to broad form contractual liability,
17 cross liability, independent contractors liability, and products and completed
18 operations liability. City, its boards and commissions, and their officials,
19 employees and agents shall be named as additional insureds by
20 endorsement (on City's endorsement form or on an endorsement equivalent
21 in scope to ISO form CG 20 10 11 85 or CG 20 26 11 85 or both CG 20 10
22 07 04 and CG 20 37 07 04 or both CG 20 33 07 04 and CG 20 37 07 04),
23 and this insurance shall contain no special limitations on the scope of
24 protection given to City, its boards and commissions, and their officials,
25 employees and agents. This policy shall be endorsed to state that the
26 insurer waives its right of subrogation against City, its boards and
27 commissions, and their officials, employees and agents.

28 (b) Workers' Compensation insurance as required by the California

1 Labor Code and employer's liability insurance in an amount not less than
2 \$1,000,000. This policy shall be endorsed to state that the insurer waives
3 its right of subrogation against City, its boards and commissions, and their
4 officials, employees and agents.

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

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

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

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

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

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

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

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

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

23 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement
24 contemplates the personal services of Consultant and Consultant's employees, and the
25 parties acknowledge that a substantial inducement to City for entering this Agreement was
26 and is the professional reputation and competence of Consultant and Consultant's
27 employees. Consultant shall not assign its rights or delegate its duties under this
28 Agreement, or any interest in this Agreement, or any portion of it, without the prior approval

1 of City, except that Consultant may with the prior approval of the City Manager of City,
2 assign any moneys due or to become due Consultant under this Agreement. Any
3 attempted assignment or delegation shall be void, and any assignee or delegate shall
4 acquire no right or interest by reason of an attempted assignment or delegation.
5 Furthermore, Consultant shall not subcontract any portion of its performance without the
6 prior approval of the City Manager or designee, or substitute an approved subconsultant
7 or contractor without approval prior to the substitution. Nothing stated in this Section shall
8 prevent Consultant from employing as many employees as Consultant deems necessary
9 for performance of this Agreement.

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

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

20 9. OWNERSHIP OF DATA. All materials, information and data
21 prepared, developed or assembled by Consultant or furnished to Consultant in connection
22 with this Agreement, including but not limited to documents, estimates, calculations,
23 studies, maps, graphs, charts, computer disks, computer source documentation, samples,
24 models, reports, summaries, drawings, designs, notes, plans, information, material and
25 memorandum ("Data") shall be the exclusive property of City. Data shall be given to City,
26 and City shall have the unrestricted right to use and disclose the Data in any manner and
27 for any purpose without payment of further compensation to Consultant. Copies of Data
28 may be retained by Consultant but Consultant warrants that Data shall not be made

1 available to any person or entity for use without the prior approval of City. This warranty
2 shall survive termination of this Agreement for five (5) years.

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

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

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

27 13. ADDITIONAL COSTS AND REDESIGN.

28 A. Any costs incurred by City due to Consultant's failure to meet

1 the standards required by the scope of work or Consultant's failure to perform fully
2 the tasks described in the scope of work which, in either case, causes City to request
3 that Consultant perform again all or part of the Scope of Work shall be at the sole
4 cost of Consultant and City shall not pay any additional compensation to Consultant
5 for its re-performance.

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

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

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

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

16. PREVAILING WAGES.

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

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

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

18. INDEMNITY.

A. Consultant shall indemnify, protect and hold harmless City, its Boards, Commissions, and their officials, employees and agents ("Indemnified Parties"), from and against any and all liability, claims, demands, damage, loss, obligations, causes of action, proceedings, awards, fines, judgments, penalties, costs and expenses, including attorneys' fees, court costs, expert and witness fees, and other costs and fees of litigation, arising or alleged to have arisen, in whole or

1 in part, out of or in connection with (1) Consultant's breach or failure to comply with
2 any of its obligations contained in this Agreement, including any obligations arising
3 from the Project's compliance with or failure to comply with applicable laws,
4 including all applicable federal and state labor requirements including, without
5 limitation, the requirements of California Labor Code section 1770 *et seq.* or (2)
6 negligent or willful acts, errors, omissions or misrepresentations committed by
7 Consultant, its officers, employees, agents, subcontractors, or anyone under
8 Consultant's control, in the performance of work or services under this Agreement
9 (collectively "Claims" or individually "Claim").

