

**CONTRACT RESULTING FROM REQUEST FOR PROPOSAL NUMBER 10090448-26-K AED's & Related
Supplies and San Diego Project Heart Beat Sponsorship REBID**

This Contract (Contract) is entered into by and between the City of San Diego, a municipal corporation (City), and the successful proposer to Request for Proposal (RFP) # 10090448-26-K AED's & Related Supplies and San Diego Project Heart Beat Sponsorship REBID (Contractor).

RECITALS

On or about 10/1/2025 City issued an RFP to prospective proposers for services to be provided to the City. The RFP and any addenda and exhibits thereto are collectively referred to as the "RFP." The RFP is attached hereto as Exhibit A.

City has determined that the Contractor has the expertise, experience, and personnel necessary to provide the Automated External Defibrillation (AED) equipment needs outlined in the RFP.

City wishes to retain Contractor to provide the AED equipment needs and enter into a Marketing Partnership Agreement as further described in the Scope of Work, attached hereto as Exhibit B. (Services).

For good and valuable consideration, the sufficiency of which is acknowledged, City and Contractor agree as follows:

**ARTICLE I
CONTRACTOR SERVICES**

1.1 Scope of Work. Contractor shall provide the AED equipment and related supplies to the City and enter into a Marketing Partnership Agreement as described in Exhibit B, which is incorporated herein by reference. Contractor will submit all required forms and information described in Exhibit A to the Purchasing Agent before providing Services.

1.2 General Contract Terms and Provisions. This Contract incorporates by reference the City's General Contract Terms and Provisions, attached hereto as Exhibit C.

1.3 Contract Administrator. The City's Fire-Rescue Department (Department) is the Contract Administrator for this Agreement. Contractor shall provide the Services under the direction of a designated representative of the Department as follows:

Maureen O'Connor, Program Manager
600 B St, 12th floor Mail Station 603
San Diego CA, 92101
619-243-0911
moconnor@sandiego.gov

**ARTICLE II
DURATION OF CONTRACT**

2.1 Term. This Contract shall be for a period of two (2) years with three (3) optional one (1) year extensions beginning on April 22, 2026, unless otherwise terminated. The term of this Contract shall not exceed five years unless approved by the City Council by ordinance.

2.2 Effective Date. This Contract shall be effective on the date it is executed by the last Party to sign the Contract and approved by the City Attorney in accordance with San Diego Charter Section 40.

ARTICLE III COMPENSATION

3.1 Amount of Compensation. City shall pay Contractor for performance of all Services rendered in accordance with this Contract in an amount not to exceed \$_____.
(The not to exceed amount will be added in this final Contract prior to the final execution of the Contract by the City, with the Contractor's initials indicating acceptance.)

ARTICLE IV WAGE REQUIREMENTS

4.1 Reserved.

ARTICLE V CONTRACT DOCUMENTS

5.1 Contract Documents. The following documents comprise the Contract between the City and Contractor: this Contract and all exhibits thereto, the RFP; the Notice to Proceed; and the City's written acceptance of exceptions or clarifications to the RFP, if any.

5.2 Contract Interpretation. The Contract Documents completely describe the Services to be provided. Contractor will provide any Services that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result whether or not specifically called for or identified in the Contract Documents. Words or phrases which have a well-known technical or construction industry or trade meaning and are used to describe Services will be interpreted in accordance with that meaning unless a definition has been provided in the Contract Documents.

5.3 Precedence. In resolving conflicts resulting from errors or discrepancies in any of the Contract Documents, the Parties will use the order of precedence as set forth below. Inconsistent provisions in the Contract Documents that address the same subject, are consistent, and have different degrees of specificity, are not in conflict and the more specific language will control. The order of precedence from highest to lowest is as follows:

- 1st Any properly executed written amendment to the Contract;
- 2nd The Contract;
- 3rd The RFP and the City's written acceptance of any exceptions or clarifications to the RFP, if any;
- 4th Contractor's Proposal

5.4 Counterparts. This Contract may be executed in counterparts which, when taken together, shall constitute a single signed original as though all Parties had executed the same page.

5.5 Public Agencies. Other public agencies, as defined by California Government Code section 6500, may choose to use the terms of this Contract, subject to Contractor's acceptance. The City is not liable or responsible for any obligations related to a subsequent Contract between Contractor and another public agency.

IN WITNESS WHEREOF, this Contract is executed by City and Contractor acting by and through their authorized officers.

CONTRACTOR

CITY OF SAN DIEGO
A Municipal Corporation

Proposer

BY:

Street Address

Print Name:

City

Director, Purchasing & Contracting Department

Telephone No.

Date Signed

E-Mail

BY:

Signature of
Proposer's Authorized
Representative

Approved as to form this ____ day of

_____, 20____.
HEATHER FERBERT, City Attorney

Print Name

BY:_____
Deputy City Attorney

Title

Date

EXHIBIT A
PROPOSAL SUBMISSION AND REQUIREMENTS

A. PROPOSAL SUBMISSION

1. Timely Proposal Submittal. Proposals must be submitted as described herein to the Purchasing & Contracting Department (P&C).

1.1 Reserved.

1.2 Paper Proposals. The City will accept paper proposals in lieu of eProposals. Paper proposals must be submitted in a sealed envelope to the Purchasing & Contracting Department (P&C) located at 1200 Third Avenue, Suite 200, San Diego, CA 92101. The Solicitation Number and Closing Date must be referenced in the lower left-hand corner, on the outside of the envelope. Faxed proposals will not be accepted.

1.3 Proposal Due Date. Proposals must be submitted prior to the Closing Date indicated on the eBidding System. E-mailed and/or faxed proposals will not be accepted.

1.4 Pre-Proposal Conference. Pre-Proposal conference information is noted on the eBidding System.

- 1.4.1** Bidders are encouraged to attend the pre-proposal conference. Failure to attend does not relieve proposer of the responsibility to comprehend the requirements of this RFP and addenda and does not relieve Contractors to perform in accordance with the Contract.

1.5 Questions and Comments. Written questions and comments must be submitted electronically via the eBidding System no later than the date specified on the eBidding System. Only written communications relative to the procurement shall be considered. The City's eBidding System is the only acceptable method for submission of questions. All questions will be answered in writing. The City will distribute questions and answers without identification of the inquirer(s) to all proposers who are on record as having received this RFP, via its eBidding System. No oral communications can be relied upon for this RFP. Addenda will be issued addressing questions or comments that are determined by the City to cause a change to any part of this RFP.

1.6 Contact with City Staff. Unless otherwise authorized herein, proposers who are considering submitting a proposal in response to this RFP, or who submit a proposal in response to this RFP, are prohibited from communicating with City staff about this RFP from the date this RFP is issued until a contract is awarded.

2. Proposal Format and Organization. Unless electronically submitted, all proposals should be securely bound and must include the following completed and executed forms and information presented in the manner indicated below:

Tab A - Submission of Information and Forms.

2.1 Completed and signed Contract Signature Page. If any addenda are issued, the latest Addendum Contract Signature Page is required.

2.2 Exceptions requested by proposer, if any. The proposer must present written factual or legal justification for any exception requested to the Scope of Work, the Contract, or the Exhibits thereto. Any exceptions to the Contract that have not been accepted by the City in writing are deemed rejected. The City, in its sole discretion, may accept some or all of proposer's exceptions, reject proposer's exceptions, deem the proposal non-responsive based on the exceptions requested, or award the Contract without proposer's proposed exceptions. The City will not consider exceptions addressed elsewhere in the proposal.

2.3 The Contractor Standards Pledge of Compliance Form.

2.4 Equal Opportunity Contracting forms including the Work Force Report and Contractors Certification of Pending Actions.

2.5 Reserved.

2.6 Manufacturer's Price List.

2.7 Reserved.

2.8 Additional Information as required in Exhibit B.

2.9 Reserved.

Tab B – Executive Summary and Responses to Specifications.

2.10 A title page.

2.11 A table of contents.

2.12 An executive summary, limited to one typewritten page, that provides a high-level description of the proposer's ability to meet the requirements of the RFP and the reasons the proposer believes itself to be best qualified to provide the identified services.

2.13 Proposer's response to the RFP.

Tab C – Cost/Price Proposal (if applicable). Proposers shall submit a cost proposal in the form and format described herein. Failure to provide cost(s) in the form and format requested may result in proposal being declared non-responsive and rejected.

Tab D – Acceptance of Participation in Marketing Partnership Agreement. Proposer shall submit a notice of acceptance of its participation in the City's Marketing Partnership Agreement, as outlined in Exhibit B, section D, of this RFP. Failure to provide notice of the acceptance of proposer's participation in the City's Marketing Partnership may result in proposal being declared non-responsive and rejected.

Along with this notice of acceptance, Proposer shall submit any requested exceptions to the Marketing Partnership Agreement. Any exceptions to the Marketing Partnership Agreement that have not been accepted by the City in writing are deemed rejected. The City, in its sole discretion, may accept some or all of proposer's exceptions, reject proposer's

exceptions, and deem the proposal non-responsive, or award the Contract without proposer's proposed exceptions. The City will not consider exceptions addressed elsewhere in the proposal.

3. Proposal Review. Proposers are responsible for carefully examining the RFP, the Specifications, this Contract, and all documents incorporated into the Contract by reference before submitting a proposal. If selected for award of contract, proposer shall be bound by same unless the City has accepted proposer's exceptions, if any, in writing.

4. Addenda. The City may issue addenda to this RFP as necessary. All addenda are incorporated into the Contract. The proposer is responsible for determining whether addenda were issued prior to a proposal submission. Failure to respond to or properly address addenda may result in rejection of a proposal.

5. Quantities. The estimated quantities provided by the City are not guaranteed. These quantities are listed for informational purposes only. Quantities vary depending on the demands of the City. Any variations from the estimated quantities shall not entitle the proposer to an adjustment in the unit price or any additional compensation.

6. Quality. Unless otherwise required, all goods furnished shall be new and the best of their kind.

6.1 Items Offered. Proposer shall state the applicable trade name, brand, catalog, manufacturer, and/or product number of the required good, if any, in the proposal.

6.2 Brand Names. Any reference to a specific brand name in a solicitation is illustrative only and describes a component best meeting the specific operational, design, performance, maintenance, quality, or reliability standards and requirements of the City. Proposer may offer an equivalent or equal in response to a brand name referenced (Proposed Equivalent). The City may consider the Proposed Equivalent after it is subjected to testing and evaluation which must be completed prior to the award of contract. If the proposer offers an item of a manufacturer or vendor other than that specified, the proposer must identify the maker, brand, quality, manufacturer number, product number, catalog number, or other trade designation. The City has complete discretion in determining if a Proposed Equivalent will satisfy its requirements. It is the proposer's responsibility to provide, at their expense, any product information, test data, or other information or documents the City requests to properly evaluate or demonstrate the acceptability of the Proposed Equivalent, including independent testing, evaluation at qualified test facilities, or destructive testing.

7. Modifications, Withdrawals, or Mistakes. Proposer is responsible for verifying all prices and extensions before submitting a proposal.

7.1 Modification or Withdrawal of Proposal Before Proposal Opening. Prior to the Closing Date, the proposer or proposer's authorized representative may modify or withdraw the proposal by providing written notice of the proposal modification or withdrawal to the City Contact via the eBidding System. E-mail or telephonic withdrawals or modifications are not permissible.

7.2 Proposal Modification or Withdrawal of Proposal After Proposal Opening. Any proposer who seeks to modify or withdraw a proposal because of the proposer's inadvertent computational error affecting the proposal price shall notify the City Contact identified on the eBidding System no later than three working days following the Closing

Date. The proposer shall provide worksheets, and such other information as may be required by the City, to substantiate the claim of inadvertent error. Failure to do so may bar relief and allow the City recourse from the bid surety. The burden is upon the proposer to prove the inadvertent error. If, as a result of a proposal modification, the proposer is no longer the apparent successful proposer, the City will award to the newly established apparent successful proposer. The City's decision is final.

8. Incurred Expenses. The City is not responsible for any expenses incurred by proposers in participating in this solicitation process.

9. Public Records. By submitting a proposal, the proposer acknowledges that any information submitted in response to this RFP is a public record subject to disclosure unless the City determines that a specific exemption in the California Public Records Act (CPRA) applies. If the proposer submits information clearly marked confidential or proprietary, the City may protect such information and treat it with confidentiality to the extent permitted by law. However, it will be the responsibility of the proposer to provide to the City the specific legal grounds on which the City can rely in withholding information requested under the CPRA should the City choose to withhold such information. General references to sections of the CPRA will not suffice. Rather, the proposer must provide a specific and detailed legal basis, including applicable case law, that clearly establishes the requested information is exempt from the disclosure under the CPRA. If the proposer does not provide a specific and detailed legal basis for requesting the City to withhold proposer's confidential or proprietary information at the time of proposal submittal, City will release the information as required by the CPRA and proposer will hold the City, its elected officials, officers, and employees harmless for release of this information. It will be the proposer's obligation to defend, at proposer's expense, any legal actions or challenges seeking to obtain from the City any information requested under the CPRA withheld by the City at the proposer's request.

Furthermore, the proposer shall indemnify and hold harmless the City, its elected officials, officers, and employees from and against any claim or liability, and defend any action brought against the City, resulting from the City's refusal to release information requested under the CPRA which was withheld at proposer's request. Nothing in the Contract resulting from this proposal creates any obligation on the part of the City to notify the proposer or obtain the proposer's approval or consent before releasing information subject to disclosure under the CPRA.

10. Right to Audit. The City Auditor may access proposer's records as described in San Diego Charter section 39.2 to confirm contract compliance.

B. PRICING

1. Fixed Price. All prices shall be firm, fixed, fully burdened, FOB destination, and include any applicable delivery or freight charges, and any other costs required to provide the requirements as specified in this RFP. The lowest total estimated contract price of all the proposals that meet the requirements of this RFP will receive the maximum assigned points to this category as set forth in this RFP. The other price schedules will be scored based on how much higher their total estimated contract prices compare with the lowest:

$$(1 - \frac{(\text{contract price} - \text{lowest price})}{\text{lowest price}}) \times \text{maximum points} = \text{points received}$$

For example, if the lowest total estimated contract price of all proposals is \$100, that proposal would receive the maximum allowable points for the price category. If the total estimated contract price of another proposal is \$105 and the maximum allowable points is 60 points, then that proposal would receive $(1 - ((105 - 100) / 100) \times 60 = 57$ points, or 95% of the maximum points. The lowest score a proposal can receive for this category is zero points (the score cannot be a negative number). The City will perform this calculation for each Proposal.

2. Taxes and Fees. Taxes and applicable local, state, and federal regulatory fees should not be included in the price proposal. Applicable taxes and regulatory fees will be added to the net amount invoiced. The City is liable for state, city, and county sales taxes but is exempt from Federal Excise Tax and will furnish exemption certificates upon request. All or any portion of the City sales tax returned to the City will be considered in the evaluation of proposals.

3. Escalation. An escalation factor is not allowed unless called for in this RFP. If escalation is allowed, proposer must notify the City in writing in the event of a decline in market price(s) below the proposal price. At that time, the City will make an adjustment in the Contract or may elect to re-solicit.

4. Unit Price. Unless the proposer clearly indicates that the price is based on consideration of being awarded the entire lot and that an adjustment to the price was made based on receiving the entire proposal, any difference between the unit price correctly extended and the total price shown for all items shall be resolved in favor of the unit price.

C. EVALUATION OF PROPOSALS

1. Award. The City shall evaluate each responsive proposal to determine which proposal offers the City the best value consistent with the evaluation criteria set forth herein. The proposer offering the lowest overall price will not necessarily be awarded a contract.

2. Sustainable Materials. Consistent with Council Policy 100-14, the City encourages use of readily recyclable submittal materials that contain post-consumer recycled content.

3. Evaluation Process.

3.1 Process for Award. A City-designated evaluation committee (Evaluation Committee) will evaluate and score all responsive proposals. The Evaluation Committee may require proposer to provide additional written or oral information to clarify responses. Upon completion of the evaluation process, the Evaluation Committee will recommend to the Purchasing Agent that award be made to the proposer with the highest scoring proposal.

3.2 Reserved.

3.3 Reserved.

3.4 Discussions/Negotiations. The City has the right to accept the proposal that serves the best interest of the City, as submitted, without discussion or negotiation.

Contractors should, therefore, not rely on having a chance to discuss, negotiate, and adjust their proposals. The City may negotiate the terms of a contract with the winning proposer based on the RFP and the proposer's proposal, or award the contract without further negotiation.

3.5 Inspection. The City reserves the right to inspect the proposer's equipment to determine if the proposer can fulfill this Contract. Inspection will include, but not limited to, survey of proposer's physical assets and financial capability. Proposer, by signing the proposal agrees to the City's right of access to physical assets and financial records for the sole purpose of determining proposer's capability to perform the Contract. Should the City conduct this inspection, the City reserves the right to disqualify a proposer who does not, in the City's judgment, exhibit the sufficient physical and financial resources to perform this Contract.

3.6 Evaluation Criteria. The following elements represent the evaluation criteria that will be considered during the evaluation process:

[Remainder of page left intentionally blank]

	MAXIMUM EVALUATION POINTS
A. Responsiveness to the RFP/RFS.	25
1. Requested information included and thoroughness of response	
2. Understanding of the project and ability to deliver as exhibited in the Executive Summary.	
3. Technical Aspects	
4. Exceptions to the RFP	
B. Staffing Plan.	15
1. Qualifications of personnel adequate for requirement	
2. Availability/Geographical location of personnel for required tasks	
3. Clearly defined Roles/Responsibilities of personnel	
4. Documentation proof for Staff who have passed/cleared any security background checks	
C. Firm's Capability to provide the services and expertise and Past Performance.	30
1. Relevant experience of the Firm and subcontractors	
2. Previous relationship of firm and subcontractors on similar projects	
3. Other pertinent experience	
4. Location in the general geographical area of the project and knowledge of the locality of the Project	
5. Past/Prior Performance	
6. Relative Reference of similar projects.	
7. Capacity/Capability to meet The City of San Diego needs in a timely manner	
8. Reference checks	
D. Price.	15
E. Mandatory sample of proposed product	15
1. Equipment	
2. Software	
3. Equipment accessories	
4. Technical Support System	
5. Warranty of Proposed product	
	MAXIMUM EVALUATION POINTS
SUB TOTAL MAXIMUM EVALUATION POINTS:	100
F. Participation by Small Local Business Enterprise (SLBE) or Emerging Local Business Enterprise (ELBE) Firms*	12
FINAL MAXIMUM EVALUATION POINTS INCLUDING SLBE/ELBE:	112

*The City shall apply a maximum of an additional 12 percentage points to the proposer's final score for SLBE OR ELBE participation. Refer to Equal Opportunity Contracting Form, Section V.

4. Rejection of All Proposals. The City may reject any and all proposals when to do so is in the City's best interests.

RFP – Goods, Services, & Consultants

Revised: November 8, 2016

OCA Document No. 841661_3

D. ANNOUNCEMENT OF AWARD

1. Award of Contract. The City will inform all proposers of its intent to award a Contract in writing.

2. Obtaining Proposal Results. No solicitation results can be obtained until the City announces the proposal or proposals best meeting the City's requirements. Proposal results may be obtained by: (1) e-mailing a request to the City Contact identified on the eBidding System or (2) visiting the P&C eBidding System to review the proposal results. To ensure an accurate response, requests should reference the Solicitation Number. Proposal results will not be released over the phone.

3. Multiple Awards. City may award more than one contract by awarding separate items or groups of items to various proposers. Awards will be made for items, or combinations of items, which result in the lowest aggregate price and/or best meet the City's requirements. The additional administrative costs associated with awarding more than one Contract will be considered in the determination.

E. PROTESTS. The City's protest procedures are codified in Chapter 2, Article 2, Division 30 of the San Diego Municipal Code (SDMC). These procedures provide unsuccessful proposers with the opportunity to challenge the City's determination on legal and factual grounds. The City will not consider or otherwise act upon an untimely protest.

F. SUBMITTALS REQUIRED UPON NOTICE OF INTENT TO AWARD. The successful proposer is required to submit the following documents to P&C **within ten (10) business days** from the date on the Notice of Intent to Award letter. The City may find the proposer to be non-responsive and award the Contract to the next highest scoring responsible and responsive proposer if the apparent successful proposer fails to timely provide the required information or documents.

1. Insurance Documents. Evidence of all required insurance, including all required endorsements, as specified in Article VII of the General Contract Terms and Provisions.

