

AGREEMENT

34110

THIS AGREEMENT is made and entered, in duplicate, as of October 15, 2015, for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on July 21, 2015, by and between HARRIS & ASSOCIATES, INC., a California corporation ("Consultant"), with a place of business at 22 Executive Park, Suite 200, Irvine, California 92614, and the CITY OF LONG BEACH, a municipal corporation ("City").

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

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

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

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

1. SCOPE OF WORK OR SERVICES.

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

B. The City's obligation to pay the sum stated above for any one 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.

7 3. COORDINATION AND ORGANIZATION.

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

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

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

1 the usual and customary rights, benefits or privileges of City employees. Consultant
2 expressly warrants that neither Consultant nor any of Consultant's employees or agents
3 shall represent themselves to be employees or agents of City.

4 5. INSURANCE.

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

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

27 (b) Workers' Compensation insurance as required by the California
28 Labor Code and employer's liability insurance in an amount not less than

1 \$1,000,000. This policy shall be endorsed to state that the insurer waives
2 its right of subrogation against City, its boards and commissions, and their
3 officials, employees and agents.

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

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

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

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

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

28 E. Consultant shall require that all subconsultants or contractors

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

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

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

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

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

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

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

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

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

1 shall survive termination of this Agreement for five (5) years.

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

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

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

26 13. ADDITIONAL COSTS AND REDESIGN.

27 A. Any costs incurred by City due to Consultant's failure to meet
28 the standards required by the scope of work or Consultant's failure to perform fully

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

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

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

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

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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.

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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 23. COPYRIGHTS AND PATENT RIGHTS.

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

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

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

15 24. COVENANT AGAINST CONTINGENT FEES. Consultant warrants
16 that Consultant has not employed or retained any entity or person to solicit or obtain this
17 Agreement and that Consultant has not paid or agreed to pay any entity or person any fee,
18 commission or other monies based on or from the award of this Agreement. If Consultant
19 breaches this warranty, City shall have the right to terminate this Agreement immediately
20 notwithstanding the provisions of Section 10 or, in its discretion, to deduct from payments
21 due under this Agreement or otherwise recover the full amount of the fee, commission or
22 other monies.

23 25. WAIVER. The acceptance of any services or the payment of any
24 money by City shall not operate as a waiver of any provision of this Agreement or of any
25 right to damages or indemnity stated in this Agreement. The waiver of any breach of this
26 Agreement shall not constitute a waiver of any other or subsequent breach of this
27 Agreement.

28 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.

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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 HARRIS & ASSOCIATES, INC., a
4 California corporation

5 _____, 2015

By CDunne

Name Chris Dunne

Title Vice President

7 _____, 2015

By Gary S. Wohl

Name Gary S. Wohl

Title President / CFO

9 "Consultant"

10 CITY OF LONG BEACH, a municipal
11 corporation

12 November 21, 2015

By TZBull

City Manager

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

Assistant City Manager

14 "City"

15 This Agreement is approved as to form on 11-10, 2015.

17 CHARLES PARKIN, City Attorney

18 By Charles Parkin

Deputy

EXHIBIT “A”

Scope of Work

9. Resumes for the key staff to be responsible for performance of any contract resulting from this RFP

The Harris team is committed to work hand in hand with the City and all of your stakeholders. We understand the importance of fiscal prudence and our team is devoted to being a responsible steward of every dollar entrusted by the taxpayers to the City. This team will operate at all levels with responsibility and transparency and look forward to assisting the City.

Team resumes are included at the end of this section.