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

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

24 D. The provisions of this Section shall survive the expiration or
25 termination of this Agreement.

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

28 ///

1 20. NONDISCRIMINATION.

2 A. In connection with performance of this Agreement and subject
3 to applicable rules and regulations, Consultant shall not discriminate against any
4 employee or applicant for employment because of race, religion, national origin,
5 color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap or
6 disability. Consultant shall ensure that applicants are employed, and that
7 employees are treated during their employment, without regard to these bases.
8 These actions shall include, but not be limited to, the following: employment,
9 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or
10 termination; rates of pay or other forms of compensation; and selection for training,
11 including apprenticeship.

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

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

27 A. During the performance of this Agreement, the Consultant
28 certifies and represents that the Consultant will comply with the EBO. The

1 Consultant agrees to post the following statement in conspicuous places at its place
2 of business available to employees and applicants for employment:

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

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

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

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

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

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

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

23. COPYRIGHTS AND PATENT RIGHTS.

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

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

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

24. COVENANT AGAINST CONTINGENT FEES. Consultant warrants

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

25. WAIVER. The acceptance of any services or the payment of any

money by City shall not operate as a waiver of any provision of this Agreement or of any right to damages or indemnity stated in this Agreement. The waiver of any breach of this Agreement shall not constitute a waiver of any other or subsequent breach of this Agreement.

26. CONTINUATION. Termination or expiration of this Agreement shall

1 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,
2 17, 19, 22 and 28 prior to termination or expiration of this Agreement.

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

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

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

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

21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

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

3 COMPREHENSIVE HOUSING
4 SERVICES, INC., a California corporation

5 November 4, 2015

By Gayle Bloomingdale
Name Gayle Bloomingdale
Title President

7 November 4, 2015

By Kira Bloomingdale
Name Kira Bloomingdale
Title Vice President

9 "Consultant"

10 CITY OF LONG BEACH, a municipal
11 corporation

12 Dec. 7, 2015

By [Signature] EXECUTED PURSUANT
City Manager TO SECTION 301 OF
THE CITY CHARTER.

14 "City" Assistant City Manager

15 This Agreement is approved as to form on 11-18, 2015.

17 CHARLES PARKIN, City Attorney

18 By [Signature]
Deputy

19
20
21
22
23
24
25
26
27
28
OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Lona Beach, CA 90802-4664

EXHIBIT “A”

Scope of Work

MONITORING HUD SECTION 3 COMPLIANCE

Upon request, CHS shall monitor Prime Contractor(s) and subcontractor(s) to ensure that they make their best efforts to comply with the City's HUD Section 3 hiring requirements and ensure that qualified HUD Section 3 residents are hired for a minimum of thirty (30%) percent of the total new hire construction work hours or total HUD Section 3 new hires, depending on the project. CHS shall also monitor the Contractor(s) to ensure that they utilize their best efforts to contract with HUD Section 3 businesses, for a minimum of ten (10%) percent of the total dollar amount of all bidding trade work.

1. Documentation Related to Searching for HUD Section 3 Employees

CHS shall collect and submit the following documentation to demonstrate the Prime Contractor's and subcontractor's progress toward fulfilling the City's HUD Section 3 contractual requirements as follows:

- a. Document the Prime Contractor's and subcontractor's intent and efforts to comply with HUD Section 3 hiring requirements and goals.
- b. Review of the Workforce Projections for the Prime Contractor(s) and subcontractor(s).
- c. Review of the Construction Schedule.
- d. Review of the list of the current employees for the Prime Contractor(s) and all subcontractors.
- e. Obtain proof of the public notices taken to announce the HUD Section 3 resident employment and HUD Section 3 business contracting opportunities at each project jobsite.

2. HUD Section 3 Employment Documentation

- a. CHS shall collect from the Prime Contractor(s) and the subcontractor(s) their monthly HUD Section 3 hiring reports that will cumulatively report each HUD Section 3 employee's name, employer, date hired, employee address, family size, annual income, HUD Section 3 status and hours worked on the project to date.