2. Taxpayer Identification Number. Internal Revenue Service (IRS) regulations require the City to have the correct name, address, and Taxpayer Identification Number (TIN) or Social Security Number (SSN) on file for businesses or persons who provide goods or services to the City. This information is necessary to complete Form 1099 at the end of each tax year. To comply with IRS regulations, the City requires each Contractor to provide a Form W-9 prior to the award of a Contract.

3. Business Tax Certificate. Unless the City Treasurer determines a business is exempt, all businesses that contract with the City must have a current business tax certificate.

4. Reserved.

5. Reserved.

EXHIBIT B SCOPE OF WORK

A. BACKGROUND

Automatic External Defibrillator (AED) equipment and the San Diego Project Heart Beat Program are integral parts of the City of San Diego and other public agencies' health and well-being programs. The use of AED equipment is inextricably tied to the value it brings to the lifesaving mission of these agencies. Sudden cardiac arrest remains the leading cause of death in the nation. This Request for Proposal (RFP) is being solicited by the City of San Diego in alliance with the San Diego Project Heart Beat's Public Access Defibrillation (PAD) Program, City of San Diego's Corporate Partnership and Development Program (CPD) and other public agencies as specified in Section D and Attachment A of this RFP, to leverage economies of scale and business.

San Diego Project Heart Beat (SDPHB), supported by the Corporate Partnership and Development Program, was established in 2001 as an innovative step toward making San Diego a more "heart safe region." The goal is to save lives through educational awareness and the need for early defibrillation. The objective is to make AEDs as accessible as fire extinguishers throughout all San Diego County communities. For more information about SDPHB, please access the following website: <https://www.sandiego.gov/sdprojectheartbeat>.

San Diego's Public Access Defibrillation Program seeks to improve the survivability of sudden cardiac arrest victims in the San Diego region by placing defibrillators in:

- Government Facilities
- Businesses
- Tourist Attractions & Facilities
- Healthcare Facilities
- Educational Facilities
- Commercial/Recreational facilities

SDPHB has been recognized many times over as one of the best large community early access defibrillation programs globally, for its structural organization and its high success rates amongst its program participants. SDPHB has dedicated staff to include a Program Manager, PAD Program Associate as a Community Outreach Specialist, Administrative Assistant and many passionate AED Advocates. The SDPHB staff manage and facilitate all facets of the program, including AED sales, training, record keeping and data collection, complete program and incident management, site selection and indemnification.

SDPHB's mission is to improve the survivability of sudden cardiac arrest victims in San Diego by placing AEDs in all public and private venues throughout the region. SDPHB has exceeded its mission, objective, and goals by initiating lifesaving programs in a wide variety of public and private venues throughout San Diego County. Some of those arenas include college campuses and school districts, the Del Mar Fairgrounds and Thoroughbred Club, Petco Park, San Diego City and County facilities as well as apparatus, vessels, and vehicles. In addition, SDPHB staff travel throughout the United States to consult with other major municipalities and counties to assist them on developing a similar program. SDPHB staff are often invited to relative conventions and summits to present and share on the success of the program.

To date, two hundred seventeen (217) lives have been saved over the last twenty-four (24) years through the programs that SDPHB initiated and manage. In addition, well over 11,000 AEDs have been sold through the efforts of SDPHB staff.

SDPHB is associated with the American Heart Association (AHA) ECC in offering society simplified training and educational awareness in hands-only CPR with AED to all and any interested parties within the region. SDPHB is also recognized as an American Heart Association Training Center, providing certification to its city employees.

B. OBJECTIVE

The objective of this RFP is to make an award to a qualified Proposer that represents the best overall value to the City, while meeting or exceeding the specifications and requirements of this RFP as determined by the City.

C. CORE REQUIREMENTS AED SPECIFICATIONS

The City's and/or other Agencies' AED equipment needs are integral to the health and well-being of human life in all communities. Our program participants, current and future, require sound proven technology that allows the AED user to perform the application of the lifesaving process both easily and assuredly. Technology that can provide the utmost ease of use for the non-medically trained user, as well as deliver the most beneficial therapy to the cardiac arrest victim, are recognized as being highly desirable for use within the program. Customer service and technological support for all issued program equipment is paramount. Readily accessible personnel in all aspects of technical support, customer service, all financial correspondence as well as top level executives must be easily attainable when matters of operational or organizational changes or issues occur. Product information in the forms of printed documentation to software and web access/applications must be available to all program participants. Deployment/incident downloading capabilities of the latest technology for the product must be made available.

Proposers offering a variety of high-quality AEDs as specified, are highly desirable.

Proposer shall provide an AED package or AED packages that includes the AED, battery, adult electrodes, outer carry-case, and supportive communication equipment (to download internal AED and ECG information, upgrade, change or reconfigure the AED as needed) as specified below:

1. Equipment

- a. AED with biphasic waveform and internal memory capabilities (minimum five (5) year warranty).
- b. AED battery with a minimum two (2) to four (4) year user warranty. Cost of battery replacement must be figured into proposal.
- c. Audible and (possible) visual instructions on use of the AED, to include the current CPR/AED standard guideline instructions as outlined by the American Heart Association (AHA).

- d. AED Adult and Pediatric electrode pad capabilities (both with a two-year minimum shelf life).
- e. AED reference guide and instructional manual (both physical form and online streaming capabilities) to include training, technical support, communication transport and re-configuration capabilities as needed according to the programs Medical Director and AHA guidelines as outlined for the program.
- f. Software or like equipment to download internal information, upgrade, change or reconfigure AED capabilities as outlined by the Program Medical Director and/or as pursuant to AHA standards and guidelines.
- g. External protective carrycase to protect AED equipment.

2. Services

Technical support for all manufactured equipment shall be available to all purchasers of equipment on a twenty-four (24) hour, seven (7) day a week response system basis, with customer service response delivered within a twenty-four (24) hour period. Loaner equipment shall be provided as requested by the City.

Any equipment or product provided by the manufacturer must maintain its proclaimed warranty. If any equipment or product provided by the manufacturer is found not to meet the warranty, the manufacturer will replace the equipment at no additional cost to the client. This would include all processing, shipping, and taxable fees.

3. Available accessories for additional purchase

Available accessories for the above AED equipment package shall also include:

- a. Emergency Rescue Kit that includes nitrile gloves (two (2) sizes Med. And Lg.), safety razor, trauma scissors, absorbent towel, 4" gauze, antiseptic wipes and a one-way filter rescue breathing mask. A carabiner attachment is preferable for use with the AED.
- b. Hard sided, pelican carrycase for AED for use by law enforcement, Fire, and water division area entities.
- c. Wall-mounted storage cabinet to include varieties such as strobe light, alarm, recessed and security system enabled.
- d. USB Serial Adapter Cables for PC downloading and AED information capabilities.
- e. AED Training units for delivering CPR/AED instruction and presentations.

It is highly desirable that all equipment and accessories offered shall be at a discounted rate provided in the retail manufacturers price list subject to the duration of the contract. A contract price list shall be provided within Section F. Price Proposal.

4. AED and Related Equipment Specifications

It is the intent of these specifications to describe a portable automated external defibrillator "AED" and all necessary related equipment. The portable AED will be utilized by Law Enforcement, Lifeguard services, Basic Life Support (BLS) ambulances and fire apparatus, as well as a stand-alone public accessible device for use by the lay public. The AED must be durable and able to withstand field conditions such as adverse weather conditions, rough handling, extreme temperature changes, excessive vibration, and constant use by field personnel. The ease and speed of deployment are mandatory requirements.

- a. The AED shall be housed in a durable and crack resistant case. Physical dimensions shall not exceed the following:

Height: 5.5 inches
Width: 11.0 inches
Length/Depth: 13.0 inches
Weight: 8.0 pounds

The AED case shall be made of impact resistant material and be able to withstand normal use under adverse conditions.

- b. A standard carrying case shall be included to provide additional protection for the AED. The carrying case shall be made from a durable and washable fabric. It is preferable for the carrying case to contain additional storage space or pockets for carrying supplies, defibrillator pads, connectors, software, rescue equipment and instructions for use. Along with the standard case, a water-resistant pelican case shall be available.
- c. The power supply for the AED shall be at least a two (2) year warranty. For battery warranty offered above two (2) years that does not require recharging additional merit may apply in evaluation. Minimum battery capacity at full charge shall not be less than 30 deliverable shocks. The battery shall be easily removed from the defibrillator.
- d. Each AED shall have an overall readiness indicator. The indicator(s) shall be easily visible from the front view of the AED and its carry case so that personnel can see that the AED is ready for use or if the unit needs servicing. This indicator shall be easily visible through a wall mounted storage case that the AED unit is stored within. The AED shall advise that a need of service is required for the AED unit audibly and visually. The readiness indicator shall have the capacity to evaluate all major components of the AED to include electrode pad performance, battery life and internal circuitry.
- e. The AED unit shall provide prompts that have voice, visual and/or text display to guide the user through the rescue process in a simple step-by-step manner. These prompts shall include or be comparable to "shock advised, stand clear," "check electrodes," "press to shock," and "check patient." These prompts shall be in accordance with recognized standards and guidelines of care and in accordance with the delivery of emergency therapy as outlined by the Medical Director for the PAD program. Each prompt shall be given visually and audibly as indicated paced in accordance with the process of use from the rescuer. Bilingual capabilities may lend to additional merit during the evaluation process.

- f. The AED unit shall have an “on/off” main power switch. Activation of this switch will automatically initiate system integrity. Activation of this power switch shall cause the AED unit to begin providing relevant instructions to the operator.
- g. The function switch shall be easily identified and be tactile responsive when the AED is powered up and the operator is prompted.
- h. The AED shall have pediatric defibrillation capability.
- i. Data from the AED shall be retrievable in computer format from the unit itself or by a removable data card or USB flash drive capable of capturing continuous electro-cardiogram (ECG) and incident events for a minimum of 15 minutes or stored memory in the unit with download capabilities from a modem. Data transfer, review and management software and related equipment included with each AED unit will be given additional merit. Supporting software to allow authorized personnel the ability to program the AED to meet their respective protocols for AED use should be included with each AED unit.
- j. Protocol configuration options shall be available for the AED. This shall include automated shock energy levels, number of shocks to be delivered, startup options for automated mode, and voice prompt directions, volume level and on/off features, and the internal memory or memory data card clearing options. Protocol configuration options shall be capable of being configured to meet the reasonable requests of the Medical Director and/or the guidelines set forth by the American Heart Association. The protocol configuration shall be capable of being performed in the field by the user without disassembling the unit or done by the Proposer at no cost to the City for the expected life of the AED.
- k. The AED or equipment included with the AED shall be capable of transmitting incident information into a user-friendly AED database program located at a remote site.
- l. Data management equipment with the ability to receive incident data, and to operate a specially designed AED database program shall be supplied. SDPHB staff carry their own portable printers for deployment incident use.
- m. The AED shall incorporate an ECG analysis program with continuous ECG segment analysis providing a “check patient” or “shock advised” comparable prompt whenever a shockable rhythm is detected.
- n. The AED shall provide audio and visual instruction to the operator to deliver energy when a shockable rhythm has been identified.
- o. The AED shall provide energy levels of at least 105 to 150 joules for the initial shock to be delivered if shock therapy is indicated for the SCA victim. The unsynchronized defibrillation waveform shall be of a bi-phasic nature. The AED shall automatically select the energy to be delivered in accordance with the recognized standards of care.

- p. The number of shocks delivered in a display screen and the time elapsed during the incident of AED use is of added merit for easy identification of number of shocks delivered for emergency personnel that arrive on scene.
- q. The AED shall include the collection in a digital format the memory of the AED that includes AED identification, self-test message, time-stamped events, event ECG segments, and selected monitoring segments.
- r. Any updated data program changes, configurations or enhancements for therapy delivery or functionality of the AED machine shall be provided at no additional charge for five (5) years.
- s. A rhythm generator/simulator capable of producing asystole, ventricular fibrillation, sinus rhythm, and ventricular tachycardia shall be battery powered and include a test light indicating the AED unit discharged the proper amount of energy. The Proposer also has the option of supplying a battery/simulator or training electrode pads capable of producing several scenarios, including V-Fib, V-Tach, and asystole.
- t. Training units separate from the AED shall be available for the use of scenario-based training. The training unit shall be incapable of delivering energy. Specific training electrodes shall be capable of performing a minimum of 50 applications to a standard training mannequin.
- u. Ease of access to online streaming training videos via the internet to accompany each manufactured AED unit pertaining to the operation of the AED must be available for each device.
- v. One (1) set of polymer gel defibrillator adult electrode pads shall be included with each AED unit. Pads shall not have an expiration date of less than two (2) years from the date of delivery. Additional sets shall be purchased at a program discount.
- w. All AED and support equipment shall be warranted for 100% parts and labor and any shipping charges for a period of not less than five (5) years from the date the equipment is put into operation. Warranty beginning period shall not exceed one (1) year from the date of delivery. Supplier will be notified of the date each unit is placed into service within thirty (30) days.
- x. Repair or replacement of an AED during the five (5) years shall be covered under the five (5) year warranty. After the warranty period and extended service/warranty, a contract providing the same level of service must be available. Costs of shipping shall be included under the five (5) year warranty and extended service/warranty contracts.
- y. The AED unit shall be capable of automatically disarming if the victim converts to a non-shockable heart rhythm after a shock decision is made (device is charged). The AED shall inform the rescuer that the victim's heart rhythm has changed and reanalyze the victim's heart rhythm (a non-committed shock feature).

- z. Each AED unit shall be capable of performing a daily self-maintenance check/test to confirm functionality of the most critical components of the AED.
- aa. AEDs shall require no yearly planned service or calibration regardless of frequency of use. **All AEDs shall have a minimum 5-year warranty on all parts and labor** not to include the AED battery or electrode pads which shall be at least a two (2) year warranty. For battery warranty offered above two (2) years that does not require recharging, additional merit may apply in evaluation. Technical service for the AED units and related equipment shall be available from the manufacturer 24 hours a day, 7 days per week. Shipping and delivery charges shall be paid for by the manufacturer for all equipment in need of servicing throughout the period of the equipment warranty.

5. Additional Requirements

Proposed equipment, parts, accessories, and functionality of proposed equipment shall meet the following additional requirements:

SERVICES/EQUIPMENT	DESCRIPTION / EQUIPMENT MODEL/MAKE
AED package example	Biphasic waveform technology with internal memory, audible and visual AED/CPR instruction as pursuant to AHA guidelines/standards 2020, daily maintenance check capabilities to ensure readiness of battery, internal circuitry and (highly desirable) electrode pads, if applicable, weight under 8lbs., variable energy delivery (highly desirable) to deliver appropriate therapy pertaining to an individual's electrical body impedance. Must be capable of pediatric defibrillation therapy. Must be FDA approved in all aspects. Note: AED package shall include battery and one (1) set of adult electrode pads and an outer carrycase at no additional cost of AED package rate.
Equipment/Battery	Warranted for a minimum of two (2) to preferably four (4-5) years of normal use. Communicative capabilities of battery life and usage within the AED (highly desirable).
Equipment/Electrodes	Defibrillation pads both adult and pediatric shall have no less than a two (2) year shelf life. Inter-changeable pads for placement, polarization and pacing capabilities (highly desirable).
Equipment/Carry case	Able to withstand external environments, esthetically pleasing and capable of holding other related equipment as described in package preference.
Equipment/Wall Mount Storage Cabinet	Wall mounted storage with variable capabilities such as strobe light, audible alarm, security system capabilities and recess ability as needed per entity.
Equipment/Emergency response kit	Includes a one-way valve breathing apparatus, two (2) size nitrile gloves, absorbent towel, 4 X 4's, trauma shears, safety razor, antiseptic wipes and/or any other applicable materials.

SERVICES/EQUIPMENT	DESCRIPTION / EQUIPMENT MODEL/MAKE
Equipment/software or like equipment	Capable of downloading AED communications, retrieving ECG data, reconfiguring, changing, or updating AED communications for existing equipment as deemed necessary by the Program Medical Director or as stipulated by AHA standards and guidelines.
Equipment/USB Serial Adapter Cables	Capable to download AED communications and retrieve ECG data from the device.
Equipment/AED Training units	Featuring like capabilities of AED unit to be utilized for training and presentation purposes
Other services/hardware deemed of interest to the City	Additional hardware and/or services deemed of interest to the City that fall within the scope of work, as approved by the City and when funds are available.

6. Warranty

All equipment shall have the regular Manufacturer's standard guarantee and warranty against defects in material and workmanship. In no case shall coverage be less than (5) years after a unit is placed in service. Where a standard Manufacturer warranty exceeds a period of five (5) years, this warranty shall also be provided to the City.

Proposers shall submit a copy of the manufacturer's warranty with their proposal. Should there be a conflict between the manufacturer's warranty and these specifications, these specifications shall prevail as may be in the best interest of the City.

In the event of a breakdown or failure of the equipment during the warranty period and upon receipt of notice (written or verbal) from the City, Proposer shall take satisfactory action to effect repair or replacement of affected parts within forty-eight (48) hours.

Proposer shall be responsible for all costs associated with pick up of the equipment from any City of San Diego facility and delivery to the warranty service facility for warranty work and costs for return of the equipment to the same City of San Diego facility.

7. Equipment Specification Documents

A relevant technical or specification sheet shall be provided clearly describing the proposed equipment in digital or print form. **Failure to provide this information may cause the proposal to be rejected as non-responsive.**

8. Deliveries

- a. Proposer shall make deliveries to various locations throughout the County of San Diego. The City reserves the right to add or remove delivery locations throughout the contract period at no additional cost to the City. The AED and all related equipment shall be delivered to the designated City facility location as outlined within the "Ship to address" as designated on the purchase order and/or order form. Orders may be placed directly by City facilities or by the PAD Program Manager for order deliveries. The City reserves the right to refuse the AED, in part or whole, or any of the related equipment that fails to meet these

specifications. Any rejected equipment may be retrieved from San Diego Fire-Rescue at the vendor's expense.

- b. All deliveries must be accompanied by an invoice or delivery receipt which includes the price of the item being delivered. A copy of this document must be signed by the individual accepting delivery. All invoices and delivery tickets must reference applicable purchase order numbers and/or sub-order numbers.
- c. Orders shall be delivered within ten to fifteen (10-15) business days after receipt of order (verbal and/or written).

9. Reporting Requirements

Reports of all AEDs sold within the County of San Diego are required to be submitted to the PAD Program Manager for SDPHB on a quarterly basis. The report shall contain the quantity, recipient (Facility), zip code, and item detail and shall be submitted in Excel or MS Word format delivered electronically (via email attachment) to the PAD Program Manager.

10. Samples

Proposers, **with proposal submittal**, shall provide to the City, at no cost, a sample of at least one of your preferred products proposed (AED unit and accessories). Samples will be used for testing and evaluation purposes. **Failure to submit the required sample(s) may result in the proposal being rejected as non-responsive.** The samples provided will not be returned by the City upon final performance evaluation, unless specifically requested by the Proposer in writing with return borne solely by Proposer.

Equipment provided for evaluation shall be completely identical to the equipment proposed. An evaluation will allow the city to evaluate criteria including, but not limited to equipment serviceability, maneuverability, and in compliance with the specifications of this RFP. The City shall be the sole judge of the suitability and acceptability of any proposed equipment proposed.

D. **SPONSORSHIP REQUIREMENTS**

This RFP is issued contingent upon the proposer's agreement to enter into a Marketing Partnership Agreement with the City's Corporate Partnership and Development Program (CPD). The CPD seeks opportunities for the City to generate revenue from partnerships with the corporate community. Proposers to this RFP shall furnish the products and services in conjunction with the Marketing Partnership with the City to, among other items, leverage additional sales and marketing for AED purchases by clients or public agencies throughout San Diego County.

The City defines a Marketing Partnership as a mutually beneficial business arrangement between the City and a third person, wherein the third person provides cash and/or in-kind services to the City in return for access to the commercial marketing potential associated with the City and throughout the region.

In June 1999, the City adopted a Strategic Marketing Plan that established the Corporate Partnership Program as a framework to develop resources for the City through partnerships with the corporate community.

In March 2000, the City adopted a Marketing Partnership Policy “to provide guidelines for developing and managing municipal marketing partnerships which ensure that all marketing partnerships support the City of San Diego’s goals of service to the community and remain responsive to the public’s needs and values.” For a detailed description of the City’s Corporate Partnership and Development Program please go to www.sandiego.gov/corporatepartnership.

The Marketing Partnership Agreement issued with this RFP requires each proposer agree to sponsor the SDPHB program. The terms of the Marketing Partnership Agreement and the SDPHB program are outlined in Attachment A, provided herewith. The winning proposer to this RFP will enter into the Marketing Partnership Agreement with the City, which will be substantially in the form of Attachment B, provided herewith.

