TERMS AND CONDITIONS FOR PURCHASE ORDERS
(FOR GOODS AND CONTRACTUAL SERVICES)
INSURANCE REQUIRED IF SERVICES ARE OVER $10,000

1. COMPLIANCE WITH LAW
The vendor must comply with all laws of the State of California and the United States, and all ordinances, rules and regulations enacted or issued by the City.

2. DEFAULT AND TERMINATION The City has the option, at its sole discretion and without cause, of terminating this Purchase Order by giving ten days' written notice to the vendor. If the vendor fails or refuses to perform any of the provisions of this Purchase Order, and if the default is not cured within a period of five days after the City's written notice of default specifying the nature of the default, the City may immediately terminate this Purchase Order by written notice to the vendor. Upon termination of this Purchase Order, the City will pay the vendor any compensation earned and unpaid up to the effective date of termination.

3. DISCRIMINATION. The vendor may not discriminate in the provision of services hereunder because of race, color, religion, national origin, ancestry, sex, age, sexual orientation, marital status, AIDS or disability and must comply fully with the City's nondiscrimination policy as set forth in the City's bid documents.

4. GOVERNING LAW; VENUE AND JURISDICTION This Purchase Order shall be construed in accordance with and governed by the laws of the State of California. The purchase of Goods shall take place in Santa Monica, California. The City and the vendor agree that any Services will take place in Los Angeles County. Any litigation arising out of this Purchase Order may only be brought in either the United States District Court, Central District of California, or the Superior Court of California, County of Los Angeles, West District, as appropriate. The parties agree that venue exists in either court, and each party expressly waives any right to transfer to another venue. The parties further agree that either court will have personal jurisdiction over the parties to this Purchase Order.

5. INTEGRATED AGREEMENT This Purchase Order represents the full and complete understanding of every kind or nature whatsoever between the City and the vendor. Any preliminary negotiations and agreements of any kind or nature are merged into this Purchase Order. No oral agreement or implied covenant may be held to vary the provisions of this Purchase Order. This Purchase Order may be modified only by written understanding through an amended Order.

6. INVOICES An invoice must be mailed to the City for all Goods and Services at the address specified in the City's bid documents as "Ship/Bill To" no later than the 5th day after shipment is made. Individual invoices must be issued for each shipment against each Purchase Order. Invoices must contain the description of Goods and/or Services, unit price, quantities billed, extended totals, and applicable taxes. The City will pay any undisputed amount within 30 days of receipt.

7. TAXES The vendor must separately state on all invoices any taxes imposed by the local, state, or federal state government applicable to furnishing of Goods and Services; provided, however, where a tax exemption is available, the tax must be subtracted from the total price and identified.

8. PROHIBITION AGAINST TRANSFERS The vendor may not assign, hypothecate, or transfer this Purchase Order or any interest therein directly or indirectly, by operation of law or otherwise without the prior written consent of the Purchasing Agent. Any attempt to do so without the Purchasing Agent's consent will be null and void, and any assignee, hypothecate or transferee acquires no right or interest by reason of such attempted assignment, hypothecation or transfer. The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of the vendor or of any general partner or joint venturer or syndicate member of the vendor, if a partnership or joint venture or syndicate exists, which results in changing the control of the vendor, will be construed as an assignment of this Purchase Order. Control means 50% or more of the voting power of the corporation.

9. PURCHASE OF GOODS AND SERVICES; STANDARD OF CARE The City agrees to purchase from the vendor, and the vendor agrees to sell to the City the goods ("Goods"), and the contractor agrees to provide the services ("Services") set forth in; (i) the City's written solicitation of bids ("City's bid documents"); and (ii) vendor's bid in response thereto ("vendor's bid"). The Goods shall be in compliance with all of the standards and specifications set forth in the City's bid documents, and the Services, including services performed by any subcontractor, shall be provided in a manner consistent with that level of care and skill ordinarily exercised by members of the contractor's profession currently practicing in the same locality under similar conditions. In the event of any conflict, the order of precedence shall be as follows: (i) the City's bid documents; and (ii) vendor's bid. There shall be no substitution.

10. WAIVER A waiver of any breach of this Purchase Order may not be deemed a waiver of any subsequent breach of the same or any other term, covenant, or condition of this Purchase Order.

GOODS

11. CHANGES The City has the right, by written notice, to change the quantity or specifications of the Goods ordered and the terms of shipment or packaging of Goods.

12. DELIVERY & COMPLETION DATE The Goods must be shipped and must arrive at the destination specified on the Purchase Order as "Ship/Bill To" by or before the request date specified therein ("Required Delivery Date"). Work must be completed by the date specified.

13. DELIVERY RISK OF LOSS All orders will be F.O.B. destination if not otherwise specified. Risk of loss or damage to the Goods shall remain with the vendor until the Goods have been delivered to and accepted by the City. The City may reject any Goods that do not conform to the terms and conditions of the bid documents. Any Goods rejected may be returned to the vendor at the vendor's risk and expense.