3. HUD Section 3 Businesses Contact/Hiring Compliance

- a. CHS shall collect from Contractor(s) each month, documentation demonstrating the Contractor(s) progress toward fulfilling the City's HUD Section 3 policy and their efforts to identify contract opportunities and facilitate participation by HUD Section 3 businesses.
- b. CHS shall collect and document the Contractor(s) efforts to contact business outreach agencies to assist in recruiting HUD Section 3 business enterprises.
- c. CHS shall collect and document the Contractor(s) efforts to post public notices announcing HUD Section 3 business contracting opportunities at each jobsite.
- d. CHS shall collect and document the Contractor(s) efforts to advertise for subcontracting opportunities in local newspaper outlets.
- e. CHS shall collect and document the Contractor(s) efforts to solicit written bids from HUD Section 3 businesses that desire to participate in the various projects.
- f. CHS shall collect and document the Contractor(s) efforts to follow up with their initial solicitations of interested HUD Section 3 businesses. A copy of their written proof will be obtained.
- g. CHS will collect and document the Contractor(s) efforts to conduct a pre-bid conference in order to assist HUD Section 3 businesses in providing bids for work.
- h. CHS shall collect and document the Contractor(s) efforts to assist all potential subcontractors that need assistance in obtaining bonding, obtaining lines of credit, etc.

DAVIS-BACON MONITORING REQUIREMENTS

CHS shall monitor the Contractor's proper use of Federal Wage Determinations as well as the Contractors' compliance with Davis-Bacon and Related Acts on all Federally-funded projects. CHS may assist the City of Long Beach in maintaining a policy of enforcing the highest wage as between the published Federal Department of Labor Wage Determinations and the California State Prevailing Wage Determinations as published by the California Department of Industrial Relations, Office of Policy, Research and Legislation.

CHS proposes to provide Federal Davis-Bacon Prevailing Wage Compliance services as follows:

Project File

CHS will establish and maintain a Project Labor Standards Enforcement/compliance administration file to document the project, including, but not limited to, the appropriate project wage decision and all other required Federal documents for all phases of each project. CHS will maintain files for the entire project.

Prior to the pre-construction meeting, CHS shall verify the license status of the selected Prime Contractor(s) and all subcontractor(s). In addition, CHS will conduct and print an Excluded Parties Listing search to verify that the Prime Contractor(s) and all subcontractor(s) are not on the Federal debarment list. In addition, CHS will conduct a search of the California Department of Industrial Relations debarment list.

Pre-construction Meeting

A CHS representative shall attend the pre-construction conference. CHS will document the Prime Contractor's attendance at the pre-construction meeting and shall place a copy of the minutes in the Project Labor Standards enforcement file. CHS will provide the Prime Contractor(s) with a packet of information that details the Davis-Bacon requirements and all of the necessary wage compliance forms. The following is a list of documents that are provided at all pre-construction meetings:

- Attendance Sheet/Wage Posters
- Certification for Applicable Fringe Benefit Payment
- Certificate of Understanding and Authorization
- Contractor Information Sheet
- Employee Information Sheet
- Minutes of the pre-construction meeting
- Federal Payroll Form
- Statement of Compliance
- Certification of Prevailing Wage and HUD Section 3 requirements

Payroll Monitoring

CHS will collect all certified payroll reports (CPR) from all Prime Contractor(s) and subcontractor(s) on a weekly basis. CHS will provide a thorough examination review of the weekly payroll earnings and deductions reports that are submitted and will compare them to the appropriate wage determination for prevailing wage compliance. CHS will verify that all non-tax deductions are legitimate and have been authorized by the employee or court decree. Furthermore, CHS will verify that workers have been properly paid for any overtime hours worked at the project.

Apprenticeship Program

CHS verifies, with the Federal Department of Labor, Employment and Training Administration, that any worker listed on the certified payroll that receives less than the published journeyman wage is registered in an approved apprenticeship program and is in possession of a formal certification. CHS verifies the appropriate journeyman to apprentice ratio.

On-Site Interviews

CHS will conduct interviews of laborers, mechanics and apprentices to verify the accuracy of wages being paid. On a periodic basis, on-site field inspections and random employee interviews are performed by bi-lingual CHS staff to detect non-compliance. Utilizing Federal "Record of Employee Interview", laborers are questioned to determine whether they are paid from another source, threatened, intimidated or coerced into giving up any part of their pay, if they are a new hire and/or if they are working in excess of forty hours per week. The interview records are reviewed and compared with the corresponding payroll records and kept in the project file and recorded on the Employee Interview Monitoring Sheet.