E. DEPARTMENT REPRESENTATIVE

The Department Representative for this Contract is identified in the notice to proceed and is responsible for overseeing and monitoring this Contract.

F. PRICE PROPOSAL

City's Estimated Need. While this is an estimated quantity for the City of San Diego. Please keep in mind this is a regional program that extends to various other program participants. Pricing will be utilized for those participants throughout the County of San Diego. Any variation from the annual estimated quantities that follow shall not entitle the Contractor to an adjustment in the unit price or any additional compensation. Respondents must provide pricing on all items contained in sections 1 and 2.

SECTION 1 – AUTOMATIC EXTERNAL DEFIBRILLATORS (AEDs).

Item No.	Est. Annual Quantity	Unit of Measure	Description	Preferred Brand	Unit Price	Extension (Quantity x Unit Price)
1.	200	Each	AED(s) (Models as specified in Exhibit B; Section C)		\$	\$
2.	150	Each	Wall Mount for AED (item 1) there may be more than one model and/or additional options for storage such as pelican case, sleeve for wall, etc.		\$	\$
3.	50	Each	Additional electrodes for AED (item 1) there may be several options		\$	\$
4.	5	Each	Battery for AED (item 1) may be more than one option		\$	\$
5.	150	Each	Emergency Response or AED Accessory Kit may be more than one option		\$	\$
TOTAL SECTION 1:						\$

SECTION 2 – ACCESSORIES & REPLACEMENT PARTS FOR ZOLL, CARDIAC SCIENCE G3,G5, PHILIPS FRX AND ONSITE, STYRKER CR2, Heartsine, Zoll AED Plus and AED3. AEDs to maintain current inventory of AED units. Plus, parts and accessories for AEDs bid under the RFP.

Item No.	Est. Annual Quantity	Unit of Measure	Description	Manufacturer & Part #	Unit Price	Extension (Quantity x Unit Price)
6.	150	Each	Intellisense™ Defibrillation Pads for Powerheart® G5 AED	XELAED001A	\$	\$
7.	10	Each	Intellisense™ Pediatric Defibrillation Pads for Powerheart® G5 AED	XELAED003A	\$	\$
8.	50	Each	Intellisense™ Defibrillation Pads for Powerheart® G5 AED with iCPR	XELAED002A	\$	\$
9.	100	Each	Intellisense Battery for Powerheart G5 AED	XBTAED001A	\$	\$
10.	150	Each	Philips FRX electrode pads	989803139261	\$	\$
11.	75	Each	Philips FRX Infant/Child key	989803139311	\$	\$
12.	100	Each	Philips FRX/OnSite battery	M5070A	\$	\$
13.	25	Each	Stryker CR2 AED QUIK-STEP® pacing/ECG/defibrillation electrodes—four year	11101-000021	\$	\$
14.	25	Each	Stryker LIFEPAK CR2 AED lithium battery	11141-000165	\$	\$
15.	25	Each	Zoll AED 3 <u>CPR Uni-padz Universal (Adult/Pediatric) Electrodes</u>	8900-000280-01	\$	\$
16.	25	Each	ZOLL AED 3 Battery Pack	8000-000696	\$	\$
17.	25	Each	Zoll AED Plus <u>CPR-D-Padz® One-Piece Electrode Pad With Real CPR Help</u>	8900-0800-01	\$	\$

Item No.	Est. Annual Quantity	Unit of Measure	Description	Manufacturer & Part #	Unit Price	Extension (Quantity x Unit Price)
18.	5	Each	Zoll AED Plus <u>Pedi-Padz® II Electrodes – One Pair</u>	8900-0810-01	\$	\$
19.	25	Each	Zoll AED Plus <u>Type 123 Lithium Batteries</u>	8000-0807-01	\$	\$
20.	25	Each	<u>HeartSine SAM 350P/360P PAD-PAK-01 Adult Pads</u>		\$	\$
21.	25	Each	HeartSine SAM PAD-PAK-02 Pediatric Pads		\$	\$
					TOTAL SECTION 2:	

Section 3 Any additional AED's, parts, accessories, emergency response kits, or signage related to the program (optional). It is highly desirable for additional AED's to be listed. (additional equipment proposed will not be used for evaluation purposes)

Item No.	Est. Annual Quantity	Unit of Measure	Description	Preferred Brand	Unit Price	Extension (Quantity x Unit Price)
22.		Each			\$	\$
23.		Each			\$	\$
24.		Each			\$	\$

25.		Each			\$	\$
26.		Each			\$	\$
27.		Each			\$	\$
28.		Each			\$	\$
					TOTAL SECTION 3:	\$

SECTION 4 – SURPLUS ITEM TRADE-IN VALUE (optional)

Item No.	Est. Quantity	Unit of Measure	Description	Unit Price	Extension (Quantity x Unit Price)
29.	200	Each	Surplus AED trade-in value for purchase of AEDs offered in Section 1 Price Schedule. (Value shall be subtracted from total Sections 1 and 2)	\$	\$
				TOTAL SECTION 4:	\$
				ANNUAL TOTAL:	\$

****The City desires to purchase products listed as well as other products not specifically listed throughout the term of this contract. Please provide the product manufacturer and discount percentage off the Manufacturer Price List below:**

Manufacturer	Discount off %

Attachment A

Request for Sponsorship



San Diego Project Heart Beat (AED) Partner

Corporate Partnerships and Development Program
Economic Development Department
City of San Diego
October 2025



Introduction

The City of San Diego (City), through its Corporate Partnership Program, managed by the Economic Development Department, is issuing this Request for Sponsorship (RFS) in conjunction with the City's **Request for Proposal # 10090448-26-K, Automatic External Defibrillators (AEDs) & Related Supplies and San Diego Project Heart Beat Sponsorship (RFP)** to develop a Marketing Partnership with the City.

Public Access Defibrillation Program

All proposers to the RFP shall agree to enter into a Marketing Partnership Agreement (Agreement) to sponsor San Diego Project Heart Beat (SDPHB), the City's Public Access Defibrillation program in exchange for exclusive rights in procurement of AED's for the City of San Diego, SDPHB clients and referrals, along with other public agencies that choose to utilize the City's Contract. SDPHB's objective is to make AEDs as accessible as fire extinguishers throughout the region. For more information about SDPHB, please access www.sdprojectheartbeat.com.

The goal of San Diego's Public Access Defibrillation Program and San Diego Project Heart Beat is to improve the survivability of sudden cardiac arrest victims in San Diego County by placing defibrillators in:

- Regional Government Facilities
- Businesses
- Tourist Attractions
- Healthcare Facilities
- Educational Facilities
- Commercial Facilities

Marketing Program Benefits and Opportunities

As part of the Agreement the City offers multiple sponsorship benefits, such as promotions, events and exclusive opportunities to showcase products. In addition, the City encourages proposers to suggest additional marketing programs that will achieve their outreach goals in the City of San Diego.

A partial summary of potential partnership opportunities and benefits follow. This list is intended to be a starting point to give potential proposers some initial ideas about the scope of the opportunities and benefits available as a Marketing Partner with the City.



Recognition:

- **Official AED Partner.** The winning proposer shall have the opportunity to be designated and referred to as the “Official AED Partner of the City of San Diego” and to use said designation in marketing efforts. In exchange for this designation the winning proposer shall at all times during the term of the Agreement comply with Council Policy 000-41, Endorsement policy.
- **Branding.** The winning proposer may be named on all promotional materials used in connection with branding the City’s Public Access Defibrillation (“PAD”) Program as the “Official AED Partner of the City of San Diego.” Winning proposer’s logo may also be included with the PAD Program logo.
- **Vehicles.** The PAD logo may be placed on up to two (2) official City vehicles used to operate the PAD Program; provided that the size and location of the PAD logo placed on the City vehicles are viewable to the traveling public.
- **Web Site Links.** Links from the SDPHB and Corporate Partnerships and Development web pages to a web page that highlights the PAD Program and the Agreement. The PAD Program web page can include a link to the winning proposer’s web site and, in both form and content, will be consistent with all current and future City policies related to web sites including Council Policy 000-40, Marketing Partnership policy, and the City’s Web Sponsorship Guidelines.

Sales Opportunities and Events:

SDPHB is often invited several times a year to participate in a variety of regional health fairs, expos, nationally and internationally recognized conference's, events, and more. SDPHB will include the winning proposer's products/information at these events when applicable as part of the Agreement. Examples of these and other sales and marketing opportunities:

- Advertising Rights. Granting the winning proposer the right to promote the PAD Program partnership when offering products and services to businesses, municipalities, and school districts.
- Trade-ins and Trade-ups. The City agreeing to participate in the winning proposer's development of AED sales for existing or new clients.
- Trade Shows. The winning proposer may request to be included and represented in the national trade shows or speaking engagement that SDPHB Program Manager has secured.
- Health and Safety Events. Granting the winning proposer the right to participate in a minimum of three (3) City-hosted health and safety events per year. Events to be determined at the City's sole discretion.
- Informational Seminars. The winning proposer providing SDPHB Program Manager promotional materials regarding AED's and holding informational seminars both on City property and elsewhere.
- Grant Assistance Fund Purchase of AEDs. The winning proposer's AED products to be featured for all sales opportunities from grants procured by the City to secure AED equipment. All proceeds from donations made to SDPHB to be utilized to exclusively purchase the winning proposer's AED's for low income and not-for-profit organizations.
- Quarterly Team Meetings. Winning proposer's staff to be invited to participate with City staff in the SDPHB quarterly meetings to discuss and agree upon sales results, promotional goals, and new client acquisition activities.
- Exclusivity. City will not partner with any other AED Manufacturer for any related promotions, marketing, or sales efforts during the term of the Agreement.



Annual Marketing Rights Fee

In exchange for the rights Marketing Program Benefits and Opportunities, and other potential negotiated benefits, proposer agrees to provide City:

- An annual fee of \$100,000 to be the exclusive sponsor of the SDPHB Program payable quarterly.
- The winning proposer agrees to a minimum annual guarantee of \$50,000 for sales stipends.
- Two (2) San Diego Project Heart Beat staff members with the appropriate AED equipment for demonstration to enable marketing the company's related product for sales



San Diego Project Heart Beat
Public Access Defibrillation

ATTACHMENT B

MARKETING PARTNERSHIP AGREEMENT BETWEEN THE CITY OF SAN DIEGO AND (Company Name)

THIS MARKETING PARTNERSHIP AGREEMENT (“Agreement”) is entered into by and between the City of San Diego (“the City”), with its principal place of business located at the City Administration Building, 202 C Street, San Diego, California 92101, and (Company Name), with its principal place of business located at (insert business address) (each, a “Party,” and collectively referred to as “the Parties”).

RECITALS

WHEREAS, the City has established a Corporate Partnerships and Development Program to develop resources for the City through partnerships with the corporate community; and

WHEREAS, (Company Name) has agreed to enter into this Agreement with the City pursuant to the City’s RFP No. (insert RFP #) Automatic External Defibrillators (“AEDs”) & Related Supplies and the San Diego Project Heart Beat (“SDPHB”) sponsorship; and

WHEREAS, the City has determined that this Agreement meets the objectives of the Corporate Partnerships and Development Program and is otherwise in the best interests of the City; and

WHEREAS, the City and (Company Name) desire to enter into a contractual relationship by which the City grants certain marketing rights and benefits to (Company Name) in exchange for receiving marketing rights fees as set forth herein; and

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

Section 1. Definitions

The following terms shall have the following meanings whenever used in this Agreement:

- 1.1 “Corporate Partnerships and Development Program” means the program approved by the San Diego City Council to develop resources for the City which includes receiving revenue, value in kind and/or other items of value from Marketing Partnerships with the corporate community in order to enhance municipal services and facilities in the City.
- 1.2 “Marketing Partnership” means a mutually beneficial business arrangement between the City and (Company Name), wherein (Company Name) pays a marketing rights fee to the City in exchange for access to the commercial marketing potential associated with the City.

ATTACHMENT B

- 1.3 “Marketing Rights and Benefits” means those opportunities created by the Marketing Partnership that (Company Name) can utilize to promote its Marketing Partnership with the City.
- 1.4 “Leads” means entities both public and private that are referred to (Company Name) representatives by San Diego Project Heart Beat personnel or a City of San Diego representative(s) for the sale of (Company Name)’s AEDs, wall mounts and other related equipment to implement a Public Access Defibrillation (PAD) program.

Section 2. Term

- 2.1 The term of this Agreement shall begin with on the date of execution by the City of this Agreement (the “Effective Date”) and shall coincide with the term of the AED Agreement arising from RFP No. (insert RFP#) Automatic External Defibrillators & Related Supplies and San Diego Project Heart Beat Sponsorship (“AED Agreement”).
- 2.2 The term of this Agreement shall be two (2) years with three (3) optional one (1) year extensions. In no event shall the term of this agreement exceed five (5) years.

Section 3.

Consideration

In consideration of the rights, benefits, and privileges granted to (Company Name) under this Agreement, (Company Name) shall pay the City a marketing rights fee, a stipend from AED sales, and provide the City with a promotion budget as described below:

- 3.1 Marketing Rights Fee. (Company Name) shall pay the City an annual fee of \$100,000 per each year of the Agreement (“Marketing Rights Fee”).
- 3.2 Sales Stipends. (Company Name) (Company Name) shall pay the City a \$50,000 per year Sales Stipend Payment for each year of this Agreement regardless of the sales of AEDs within the County of San Diego .
- 3.4 Promotional Budget. (Company Name) shall provide each of the two (2) San Diego Project Heart Beat staff members with the appropriate AED equipment for demonstration to enable marketing the company’s related product for sales. Any additional promotional materials related to specific AED equipment will be provided by (Company Name).
- 3.5 Payment, Audit and Use Schedule:
 - 3.5.1 Marketing Rights Fee. (Company Name) shall pay the Marketing Rights Fee in four (4) equal installments of \$25,000. The first Marketing Rights Fee payment will be due thirty (30) days after final execution of this Agreement.

ATTACHMENT B

Subsequent payments will be due every 120 days after the first payment, for the term of this Agreement.

3.5.2 Sales Stipends (Company Name) shall pay the City a \$50,000 per year Sales Stipend Payment for each year of this Agreement regardless of the sales of AEDs within the County of San Diego. (Company Name) shall pay a Sales Stipend in four (4) quarterly installments of \$12,500 on the same dates that the marketing rights fee is paid per section 3.5.1 above. Concurrent with the quarterly payments due (Company Name) shall provide a sales report to the San Diego Project Heart Beat Program Manager detailing the AEDs sold within the quarter within the San Diego County limits. The sales report should include the following; date of sale, title of buyer, number of AEDs sold, city, location and zip code.

3.5.3 At the beginning of each year of the Agreement the City and (Company name) will evaluate the need for new, replacement and maintenance equipment related to the promotional equipment provided the City's San Diego Project Heart Beat staff.

Section 4. Marketing Rights and Partnership Benefits

The City shall provide (Company Name) the following Marketing Rights and Benefits for the Term of this Agreement:

- 4.1 Official AED Partner. (Company Name) has the right to be designated and referred to as the "Official AED Partner of the City of San Diego" and to use said designation in marketing efforts. In exchange for this designation (Company Name) shall always during the Term comply with Council Policy 000-41, Endorsement policy.
- 4.2 Branding. (Company Name) shall be named as the "Official AED Partner of the City of San Diego." and (Company Name) logo shall be included with the PAD Program logo on all promotional materials used in connection with branding the City's Public Access Defibrillation ("PAD") Program.
- 4.3 Vehicles. The PAD logo will be placed on up to two (2) official City vehicles used to operate the PAD Program; provided that the size and location of the PAD logo placed on the City vehicles are viewable to the traveling public, as determined by both Parties.
- 4.4 Web Site Links. Links from the SDPHB and Corporate Partnerships and Development web pages to a web page that highlights the PAD Program and this Agreement. The PAD Program web page will include a link to (Company Name)'s web site and, in both form and content, will be consistent with all current and future City policies related to web sites including Council Policy 000-40, Marketing Partnership policy, and the City's Web Sponsorship Guidelines.

ATTACHMENT B

- 4.5 Advertising Rights. (Company Name) has the right to promote the PAD Program partnership when offering products and services to businesses, municipalities, and school districts.
- 4.6 Trade-ins and Trade-ups. The City of San Diego agrees to participate in the development of AED sales for existing or new clients.
- 4.7 Trade Shows. (Company Name) may request to be included and represented in the national trade shows or speaking engagement that SDPHB Program Manager has secured.
- 4.8 Health and Safety Events. (Company Name) has the right to participate in a minimum of three (3) City-hosted health and safety events per year. Events will be determined at the City's sole discretion.
- 4.9 Informational Seminars. (Company Name) will provide SDPHB Program Manager promotional materials regarding AED's, and may hold informational seminars both on city property and elsewhere. Venues and times to be mutually agreed upon by the Parties.
- 4.10 Grant Assistance Fund Purchase of AEDs. (Company Name) products will be the exclusive AED products featured for all sales opportunities from grants awarded by the City to 501(c)(3) not-for-profit organizations to secure AED equipment purchases. All proceeds from donations made to SDPHB will be utilized to award (Company Name) AEDs for 501(c)(3) not-for-profit organizations.
- 4.11 Quarterly Team Meetings. (Company Name) staff will be invited to participate in with City staff in the SDPHB quarterly meetings to discuss and agree upon sales results, promotional goals, and new client acquisition activities.
- 4.12 Exclusivity. City will not partner with any entity that manufactures or sells AEDs for any promotions, marketing, or sales efforts related to this Agreement.

The City may provide additional marketing rights and partner benefits, conditioned upon acceptance by (Company Name), throughout the term of this Agreement.

Section 5. City's Reservation of Rights

- 5.1 (Company Name) shall submit to City for review and approval all marketing and promotional materials to be used in conjunction with this Agreement. Such materials shall be submitted to the City's Director of Corporate Partnerships and Development and the Director shall review the materials and respond to (Company Name) within five (5) working days of receipt. Approval of the

ATTACHMENT B

materials shall be wholly within the City's discretion, but such approval shall not be unreasonably withheld, conditioned, or delayed.

Section 6. Intellectual Property

- 6.1 Restriction on Licensing and Use of Marks. The City and (Company Name) shall each retain ownership of, and all right, title and interest in and to, their respective intellectual property and all related intellectual property rights (including patent, trademark, and/or copyrights), and other than a limited license to use one another's trademarks and service marks ("Marks") in marketing and advertising in accordance with the terms of this Agreement, no license therein, whether expressed or implied, is granted by this Agreement. To the extent the Parties wish to grant additional rights or interests in intellectual property, separate licensing agreements on mutually acceptable terms shall be executed. Neither Party shall use the other Party's name, seal, Marks, or any other identifiers in any manner that would bring that Party or any of its respective agents, representatives, employees or contractors into public disrepute, contempt, scorn or ridicule, or in any manner that would tend to shock, insult or offend the community, public morals or decency. Neither Party shall use the other Party's Marks or other identifiers to incur any obligation or indebtedness or to hold itself out as being or representing the other Party. The obligations of the Parties under this section will survive expiration or termination of this Agreement.
- 6.2 Use of Name, Seal and Logo. (Company Name) may use the City's name, seal, logo, and Marks (collectively, "City's Identifiers") only as set forth in this Agreement, to carry out the terms of this Agreement, and not for any other purpose. Any use other than that specifically provided for by this Agreement requires the prior written consent and approval of City. The City may use (Company Name)'s name and Marks only as set forth in this Agreement, for the purpose of carrying out the terms of this Agreement, and not for any other purpose, subject to review and final approval by (Company Name), which approval shall not be unreasonably conditioned, withheld, or delayed.

Section 7. Confidentiality

- 7.1 Nondisclosure Agreement. If either City or (Company Name) determines that it is necessary to provide confidential, proprietary, or trade secret information to the other Party, such disclosure shall only be made after advance written notice, and only under the terms of a separate "nondisclosure" agreement. Each Party's consent to enter said "nondisclosure" agreement shall not be unreasonably withheld, conditioned or delayed.
- 7.2 Public Records Requests. Information contained in this Agreement and reports and other documents required by this Agreement are public records subject to disclosure, unless a specific exemption in the California Public Records Act ("CPRA") applies. The City may protect confidential and proprietary information provided by (Company Name) only to the extent permitted by law. If (Company

ATTACHMENT B

Name) provides the City with information that is clearly marked as confidential or proprietary, and the City receives a CPRA requesting such information, then the City agrees to inform (Company Name) of the request so that (Company Name) may seek an appropriate protective order or other appropriate remedy to safeguard the confidentiality of its information.