14. DISCOUNTS The date used as the basis for discount calculation shall be computed from the date of receipt of invoice or Goods, whichever is later.

15. INDEMNIFICATION The vendor assumes all responsibility for, and agrees to undertake, to protect, indemnify, defend and hold harmless the City, from any and all

liabilities, losses, claims, suits, judgments and causes of action for damage to property and injuries to persons, including death, and from any cost and expense, including recall expenses and attorney fees, arising out of or related to (i) vendor's negligence; (ii) allegations that the Goods are defective in manufacture or design; and (iii) any patent related to the Goods.

16. PACKING AND SHIPPING All deliveries must be shipped F.O.B. destination. Deliveries must be made as specified, without charge, for boxing, crating, or storage unless otherwise specified. Shipments for two or more destinations when so directed by the City will be shipped in separate boxes or containers for each destination, at no charge.

17. WARRANTY The vendor warrants that all Goods will conform to applicable specifications, drawings, description, and samples, and will be merchantable, of good workmanship in material, and free from defect. Unless manufactured pursuant to detailed design furnished by the City, the vendor assumes design responsibility and warrants the Goods to be free from design defect and suitable for the purposes intended by the City, and that such Goods shall conform to applicable specifications. The vendor's warranties, together with its service guarantees, must run to the City and its customers or users of the Goods and must ***not*** be deemed exclusive. The City's inspection, approval, acceptance, use of, and payment for all or any part of the Goods must in no way affect its warranty rights whether or not a breach of warranty had become evident in time.

SERVICES

18. COOPERATION BETWEEN CONTRACTORS When separate contracts are let within the limits of any one project, each contractor shall conduct its work so as not to interfere with or hinder the progress or completion of the work being performed by other contractors. Contractors working on the same project shall cooperate with each other. Each contractor involved shall assume all liability, financial or otherwise, in connection with them or their contract and shall protect and save harmless the City from any and all damages or claims that may arise because of inconvenience, delays, or loss experienced by them.

19. DAMAGE Contractor shall be held responsible for any breakage, loss of the City's equipment or supplies through negligence of the contractor or their employee while working on the City's premises. Contractor shall be responsible for restoring/replacing any equipment, facilities, etc. so damaged. Contractor shall immediately report to the City any damages to the premises resulting from services performed under a contract awarded pursuant to City's bid document.

20. FORCE MAJEURE (ACTS OF GOD) In the event performance under a contract is delayed or suspended, and if such failure arises out of causes beyond the control of and without fault or negligence of the successful bidder, the successful bidder shall notify the City, in writing, within twenty-four (24) hours, after the commencement of the delay. Such causes may include, but are not limited to, Acts of God, war, or acts of public enemy, acts of any governmental entity in its sovereign or contractual capacity, fires, floods, epidemics, strikes and unusually severe weather.

21. INDEPENDENT PARTIES The City and contractor will be acting in an independent capacity and not as agents, employees, partners, or joint venturers of one another. Neither the City nor its officers or employees will have any control over the conduct of contractor or any of contractor's agents, employees, or subcontractors, except as otherwise provided in contractor's bid documents.

22. DEFENSE AND INDEMNIFICATION Contractor agrees to defend, indemnify, protect, and hold harmless the City, its agents, officers, boards and commissions, and employees (collectively, "City") from and against any and all liability, claims, demands, damages, or costs, including but not limited to attorney's fees, or payments for injury to any person or property (collectively, "Losses") caused or claimed to be caused by the act, errors, and/or omissions of contractor, or contractor's employees, agents, officers, and subcontractors. The contractor's responsibilities under this section include liability arising from, connected with, caused by, or claimed to be caused by the active or passive negligent acts or omissions of City, which may be in combination with the acts or omissions of contractor, its employees, agents or officers, or subcontractors; provided, however, that contractor's duty to defend, indemnify, protect and hold harmless shall not include any Losses arising from the sole negligence or willful misconduct of City. Notwithstanding contractor's obligation to defend City hereunder, City has the right to conduct its own defense and seek reimbursement for reasonable costs of defense from contractor, if City chooses to do so. Contractor agrees to pay any and all costs City incurs enforcing the indemnity, defense, and hold harmless provisions set forth in this section.

23. INSURANCE Unless approved by the City in writing, contractor shall, prior to the performance of Services, procure, maintain and pay for insurance against claims for injuries to persons or damage to property that may arise from or in connection with the performance of the Services by contractor or contractor's agents, representatives, employees or subcontractors for the duration of the Agreement. Contractor must obtain insurance that, at a minimum meets the requirements for insurance set forth in Exhibit 1, attached hereto and incorporated herein by reference.

24. PERMITS AND LICENSES Contractor, at its sole expense, must obtain, and maintain during the term of this Agreement all required business and professional permits, licenses, and certificates.

25. LIVING WAGE Any service contractual services agreement contract issued as a result of this Agreement may be subject to the City's Living Wage Ordinance, Santa Monica Municipal Code Chapter 4.65 (LWO), and its implementing regulations.