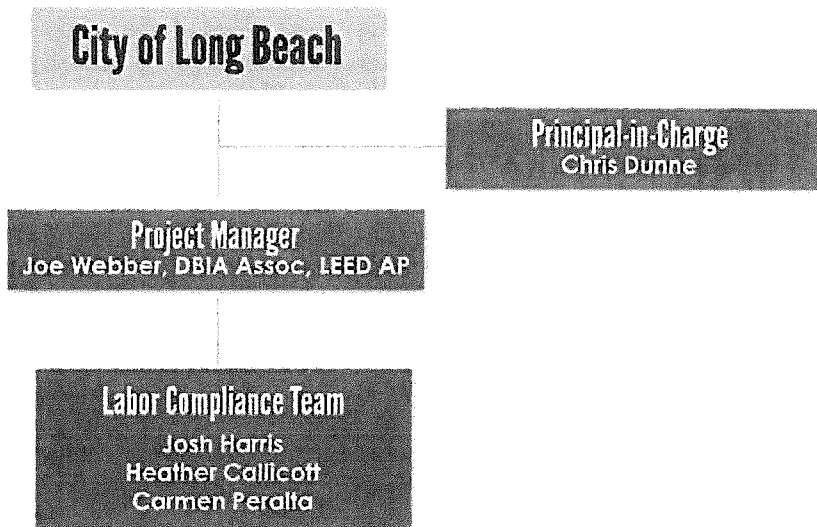
10. Demonstrated Competence

Project Approach

The Harris Team has developed policies and procedures to responsibly monitor, analyze, and inform the labor laws that dictate our client's obligations to the DIR. The labor compliance team conducts audits and acts in accordance with California Labor Code Sections 1720 through 1815 and 2750.5, and California Code of Regulations Title 8, Division 1, Chapter 8, Sections 16000 through 16802 and 17201 through 17270. The Harris labor compliance team will also monitor Contractor State Licenses, Worker's Compensation requirements, and the DIR's SB 854 Contractor Registration requirements.

Harris' Labor Compliance Team will:

- Make sure there are prevailing wage requirements on public works construction projects.
- Inform contractors about their prevailing wage obligations from preconstruction through entire length of project.
- Continually monitor Certified Payroll submissions by all contractors (prime, sub and sub-tier).
 - * Audit all Certified Payroll Reports for correct prevailing wage payments to employees.
 - * Make sure payments, deductions and contributions are appropriately compensated.
- Review all required documentation submitted to awarding body.
 - * DAS 140 – Public Award Contract Award Information.
 - * Confirm contractor compliance with contract mandated apprentice ratios.
 - * Verify Fringe Benefit payments to workers using Fringe Benefit Statement.
 - * Authenticate training contributions - CAC2 or equal.
 - * Apprenticeship Forms DAS 1 & 7, if required.
- * Conduct and review worker interviews and investigate possible prevailing wage violations and verify accuracy of contractor's payrolls.
- * Monitor contractor's license and workers compensation status.
- Investigate complaints and other suspected violations.



HUD Section 3

- Monitor and document all contractor's efforts and projections to HUD Section 3 requirements to clients Section 3 coordinator prior to start of project.
- Collect contractor's documents and monitor efforts to obtain of all required ratios in accordance with 24 CFR Part 135.
- Collect and verify employee documentation.
- Document contractor's efforts to fulfill HUD Section 3 requirements.

11. Financial Stability

Harris & Associates has provided quality design and engineering services for over 40 years and is now in three western states. Our growth and expansion has been financed internally by reinvested earnings made possible by a strong cash position and balance sheet. No conditions such as pending litigation, bankruptcy, office closures, or mergers exist that would impede our ability to complete the project.

12. Litigation

Firm's History of Litigation, Arbitration and Mediation for the last three (3) years (2012-2015)

Harris' reputation as problem-solvers is reflected in our record with minimal litigation and no litigation for any of our projects. Additionally, we have not defaulted on a project, declared bankruptcy, or been placed in receivership. Below, please find a list of pending and resolved litigations.

The majority of lawsuits involving Harris & Associates are initiated from cross complaints resulting from contract indemnification language, and the majority of these complaints are dismissed. The lawsuits where Harris made a settlement payment in the past five years are listed below. No litigation has ever impeded our ability to perform services to our clients, and Harris has never initiated a lawsuit against any client or public agency.

Pending Litigation:

1. City of Piedmont – Harris received a demand for mediation and arbitration from the City of Piedmont regarding the City's cost overruns associated with certain work within the Piedmont Hills Assessment District. Harris was not the engineer of record. Harris had been under contract as the City Engineer for approximately 20 years prior to start of this project. Matter is progressing slowly. Harris is exploring settlement options with the City

Resolved Litigations:

2. City of Mill Valley – Claimant fell into a drainage culvert and alleged physical injury and other damages. A portion of the accident site was privately owned and remaining site is owned by the City. In April 2012, case settled in mediation and Harris contributed to the settlement.
3. Los Angeles Community College District – The suit originated with the union labor pension group filing suit against the Subcontractor for failing to pay Union dues. The Subcontractor filed suit against the general contractor, Harris and District alleging that they could not pay the dues because they were not paid and are entitled to back change order work. Because of no appearance by Subcontractor at the State court and no appeal was filed, State Court action was dismissed. Request for dismissal at the Federal Court was also granted. Case closed in May 2013.

Joe Webber, Assoc. DBIA, LEED AP Project Manager

Joe has 15 years of construction management experience on projects valued up to \$90 million. He has successfully delivered projects using design build, design bid build and lease-lease back project delivery methods. At the Los Angeles City College Measure J Bond program, Joe provided management and coordination of design-build and design-bid-build projects valued up to \$23 million, including the campus Central Plant and Infrastructure Upgrade, Science and Technology Building, Health, Fitness and Physical Education Building inclusive of an NCAA-rated swimming facility, Dental Technology Facility, Nursing Education Facility, and Chemistry and Biology Labs.