Mail Interviews

Utilizing the approved HUD form, CHS may also conduct a sampling of employee interviews by mailing questionnaires to employees working on the project. Mail questionnaires are bilingual and include job classification and wage rate information. Tracking of all mail questionnaires is performed by CHS. Returned questionnaires are noted on the Monitoring Sheet and compared with actual payroll earnings.

Non-Compliance

Any deficiencies in wage compliance will be brought to the immediate attention of the Prime Contractor(s) and the City of Long Beach. CHS conducts investigations in a fair and professional manner. Past investigations have resulted in numerous employees receiving proper payment for work performed on Federally- assisted projects. Such investigations have included:

- Review of preconstruction meeting minutes.
- Review of all payroll records including time cards signed by each worker.
- Review of the daily work logs maintained by the project's supervisor.
- One-on-one private interviews with workers that claim to have been underpaid.
- Telephone interviews with workers that claim to have been underpaid.
- Preparation of written statements signed by workers indicating the condition of their employment, the amount of underpayment, and/or other violations.
- Preparation of narrative summaries of facts/discrepancies as well as a complete calculation of the total underpayments.
- Coordination with appropriate government agencies (HUD, DOL) to conduct hearings, etc.

Compliance Reports

CHS will provide the City with a letter, on letterhead, stating the Prime Contractor's and each subcontractor's ability to, or failure to, comply with the Davis-Bacon requirements during the life of each project. CHS will also state that CHS has complied with, and has met all Federal requirements.

MONITORING STATE PREVAILING WAGE REQUIREMENTS

All laborers and mechanics employed by the Prime Contractor(s) and/or subcontractor(s) in the performance of certain construction work that is financed in whole or in part with State assistance are required to be paid at rates that are not less than those as determined by the California Department of Industrial Relations. CHS may assist the City of Long Beach in maintaining a policy of enforcing the highest wage as between the published Federal Department of Labor Wage Determinations and the California State Prevailing Wage Determinations as published by the California Department of Industrial Relations, Office of Policy, Research and Legislation.

CHS proposes to provide State Prevailing Wage Compliance services as follows:

Public Works Requirements

CHS shall assist the City in the on-line submission of the DIR-required PWC-100 form for each project.

CHS shall provide technical assistance to the Contractors and City staff regarding the State of California Department of Industrial Relations' (DIR) Contractor Registration database in order to comply with the DIR requirements to use only use registered Contractors and subcontractors as set forth in California Senate Bill 854.

CHS shall utilize the State of California Department of Industrial Relations' (DIR) Contractor Registration database to comply with the DIR requirements of the City to use only use registered Contractors and subcontractors as set forth in California Senate Bill 854.

Project File

CHS will establish and maintain a Project Labor Standards Enforcement/compliance administration file to document the project, including, but not limited to, the appropriate project wage decision and all other required State documents for all phases of each project.

Prior to the pre-construction meeting, CHS shall verify the license status of the selected Prime Contractor(s) and all subcontractor(s). CHS will conduct a search to verify that the Prime Contractor(s) and all subcontractor(s) are not on the California Department of Industrial Relations debarment list. In addition, CHS will conduct and print an Excluded Parties Listing search to verify that the Prime Contractor(s) and all subcontractor(s) are not on the Federal debarment list.

Pre-construction Meeting

A CHS representative shall attend the pre-construction conference. CHS will document the Prime Contractor's attendance at the pre-construction meeting and shall place a copy of the minutes in the Project Labor Standards enforcement file. CHS will provide the Prime Contractor(s) with a packet of information that details all of the State's Prevailing Wage requirements and all of the necessary wage compliance forms. The following is a list of documents that are provided at all pre-construction meetings:

- Attendance Sheet/Wage Posters
- Certification for Applicable Fringe Benefit Payment
- Certificate of Understanding and Authorization
- Contractor Information Sheet
- Employee Information Sheet
- Minutes of the pre-construction meeting
- State-DIR Payroll Form
- Statement of Compliance
- Certification of Prevailing Wage requirements
- DAS 140 and DAS 142
- CAC 2 form for Non-Union Contractors required to make training fund payments to the CAC

Payroll Monitoring

CHS will collect all certified payroll reports (CPR) from all Prime Contractor(s) and subcontractor(s) on a bi-weekly basis. CHS will provide a thorough examination review of the payroll earnings and deductions reports and will compare them to the appropriate wage determination for prevailing wage compliance. CHS will verify that all non-tax deductions are legitimate and have been authorized by the employee or court decree. Furthermore, CHS will verify that workers have been properly paid for any overtime hours worked at the project.