7.2.1 If (Company Name) clearly marks any information contained in the Agreement as confidential or proprietary, the City shall protect such information and treat it with confidentiality to the extent permitted by law. However, it will be the responsibility of (Company Name) to provide the City the specific legal grounds on which the City can rely in withholding information requested under the CPRA. General references to the CPRA will not suffice. Rather, (Company Name) must provide a specific and detailed legal basis, including applicable case law that clearly establishes the requested information is exempt from the disclosure requirements of the CPRA.

7.2.2 If (Company Name) does not provide a specific and legal detailed basis for withholding the requested information within a reasonable time specified by the City, the City will release the information as required by the CPRA (unless ordered by a court of competent jurisdiction not to do so), and (Company Name) will indemnify and hold the City harmless for the release of this information.

7.2.3 It is (Company Name)'s obligation to defend, at (Company Name)'s expense, any legal actions or challenges seeking to obtain from the City any information requested under the CPRA withheld by the City at (Company Name)'s request.

7.2.4 Unless clearly marked as confidential or proprietary as described above, nothing in this contract creates an obligation to notify (Company Name) or to obtain (Company Name)'s approval or consent before releasing information subject to disclosure under the CPRA.

Section 8. Compliance with City Contracting Laws

- 8.1 Americans with Disabilities Act. (Company Name) agrees to comply with Council Policy 100-04, which establishes that all City contractors, including but not limited to construction contractors, consultants, grantees, and providers of goods and services agree to comply with all applicable titles of the Americans with Disabilities Act. Council Policy 100-04 is by this reference incorporated into this Agreement.
- 8.2 Drug Free Workplace. (Company Name) agrees to comply with Council Policy 100-17 that requires all City construction contractors, consultants, grantees and providers of services to provide a drug-free workplace for the performance of work done in connection with a contract held by the City. Council Policy 100-17 is by this reference incorporated into this Agreement.

ATTACHMENT B

8.3 Equal Employment Opportunity Outreach Program. City and (Company Name) agree that this Agreement is a Marketing Partnership with mutual benefits and obligations running to each Party, and not a contract for the provision or labor, materials, goods, supplies, services, or consultant services to the City, or for a grant from the City, or for the construction of public works, as the term “contract” is used and defined in San Diego Municipal Code sections 22.2701-22.2708 (EEO Outreach Program), 22.3501-22.3517 (Nondiscrimination in Contracting Ordinance), and 22.4301-22.4308 (Equal Benefits Ordinance). Notwithstanding that understanding, (Company Name) acknowledges the importance of the goals and objectives of the City’s program, and for the purpose of this Agreement, (Company Name) agrees as follows:

8.3.1 (Company Name) shall not discriminate against any employee or applicant for employment on any basis prohibited by law. (Company Name) shall provide equal opportunity in all employment practices.

8.3.2 (Company Name) shall not discriminate on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers. (Company Name) shall provide equal opportunity for subcontractors to participate in subcontracting opportunities. (Company Name) understands and agrees that violation of this clause shall be considered a material breach of this Agreement and may result in termination, debarment, or other sanctions. Contracts between (Company Name) and any subcontractors, vendors, and suppliers shall contain language that requires compliance with existing federal, state, and local discrimination laws.

8.4 Non-Discrimination in Contracting Ordinance. (Company Name) shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of subcontractors, vendors or suppliers. (Company Name) shall provide equal opportunity for subcontractors to participate in subcontracting opportunities. (Company Name) understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions. Contracts between (Company Name) and any subcontractors, vendors, and suppliers shall contain this language.

8.5 Equal Benefits Ordinance. This Agreement is subject to City’s Equal Benefits Ordinance (SDMC §§ 22.4301 -22.4308) requiring that the City contract only with contractors offering the same employment benefits to employees with spouses and employees with domestic partners. (Company Name) certifies that it will: provide and maintain equal benefits as defined in Equal Benefits Ordinance for the duration of the Agreement; notify employees of the availability of equal benefits at the time of hire and during open enrollment periods; post notice of the availability of equal benefits in an area frequented by employees; and provide City access to documents and records demonstrating compliance with the Ordinance. Failure to maintain equal benefits is a breach of this Agreement.

ATTACHMENT B

- 8.6 Federal Law. Any health and wellness program offered to City employees, retirees or family members by (Company Name) under this Agreement that ask participants to respond to disability-related inquiries and/or undergo medical examinations will comply with the Americans with Disabilities Act and Genetic Information Non-Discrimination Act requirements for health and wellness programs both in program design and confidentiality of health information.
- 8.7 Conflicts of Interest Laws. (Company Name) is subject to all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices including, but not limited to, California Government Code sections 1090, et. seq. and 8100, et seq., and the Ethics Ordinance, codified in the San Diego Municipal Code (“SDMC”). City may determine that (Company Name) must complete one or more statements of economic interest disclosing relevant financial interests.

Section 9. Insurance

- 9.1 Insurance. (Company Name) shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by (Company Name), his agents, representatives, employees or subcontractors.

(Company Name) shall provide, at a minimum, the following:

9.1.1 Commercial General Liability. Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

9.1.2 Commercial Automobile Liability. Insurance Services Office Form Number CA 0001 covering Code 1 (any auto) or, if (Company Name) has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

9.1.3 Workers' Compensation. Insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

9.1.4 If (Company Name) maintains broader coverage and/or higher limits than the minimums shown above, City requires and shall be entitled to the broader coverage and/or the higher limits maintained by (Company Name). Any available

ATTACHMENT B

insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

9.1.5 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

9.1.5.1 Additional Insured Status. The City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of (Company Name) including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to (Company Name)'s insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

9.1.5.2 Primary Coverage. For any claims related to this contract, (Company Name)'s insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers shall be excess of (Company Name)'s insurance and shall not contribute with it.

9.1.5.3 Notice of Cancellation. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to City.

9.1.5.4 Waiver of Subrogation. (Company Name) hereby grants to City a waiver of any right to subrogation which the Workers' Compensation insurer of said (Company Name) may acquire against City by virtue of the payment of any loss under such insurance. (Company Name) agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

9.1.5.5 Claims Made Policies. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work. Insurance must be maintained and evidence of insurance must be provided for at least (5) years after completion of the contract of work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, (Company Name) must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

9.2 Self Insured Retentions. Self-insured retentions must be declared to and approved by City. City may require (Company Name) to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language

ATTACHMENT B

shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

- 9.3 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VI, unless otherwise acceptable to City. City will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Approved Surplus Lines Insurers (LASLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.
- 9.4 Verification of Coverage. (Company Name) shall furnish City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive (Company Name) obligation to provide them. City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
- 9.5 Special Risks or Circumstances. City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.
- 9.6 Additional Insurance. (Company Name) may obtain additional insurance not required by this Contract.
- 9.7 Excess Insurance. All policies providing excess coverage to City shall follow the form of the primary policy or policies including but not limited to all endorsements.
- 9.8 Subcontractor. (Company Name) shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and (Company Name) shall ensure that City is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractor shall provide coverage with a format at least as broad as the CG 20 38 04 13 endorsement.

Section 10. Indemnification

- 10.1 To the extent allowable by law, (Company Name) agrees to indemnify, defend, and hold harmless City, its officers, directors, agents and employees from and against any and all claims, demands, obligations, causes of action and lawsuits and all damages, liabilities, fines, judgments, costs (including settlement costs), and expenses associated therewith (including the payment of reasonable attorney fees and disbursements), arising out of: (1) the failure of (Company Name), its employees or agents, to comply with the terms and conditions of the Agreement; (2) the negligent acts or omissions of (Company Name), its employees, agents, or

ATTACHMENT B

subcontractors, (3) City's use of (Company Name)'s Marks in accordance with the terms and conditions of this Agreement; or (4) the services performed or actions taken by (Company Name), its employees or agents, in connection with the Agreement.

- 10.2 The Parties agree and understand that City shall in no way be liable for any claims arising out of the provision of services by (Company Name), including but not limited to the services (Company Name) performs under this Agreement for City employees and, (Company Name) agrees and understands that its obligation to indemnify, defend, and hold harmless City as stated in section 10.1 includes any claims arising out of its provision of services performed under this Agreement.

This Section 10 shall survive the expiration or termination of this Agreement.

Section 11. Event of Default and Dispute Resolution

- 11.1 Event of Default. The following shall constitute an Event of Default (“Event of Default”) under this Agreement, regardless of whether any such event shall be voluntary or involuntary or shall result from the operation of applicable laws, rules, or regulations or shall be pursuant to or in compliance with any judgment, decree or order of any court of competent jurisdiction:

11.1.1 (Company Name) fails to comply with the insurance requirements of this Agreement and such failure is not remedied within ten (10) days of receipt of written notice thereof from the non-defaulting Party.

11.1.2 Either Party fails to comply with any material term, condition, or obligation of this Agreement and such failure continues for a period of thirty (30) days after the receipt of written notice thereof from the non-defaulting Party;

11.1.3 Either Party commences as a voluntary case or other proceeding seeking liquidation, reorganization or other relief under any bankruptcy, insolvency or similar law, or shall make a general assignment for the benefit of creditors or shall have an involuntary case or other proceeding instituted against it seeking similar relief.

- 11.2 Declaration of Default. Upon the occurrence of an Event of Default, as described above, and at any time thereafter so long as the same shall be continuing, the non-defaulting Party may declare, at its option, this Agreement to be in default and may immediately terminate this Agreement without any liability whatsoever.

ATTACHMENT B

- 11.3 Dispute Resolution. If a dispute arises out of, or relates to the Agreement, and if the dispute cannot be settled through negotiations, the Parties agree to first endeavor to settle the dispute in good faith, using mandatory non-binding mediation administered by a neutral professional mediator affiliated with and under the rules of the National Dispute Resolution Center (NRDC) or JAMS, before having recourse in a court of law.

11.3.1 Any such mediation shall be held in San Diego, California. The Parties agree to select a mediator from NRDC's or JAMS's panel of approved neutrals.

11.3.2 The expenses of witnesses for either side shall be paid by the Party producing such witnesses. All other expenses of the mediation, including required traveling and expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne equally by the Parties, unless they agree otherwise.

11.3.3 Any agreements resulting from mediation shall be documented in writing. All mediation results and documentation, by themselves, shall be "non-binding" and inadmissible for any purpose in any legal proceeding, unless such admission is otherwise agreed upon, in writing, by both Parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

Section 12. Miscellaneous

- 12.1 Termination. Either Party shall have the right to terminate this Agreement upon the occurrence of an Event of Default, as described in Section 11.1.
- 12.2 Notices. In all cases where written notice is required under the Agreement, service shall be deemed sufficient if the notice is deposited in the United States first-class mail, postage paid. Proper notice shall be effective on the date it is mailed, unless provided otherwise in the Agreement. For the purpose of the Agreement, unless otherwise agreed in writing, notice to the City shall be addressed to:

Director, Corporate Partnership Program
1200 Third Ave Suite 1400
San Diego, CA 92101

with a copy to:

Office of the City Attorney
1200 Third Avenue, Suite 1620,
San Diego, CA 92101

and notice to (Company Name) shall be addressed to:

ATTACHMENT B

(Company Name)
(Insert Address)

- 12.3 Headings. All article headings are for convenience only and shall not affect the interpretation of the Agreement.
- 12.4 Non-Assignment. Neither Party may assign its rights or delegate its duties under the Agreement to any other party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, delayed or conditioned. Subject to the provisions of this section, the Agreement shall inure to the benefit of and be binding upon the respective successors and assigns, if any, of the Parties hereto. However, any assignment in violation of this section shall constitute a default and is grounds for immediate termination of the Agreement. In no event shall any putative assignment in violation of this section create a contractual relationship with the putative assignee.
- 12.5 Independent Contractors. Notwithstanding the fact that the Parties refer to this arrangement as a Marketing Partnership, (Company Name) and any subcontractors employed by (Company Name) shall be deemed to be independent contractors and not agents of the City. Any provisions of the Agreement that may appear to give the City any right to direct (Company Name) concerning the details of operating the Corporate Partnership, or to exercise any control over such performance, shall mean only that (Company Name) shall follow the direction of the City concerning the end results of the performance.
- 12.6 Covenants and Conditions. All provisions of the Agreement expressed as either covenants or conditions on the part of the City or (Company Name) shall be deemed to be both covenants and conditions.
- 12.7 Compliance with Controlling Law. Both Parties shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to the Agreement. In addition, (Company Name) shall comply immediately with all directives issued by the City or its authorized representatives in order to comply with any newly enacted or amended laws, statutes, ordinances, rules, or regulations. The laws of the State of California shall govern and control the terms and conditions of the Agreement.

ATTACHMENT B

- 12.8 Jurisdiction, Venue, and Attorney's Fees. The venue for any suit or proceeding concerning the Agreement, the interpretation or application of any of its terms, or any related disputes shall be in the County of San Diego, State of California
- 12.9 Successors in Interest. The Agreement and all rights and obligations created by the Agreement shall be in force and effect whether or not any Parties to the Agreement have been succeeded by another entity, and all rights and obligations created by the Agreement shall be vested and binding on any Party's successor in interest.
- 12.10 Integration. The Agreement and the exhibits and references incorporated into the Agreement fully express all understandings of the Parties concerning the matters covered in the Agreement. No change, alteration, or modification of the terms or conditions of the Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless made in the form of a written change agreed to in writing by both Parties and an amendment to the Agreement agreed to by both Parties. All prior negotiations and agreements concerning the subject matter hereof are merged into the Agreement.
- 12.11 Counterparts. The Agreement may be executed in counterparts, which when taken together shall constitute a single signed original as though all Parties had executed the same page. Execution and delivery of this Agreement by facsimile or electronically recorded copy (including a .pdf file) bearing a copy of the signature of a Party shall constitute a valid and binding execution and delivery of this Agreement by such Party. Such copies shall comprise enforceable original documents.
- 12.12 No Waiver. No failure of either the City or (Company Name) to insist upon the strict performance by the other of any covenant, term or condition of the Agreement, nor any failure to exercise any right or remedy upon a breach of any covenant, term, or condition of the Agreement, shall constitute a waiver of any such breach or of such covenant, term or condition. No waiver of any breach shall affect or alter the Agreement, and each and every covenant, condition, and term hereof shall continue in full force and effect to any existing or subsequent breach.
- 12.13 Severability. The unenforceability, invalidity, or illegality of any provision of the Agreement shall not render any other provision of the Agreement unenforceable, invalid, or illegal.

ATTACHMENT B

- 12.14 Municipal Powers. Nothing contained in the Agreement shall be construed as a limitation upon the powers of the City as a chartered City of the State of California.
- 12.15 Drafting Ambiguities. The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of the Agreement, and the decision of whether or not to seek advice of counsel with respect to the Agreement is a decision which is the sole responsibility of each Party. The Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement. Any rule of law (including without limitation California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the Party drafting it is not applicable and is waived.
- 12.16 Signing Authority. The representative for each Party signing on behalf of a corporation, partnership, joint venture or governmental entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, or entity and agrees to hold the other Party or Parties hereto harmless if it is later determined that such authority does not exist.

Remainder of page intentionally left blank; signature page to follow

ATTACHMENT B

IN WITNESS WHEREOF, this Agreement is executed to be effective as of the Effective Date.

THE CITY OF SAN DIEGO

Christina Bibler
Economic Development Director

Date: _____

(Company Name)

By: _____

Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

HEATHER FERBERT, City Attorney

BY: _____

Name: Marguerite Middaugh
Title: Deputy City Attorney

EXHIBIT C



THE CITY OF SAN DIEGO
GENERAL CONTRACT TERMS AND PROVISIONS
APPLICABLE TO GOODS, SERVICES, AND CONSULTANT CONTRACTS

ARTICLE I SCOPE AND TERM OF CONTRACT

1.1 Scope of Contract. The scope of contract between the City and a provider of goods and/or services (Contractor) is described in the Contract Documents. The Contract Documents are comprised of the Request for Proposal, Invitation to Bid, or other solicitation document (Solicitation); the successful bid or proposal; the letter awarding the contract to Contractor; the City's written acceptance of exceptions or clarifications to the Solicitation, if any; and these General Contract Terms and Provisions.

1.2 Effective Date. A contract between the City and Contractor (Contract) is effective on the last date that the contract is signed by the parties and approved by the City Attorney in accordance with Charter section 40. Unless otherwise terminated, this Contract is effective until it is completed or as otherwise agreed upon in writing by the parties, whichever is the earliest. A Contract term cannot exceed five (5) years unless approved by the City Council by ordinance.

1.3 Contract Extension. The City may, in its sole discretion, unilaterally exercise an option to extend the Contract as described in the Contract Documents. In addition, the City may, in its sole discretion, unilaterally extend the Contract on a month-to-month basis following contract expiration if authorized under Charter section 99 and the Contract Documents. Contractor shall not increase its pricing in excess of the percentage increase described in the Contract.

ARTICLE II CONTRACT ADMINISTRATOR

2.1 Contract Administrator. The Purchasing Agent or designee is the Contract Administrator for purposes of this Contract, and has the responsibilities described in this Contract, in the San Diego Charter, and in Chapter 2, Article 2, Divisions 5, 30, and 32.

2.1.1 Contractor Performance Evaluations. The Contract Administrator will evaluate Contractor's performance as often as the Contract Administrator deems necessary throughout the term of the contract. This evaluation will be based on criteria including the quality of goods or services, the timeliness of performance, and adherence to applicable laws, including prevailing wage and living wage. City will provide Contractors who receive an unsatisfactory rating with a copy of the evaluation and an opportunity to respond. City may consider final evaluations, including Contractor's response, in evaluating future proposals and bids for contract award.

2.2 Notices. Unless otherwise specified, in all cases where written notice is required under this Contract, service shall be deemed sufficient if the notice is personally delivered or deposited in the United States mail, with first class postage paid, attention to the Purchasing Agent. Proper notice is effective on the date of personal delivery or five (5) days after deposit in a United States postal mailbox unless provided otherwise in the Contract. Notices to the City shall be sent to:

Purchasing Agent
City of San Diego, Purchasing and Contracting Division
1200 3rd Avenue, Suite 200
San Diego, CA 92101-4195

ARTICLE III COMPENSATION

3.1 Manner of Payment. Contractor will be paid monthly, in arrears, for goods and/or services provided in accordance with the terms and provisions specified in the Contract.

3.2 Invoices.

3.2.1 Invoice Detail. Contractor's invoice must be on Contractor's stationary with Contractor's name, address, and remittance address if different. Contractor's invoice must have a date, an invoice number, a purchase order number, a description of the goods or services provided, and an amount due.

3.2.2 Service Contracts. Contractor must submit invoices for services to City by the 10th of the month following the month in which Contractor provided services. Invoices must include the address of the location where services were performed and the dates in which services were provided.

3.2.3 Goods Contracts. Contractor must submit invoices for goods to City within seven days of the shipment. Invoices must describe the goods provided.

3.2.4 Parts Contracts. Contractor must submit invoices for parts to City within seven calendar (7) days of the date the parts are shipped. Invoices must include the manufacturer of the part, manufacturer's published list price, percentage discount applied in accordance with Pricing Page(s), the net price to City, and an item description, quantity, and extension.

3.2.5 Extraordinary Work. City will not pay Contractor for extraordinary work unless Contractor receives prior written authorization from the Contract Administrator. Failure to do so will result in payment being withheld for services. If approved, Contractor will include an invoice that describes the work performed and the location where the work was performed, and a copy of the Contract Administrator's written authorization.

3.2.6 Reporting Requirements. Contractor must submit the following reports using the City's web-based contract compliance portal. Incomplete and/or delinquent reports may cause payment delays, non-payment of invoice, or both. For questions, please view the City's online tutorials on how to utilize the City's web-based contract compliance portal.

3.2.6.1 Monthly Employment Utilization Reports. Contractor and Contractor's subcontractors and suppliers must submit Monthly Employment Utilization Reports by the fifth (5th) day of the subsequent month.

3.2.6.2 Monthly Invoicing and Payments. Contractor and Contractor's subcontractors and suppliers must submit Monthly Invoicing and Payment Reports by the fifth (5th) day of the subsequent month.

3.3 Annual Appropriation of Funds. Contractor acknowledges that the Contract term may extend over multiple City fiscal years, and that work and compensation under this Contract is contingent on the City Council appropriating funding for and authorizing such work and compensation for those fiscal years. This Contract may be terminated at the end of the fiscal year for which sufficient funding is not appropriated and authorized. City is not obligated to pay Contractor for any amounts not duly appropriated and authorized by City Council.