Joe is currently the project manager for the City of Long Beach On-Call Project/Construction Management contract. It is from his relationships with City staff that he learned the two most important attributes required for success on your projects: communication and responsiveness.

EDUCATION

MBA, Business Administration

BS, Business Management

CERTIFICATIONS

Design Build Institute of America, Associate DBIA (since 2012)

USGBC, LEED Accredited Professional (since 2009)

OSHA 30-Hour

AFFILIATIONS

Construction Management Association of America

Design-Build Institute of America

Relevant Experience

County of San Diego, Labor Compliance Services for the Design Build of the Cedar and Kettner Parking Structure. Senior Project Manager. The Harris team is providing labor compliance services, in addition to project and construction management support for the construction of a 645 space 10 level (3 levels subterranean) parking structure on a contaminated site ("Brown Field") and well below the water table.

Joe worked closely with the County's staff and consultants in developing the project's design criteria while addressing multiple coordination issues to include the presence of a 12" high pressure gas line, a historical building on site, and close site orientation to an existing heavy and light rail corridor. Joe's efficient project management methodology contributed significantly to the timely completion of the project's design criteria and advertisement as a design build project. Joe participated as a technical advisor during selection of the design build entity and contract negotiations.

City of Long Beach, On-Call Project/Construction Management Services for Tidelands Division. Project Manager. Joe is managing the on-call project/construction management contract. Projects include restroom renovations, deck replacement, dock expansions, and building renovations.

Josh Harris

Labor Compliance Specialist

Josh is experienced verifying all subconsultant's labor compliance documentation and insurance certificates as well as reviewing subconsultant certified payroll reports to ensure compliance with State and Federal Labor laws; approving subconsultant's monthly billings; and communicating with subconsultant's noncompliance issues; and providing assistance in resolving documentation.

Relevant Experience

San Diego Unified School District, *Labor Compliance Services for Proposition "S."* Senior Labor Compliance Specialist. The team is providing services for this 5-year, \$500M contract for more than 120 schools throughout the District. Josh is verifying all subconsultant's labor compliance documentation and insurance certificates as well as reviewing subconsultant certified payroll reports to ensure compliance with State and Federal Labor laws. Josh provides amounts to withhold for non-compliance; and communicates with subconsultants any noncompliance issues and providing assistance in resolving documentation. He also provides assistance with legal proceedings, complaints and contractors discrepancies.

City of Temecula, *Labor Compliance Services for French Valley Parkway Phase 1.* Labor Compliance Officer. Josh performed an in-depth analysis of all contractors required documents for State Prevailing wage under Caltrans oversight. Josh conducted the labor compliance portion of the pre-construction conference to notify all contractors and subs of requirements. He verified contractors payment to workers through certified payroll, compared hours worked through daily reports, confirmed contractors eligibility, substantiated apprenticeship requirements and authenticated registration in approved apprenticeship programs. Josh provided the client with monthly reports of compliance status of each contractor and all sub-contractors, and advise the client of any prevailing wage, insurance, worker's compensation and labor law violations.

EDUCATION

BS, Business Administration,
Business Management

Construction Management
Certificate (in Progress)

CERTIFICATIONS

California OSHA, 10-Hour
Construction Certificate

TRAINING

CMAA, Professional
Construction Management
Course

Carmen Peralta

Labor Compliance Specialist

Carmen has over 16 years of experience in the construction field. She has experience creating payroll reports for projects; and as a General Contractor has overseen all prevailing wage reports for hundreds of subcontractors. Carmen has a strong knowledge of the rules and regulations imposed by CA DIR, Davis Bacon Act, HUD funded projects, and Tribal funded projects in regards to prevailing wages. She has provided assistance to clients in settlement meetings with contractors and attorneys. She is also bilingual in English and Spanish.

Relevant Experience

San Diego Unified School District, *Labor Compliance Services for Proposition "S."* Labor Compliance Specialist. Carmen provided labor compliance services for the following projects:

- Point Loma High School
- CPMA Performing Arts
- Knox Middle School
- Language Academy
- Encanto Elementary School

Port of San Diego, *On-Call Construction Management Services.* Labor Compliance Specialist. Carmen provided labor compliance services for the Broadway Pier Cruise Ship Terminal.