Apprenticeship Program

CHS verifies, with the State Division of Apprenticeship Standards, that any worker listed on the certified payroll that receives less than the published journeyman wage is registered in an approved apprenticeship program and is in possession of a formal certification. CHS verifies the appropriate journeyman to apprentice ratio. CHS will obtain proof that the necessary forms that the Prime Contractor(s) and subcontractor(s) have notified the local apprenticeship council about the project and will obtain proof of the payment of the training contribution over the course of the construction project.

On-Site Interviews

CHS will conduct interviews of laborers, mechanics and apprentices to verify the accuracy of wages being paid. On a periodic basis, on-site field inspections and random employee interviews are performed by bi-lingual CHS staff to detect non-compliance. Laborers are questioned to determine whether they are paid from another source, threatened, intimidated or coerced into giving up any part of their pay and/or if they are working in excess of forty hours per week. Copies of interview records are reviewed and compared with the corresponding payroll records and kept in the project file and recorded on the Employee Interview Monitoring Sheet.

Mail Interviews

CHS may also conduct a sampling of employee interviews by mailing questionnaires to employees working on the project. Mail questionnaires are bilingual and include job classification and wage rate information. Tracking of all mail questionnaires is performed by CHS. Returned questionnaires are noted on the Monitoring Sheet and compared with actual payroll earnings.

Non-Compliance

Any deficiencies in wage compliance will be brought to the immediate attention of the Prime Contractor and the City of Long Beach. CHS conducts investigations in a fair and professional manner. Past investigations have resulted in numerous employees receiving proper payment for work performed on Federal and State-assisted projects. Such investigations have included:

- Review of preconstruction meeting minutes.
- Review of all payroll records including time cards signed by each worker.
- Review of the daily work logs maintained by the project's supervisor.
- One-on-one private interviews with workers that claim to have been underpaid.
- Telephone interviews with workers that claim to have been underpaid.
- Preparation of written statements signed by workers indicating the condition of their employment, the amount of underpayment, and/or other violations.
- Preparation of narrative summaries of facts/discrepancies as well as a complete calculation of the total underpayments.
- Coordination with appropriate government agencies (Department of Industrial Relations) to conduct hearings, etc.

Compliance Reports

CHS will provide the City with a letter, on letterhead, stating the Prime Contractor's and sub-contractor's ability to, or failure to, comply with the State prevailing wage compliance requirements during the life of each project. CHS will also state that CHS has complied with, and has met all State requirements.

MONITORING DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION REQUIREMENTS

CHS will provide Disadvantaged Business Enterprise (DBE) monitoring services as follows:

- a. Collect and review the monthly DBE Utilization reports that are submitted by the Prime Contractor(s) and subcontractor(s) to track DBE utilization throughout the life of each project.
- b. Provide follow up contact with the Prime Contractor(s) and/or the City's Construction Management (CM) staff regarding any delinquent and/or inadequate DBE Utilization reports and/or underutilization of DBEs.
- c. Verify all payments made to eligible DBEs and ensure that the Prime Contractor is in compliance with the Prompt Payment provisions..
- d. Notify the City if the Prime Contractor(s) or subcontractor(s) are willfully non-compliant with the City's DBE utilization requirements and/or the submittal of DBE Utilization reports.
- e. Working with the City's Construction Management (CM), evaluate any DBE subcontractor substitution requests that may be submitted by the Prime Contractor to indicate proof of the Prime Contractor's attempt to substitute a DBE with another eligible DBE.
- f. Review and submit the final report of DBE utilization that is prepared by the Prime Contractor at contract closeout. Record and report the final percent of DBE that was attained.