3.4 Price Adjustments. Based on Contractor's written request and justification, the City may approve an increase in unit prices on Contractor's pricing pages consistent with the amount requested in the justification in an amount not to exceed the increase in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U) as published by the Bureau of Labor Statistics, or 5.0%, whichever is less, during the preceding one year term. If the CPI-U is a negative number, then the unit prices shall not be adjusted for that option year (the unit prices will not be decreased). A negative CPI-U shall be counted against any subsequent increases in the CPI-U when calculating the unit prices for later option years. Contractor must provide such written request and justification no less than sixty days before the date in which City may exercise the option to renew the contract, or sixty days before the anniversary date of the Contract. Justification in support of the written request must include a description of the basis for the adjustment, the proposed effective date and reasons for said date, and the amount of the adjustment requested with documentation to support the requested change (e.g. CPI-U or 5.0%, whichever is less). City's approval of this request must be in writing.

ARTICLE IV SUSPENSION AND TERMINATION

4.1 City's Right to Suspend for Convenience. City may suspend all or any portion of Contractor's performance under this Contract at its sole option and for its convenience for a reasonable period of time not to exceed six (6) months. City must first give ten (10) days' written notice to Contractor of such suspension. City will pay to Contractor a sum equivalent to the reasonable value of the goods and/or services satisfactorily provided up to the date of suspension. City may rescind the suspension prior to or at six (6) months by providing Contractor with written notice of the rescission, at which time Contractor would be required to resume performance in compliance with the terms and provisions of this Contract. Contractor will be entitled to an extension of time to complete performance under the Contract equal to the length of the suspension unless otherwise agreed to in writing by the Parties.

4.2 City's Right to Terminate for Convenience. City may, at its sole option and for its convenience, terminate all or any portion of this Contract by giving thirty (30) days' written notice of such termination to Contractor. The termination of the Contract shall be effective upon receipt of the notice by Contractor. After termination of all or any portion of the Contract, Contractor shall: (1) immediately discontinue all affected performance (unless the notice directs otherwise); and (2) complete any and all additional work necessary for the orderly filing of

documents and closing of Contractor's affected performance under the Contract. After filing of documents and completion of performance, Contractor shall deliver to City all data, drawings, specifications, reports, estimates, summaries, and such other information and materials created or received by Contractor in performing this Contract, whether completed or in process. By accepting payment for completion, filing, and delivering documents as called for in this section, Contractor discharges City of all of City's payment obligations and liabilities under this Contract with regard to the affected performance.

4.3 City's Right to Terminate for Default. Contractor's failure to satisfactorily perform any obligation required by this Contract constitutes a default. Examples of default include a determination by City that Contractor has: (1) failed to deliver goods and/or perform the services of the required quality or within the time specified; (2) failed to perform any of the obligations of this Contract; and (3) failed to make sufficient progress in performance which may jeopardize full performance.

4.3.1 If Contractor fails to satisfactorily cure a default within ten (10) calendar days of receiving written notice from City specifying the nature of the default, City may immediately cancel and/or terminate this Contract, and terminate each and every right of Contractor, and any person claiming any rights by or through Contractor under this Contract.

4.3.2 If City terminates this Contract, in whole or in part, City may procure, upon such terms and in such manner as the Purchasing Agent may deem appropriate, equivalent goods or services and Contractor shall be liable to City for any excess costs. Contractor shall also continue performance to the extent not terminated.

4.4 Termination for Bankruptcy or Assignment for the Benefit of Creditors. If Contractor files a voluntary petition in bankruptcy, is adjudicated bankrupt, or makes a general assignment for the benefit of creditors, the City may at its option and without further notice to, or demand upon Contractor, terminate this Contract, and terminate each and every right of Contractor, and any person claiming rights by and through Contractor under this Contract.

4.5 Contractor's Right to Payment Following Contract Termination.

4.5.1 Termination for Convenience. If the termination is for the convenience of City an equitable adjustment in the Contract price shall be made. No amount shall be allowed for anticipated profit on unperformed services, and no amount shall be paid for an as needed contract beyond the Contract termination date.

4.5.2 Termination for Default. If, after City gives notice of termination for failure to fulfill Contract obligations to Contractor, it is determined that Contractor had not so failed, the termination shall be deemed to have been effected for the convenience of City. In such event, adjustment in the Contract price shall be made as provided in Section 4.3.2. City's rights and remedies are in addition to any other rights and remedies provided by law or under this Contract.

4.6 Remedies Cumulative. City's remedies are cumulative and are not intended to be exclusive of any other remedies or means of redress to which City may be lawfully entitled in case of any breach or threatened breach of any provision of this Contract.

ARTICLE V ADDITIONAL CONTRACTOR OBLIGATIONS

5.1 Inspection and Acceptance. The City will inspect and accept goods provided under this Contract at the shipment destination unless specified otherwise. Inspection will be made and acceptance will be determined by the City department shown in the shipping address of the Purchase Order or other duly authorized representative of City.

5.2 Responsibility for Lost or Damaged Shipments. Contractor bears the risk of loss or damage to goods prior to the time of their receipt and acceptance by City. City has no obligation to accept damaged shipments and reserves the right to return damaged goods, at Contractor's sole expense, even if the damage was not apparent or discovered until after receipt.

5.3 Responsibility for Damages. Contractor is responsible for all damage that occurs as a result of Contractor's fault or negligence or that of its' employees, agents, or representatives in connection with the performance of this Contract. Contractor shall immediately report any such damage to people and/or property to the Contract Administrator.

5.4 Delivery. Delivery shall be made on the delivery day specified in the Contract Documents. The City, in its sole discretion, may extend the time for delivery. The City may order, in writing, the suspension, delay or interruption of delivery of goods and/or services.

5.5 Delay. Unless otherwise specified herein, time is of the essence for each and every provision of the Contract. Contractor must immediately notify City in writing if there is, or it is anticipated that there will be, a delay in performance. The written notice must explain the cause for the delay and provide a reasonable estimate of the length of the delay. City may terminate this Contract as provided herein if City, in its sole discretion, determines the delay is material.

5.5.1 If a delay in performance is caused by any unforeseen event(s) beyond the control of the parties, City may allow Contractor to a reasonable extension of time to complete performance, but Contractor will not be entitled to damages or additional compensation. Any such extension of time must be approved in writing by City. The following conditions may constitute such a delay: war; changes in law or government regulation; labor disputes; strikes; fires, floods, adverse weather or other similar condition of the elements necessitating cessation of the performance; inability to obtain materials, equipment or labor; or other specific reasons agreed to between City and Contractor. This provision does not apply to a delay caused by Contractor's acts or omissions. Contractor is not entitled to an extension of time to perform if a delay is caused by Contractor's inability to obtain materials, equipment, or labor unless City has received, in a timely manner, documentary proof satisfactory to City of Contractor's inability to obtain materials, equipment, or labor, in which case City's approval must be in writing.

5.6 Restrictions and Regulations Requiring Contract Modification. Contractor shall immediately notify City in writing of any regulations or restrictions that may or will require Contractor to alter the material, quality, workmanship, or performance of the goods and/or services to be provided. City reserves the right to accept any such alteration, including any resulting reasonable price adjustments, or to cancel the Contract at no expense to the City.

5.7 Warranties. All goods and/or services provided under the Contract must be warranted by Contractor or manufacturer for at least twelve (12) months after acceptance by City, except automotive equipment. Automotive equipment must be warranted for a minimum of 12,000 miles or 12 months, whichever occurs first, unless otherwise stated in the Contract. Contractor is responsible to City for all warranty service, parts, and labor. Contractor is required to ensure that warranty work is performed at a facility acceptable to City and that services, parts, and labor are available and provided to meet City's schedules and deadlines. Contractor may establish a warranty service contract with an agency satisfactory to City instead of performing the warranty service itself. If Contractor is not an authorized service center and causes any damage to equipment being serviced, which results in the existing warranty being voided, Contractor will be liable for all costs of repairs to the equipment, or the costs of replacing the equipment with new equipment that meets City's operational needs.

5.8 Industry Standards. Contractor shall provide goods and/or services acceptable to City in strict conformance with the Contract. Contractor shall also provide goods and/or services in accordance with the standards customarily adhered to by an experienced and competent provider of the goods and/or services called for under this Contract using the degree of care and skill ordinarily exercised by reputable providers of such goods and/or services. Where approval by City, the Mayor, or other representative of City is required, it is understood to be general approval only and does not relieve Contractor of responsibility for complying with all applicable laws, codes, policies, regulations, and good business practices.

5.9 Records Retention and Examination. Contractor shall retain, protect, and maintain in an accessible location all records and documents, including paper, electronic, and computer records, relating to this Contract for five (5) years after receipt of final payment by City under this Contract. Contractor shall make all such records and documents available for inspection, copying, or other reproduction, and auditing by authorized representatives of City, including the Purchasing Agent or designee. Contractor shall make available all requested data and records at reasonable locations within City or County of San Diego at any time during normal business hours, and as often as City deems necessary. If records are not made available within the City or County of San Diego, Contractor shall pay City's travel costs to the location where the records are maintained and shall pay for all related travel expenses. Failure to make requested records available for inspection, copying, or other reproduction, or auditing by the date requested may result in termination of the Contract. Contractor must include this provision in all subcontracts made in connection with this Contract.

5.9.1 Contractor shall maintain records of all subcontracts entered into with all firms, all project invoices received from Subcontractors and Suppliers, all purchases of materials and services from Suppliers, and all joint venture participation. Records shall show name, telephone number including area code, and business address of each Subcontractor and Supplier, and joint venture partner, and the total amount actually paid to each firm. Project relevant records, regardless of tier, may be periodically reviewed by the City.

5.10 Quality Assurance Meetings. Upon City's request, Contractor shall schedule one or more quality assurance meetings with City's Contract Administrator to discuss Contractor's performance. If requested, Contractor shall schedule the first quality assurance meeting no later than eight (8) weeks from the date of commencement of work under the Contract. At the quality assurance meeting(s), City's Contract Administrator will provide Contractor with feedback, will note any deficiencies in Contract performance, and provide Contractor with an opportunity to address and correct such deficiencies. The total number of quality assurance meetings that may be required by City will depend upon Contractor's performance.

5.11 Duty to Cooperate with Auditor. The City Auditor may, in his sole discretion, at no cost to the City, and for purposes of performing his responsibilities under Charter section 39.2, review Contractor's records to confirm contract compliance. Contractor shall make reasonable efforts to cooperate with Auditor's requests.

5.12 Safety Data Sheets. If specified by City in the solicitation or otherwise required by this Contract, Contractor must send with each shipment one (1) copy of the Safety Data Sheet (SDS) for each item shipped. Failure to comply with this procedure will be cause for immediate termination of the Contract for violation of safety procedures.

5.13 Project Personnel. Except as formally approved by the City, the key personnel identified in Contractor's bid or proposal shall be the individuals who will actually complete the work. Changes in staffing must be reported in writing and approved by the City.

5.13.1 Criminal Background Certification. Contractor certifies that all employees working on this Contract have had a criminal background check and that said employees are clear of any sexual and drug related convictions. Contractor further certifies that all employees hired by Contractor or a subcontractor shall be free from any felony convictions.

5.13.2 Photo Identification Badge. Contractor shall provide a company photo identification badge to any individual assigned by Contractor or subcontractor to perform services or deliver goods on City premises. Such badge must be worn at all times while on City premises. City reserves the right to require Contractor to pay fingerprinting fees for personnel assigned to work in sensitive areas. All employees shall turn in their photo identification badges to Contractor upon completion of services and prior to final payment of invoice.

5.14 Standards of Conduct. Contractor is responsible for maintaining standards of employee competence, conduct, courtesy, appearance, honesty, and integrity satisfactory to the City.

5.14.1 Supervision. Contractor shall provide adequate and competent supervision at all times during the Contract term. Contractor shall be readily available to meet with the City. Contractor shall provide the telephone numbers where its representative(s) can be reached.

5.14.2 City Premises. Contractor's employees and agents shall comply with all City rules and regulations while on City premises.

5.14.3 Removal of Employees. City may request Contractor immediately remove from assignment to the City any employee found unfit to perform duties at the City. Contractor shall comply with all such requests.

5.15 Licenses and Permits. Contractor shall, without additional expense to the City, be responsible for obtaining any necessary licenses, permits, certifications, accreditations, fees and approvals for complying with any federal, state, county, municipal, and other laws, codes, and regulations applicable to Contract performance. This includes, but is not limited to, any laws or regulations requiring the use of licensed contractors to perform parts of the work.

5.16 Contractor and Subcontractor Registration Requirements. Prior to the award of the Contract or Task Order, Contractor and Contractor's subcontractors and suppliers must register with the City's web-based vendor registration and bid management system. The City may not award the Contract until registration of all subcontractors and suppliers is complete. In the event this requirement is not met within the time frame specified by the City, the City reserves the right to rescind the Contract award and to make the award to the next responsive and responsible proposer of bidder.

ARTICLE VI INTELLECTUAL PROPERTY RIGHTS

6.1 Rights in Data. If, in connection with the services performed under this Contract, Contractor or its employees, agents, or subcontractors, create artwork, audio recordings, blueprints, designs, diagrams, documentation, photographs, plans, reports, software, source code, specifications, surveys, system designs, video recordings, or any other original works of authorship, whether written or readable by machine (Deliverable Materials), all rights of Contractor or its subcontractors in the Deliverable Materials, including, but not limited to publication, and registration of copyrights, and trademarks in the Deliverable Materials, are the sole property of City. Contractor, including its employees, agents, and subcontractors, may not use any Deliverable Material for purposes unrelated to Contractor's work on behalf of the City without prior written consent of City. Contractor may not publish or reproduce any Deliverable Materials, for purposes unrelated to Contractor's work on behalf of the City, without the prior written consent of the City.

6.2 Intellectual Property Rights Assignment. For no additional compensation, Contractor hereby assigns to City all of Contractor's rights, title, and interest in and to the content of the Deliverable Materials created by Contractor or its employees, agents, or subcontractors, including copyrights, in connection with the services performed under this Contract. Contractor

shall promptly execute and deliver, and shall cause its employees, agents, and subcontractors to promptly execute and deliver, upon request by the City or any of its successors or assigns at any time and without further compensation of any kind, any power of attorney, assignment, application for copyright, patent, trademark or other intellectual property right protection, or other papers or instruments which may be necessary or desirable to fully secure, perfect or otherwise protect to or for the City, its successors and assigns, all right, title and interest in and to the content of the Deliverable Materials. Contractor also shall cooperate and assist in the prosecution of any action or opposition proceeding involving such intellectual property rights and any adjudication of those rights.

6.3 Contractor Works. Contractor Works means tangible and intangible information and material that: (a) had already been conceived, invented, created, developed or acquired by Contractor prior to the effective date of this Contract; or (b) were conceived, invented, created, or developed by Contractor after the effective date of this Contract, but only to the extent such information and material do not constitute part or all of the Deliverable Materials called for in this Contract. All Contractor Works, and all modifications or derivatives of such Contractor Works, including all intellectual property rights in or pertaining to the same, shall be owned solely and exclusively by Contractor.

6.4 Subcontracting. In the event that Contractor utilizes a subcontractor(s) for any portion of the work that comprises the whole or part of the specified Deliverable Materials to the City, the agreement between Contractor and the subcontractor shall include a statement that identifies the Deliverable Materials as a “works for hire” as described in the United States Copyright Act of 1976, as amended, and that all intellectual property rights in the Deliverable Materials, whether arising in copyright, trademark, service mark or other forms of intellectual property rights, belong to and shall vest solely with the City. Further, the agreement between Contractor and its subcontractor shall require that the subcontractor, if necessary, shall grant, transfer, sell and assign, free of charge, exclusively to City, all titles, rights and interests in and to the Deliverable Materials, including all copyrights, trademarks and other intellectual property rights. City shall have the right to review any such agreement for compliance with this provision.

6.5 Intellectual Property Warranty and Indemnification. Contractor represents and warrants that any materials or deliverables, including all Deliverable Materials, provided under this Contract are either original, or not encumbered, and do not infringe upon the copyright, trademark, patent or other intellectual property rights of any third party, or are in the public domain. If Deliverable Materials provided hereunder become the subject of a claim, suit or allegation of copyright, trademark or patent infringement, City shall have the right, in its sole discretion, to require Contractor to produce, at Contractor’s own expense, new non-infringing materials, deliverables or works as a means of remedying any claim of infringement in addition to any other remedy available to the City under law or equity. Contractor further agrees to indemnify, defend, and hold harmless the City, its officers, employees and agents from and against any and all claims, actions, costs, judgments or damages, of any type, alleging or threatening that any Deliverable Materials, supplies, equipment, services or works provided under this contract infringe the copyright, trademark, patent or other intellectual property or proprietary rights of any third party (Third Party Claim of Infringement). If a Third Party Claim

of Infringement is threatened or made before Contractor receives payment under this Contract, City shall be entitled, upon written notice to Contractor, to withhold some or all of such payment.

6.6 Software Licensing. Contractor represents and warrants that the software, if any, as delivered to City, does not contain any program code, virus, worm, trap door, back door, time or clock that would erase data or programming or otherwise cause the software to become inoperable, inaccessible, or incapable of being used in accordance with its user manuals, either automatically, upon the occurrence of licensor-selected conditions or manually on command. Contractor further represents and warrants that all third party software, delivered to City or used by Contractor in the performance of the Contract, is fully licensed by the appropriate licensor.

6.7 Publication. Contractor may not publish or reproduce any Deliverable Materials, for purposes unrelated to Contractor's work on behalf of the City without prior written consent from the City.

6.8 Royalties, Licenses, and Patents. Unless otherwise specified, Contractor shall pay all royalties, license, and patent fees associated with the goods that are the subject of this solicitation. Contractor warrants that the goods, materials, supplies, and equipment to be supplied do not infringe upon any patent, trademark, or copyright, and further agrees to defend any and all suits, actions and claims for infringement that are brought against the City, and to defend, indemnify and hold harmless the City, its elected officials, officers, and employees from all liability, loss and damages, whether general, exemplary or punitive, suffered as a result of any actual or claimed infringement asserted against the City, Contractor, or those furnishing goods, materials, supplies, or equipment to Contractor under the Contract.

ARTICLE VII INDEMNIFICATION AND INSURANCE

7.1 Indemnification. To the fullest extent permitted by law, Contractor shall defend (with legal counsel reasonably acceptable to City), indemnify, protect, and hold harmless City and its elected officials, officers, employees, agents, and representatives (Indemnified Parties) from and against any and all claims, losses, costs, damages, injuries (including, without limitation, injury to or death of an employee of Contractor or its subcontractors), expense, and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, and litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, any goods provided or performance of services under this Contract by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or anyone that either of them control. Contractor's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the sole negligence or willful misconduct of the Indemnified Parties.

7.2 Insurance. Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or

in connection with the performance of the work hereunder and the results of that work by Contractor, his agents, representatives, employees or subcontractors.

Contractor shall provide, at a minimum, the following:

7.2.1 Commercial General Liability. Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

7.2.2 Commercial Automobile Liability. Insurance Services Office Form Number CA 0001 covering Code 1 (any auto) or, if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

7.2.3 Workers' Compensation. Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

7.2.4 Professional Liability (Errors and Omissions). For consultant contracts, insurance appropriate to Consultant's profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If Contractor maintains broader coverage and/or higher limits than the minimums shown above, City requires and shall be entitled to the broader coverage and/or the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

7.2.5 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

7.2.5.1 Additional Insured Status. The City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

7.2.5.2 Primary Coverage. For any claims related to this contract, Contractor's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

7.2.5.3 Notice of Cancellation. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to City.

7.2.5.4 Waiver of Subrogation. Contractor hereby grants to City a waiver of any right to subrogation which the Workers' Compensation insurer of said Contractor may acquire against City by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

7.2.5.5 Claims Made Policies (applicable only to professional liability). The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

7.3 Self Insured Retentions. Self-insured retentions must be declared to and approved by City. City may require Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

7.4 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VI, unless otherwise acceptable to City.

City will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Approved Surplus Lines Insurers (LASLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

7.5 Verification of Coverage. Contractor shall furnish City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive Contractor's obligation to provide them. City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

7.6 Special Risks or Circumstances. City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

7.7 Additional Insurance. Contractor may obtain additional insurance not required by this Contract.

7.8 Excess Insurance. All policies providing excess coverage to City shall follow the form of the primary policy or policies including but not limited to all endorsements.

7.9 Subcontractors. Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractors shall provide coverage with a format at least as broad as the CG 20 38 04 13 endorsement.

ARTICLE VIII BONDS

8.1 Payment and Performance Bond. Prior to the execution of this Contract, City may require Contractor to post a payment and performance bond (Bond). The Bond shall guarantee Contractor's faithful performance of this Contract and assure payment to contractors, subcontractors, and to persons furnishing goods and/or services under this Contract.