County of San Diego, *Labor Compliance for Public Works Projects.* Labor Compliance Specialist. Carmen provided services labor compliance services for the following projects throughout San Diego County:

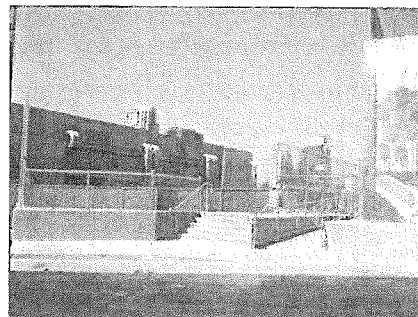
- Seniors on Broadway, Housing Development, Chula Vista, CA
- Sharp Hospital, San Diego, CA
- Crown Preschool, Coronado Unified School District, Coronado, CA

Jaynes Corporation of California, *Labor Compliance Services.* Project Coordinator. Carmen was responsible for reviewing and processing all payroll reports for State Prevailing Wage and Davis Bacon. She reviewed wage rates and predetermined increases for each classification. She ascertained that all required documentation was also submitted (i.e. DAS 140, DAS 142, Fringe Benefit Statement, CAC 2 reports or other). Carmen taught and trained subcontractors on prevailing wage requirements. Furthermore, she managed and reviewed all insurance certificates bonds, contracts and change orders for all subcontractors.

SECTION 3: REFERENCES

Proposition “S” Supplemental Support Services, San Diego Unified School District

Harris is under contract to provide staff augmentation support services related to the implementation of the \$2.35B Proposition “S” Bond program. The capital construction program is being implemented over the course of 10 to 12 years. The labor compliance team is verifying all subconsultant’s labor compliance documentation and insurance certificates as well as reviewing subconsultant certified payroll reports to ensure compliance with State and Federal Labor laws. We provide amounts to withhold for non-compliance, communicate non-compliance issues with subconsultants, and provide assistance in resolving documentation. The team is also providing assistance with legal proceedings, complaints and contractors discrepancies.



Project Dates: 2/2012 – Ongoing
Technical Environment: Construction management & labor compliance
Staff Assigned: Chris Dunne, Josh Harris, Heather Callicott, Carmen Peralta
Client Reference: George Harris, Contracts Compliance Officer, (858) 637-6269

Design/Build of the Cedar and Kettner Parking Garage, County of San Diego

This is a 10-level parking garage located in the Little Italy section of San Diego. The new structure provides 645 parking spaces. It is located in very close proximity to residential and commercial buildings on a constrained urban site. Due to the large number of subconsultants, the team conducted a labor compliance review performed on three key subconsultants.

Project Dates: 7/2012 – Ongoing
Technical Environment: Construction management & labor compliance
Staff Assigned: Joe Webber, Heather Callicott
Client Reference: Tom Fincher, Chief Project Management, (858) 694-2153

French Valley Parkway/I-15 Overcrossing, City of Temecula

The project widened the existing southbound I-15, installed an additional southbound offramp at French Valley Parkway, extended the new parkway to Jefferson St., and improved that intersection. The Harris team performed an in-depth analysis of all contractors required documents for State Prevailing wage under Caltrans oversight. The team conducted the labor compliance portion of the pre-construction conference to notify all contractors and subs of requirements. Harris verified contractor’s payment to workers through certified payroll, compared hours worked through daily reports, confirmed contractor’s eligibility, substantiated apprenticeship requirements, and confirmed registration in approved apprenticeship programs. The team provided the City with monthly reports of compliance status of each contractor and all sub-contractors, and advise the client of any prevailing wage, insurance, worker’s compensation and labor law violations.

Project Dates: 1/2012 – 6/2014
Technical Environment: Construction management & labor compliance
Staff Assigned: Josh Harris
Client Reference: Avlin Odviar, Project Manager, (951) 693-3969

Additional Labor Compliance Experience

Harris has provided labor compliance services for the following agencies:

- * County of San Diego, Labor Compliance Review for the San Pascal Academy Project
- * City of Bakersfield, Prevailing Wage, Construction Monitoring, Tracking & Auditing Services
- * Butte-Glenn Community College District, Instructional Arts Building Project
- * Cooper Mountain Community College District, Multi-Use Sports Facility, Labor Compliance Management Services
- * Madera County Office of Education, Labor Compliance Program
- * Marysville Joint Unified School District, Labor Compliance Program Services
- * Mendota Unified School District, New Junior High School
- * Monterey Peninsula Unified School District, Labor Compliance Services
- * San Leandro Unified School District, Measure B Bond Program
- * San Leandro Unified School District, Measure M Projects

EXHIBIT “B”

Rates or Charges



Harris & Associates

City of Long Beach

RFP # FM15-084

Compliance Monitoring Services Rates

Position	Rate
Sr. Project Manager	\$ 178.00
Labor Compliance Manager	\$ 98.00

EXHIBIT “C”

City’s Representative:

Jason MacDonald, Purchasing and Business
Services Manager

(562) 570-6663

EXHIBIT “D”

Materials/Information Furnished: None