DISADVANTAGED BUSINESS ENTERPRISE ANNUAL GOAL SETTING
AND PROJECT BASED GOAL SETTING

CHS will:

- a. Collect applicable information from various databases to assure that the City is in compliance with Title 49, CFR, Part 26.
- b. Assist the City in completing the Annual Exhibit 9-B DBE form.
- c. For each project, collect applicable information from various DBE databases to determine an appropriate DBE goal.
- d. Assist the City's project staff to evaluate the applicability of the goals that are set for each project.
- e. Collect applicable information from the various DBE databases to determine an appropriate goal.
- f. Work with City staff to evaluate the applicability of the goals per project.
- g. Complete Exhibit 9-D for Federally-funded construction projects greater than \$2 million and Consultant contracts greater than \$500,000.

CONDUCT TRAINING WORKSHOPS FOR DBE AND PREVAILING WAGE COMPLIANCE REQUIREMENTS

CHS will conduct workshop(s) as directed by City staff.

Each workshop shall be 3-4 hours in duration and will include the following:

- a. Power Point presentation.
- b. Training manual on aspects of contract compliance, including new race-conscious DBE Program requirements.
- c. Handouts

Training topics will include:

- a. DBE Program elements and documentation submittal requirements)
- b. How to locate DBEs to meet DBE contract goals
- c. How to obtain DBE certification
- d. How to conduct and document a Good Faith Effort(s)
- e. How to comply with Federal and/or State prevailing wage requirements
- f. Definitions
- g. Apprenticeship, Federal and State requirements

COMMUNITY WORK FORCE AGREEMENT/PROJECT LABOR
AGREEMENT MONITORING – PLA COORDINATOR

CHS will provide guidance to Contractors regarding the City's PLA and its operation and will conduct initial briefings of contractors about how the City's PLA applies. CHS will familiarize contractors with PLA rules and assure contractor understanding and adherence to all appropriate practices.

Over the course of each construction project subject to the PLA, CHS will maintain open and regular lines of communication with Unions, Prime Contractor(s) and subcontractors to avoid potential work disruption. CHS will prepare an agenda, coordinate (distribute notices) and conduct regular progress meetings to discuss any general labor management issues.

Working with the City's Construction Management (CM), CHS may prepare a schedule of the Project Work as well as an estimate of the number of craft workers needed.

During construction projects, CHS will collect data from contractors regarding the recruitment of local workers on the project and contact with the Pacific Gateway Network, local technical and vocational schools and community-based organizations for maximize resident participation.

CHS will review apprenticeship programs for the purpose of maximizing local resident participation in such established, approved training programs and identify the availability of local workers for dispatch. CHS will prepare quarterly reports on apprentice utilization and the training and employment of City residents on each PLA-covered project.

CHS will prepare monthly written reports that include:

- a. Number of total employees per project
- b. Number of employees residing within City limits
- c. Number of new hires per reporting period
- d. Number of new hires that are City residents
- e. Summary of all hours worked
- f. Hourly wage of each local hire
- g. Length of employment for each local hire
- h. Other data, as required

In addition, CHS may oversee the processing of any PLA grievances including the scheduling, arrangement of the facilities for meeting and attend such meetings.

WHY CONSULTANT IS QUALIFIED TO PROVIDE SERVICES

CHS has over 24 years of experience in providing Federal and State Prevailing Wage compliance monitoring, HUD Section 3 compliance monitoring, Federal DBE Compliance reporting and technical training,

CHS has provided such monitoring services for hundreds of affordable housing (new construction and rehabilitation), public works (library, parking structures, and transportation centers), highway and street improvements, as well as public facilities (Senior Center) projects, large (\$350 million) and small (\$4,000), with bi-lingual capabilities.

In 2008, CHS was **certified by the State of California, DIR as a Third-Party Labor Compliance Program (LCP)**. Such designation currently enables CHS to serve as a LCP for State Prop 84-funded projects.

Since 1991, CHS has performed all elements of the City's scope of work including Federal & State prevailing wage compliance monitoring, HUD Section 3 monitoring, investigation, training, HUD, DOL, DOT, DIR and Caltrans audit, reporting, and training development and delivery.

The following is a description of several key projects that help to document why CHS is qualified to provide Compliance Monitoring Services to the City of Long Beach.