8.1.1 Bond Amount. The Bond shall be in a sum equal to twenty-five percent (25%) of the Contract amount, unless otherwise stated in the Specifications. City may file a claim against the Bond if Contractor fails or refuses to fulfill the terms and provisions of the Contract.

8.1.2 Bond Term. The Bond shall remain in full force and effect at least until complete performance of this Contract and payment of all claims for materials and labor, at which time it will convert to a ten percent (10%) warranty bond, which shall remain in place until the end of the warranty periods set forth in this Contract. The Bond shall be renewed annually, at least sixty (60) days in advance of its expiration, and Contractor shall provide timely proof of annual renewal to City.

8.1.3 Bond Surety. The Bond must be furnished by a company authorized by the State of California Department of Insurance to transact surety business in the State of California and which has a current A.M. Best rating of at least "A-, VIII."

8.1.4 Non-Renewal or Cancellation. The Bond must provide that City and Contractor shall be provided with sixty (60) days' advance written notice in the event of non-renewal, cancellation, or material change to its terms. In the event of non-renewal, cancellation, or material change to the Bond terms, Contractor shall provide City with evidence of the new source of surety within twenty-one (21) calendar days after the date of the notice of non-renewal, cancellation, or material change. Failure to maintain the Bond, as required herein, in full force

and effect as required under this Contract, will be a material breach of the Contract subject to termination of the Contract.

8.2 Alternate Security. City may, at its sole discretion, accept alternate security in the form of an endorsed certificate of deposit, a money order, a certified check drawn on a solvent bank, or other security acceptable to the Purchasing Agent in an amount equal to the required Bond.

ARTICLE IX CITY-MANDATED CLAUSES AND REQUIREMENTS

9.1 Contractor Certification of Compliance. By signing this Contract, Contractor certifies that Contractor is aware of, and will comply with, these City-mandated clauses throughout the duration of the Contract.

9.1.1 Drug-Free Workplace Certification. Contractor shall comply with City's Drug-Free Workplace requirements set forth in Council Policy 100-17, which is incorporated into the Contract by this reference.

9.1.2 Contractor Certification for Americans with Disabilities Act (ADA) and State Access Laws and Regulations: Contractor shall comply with all accessibility requirements under the ADA and under Title 24 of the California Code of Regulations (Title 24). When a conflict exists between the ADA and Title 24, Contractor shall comply with the most restrictive requirement (i.e., that which provides the most access). Contractor also shall comply with the City's ADA Compliance/City Contractors requirements as set forth in Council Policy 100-04, which is incorporated into this Contract by reference. Contractor warrants and certifies compliance with all federal and state access laws and regulations and further certifies that any subcontract agreement for this contract contains language which indicates the subcontractor's agreement to abide by the provisions of the City's Council Policy and any applicable access laws and regulations.

9.1.3 Non-Discrimination Requirements.

9.1.3.1 Compliance with City's Equal Opportunity Contracting Program (EOCP). Contractor shall comply with City's EOCP Requirements. Contractor shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Contractor shall provide equal opportunity in all employment practices. Prime Contractors shall ensure that their subcontractors comply with this program. Nothing in this Section shall be interpreted to hold a Prime Contractor liable for any discriminatory practice of its subcontractors.

9.1.3.2 Non-Discrimination Ordinance. Contractor shall not discriminate on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of subcontractors, vendors or suppliers. Contractor shall provide equal opportunity for subcontractors to participate in subcontracting opportunities. Contractor understands and agrees that violation of this clause shall be considered a material breach of the Contract and may result

in Contract termination, debarment, or other sanctions. Contractor shall ensure that this language is included in contracts between Contractor and any subcontractors, vendors and suppliers.

9.1.3.3 Compliance Investigations. Upon City's request, Contractor agrees to provide to City, within sixty calendar days, a truthful and complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Contractor for each subcontract or supply contract. Contractor further agrees to fully cooperate in any investigation conducted by City pursuant to City's Nondiscrimination in Contracting Ordinance. Contractor understands and agrees that violation of this clause shall be considered a material breach of the Contract and may result in Contract termination, debarment, and other sanctions.

9.1.4 Equal Benefits Ordinance Certification. Unless an exception applies, Contractor shall comply with the Equal Benefits Ordinance (EBO) codified in the San Diego Municipal Code (SDMC). Failure to maintain equal benefits is a material breach of the Contract.

9.1.5 Contractor Standards. Contractor shall comply with Contractor Standards provisions codified in the SDMC. Contractor understands and agrees that violation of Contractor Standards may be considered a material breach of the Contract and may result in Contract termination, debarment, and other sanctions.

9.1.6 Noise Abatement. Contractor shall operate, conduct, or construct without violating the City's Noise Abatement Ordinance codified in the SDMC.

9.1.7 Storm Water Pollution Prevention Program. Contractor shall comply with the City's Storm Water Management and Discharge Control provisions codified in Division 3 of Chapter 4 of the SDMC, as may be amended, and any and all applicable Best Management Practice guidelines and pollution elimination requirements in performing or delivering services at City owned, leased, or managed property, or in performance of services and activities on behalf of City regardless of location.

Contractor shall comply with the City's Jurisdictional Urban Runoff Management Plan encompassing Citywide programs and activities designed to prevent and reduce storm water pollution within City boundaries as adopted by the City Council on January 22, 2008, via Resolution No. 303351, as may be amended.

Contractor shall comply with each City facility or work site's Storm Water Pollution Prevention Plan, as applicable, and institute all controls needed while completing the services to minimize any negative impact to the storm water collection system and environment.

9.1.8 Service Worker Retention Ordinance. If applicable, Contractor shall comply with the Service Worker Retention Ordinance (SWRO) codified in the SDMC.

9.1.9 Product Endorsement. Contractor shall comply with Council Policy 000-41 which requires that other than listing the City as a client and other limited endorsements, any advertisements, social media, promotions or other marketing referring to the City as a user of a product or service will require prior written approval of the Mayor or designee. Use of the City Seal or City logos is prohibited.

9.1.10 Business Tax Certificate. Unless the City Treasurer determines in writing that a contractor is exempt from the payment of business tax, any contractor doing business with the City of San Diego is required to obtain a Business Tax Certificate (BTC) and to provide a copy of its BTC to the City before a Contract is executed.

9.1.11 Equal Pay Ordinance. Unless an exception applies, Contractor shall comply with the Equal Pay Ordinance codified in San Diego Municipal Code sections 22.4801 through 22.4809. Contractor shall certify in writing that it will comply with the requirements of the EPO.

9.1.11.1 Contractor and Subcontract Requirement. The Equal Pay Ordinance applies to any subcontractor who performs work on behalf of a Contractor to the same extent as it would apply to that Contractor. Any Contractor subject to the Equal Pay Ordinance shall require all of its subcontractors to certify compliance with the Equal Pay Ordinance in its written subcontracts.

ARTICLE X CONFLICT OF INTEREST AND VIOLATIONS OF LAW

10.1 Conflict of Interest Laws. Contractor is subject to all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices including, but not limited to, California Government Code sections 1090, *et. seq.* and 81000, *et. seq.*, and the Ethics Ordinance, codified in the SDMC. City may determine that Contractor must complete one or more statements of economic interest disclosing relevant financial interests. Upon City's request, Contractor shall submit the necessary documents to City.

10.2 Contractor's Responsibility for Employees and Agents. Contractor is required to establish and make known to its employees and agents appropriate safeguards to prohibit employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by the desire for private gain for themselves or others, particularly those with whom they have family, business or other relationships.

10.3 Contractor's Financial or Organizational Interests. In connection with any task, Contractor shall not recommend or specify any product, supplier, or contractor with whom Contractor has a direct or indirect financial or organizational interest or relationship that would violate conflict of interest laws, regulations, or policies.

10.4 Certification of Non-Collusion. Contractor certifies that: (1) Contractor's bid or proposal was not made in the interest of or on behalf of any person, firm, or corporation not identified; (2) Contractor did not directly or indirectly induce or solicit any other bidder or proposer to put in a sham bid or proposal; (3) Contractor did not directly or indirectly induce or

solicit any other person, firm or corporation to refrain from bidding; and (4) Contractor did not seek by collusion to secure any advantage over the other bidders or proposers.

10.5 Hiring City Employees. This Contract shall be unilaterally and immediately terminated by City if Contractor employs an individual who within the twelve (12) months immediately preceding such employment did in his/her capacity as a City officer or employee participate in negotiations with or otherwise have an influence on the selection of Contractor.

ARTICLE XI DISPUTE RESOLUTION

11.1 Mediation. If a dispute arises out of or relates to this Contract and cannot be settled through normal contract negotiations, Contractor and City shall use mandatory non-binding mediation before having recourse in a court of law.

11.2 Selection of Mediator. A single mediator that is acceptable to both parties shall be used to mediate the dispute. The mediator will be knowledgeable in the subject matter of this Contract, if possible.

11.3 Expenses. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne equally by the parties, unless they agree otherwise.

11.4 Conduct of Mediation Sessions. Mediation hearings will be conducted in an informal manner and discovery will not be allowed. The discussions, statements, writings and admissions will be confidential to the proceedings (pursuant to California Evidence Code sections 1115 through 1128) and will not be used for any other purpose unless otherwise agreed by the parties in writing. The parties may agree to exchange any information they deem necessary. Both parties shall have a representative attend the mediation who is authorized to settle the dispute, though City's recommendation of settlement may be subject to the approval of the Mayor and City Council. Either party may have attorneys, witnesses or experts present.

11.5 Mediation Results. Any agreements resulting from mediation shall be memorialized in writing. The results of the mediation shall not be final or binding unless otherwise agreed to in writing by the parties. Mediators shall not be subject to any subpoena or liability, and their actions shall not be subject to discovery.

ARTICLE XII MANDATORY ASSISTANCE

12.1 Mandatory Assistance. If a third party dispute or litigation, or both, arises out of, or relates in any way to the services provided to the City under a Contract, Contractor, its agents, officers, and employees agree to assist in resolving the dispute or litigation upon City's request. Contractor's assistance includes, but is not limited to, providing professional consultations,

attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation.

12.2 Compensation for Mandatory Assistance. City will compensate Contractor for fees incurred for providing Mandatory Assistance. If, however, the fees incurred for the Mandatory Assistance are determined, through resolution of the third party dispute or litigation, or both, to be attributable in whole, or in part, to the acts or omissions of Contractor, its agents, officers, and employees, Contractor shall reimburse City for all fees paid to Contractor, its agents, officers, and employees for Mandatory Assistance.

12.3 Attorneys' Fees Related to Mandatory Assistance. In providing City with dispute or litigation assistance, Contractor or its agents, officers, and employees may incur expenses and/or costs. Contractor agrees that any attorney fees it may incur as a result of assistance provided under Section 12.2 are not reimbursable.

ARTICLE XIII MISCELLANEOUS

13.1 Headings. All headings are for convenience only and shall not affect the interpretation of this Contract.

13.2 Non-Assignment. Contractor may not assign the obligations under this Contract, whether by express assignment or by sale of the company, nor any monies due or to become due under this Contract, without City's prior written approval. Any assignment in violation of this paragraph shall constitute a default and is grounds for termination of this Contract at the City's sole discretion. In no event shall any putative assignment create a contractual relationship between City and any putative assignee.

13.3 Independent Contractors. Contractor and any subcontractors employed by Contractor are independent contractors and not agents of City. Any provisions of this Contract that may appear to give City any right to direct Contractor concerning the details of performing or providing the goods and/or services, or to exercise any control over performance of the Contract, shall mean only that Contractor shall follow the direction of City concerning the end results of the performance.

13.4 Subcontractors. All persons assigned to perform any work related to this Contract, including any subcontractors, are deemed to be employees of Contractor, and Contractor shall be directly responsible for their work.

13.5 Covenants and Conditions. All provisions of this Contract expressed as either covenants or conditions on the part of City or Contractor shall be deemed to be both covenants and conditions.

13.6 Compliance with Controlling Law. Contractor shall comply with all applicable local, state, and federal laws, regulations, and policies. Contractor's act or omission in violation of applicable local, state, and federal laws, regulations, and policies is grounds for contract

termination. In addition to all other remedies or damages allowed by law, Contractor is liable to City for all damages, including costs for substitute performance, sustained as a result of the violation. In addition, Contractor may be subject to suspension, debarment, or both.

13.7 Governing Law. The Contract shall be deemed to be made under, construed in accordance with, and governed by the laws of the State of California without regard to the conflicts or choice of law provisions thereof.

13.8 Venue. The venue for any suit concerning solicitations or the Contract, the interpretation of application of any of its terms and conditions, or any related disputes shall be in the County of San Diego, State of California.

13.9 Successors in Interest. This Contract and all rights and obligations created by this Contract shall be in force and effect whether or not any parties to the Contract have been succeeded by another entity, and all rights and obligations created by this Contract shall be vested and binding on any party's successor in interest.

13.10 No Waiver. No failure of either City or Contractor to insist upon the strict performance by the other of any covenant, term or condition of this Contract, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Contract, shall constitute a waiver of any such breach of such covenant, term or condition. No waiver of any breach shall affect or alter this Contract, and each and every covenant, condition, and term hereof shall continue in full force and effect without respect to any existing or subsequent breach.

13.11 Severability. The unenforceability, invalidity, or illegality of any provision of this Contract shall not render any other provision of this Contract unenforceable, invalid, or illegal.

13.12 Drafting Ambiguities. The parties acknowledge that they have the right to be advised by legal counsel with respect to the negotiations, terms and conditions of this Contract, and the decision of whether to seek advice of legal counsel with respect to this Contract is the sole responsibility of each party. This Contract shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Contract.

13.13 Amendments. Neither this Contract nor any provision hereof may be changed, modified, amended or waived except by a written agreement executed by duly authorized representatives of City and Contractor. Any alleged oral amendments have no force or effect. The Purchasing Agent must sign all Contract amendments.

13.14 Conflicts Between Terms. If this Contract conflicts with an applicable local, state, or federal law, regulation, or court order, applicable local, state, or federal law, regulation, or court order shall control. Varying degrees of stringency among the main body of this Contract, the exhibits or attachments, and laws, regulations, or orders are not deemed conflicts, and the most stringent requirement shall control. Each party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Contract.

13.15 Survival of Obligations. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with this Contract, as well as all continuing obligations indicated in this Contract, shall survive, completion and acceptance of performance and termination, expiration or completion of the Contract.

13.16 Confidentiality of Services. All services performed by Contractor, and any sub-contractor(s) if applicable, including but not limited to all drafts, data, information, correspondence, proposals, reports of any nature, estimates compiled or composed by Contractor, are for the sole use of City, its agents, and employees. Neither the documents nor their contents shall be released by Contractor or any subcontractor to any third party without the prior written consent of City. This provision does not apply to information that: (1) was publicly known, or otherwise known to Contractor, at the time it was disclosed to Contractor by City; (2) subsequently becomes publicly known through no act or omission of Contractor; or (3) otherwise becomes known to Contractor other than through disclosure by City.

13.17 Insolvency. If Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the Contract, written notification of the bankruptcy to the Purchasing Agent and the Contract Administrator responsible for administering the Contract. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of City contract numbers and contracting offices for all City contracts against which final payment has not been made. This obligation remains in effect until final payment is made under this Contract.

13.18 No Third Party Beneficiaries. Except as may be specifically set forth in this Contract, none of the provisions of this Contract are intended to benefit any third party not specifically referenced herein. No party other than City and Contractor shall have the right to enforce any of the provisions of this Contract.

13.19 Actions of City in its Governmental Capacity. Nothing in this Contract shall be interpreted as limiting the rights and obligations of City in its governmental or regulatory capacity.

City of San Diego
CONTRACTOR STANDARDS
Pledge of Compliance

The City of San Diego has adopted a Contractor Standards Ordinance (CSO) codified in section 22.3004 of the San Diego Municipal Code (SDMC). The City of San Diego uses the criteria set forth in the CSO to determine whether a contractor (bidder or proposer) has the capacity to fully perform the contract requirements and the business integrity to justify the award of public funds. This completed Pledge of Compliance signed under penalty of perjury must be submitted with each bid and proposal. If an informal solicitation process is used, the bidder must submit this completed Pledge of Compliance to the City prior to execution of the contract. All responses must be typewritten or printed in ink. If an explanation is requested or additional space is required, Contractors must provide responses on Attachment A to the Pledge of Compliance and sign each page. Failure to submit a signed and completed Pledge of Compliance may render a bid or proposal non-responsive. In the case of an informal solicitation or cooperative procurement, the contract will not be awarded unless a signed and completed Pledge of Compliance is submitted. A submitted Pledge of Compliance is a public record and information contained within will be available for public review except to the extent that such information is exempt from disclosure pursuant to applicable law.

By signing and submitting this form, the contractor is certifying, to the best of their knowledge, that the contractor and any of its Principals have not within a five (5) year period – preceding this offer, been convicted of or had a civil judgement rendered against them for commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) contract or subcontract.

“Principal” means an officer, director, owner, partner or a person having primary management or supervisory responsibilities within the firm. The Contractor shall provide immediate written notice to the Procurement Contracting Officer handling the solicitation, at any time prior to award should they learn that this Representations and Certifications was inaccurate or incomplete.

This form contains 10 pages, additional information may be submitted as part of *Attachment A*.

A. BID/PROPOSAL/SOLICITATION TITLE:

B. BIDDER/PROPOSER INFORMATION:

Legal Name		DBA	
Street Address	City	State	Zip
Contact Person, Title	Phone	Fax	

Provide the name, identity, and precise nature of the interest* of all persons who are directly or indirectly involved** in this proposed transaction (SDMC § 21.0103). Use additional pages if necessary.

* The precise nature of the interest includes:

- the percentage ownership interest in a party to the transaction,
- the percentage ownership interest in any firm, corporation, or partnership that will receive funds from the transaction,
- the value of any financial interest in the transaction,
- any contingent interest in the transaction and the value of such interest should the contingency be satisfied, and
- any philanthropic, scientific, artistic, or property interest in the transaction.

** Directly or indirectly involved means pursuing the transaction by:

- communicating or negotiating with City officers or employees,
- submitting or preparing applications, bids, proposals or other documents for purposes of contracting with the City, or
- directing or supervising the actions of persons engaged in the above activity.

Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	

Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	

Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	

Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	

Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	

Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	

Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	

Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	

Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	

C. OWNERSHIP AND NAME CHANGES:

1. In the past five (5) years, has your firm changed its name?
 Yes No

If Yes, use Attachment A to list all prior legal and DBA names, addresses, and dates each firm name was used. Explain the specific reasons for each name change.

2. Is your firm a non-profit?
 Yes ☐ No

If Yes, attach proof of status to this submission.

3. In the past five (5) years, has a firm owner, partner, or officer operated a similar business?
 Yes No

If Yes, use Attachment A to list names and addresses of all businesses and the person who operated the business. Include information about a similar business only if an owner, partner, or officer of your firm holds or has held a similar position in another firm.

D. BUSINESS ORGANIZATION/STRUCTURE:

Indicate the organizational structure of your firm. Fill in only one section on this page. Use Attachment A if more space is required.

Corporation Date incorporated: _____ State of incorporation: _____

List corporation's current officers: President: _____
 Vice Pres: _____
 Secretary: _____
 Treasurer: _____

Type of corporation: C Subchapter S

Is the corporation authorized to do business in California: Yes No

If Yes, after what date: _____

Is your firm a publicly traded corporation? Yes No

If Yes, how and where is the stock traded? _____

If Yes, list the name, title and address of those who own ten percent (10 %) or more of the corporation's stocks:

Do the President, Vice President, Secretary and/or Treasurer of your corporation have a third party interest or other financial interests in a business/enterprise that performs similar work, services or provides similar goods? Yes No

If Yes, please use Attachment A to disclose.

Please list the following: Authorized Issued Outstanding

a.	Number of voting shares:	_____	_____	_____
b.	Number of nonvoting shares:	_____	_____	_____
c.	Number of shareholders:	_____	_____	_____
d.	Value per share of common stock:		Par	\$ _____
			Book	\$ _____
			Market	\$ _____

Limited Liability Company Date formed: _____ State of formation: _____

List the name, title and address of members who own ten percent (10%) or more of the company:

Partnership Date formed: _____ State of formation: _____

List names of all firm partners:

Sole Proprietorship Date started: _____

List all firms you have been an owner, partner or officer with during the past five (5) years. Do not include ownership of stock in a publicly traded company:

Joint Venture Date formed: _____

List each firm in the joint venture and its percentage of ownership:

Note: To be responsive, each member of a Joint Venture or Partnership must complete a separate *Contractor Standards form*.