CITY OF SANTA MONICA - VILLAGE AT SANTA MONICA

This \$350 million new construction project mixed 158 luxury condominiums with 160 affordable housing units in a cluster of buildings that are up to 10 stories high. Shops and restaurants lined the ground floor. In addition, public plazas and gardens were installed, along with a large public walkway.

CHS monitored DIR certified payroll reports submitted by the prime contractor and 107 sub contractors over the 36 month construction period as follows:.

Verification of the General Contractor and each subcontractor:

- ❖ Valid Contractor's License
- ❖ State Contracting Eligibility
- ❖ Current General Liability Insurance
- ❖ Current Worker's Compensation Insurance

Employee Interviews:

- ❖ Onsite Employee Interviews
- ❖ At Home Employee Interviews (via mail)

Review of Certified Payrolls:

- ❖ Payment of Prevailing Wages
- ❖ Payment of Prevailing Overtime Wages
- ❖ Fringe Benefit Payments
- ❖ Appropriate Worker Classification
- ❖ Employee Payroll Deductions
- ❖ Registration status of all Apprentices paid below the journeyman wage rate
- ❖ Journeyman to Apprentice Ratio
- ❖ Comparison of the Certified Payrolls with the interview information
- ❖ Comparison of the Certified Payrolls with the project sign in sheets

Investigation of Underpayment:

- ❖ Calculate unreported and/or misclassified hours / wages owed after review of onsite interviews and project sign-in sheets
- ❖ Obtain restitution payroll plus proof of payment for wages owed to workers
- ❖ Locate "unfound" workers through our computerized tracking system

Preparation of reports as follows:

- ❖ Project Status reports (monthly)
- ❖ Final Compliance Certification

EXHIBIT "B"

Rates or Charges

Request for Proposal
Number FM-15-084

Professional Services For

Compliance Monitoring

- HUD Section 3
- State and Federal (Davis-Bacon) Prevailing Wage Labor Compliance
- City-Wide Community Workforce Agreement/PLA
- Federal Disadvantaged Business Enterprise (DBE) Participation Reporting

Compliance Training

- Workshops for large contractors, DBE prime contractors and sub contractors

FEE SCHEDULE

In return for the professional and technical services provided by Comprehensive Housing Services, Inc. (CHS), hourly rates shall be charged to the City of Long Beach pursuant to the following schedule:

- A. For professional services to perform Davis-Bacon and State prevailing wage compliance monitoring and Federal (HUD) Section 3 compliance monitoring, the hourly rates that will be charged by CHS are as follows:

Labor Category	Hourly Rate
Labor Compliance Officer	\$ 85.00
Senior Associate	\$ 75.00
On-site Interviewer	\$ 75.00
Compliance Specialist	\$ 65.00
Clerical Support	\$ 45.00

A fixed price for each project will be provided, based on the type of construction, the length of the construction period, whether the selected contractor is a union contractor as well as other factors.

- B. For professional services to perform compliance monitoring services for Disadvantaged Business Enterprises (DBE) as required by the Federal Department of Transportation's Financial Assistance Programs and/or Caltrans, including annual reports, the hourly rates that will be charged by CHS are as follows:

Labor Category	Hourly Rate
Senior Associate	\$ 75.00
Compliance Specialist	\$ 65.00
Clerical Support	\$ 45.00

A fixed price for each project will be provided, based on the length of the construction period as well as other factors.

- C. For the preparation and delivery of a DBE and Prevailing Wage Compliance Training Workshop for Contractors, the hourly rate that shall be charged by CHS is \$95.00 per hour, not to exceed \$2,500 per training workshop. Additional costs for printing, binders, handouts, etc. will be based on the number of participants.
- D. For professional services to perform Project Labor Agreement (PLA) monitoring services, the hourly rates that will be charged by CHS are as follows:

Labor Category	Hourly Rate
PLA Coordinator	\$ 85.00
Construction Specialist	\$ 75.00
Clerical Support	\$ 45.00

A fixed price for each project will be provided based on the type of construction, the length of the construction period as well as other factors

- E. Transportation costs – No charge
- F. Copy costs - \$.05 per page
- G. Postage/delivery – actual cost

EXHIBIT “C”

City’s Representative:

Jason MacDonald, Purchasing and Business
Services Manager

(562) 570-6663

EXHIBIT “D”

Materials/Information Furnished: None