E. FINANCIAL RESOURCES AND RESPONSIBILITY:

1. Is your firm preparing to be sold, in the process of being sold, or in negotiations to be sold?

Yes No

If Yes, use Attachment A to explain the circumstances, including the buyer's name and principal contact information.

2. In the past five (5) years, has your firm been denied bonding?

Yes No

If Yes, use Attachment A to explain specific circumstances; include bonding company name.

3. In the past five (5) years, has a bonding company made any payments to satisfy claims made against a bond issued on your firm's behalf or a firm where you were the principal?

Yes No

If Yes, use Attachment A to explain specific circumstances.

4. In the past five (5) years, has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?

Yes No

If Yes, use Attachment A to explain specific circumstances.

5. Within the last five years, has your firm filed a voluntary petition in bankruptcy, been adjudicated bankrupt, or made a general assignment for the benefit of creditors?

Yes No

If Yes, use Attachment A to explain specific circumstances.

6. Are there any claims, liens or judgements that are outstanding against your firm?

Yes No

If Yes, please use Attachment A to provide detailed information on the action.

7. Please provide the name of your principal financial institution for financial reference. By submitting a response to this Solicitation Contractor authorizes a release of credit information for verification of financial responsibility.

Name of Bank: _____

Point of Contact: _____

Address: _____

Phone Number: _____

8. By submitting a response to a City solicitation, Contractor certifies that he or she has sufficient operating capital and/or financial reserves to properly fund the requirements identified in the solicitation. At City's request, Contractor will promptly provide to City

a copy of Contractor's most recent balance sheet and/or other necessary financial statements to substantiate financial ability to perform.

9. In order to do business in the City of San Diego, a current Business Tax Certificate is required. Business Tax Certificates are issued by the City Treasurer's Office. If you do not have one at the time of submission, one must be obtained prior to award.

Business Tax Certificate No.: _____ Year Issued: _____

F. PERFORMANCE HISTORY:

1. In the past five (5) years, has your firm been found civilly liable, either in a court of law or pursuant to the terms of a settlement agreement, for defaulting or breaching a contract with a government agency?

Yes No

If Yes, use Attachment A to explain specific circumstances.

2. In the past five (5) years, has a public entity terminated your firm's contract for cause prior to contract completion?

Yes No

If Yes, use Attachment A to explain specific circumstances and provide principal contact information.

3. In the past five (5) years, has your firm entered into any settlement agreement for any lawsuit that alleged contract default, breach of contract, or fraud with or against a public entity?

Yes No

If Yes, use Attachment A to explain specific circumstances.

4. Is your firm currently involved in any lawsuit with a government agency in which it is alleged that your firm has defaulted on a contract, breached a contract, or committed fraud?

Yes No

If Yes, use Attachment A to explain specific circumstances.

5. In the past five (5) years, has your firm, or any firm with which any of your firm's owners, partners, or officers is or was associated, been debarred, disqualified, removed, or otherwise prevented from bidding on or completing any government or public agency contract for any reason?

Yes No

If Yes, use Attachment A to explain specific circumstances.

6. In the past five (5) years, has your firm received a notice to cure or a notice of default on a contract with any public agency?

Yes No

If Yes, use Attachment A to explain specific circumstances and how the matter resolved.

7. Performance References:

Please provide a minimum of three (3) references familiar with work performed by your firm which was of a similar size and nature to the subject solicitation within the last five (5) years.

Please note that any references required as part of your bid/proposal submittal are in addition to those references required as part of this form.

Company Name: _____

Contact Name and Phone Number: _____

Contact Email: _____

Address: _____

Contract Date: _____

Contract Amount: _____

Requirements of Contract: _____

Company Name: _____

Contact Name and Phone Number: _____

Contact Email: _____

Address: _____

Contract Date: _____

Contract Amount: _____

Requirements of Contract: _____

Company Name: _____

Contact Name and Phone Number: _____

Contact Email: _____

Address: _____

Contract Date: _____

Contract Amount: _____

Requirements of Contract: _____

G. COMPLIANCE:

1. In the past five (5) years, has your firm or any firm owner, partner, officer, executive, or manager been criminally penalized or found civilly liable, either in a court of law or pursuant to the terms of a settlement agreement, for violating any federal, state, or local law in performance of a contract, including but not limited to, laws regarding health and safety, labor and employment, permitting, and licensing laws?
Yes No

If Yes, use Attachment A to explain specific circumstances surrounding each instance. Include the name of the entity involved, the specific infraction(s) or violation(s), dates of instances, and outcome with current status.

2. In the past five (5) years, has your firm been determined to be non-responsible by a public entity?
Yes No

If Yes, use Attachment A to explain specific circumstances of each instance. Include the name of the entity involved, the specific infraction, dates, and outcome.

H. BUSINESS INTEGRITY:

1. In the past five (5) years, has your firm been convicted of or found liable in a civil suit for making a false claim or material misrepresentation to a private or public entity?

Yes No

If Yes, use Attachment A to explain specific circumstances of each instance. Include the entity involved, specific violation(s), dates, outcome and current status.

2. In the past five (5) years, has your firm or any of its executives, management personnel, or owners been convicted of a crime, including misdemeanors, or been found liable in a civil suit involving the bidding, awarding, or performance of a government contract?

Yes No

If Yes, use Attachment A to explain specific circumstances of each instance; include the entity involved, specific infraction(s), dates, outcome and current status.

3. In the past five (5) years, has your firm or any of its executives, management personnel, or owners been convicted of a federal, state, or local crime of fraud, theft, or any other act of dishonesty?

Yes No

If Yes, use Attachment A to explain specific circumstances of each instance; include the entity involved, specific infraction(s), dates, outcome and current status.

4. Do any of the Principals of your firm have relatives that are either currently employed by the City or were employed by the City in the past five (5) years?

Yes No

If Yes, please disclose the names of those relatives in Attachment A.

I. BUSINESS REPRESENTATION:

1. Are you a local business with a physical address within the County of San Diego?

Yes No

2. Are you a certified Small and Local Business Enterprise certified by the City of San Diego?

Yes No

Certification # _____

3. Are you certified as any of the following:

- a. Disabled Veteran Business Enterprise Certification # _____
- b. Woman or Minority Owned Business Enterprise Certification # _____
- c. Disadvantaged Business Enterprise Certification # _____

J. WAGE COMPLIANCE:

In the past five (5) years, has your firm been required to pay back wages or penalties for failure to comply with the federal, state or local prevailing, minimum, or living wage laws? Yes No If Yes, use Attachment A to explain the specific circumstances of each instance. Include the entity involved, the specific infraction(s), dates, outcome, and current status.

By signing this Pledge of Compliance, your firm is certifying to the City that you will comply with the requirements of the Equal Pay Ordinance set forth in SDMC sections 22.4801 through 22.4809.

K. STATEMENT OF SUBCONTRACTORS & SUPPLIERS:

Please provide the names and information for all subcontractors and suppliers used in the performance of the proposed contract, and what portion of work will be assigned to each subcontractor. Subcontractors may not be substituted without the written consent of the City. Use Attachment A if additional pages are necessary. If no subcontractors or suppliers will be used, please write "Not Applicable."

Company Name: _____

Address: _____

Contact Name: _____ Phone: _____ Email: _____

Contractor License No.: _____ DIR Registration No.: _____

Sub-Contract Dollar Amount: \$ _____ (per year) \$ _____ (total contract term)

Scope of work subcontractor will perform: _____

Identify whether company is a subcontractor or supplier: _____

Certification type (check all that apply): DBE DVBE ELBE MBE SLBE WBE Not Certified

Contractor must provide valid proof of certification with the response to the bid or proposal to receive participation credit.

Company Name: _____

Address: _____

Contact Name: _____ Phone: _____ Email: _____

Contractor License No.: _____ DIR Registration No.: _____

Sub-Contract Dollar Amount: \$ _____ (per year) \$ _____ (total contract term)

Scope of work subcontractor will perform: _____

Identify whether company is a subcontractor or supplier: _____

Certification type (check all that apply): DBE DVBE ELBE MBE SLBE WBE Not Certified

Contractor must provide valid proof of certification with the response to the bid or proposal to receive participation credit.

L. STATEMENT OF AVAILABLE EQUIPMENT:

A full inventoried list of all necessary equipment to complete the work specified may be a requirement of the bid/proposal submission.

By signing and submitting this form, the Contractor certifies that all required equipment included in this bid or proposal will be made available one week (7 days) before work shall commence. In instances where the required equipment is not owned by the Contractor, Contractor shall explain how the equipment will be made available before the commencement of work. The City of San

Diego reserves the right to reject any response, in its opinion, if the Contractor has not demonstrated he or she will be properly equipped to perform the work in an efficient, effective matter for the duration of the contract period.

M. TYPE OF SUBMISSION: This document is submitted as:

Initial submission of *Contractor Standards Pledge of Compliance*

Initial submission of *Contractor Standards Pledge of Compliance* as part of a Cooperative agreement

Initial submission of *Contractor Standards Pledge of Compliance* as part of a Sole Source agreement

Update of prior *Contractor Standards Pledge of Compliance* dated _____.

Complete all questions and sign below.

Under penalty of perjury under the laws of the State of California, I certify that I have read and understand the questions contained in this Pledge of Compliance, that I am responsible for completeness and accuracy of the responses contained herein, and that all information provided is true, full and complete to the best of my knowledge and belief. I agree to provide written notice to the Purchasing Agent within five (5) business days if, at any time, I learn that any portion of this Pledge of Compliance is inaccurate. Failure to timely provide the Purchasing Agent with written notice is grounds for Contract termination.

I, on behalf of the firm, further certify that I and my firm will comply with the following provisions of SDMC section 22.3004:

(a) I and my firm will comply with all applicable local, State and Federal laws, including health and safety, labor and employment, and licensing laws that affect the employees, worksite or performance of the contract.

(b) I and my firm will notify the Purchasing Agent in writing within fifteen (15) calendar days of receiving notice that a government agency has begun an investigation of me or my firm that may result in a finding that I or my firm is or was not in compliance with laws stated in paragraph (a).

(c) I and my firm will notify the Purchasing Agent in writing within fifteen (15) calendar days of a finding by a government agency or court of competent jurisdiction of a violation by the Contractor of laws stated in paragraph (a).

(d) I and my firm will notify the Purchasing Agent in writing within fifteen (15) calendar days of becoming aware of an investigation or finding by a government agency or court of competent jurisdiction of a violation by a subcontractor of laws stated in paragraph (a).

(e) I and my firm will cooperate fully with the City during any investigation and to respond to a request for information within ten (10) working days.

Failure to sign and submit this form with the bid/proposal shall make the bid/proposal non-responsive. In the case of an informal solicitation, the contract will not be awarded unless a signed and completed *Pledge of Compliance* is submitted.

Name and Title

Signature

Date

City of San Diego
CONTRACTOR STANDARDS
Attachment "A"

Provide additional information in space below. Use additional Attachment "A" pages as needed. Each page must be signed.
Print in ink or type responses and indicate question being answered.

I have read the matters and statements made in this Contractor Standards Pledge of Compliance and attachments thereto and I know the same to be true of my own knowledge, except as to those matters stated upon information or belief and as to such matters, I believe the same to be true. I certify under penalty of perjury that the foregoing is true and correct.

Print Name, Title

Signature

Date

EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP)

GOODS AND SERVICES CONTRACTOR REQUIREMENTS

I. City's Equal Opportunity Contracting Commitment.

The City of San Diego (City) promotes equal employment and subcontracting opportunities. The City is committed to ensuring that taxpayer dollars spent on public contracts are not paid to businesses that practice discrimination in employment or subcontracting. The City encourages all companies seeking to do business with the City to share this commitment. Contractors are encouraged to take positive steps to diversify and expand their subcontractor and supplier solicitation base and to offer opportunities to all eligible business firms.

Contractors must submit the required EOCP documentation indicated below with their proposals. Contractors who fail to provide the required EOCP documentation are considered non-responsive.

II. Definitions.

Commercially Useful Function: a Small Local Business Enterprise or Emerging Local Business Enterprise (SLBE/ELBE) performs a commercially useful function when it is responsible for execution of the work and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the SLBE/ELBE shall also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quantity and quality, ordering the material, and installing (where applicable) and paying for the material itself.

To determine whether an SLBE/ELBE is performing a commercially useful function, an evaluation will be performed of the amount of work subcontracted, normal industry practices, whether the amount the SLBE/ELBE firm is to be paid under the contract is commensurate with the work it is actually performing and the SLBE/ELBE credit claimed for its performance of the work, and other relevant factors. Specifically, an SLBE/ELBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of meaningful and useful SLBE/ELBE participation, when in similar transactions in which SLBE/ELBE firms do not participate, there is no such role performed.

Disadvantaged Business Enterprise (DBE): a certified business that is (1) at least fifty-one (51%) owned by socially and economically Disadvantaged Individuals, or, in the case of a publicly owned business at least fifty-one percent (51%) of the stock is owned by one or more socially and economically Disadvantaged Individuals; and (2) whose daily business operations are managed and directed by one or more socially and economically disadvantaged owners. Disadvantaged Individuals include Black Americans, Hispanic Americans, Asian Americans, and other minorities, or individual found to be disadvantaged by the Small Business Administration pursuant to Section 8 of the Small Business Reauthorization Act.

Disabled Veteran Business Enterprise (DVBE): a certified business that is (1) at least fifty-one percent (51%) owned by one or more Disabled Veterans; and (2) business operations must be managed and controlled by one or more Disabled Veterans. A Disabled Veteran is a veteran of the U.S. military, naval, or air service who resides in California and has a service-connected disability of at least 10% or more. The firm shall be certified by the State of California's Department of General Services, Office of Small and Minority Business.

Emerging Business Enterprise (EBE): a business whose gross annual receipts do not exceed the amount set by the City Manager, and which meets all other criteria set forth in the regulations implementing the City's Small and Local Business Preference Program. The City Manager shall review the threshold amount for EBEs on an annual basis, and adjust as necessary to reflect changes in the marketplace.

Emerging Local Business Enterprise (ELBE): a Local Business Enterprise that is also an Emerging Business Enterprise.

Local Business Enterprise (LBE): a business that has both a principal place of business and a significant employment presence in the County of San Diego, and that has been in operation for twelve (12) consecutive months.

Minority Business Enterprise (MBE): a certified business that is (1) at least fifty-one percent (51%) owned by one or more minority individuals, or, in the case of a publicly owned business at least fifty-one percent (51%) of the stock is owned by one or more minority individuals; and (2) whose daily business operations are managed and directed by one or more minorities owners. Minorities include the groups with the following ethnic origins: African, Asian Pacific, Asian Subcontinent, Hispanic, Native Alaskan, Native American, and Native Hawaiian.

Other Business Enterprise (OBE): any business which does not otherwise qualify as Minority, Woman, Disadvantaged, or Disabled Veteran Business Enterprise.

Principal Place of Business: a location wherein a business maintains a physical office and through which it obtains no less than fifty percent (50%) of gross annual receipts.

Significant Employee Presence: no less than twenty-five percent (25%) of a business's total number of employees.

Small Business Enterprise (SBE): a business whose gross annual receipts do not exceed the amount set by the City Manager, and that meets all other criteria set forth in regulations implementing the City's Small and Local Business Preference Program. The City Manager shall review the threshold amount for SBEs on an annual basis, and adjust as necessary to reflect changes in the marketplace. A business certified as a DVBE by the State of California, and that has provided proof of such certification to the City manager, shall be deemed to be an SBE.

Small Local Business Enterprise (SLBE): a Local Business Enterprise that is also a Small Business Enterprise.

Women Business Enterprise (WBE): a certified business that is (1) at least fifty-one percent (51 %) owned by a woman or women, or, in the case of a publicly owned business at least fifty-one percent (51%) of the stock is owned by one or more women; and (2) whose daily business operations are managed and directed by one or more women owners.

III. Disclosure of Discrimination Complaints.

As part of its proposal, Contractor shall provide to the City a list of all instances within the past ten (10) years where a complaint was filed or pending against Contractor in a legal or administrative proceeding alleging that Contractor discriminated against its employees, subcontractors, vendors, or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken. (Attachment AA).

IV. Work Force Report and Equal Opportunity Outreach Plan.

- A. Work Force Report. Contractors shall submit with their proposal a Work Force Report (WFR) for approval by the City. (Attachment BB). If the City determines that there are under representations when compared to County Labor Force Availability data, then the Contractor will also be required to submit an Equal Employment Opportunity Plan (EEOP) to the City for approval. Questions regarding the WFR should be directed to the Equal Opportunity Contracting Department.
- B. Duty to Comply with Equal Opportunity Outreach Plan. A Contractor for whom an EEOP has been approved by the City shall use best efforts to comply with that EEOP.

V. Small and Local Business Program Requirements.

The City has adopted a Small and Local Business Enterprise program for goods, services, and consultant contracts. The SLBE requirements are set forth in Council Policy 100-10. For contracts in which the Purchasing Agent is required to advertise for sealed proposals in the City's official newspaper or consultant contracts valued over \$50,000, the City shall:

- A. Apply a maximum of an additional 12% of the total possible evaluation points to the Contractor's final score for SLBE or ELBE participation. Additional points will be awarded as follows:
 - a. If the Contractor achieves 20% participation, apply 5% of the total possible evaluation points to the Contractor's score; or
 - b. If the Contractor achieves 25% participation, apply 10% of the total possible evaluation points to the Contractor's score; or
 - c. If the prime contractor is a SLBE or an ELBE, apply 12% of the total possible evaluation points to the Contractor's score.

VI. Maintaining Participation Levels.

- A. Additional points are based on the Contractor's level of participation proposed prior to the award of the goods, services, or consultant contract. Contractors are required to achieve and maintain the SLBE or ELBE participation levels throughout the duration of the goods, services, or consultant contract.
- B. If the City modifies the original specifications, the Contractor shall make reasonable efforts to maintain the SLBE or ELBE participation for which the additional points were awarded. The City must approve in writing a reduction in SLBE or ELBE participation levels.
- C. Contractor shall notify and obtain written approval from the City in advance of any reduction in subcontract scope, termination, or substitution for a designated SLBE or ELBE subcontractor.
- D. Contractor's failure to maintain SLBE or ELBE participation levels as specified in the goods, services, or consultant contract shall constitute a default and grounds for debarment under Chapter 2, Article 2, Division 8, of the San Diego Municipal Code.
- E. The remedies available to the City under Council Policy 100-10 are cumulative to all other rights and remedies available to the City.

VII. Certifications.

The City accepts certifications of MBE, WBE, DBE, or DVBE from the following certifying agencies:

- A. Current certification by the State of California Department of Transportation (CALTRANS) as DBE.
- B. Current MBE or WBE certification from the California Public Utilities Commission.
- C. DVBE certification is received from the State of California's Department of General Services, Office of Small and Minority Business.
- D. Current certification by the City of Los Angeles as DBE, WBE, or MBE.

Subcontractors' valid proof of certification status e.g., copy of MBE, WBE, DBE, or DVBE certification must be submitted with the proposal or contract documents. MBE, WBE, DBE, or DVBE certifications are listed for informational purposes only.

VIII. List of Attachments.

- AA. Contractors Certification of Pending Actions
- BB. Work Force Report

AA. CONTRACTORS CERTIFICATION OF PENDING ACTIONS

As part of this Contract, the Contractor must provide to the City a list of all instances within the past 10 years where a complaint was filed or pending against the Contractor in a legal or administrative proceeding alleging that Contractor discriminated against its employees, subcontractors, vendors or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.

CHECK ONE BOX ONLY.

- ☐ The undersigned certifies that within the past 10 years the Contractor has NOT been the subject of a complaint or pending action in a legal administrative proceeding alleging that Contractor discriminated against its employees, subcontractors, vendors or suppliers.
- ☐ The undersigned certifies that within the past 10 years the Contractor has been the subject of a complaint or pending action in a legal administrative proceeding alleging that Contractor discriminated against its employees, subcontractors, vendors or suppliers. A description of the status or resolution of that complaint, including any remedial action taken and the applicable dates is as follows:

DATE OF CLAIM	LOCATION	DESCRIPTION OF CLAIM	LITIGATION (Y/N)	STATUS	RESOLUTION/ REMEDIAL ACTION TAKEN

Contractor Name: _____

Certified By _____ Title _____

Name

_____ Date _____

Signature

EQUAL OPPORTUNITY CONTRACTING (EOC)

1200 Third Avenue, Suite 200 • San Diego, CA 92101

Phone: (619) 236-6000 • Fax: (619) 236-5904

BB. WORK FORCE REPORT

The objective of the *Equal Employment Opportunity Outreach Program*, San Diego Municipal Code Sections 22.3501 through 22.3517, is to ensure that contractors doing business with the City, or receiving funds from the City, do not engage in unlawful discriminatory employment practices prohibited by State and Federal law. Such employment practices include, but are not limited to unlawful discrimination in the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship. Contractors are required to provide a completed *Work Force Report (WFR)*.

NO OTHER FORMS WILL BE ACCEPTED

CONTRACTOR IDENTIFICATION

Type of Contractor: ☐ Construction ☐ Vendor/Supplier ☐ Financial Institution ☐ Lessee/Lessor
☐ Consultant ☐ Grant Recipient ☐ Insurance Company ☐ Other

Name of Company: _____

ADA/DBA: _____

Address (Corporate Headquarters, where applicable): _____

City: _____ County: _____ State: _____ Zip: _____

Telephone Number: _____ Fax Number: _____

Name of Company CEO: _____

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: _____

City: _____ County: _____ State: _____ Zip: _____

Telephone Number: _____ Fax Number: _____ Email: _____

Type of Business: _____ Type of License: _____

The Company has appointed: _____

As its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: _____

Telephone Number: _____ Fax Number: _____ Email: _____

-
- ☐ One San Diego County (or Most Local County) Work Force - Mandatory
☐ Branch Work Force *
☐ Managing Office Work Force

Check the box above that applies to this WFR.

*Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.

I, the undersigned representative of _____
(Firm Name)

_____, _____ hereby certify that information provided
(County) (State)

herein is true and correct. This document was executed on this _____ day of _____, 20.____

(Authorized Signature)

(Print Authorized Signature Name)

WORK FORCE REPORT – Page 2

NAME OF FIRM: _____ DATE: _____

OFFICE(S) or BRANCH(ES): _____ COUNTY: _____

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- | | |
|--------------------------------------|---|
| (1) Black or African-American | (5) Native Hawaiian or Pacific Islander |
| (2) Hispanic or Latino | (6) White |
| (3) Asian | (7) Other race/ethnicity; not falling into other groups |
| (4) American Indian or Alaska Native | |

Definitions of the race and ethnicity categories can be found on Page 4

ADMINISTRATION OCCUPATIONAL CATEGORY	(1) Black or African American		(2) Hispanic or Latino		(3) Asian		(4) American Indian/ Nat. Alaskan		(5) Pacific Islander		(6) White		(7) Other Race/ Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Management & Financial														
Professional														
A&E, Science, Computer														
Technical														
Sales														
Administrative Support														
Services														
Crafts														
Operative Workers														
Transportation														
Laborers*														

*Construction laborers and other field employees are not to be included on this page

Totals Each Column														
--------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Grand Total All Employees

Indicate by Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Non-Profit Organizations Only:

Board of Directors														
Volunteers														
Artists														

WORK FORCE REPORT – Page 3

NAME OF FIRM: _____ DATE: _____

OFFICE(S) or BRANCH(ES): _____ COUNTY: _____

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- | | |
|--------------------------------------|---|
| (1) Black or African-American | (5) Native Hawaiian or Pacific Islander |
| (2) Hispanic or Latino | (6) White |
| (3) Asian | (7) Other race/ethnicity; not falling into other groups |
| (4) American Indian or Alaska Native | |

Definitions of the race and ethnicity categories can be found on Page 4

TRADE OCCUPATIONAL CATEGORY	(1) Black or African American		(2) Hispanic or Latino		(3) Asian		(4) American Indian/ Nat. Alaskan		(5) Pacific Islander		(6) White		(7) Other Race/ Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Brick, Block or Stone Masons														
Carpenters														
Carpet, Floor & Tile Installers Finishers														
Cement Masons, Concrete Finishers														
Construction Laborers														
Drywall Installers, Ceiling Tile Inst														
Electricians														
Elevator Installers														
First-Line Supervisors/Managers														
Glaziers														
Helpers; Construction Trade														
Millwrights														
Misc. Const. Equipment Operators														
Painters, Const. & Maintenance														
Pipelayers, Plumbers, Pipe & Steam Fitters														
Plasterers & Stucco Masons														
Roofers														
Security Guards & Surveillance Officers														
Sheet Metal Workers														
Structural Metal Fabricators & Fitters														
Welding, Soldering & Brazing Workers														
Workers, Extractive Crafts, Miners														

Totals Each Column														
--------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Grand Total All Employees

Indicate By Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Work Force Report

HISTORY

The Work Force Report (WFR) is the document that allows the City of San Diego to analyze the work forces of all firms wishing to do business with the City. We are able to compare the firm's work force data to County Labor Force Availability (CLFA) data derived from the United States Census. CLFA data is a compilation of lists of occupations and includes the percentage of each ethnicity we track (American Indian or Alaska Native, Asian, Black or African-American, Native Hawaiian or Pacific Islander, White, and Other) for each occupation. Currently, our CLFA data is taken from the 2010 Census. In order to compare one firm to another, it is important that the data we receive from the consultant firm is accurate and organized in the manner that allows for this fair comparison.

WORK FORCE & BRANCH WORK FORCE REPORTS

When submitting a WFR, especially if the WFR is for a specific project or activity, we would like to have information about the firm's work force that is actually participating in the project or activity. That is, if the project is in San Diego and the work force is from San Diego, we want a San Diego County Work Force Report¹. By the same token, if the project is in San Diego, but the work force is from another county, such as Orange or Riverside County, we want a Work Force Report from that county². If participation in a San Diego project is by work forces from San Diego County and, for example, from Los Angeles County and from Sacramento County, we ask for separate Work Force Reports representing your firm from each of the three counties.

MANAGING OFFICE WORK FORCE

Equal Opportunity Contracting may occasionally ask for a Managing Office Work Force (MOWF) Report. This may occur in an instance where the firm involved is a large national or international firm but the San Diego or other local work force is very small. In this case, we may ask for both a local and a MOWF Report^{1, 3}. In another case, when work is done only by the Managing Office, only the MOWF Report may be necessary.³

TYPES OF WORK FORCE REPORTS:

Please note, throughout the preceding text of this page, the superscript numbers one ¹, two ² & three ³. These numbers coincide with the types of work force report required in the example. See below:

¹ One San Diego County (or Most Local County)
Work Force – Mandatory in most cases

² Branch Work Force *

³ Managing Office Work Force

**Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.*

RACE/ETHNICITY CATEGORIES

American Indian or Alaska Native – A person having origins in any of the peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment.

Asian – A person having origins in any of the peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

Black or African American – A person having origins in any of the Black racial groups of Africa.

Native Hawaiian or Pacific Islander – A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

White – A person having origins in any of the peoples of Europe, the Middle East, or North Africa.

Hispanic or Latino – A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin.

Exhibit A: Work Force Report Job Categories – Administration

Refer to this table when completing your firm's Work Force Report form(s).

Management & Financial

Advertising, Marketing, Promotions, Public Relations, and Sales Managers
Business Operations Specialists
Financial Specialists
Operations Specialties Managers
Other Management Occupations
Top Executives

Professional

Art and Design Workers
Counselors, Social Workers, and Other Community and Social Service Specialists
Entertainers and Performers, Sports and Related Workers
Health Diagnosing and Treating Practitioners
Lawyers, Judges, and Related Workers
Librarians, Curators, and Archivists
Life Scientists
Media and Communication Workers
Other Teachers and Instructors
Postsecondary Teachers
Primary, Secondary, and Special Education School Teachers
Religious Workers
Social Scientists and Related Workers

Architecture & Engineering, Science, Computer

Architects, Surveyors, and Cartographers
Computer Specialists
Engineers
Mathematical Science Occupations
Physical Scientists

Technical

Drafters, Engineering, and Mapping Technicians
Health Technologists and Technicians
Life, Physical, and Social Science Technicians
Media and Communication Equipment Workers

Sales

Other Sales and Related Workers
Retail Sales Workers
Sales Representatives, Services
Sales Representatives, Wholesale and Manufacturing
Supervisors, Sales Workers

Administrative Support

Financial Clerks
Information and Record Clerks
Legal Support Workers

Material Recording, Scheduling, Dispatching, and Distributing Workers
Other Education, Training, and Library Occupations
Other Office and Administrative Support Workers
Secretaries and Administrative Assistants
Supervisors, Office and Administrative Support Workers

Services

Building Cleaning and Pest Control Workers
Cooks and Food Preparation Workers
Entertainment Attendants and Related Workers
Fire Fighting and Prevention Workers
First-Line Supervisors/Managers, Protective Service Workers
Food and Beverage Serving Workers
Funeral Service Workers
Law Enforcement Workers
Nursing, Psychiatric, and Home Health Aides
Occupational and Physical Therapist Assistants and Aides
Other Food Preparation and Serving Related Workers
Other Healthcare Support Occupations
Other Personal Care and Service Workers
Other Protective Service Workers
Personal Appearance Workers
Supervisors, Food Preparation and Serving Workers
Supervisors, Personal Care and Service Workers
Transportation, Tourism, and Lodging Attendants

Crafts

Construction Trades Workers
Electrical and Electronic Equipment Mechanics, Installers, and Repairers
Extraction Workers
Material Moving Workers
Other Construction and Related Workers
Other Installation, Maintenance, and Repair Occupations
Plant and System Operators
Supervisors of Installation, Maintenance, and Repair Workers
Supervisors, Construction and Extraction Workers
Vehicle and Mobile Equipment Mechanics,

Installers, and Repairers
Woodworkers

Operative Workers

Assemblers and Fabricators
Communications Equipment Operators
Food Processing Workers
Metal Workers and Plastic Workers
Motor Vehicle Operators
Other Production Occupations
Printing Workers
Supervisors, Production Workers
Textile, Apparel, and Furnishings Workers

Transportation

Air Transportation Workers
Other Transportation Workers
Rail Transportation Workers
Supervisors, Transportation and Material
Moving Workers
Water Transportation Workers

Laborers

Agricultural Workers
Animal Care and Service Workers
Fishing and Hunting Workers
Forest, Conservation, and Logging Workers
Grounds Maintenance Workers
Helpers, Construction Trades
Supervisors, Building and Grounds Cleaning
and Maintenance Workers
Supervisors, Farming, Fishing, and Forestry
Workers

Exhibit B: Work Force Report Job Categories-Trade

Brick, Block or Stone Masons

Brickmasons and Blockmasons
Stonemasons

Carpenters

Carpet, floor and Tile Installers and Finishers

Carpet Installers
Floor Layers, except Carpet, Wood and Hard
Tiles
Floor Sanders and Finishers
Tile and Marble Setters

Cement Masons, Concrete Finishers

Cement Masons and Concrete Finishers
Terrazzo Workers and Finishers

Construction Laborers

Drywall Installers, Ceiling Tile Inst

Drywall and Ceiling Tile Installers
Tapers

Electricians

Elevator Installers and Repairers

First-Line Supervisors/Managers

First-line Supervisors/Managers of
Construction Trades and Extraction Workers

Glaziers

Helpers, Construction Trade

Brickmasons, Blockmasons, and Tile and
Marble Setters
Carpenters
Electricians
Painters, Paperhangers, Plasterers and Stucco
Pipelayers, Plumbers, Pipefitters and
Steamfitters
Roofers
All other Construction Trades

Millwrights

Heating, Air Conditioning and Refrigeration
Mechanics and Installers
Mechanical Door Repairers
Control and Valve Installers and Repairers
Other Installation, Maintenance and Repair
Occupations

Misc. Const. Equipment Operators

Paving, Surfacing and Tamping Equipment
Operators
Pile-Driver Operators
Operating Engineers and Other Construction
Equipment Operators

Painters, Const. Maintenance

Painters, Construction and Maintenance
Paperhangers

Pipelayers and Plumbers

Pipelayers
Plumbers, Pipefitters and Steamfitters

Plasterers and Stucco Masons**Roofers****Security Guards & Surveillance Officers****Sheet Metal Workers****Structural Iron and Steel Workers****Welding, Soldering and Brazing Workers**

Welders, Cutter, Solderers and Brazers
Welding, Soldering and Brazing Machine
Setter, Operators and Tenders

Workers, Extractive Crafts, Miners



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: PRIMARY CONTACT AT PRODUCER OR AGENCY
FULL NAME OF THE PRODUCER OR AGENCY	PHONE (A/C, No, Ext): PROVIDE TELEPHONE NO. FAX (A/C, No):
MAILING ADDRESS OF THE PRODUCER	E-MAIL ADDRESS: PROVIDE EMAIL ADDRESS
CITY / STATE / ZIP CODE	INSURER(S) AFFORDING COVERAGE
	INSURER A: INSURER'S FULL LEGAL COMPANY NAME NAIC #
INSURED	INSURER B:
NAME OF CONTRACTOR	INSURER C:
MAILING ADDRESS OF CONTRACTOR	INSURER D:
	INSURER E:
CITY / STATE / ZIP CODE	INSURER F:

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY			CGL POLICY NUMBER	12/01/16	12/31/2017	EACH OCCURRENCE \$ 1,000,000
	☐ COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$
	☐ CLAIMS-MADE ☒ OCCUR						MED EXP (Any one person) \$
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY \$
	☐ POLICY ☐ PRO-JECT ☐ LOC						GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 1,000,000
							\$
A	AUTOMOBILE LIABILITY			AUTO POLICY NUMBER	12/01/2016	12/01/2017	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	☒ ANY AUTO						BODILY INJURY (Per person) \$
	☒ ALL OWNED AUTOS	☐ SCHEDULED AUTOS					BODILY INJURY (Per accident) \$
	☐ HIRED AUTOS	☒ NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED						\$
	RETENTION \$						
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WC POLICY NUMBER	12/01/2016	12/01/2017	WC STATUTORY LIMITS \$
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	☐					E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

THE CITY, ITS OFFICERS, OFFICIALS, EMPLOYEES, AND VOLUNTEERS.

CERTIFICATE HOLDER

CANCELLATION

CITY OF SAN DIEGO
PURCHASING & CONTRACTING
1200 THIRD AVENUE, SUITE 200
SAN DIEGO, CA 92101-4195

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
MUST BE SIGNED

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – (FORM B)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Person or Organization:

The City, its officers, officials, employees, and volunteers

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
The City, its officers, officials, employees, and volunteers	All Operations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions, or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
The City, its officers, officials, employees, and volunteers	All Operations
Information required to complete this Schedule, not shown above, will be shown in the Declarations.	

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and

- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - PRIMARY AND NONCONTRIBUTORY - AUTOMATIC STATUS WHEN REQUIRED IN CONTRACT OR AGREEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. Section II - Who Is An Insured** is **amended** to include as an additional insured any person or organization when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions, or the acts or omissions of those acting on your behalf:
1. In the performance of your ongoing operations for the additional insured; or
 2. In connection with premises owned by or rented to you.
- But only for:
1. The limits of insurance specified in such written contract or agreement, but in no event for limits of insurance in excess of the applicable limits of insurance of this policy; and
 2. "Occurrences" or coverages not otherwise excluded in the policy to which this endorsement applies.
- B. Status as an additional insured for the person or organization to which this endorsement applies:**
1. Commences during the policy period and after such written contract or agreement has been executed; and
 2. Ends when:
 - a. Your ongoing operations for that additional insured are completed;
 - b. The contractor's contract or agreement is terminated;
 - c. The lease of premises expires; or
 - d. Your policy cancels or expires,
 whichever occurs first.
- C. The following is added to 4.a. of Other Insurance of Section IV - Commercial General Liability Conditions:**
- If required in a written contract, your policy is primary and noncontributory in the event of an "occurrence" caused, in whole or in part, by your acts or omissions, or the acts or omissions of those acting on your behalf that occurs while performing ongoing operations for the additional insured, or in connection with premises owned by or rented to you.
- D. With respect to the insurance afforded to the additional insured, the following exclusions apply:**
- This insurance does not apply to "bodily injury" or "property damage" occurring after:
1. All work on this project, including materials, parts, or equipment furnished in connection with such work (other than service, maintenance, or repairs), to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
 2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

All other terms and conditions of this policy remain unchanged.

INCLUDE POLICY NUMBER

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**BLANKET ADDITIONAL INSURED ENDORSEMENT
WITH PRODUCTS-COMPLETED OPERATIONS COVERAGE
&
BLANKET WAIVER OF SUBROGATION
Architects, Engineers and Surveyors**

This endorsement modifies insurance provided under the following:

BUSINESS ACCOUNT PACKAGE POLICY – BUSINESS LIABILITY COVERAGE FORM
BUSINESS ACCOUNT PACKAGE POLICY – COMMON POLICY CONDITIONS

- A. WHO IS AN INSURED (Section C)** of the Business Liability Coverage Form is amended to include as an insured any person or organization whom you are required to add as an additional insured on this policy under a written contract or written agreement; but the written contract or written agreement must be:
1. Currently in effect or becoming effective during the term of this policy; and
 2. Executed prior to the "bodily injury," "property damage," "personal injury" or "advertising injury."
- B.** The insurance provided to the additional insured is limited as follows:
1. That person or organization is an additional insured solely for liability due to your negligence specifically resulting from "your work" for the additional insured which is the subject of the written contract or written agreement. No coverage applies to liability resulting from the sole negligence of the additional insured.
 2. The Limits of Insurance applicable to the additional insured are those specified in the written contract or written agreement or in the Declarations of this policy, whichever is less. These Limits of Insurance are inclusive of, and not in addition to, the Limits of Insurance shown in the Declarations.
 3. The coverage provided to the additional insured within this endorsement and section titled **DEFINITIONS – "Insured Contract" (Section F.8)** within the Business Liability Coverage Form, does not apply to "bodily injury" or "property damage" arising out of the "products-completed operations hazard" unless required by the written contract or written agreement.
 4. The insurance provided to the additional insured does not apply to "bodily injury," "property damage," "personal injury" or "advertising injury" arising out of an architect's, engineer's, or surveyor's rendering of or failure to render any professional services including:
 - a. The preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications by any architect, engineer or surveyor performing services on a project of which you serve as construction manager; or
 - b. Inspection, supervision, quality control, engineering or architectural services done by you on a project of which you serve as construction manager.
 5. This insurance does not apply to "bodily injury," "property damage," "personal injury" or "advertising injury" arising out of:
 - a. The construction or demolition work while you are acting as a construction or demolition contractor. This exclusion does not apply to work done for or by you at your premises.
- C. GENERAL CONDITIONS – Duties In The Event of Occurrence, Offense, Claim or Suit (Section E.2)** of the Business Liability Coverage Form is amended to add the following:
- An additional insured under this endorsement will as soon as practicable:
1. Give written notice of an occurrence or an offense to us which may result in a claim or "suit" under this insurance;

2. Tender the defense and indemnity of any claim or "suit" to us for a loss we cover under this Coverage Part;
3. Tender the defense and indemnity of any claim or "suit" to any other insurer which also has insurance for a loss we cover under this Coverage Part; and
4. Agree to make available any other insurance which the additional insured has for a loss we cover under this Coverage Part.

We have no duty to defend or indemnify an additional insured under this endorsement until we receive written notice of a claim or "suit" from the additional insured.

D. OTHER INSURANCE (Section H. 2 & 3) of the Common Policy Conditions are deleted and replaced with the following:

2. This insurance is excess over any other insurance naming the additional insured as an insured whether primary, excess, contingent or on any other basis unless a written contract or written agreement specifically requires that this insurance be either primary or primary and noncontributing to the additional insured's own coverage. This insurance is excess over any other insurance to which the additional insured has been added as an additional insured by endorsement.
3. When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the additional insured against any "suit" if any other insurer has a duty to defend the additional

insured against that "suit" If no other insurer defends, we will undertake to do so, but we will be entitled to the additional insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (b) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

E. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (Section J.2) of the Common Policy Conditions is deleted and replaced with the following:

2. We waive any right of recovery we may have against any person or organization against whom you have agreed to waive such right of recovery in a written contract or agreement because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included within the "products-completed operations hazard."

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT - CALIFORNIA

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be -- % of the California workers' compensation premium otherwise due on such remuneration.

SCHEDULE

PERSON OR ORGANIZATION

CITY OF SAN DIEGO, ITS RESPECTIVE
ELECTED OFFICIALS, OFFICERS, EMPLOYEES,
AGENTS, AND REPRESENTATIVES

JOB DESCRIPTION

ALL OPERATIONS

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated. (The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective **INCLUDE DATE** Policy No. **INCLUDE POLICY NUMBER**

Endorsement No. 00

Insured **CONTRACTOR'S NAME**

Premium \$ ---.---

Insurance Company **INCLUDE INSURANCE COMPANY**

Countersigned By **INCLUDE SIGNATURE**

- 1998 by the Workers' Compensation Insurance Rating Bureau of California. All rights reserved.
From the WCIRB's California Workers' Compensation Insurance Forms Manual - 1999.