26. NUISANCE Contractor may not maintain, commit, or permit the maintenance or commission of any nuisance in connection with the performance of Services under the Agreement.

27. PROTECTION OF PUBLIC Adequate warning devices, barricades, guards, flagmen or other necessary precautions shall be taken by contractor to give advised and reasonable protection, safety and warning to persons and vehicular traffic concerned in the area.

28. PREVAILING WAGE, APPRENTICES, PENALTIES, & CERTIFIED PAYROLL
In accordance with the provisions of Labor Code Section 1773.2, the Director of Industrial Relations has determined the general prevailing rates of wages and employer payments for health, welfare, vacation, pensions, and similar purposes applicable, which is on file in the **State of California Office of Industrial Relations**. The contractor shall post a copy of these prevailing wage rates at the site of the project. It shall be mandatory upon the contractor to whom the contract is awarded and its subcontractors hired to pay not less than the said prevailing rates of wages to all workers employed by them in the execution of the contract as required under Articles 2 and 3, Division 2, Part 7, Chapter 1 of the Labor Code, State of California, including, but not limited to, Sections 1771, 1774 and 1815.

It is the duty of the contractor and subcontractors to register with the Department of Industrial Regulations (DIR) in the manner prescribed by the department and comply with all aspects of Labor Code Section 1725.5.

It is the duty of the contractor and subcontractors to employ registered apprentices and to comply with all aspects of Labor Code Section 1777.5.

There are penalties required for contractor's/subcontractor's failure to pay prevailing wages and for failure to employ apprentices, including forfeitures and debarment under Labor Code Sections 1775, 1776, 1777.1, 1777.7 and 1813.

Under Labor Code Section 1776, contractors and subcontractors are required to keep accurate payroll records. The prime contractor is responsible for submittal of their payrolls and those of their subcontractors as one package. Payroll records shall be certified and made available for inspection at all reasonable hours at the principal office of the contractor/subcontractor pursuant to Labor Code Section 1776.

The contractor, and any work performed under this Agreement, shall, at all times comply and be in accordance with, and subject to the provisions of Articles 2 and 3, Division 2, Part 7, Chapter 1 of the Labor Code, State of California.

29. SAFETY Items covered by a contractual services agreement issued in connection with this Notice Inviting Bids must conform to the Safety Orders of the State of California, Division of Industrial Safety.

30. SUBCONTRACTORS If contractor proposes to have any subcontractor perform any part of the Services other than those disclosed in contractor's bid documents, contractor must submit a request to the Purchasing Agent for approval in writing, describing the scope of work to be subcontracted, the name of the proposed subcontractor, and the total price or hourly rates used in preparing an estimated cost for the subconsultant's services. The City, in its sole discretion, may grant or deny the request. Contractor will be responsible for the quality of any subcontractor's work. Every subcontract of any kind entered into between contractor and any subcontractor (or between any subcontractor and others) shall be consistent with these terms and conditions.

31. RECORDS Contractor must maintain complete and accurate records with respect to costs, expenses, receipts and other such information required by the City for any services provided where compensation is on the basis of hourly rates, subcontractor costs, or other direct costs. Contractor must maintain records in sufficient detail to permit an evaluation of the Services and in accordance with generally accepted accounting principles. Contractor must allow the City to have free access to contractor's books and records and to inspect all work, data, documents, proceedings and activities related to this Agreement. The City has the right to examine or audit contractor's records, and contractor agrees to cooperate with any examination or audit of its records.

32. WORK PRODUCT; REPORTS Any work product prepared or caused to be prepared by contractor or any subcontractor for this Agreement will be the exclusive property of the City. No work product given to or prepared by the contractor, or any subcontractor pursuant to this Agreement may be made available to any individual or organization by contractor without prior written approval by the City. At the City's request, contractor must furnish reports concerning the status of the Services.

33. UNKNOWN OBSTRUCTIONS Should any unknown obstruction be encountered during the course of any contract, such obstruction(s) shall be immediately brought to the attention of the City. Contractor shall be responsible for the protection of all existing equipment, facilities, furniture, or utilities encountered within the work area.

34. LEVINE ACT COMPLIANCE Pursuant to California Government Code § 84308 (the Levine Act), a party to a proceeding before the City involving a contract, license, permit, or other entitlement for use shall disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars $250 made within the preceding twelve months by the party, or their agent, to any officer of the City. No party, or their agent, to a proceeding involving a contract, license, permit, or other entitlement for use pending before the City shall make a contribution of more than $250 to any officer of the City during the proceeding and for twelve months following the date a final decision is rendered by the City in the proceeding. The Levine Act precludes an officer of a local government agency from participating in the award of a contract if they receive any political contributions totaling more than $250 in the twelve months preceding the pendency of the contract award, and for twelve months following the final decision, from the person or company awarded the contract. This prohibition applies to contributions to the officer, or received by the officer on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

TERMS AND CONDITIONS FOR PURCHASE ORDERS
(FOR GOODS AND CONTRACTUAL SERVICES)
INSURANCE REQUIRED IF SERVICES ARE OVER $10,000

Exhibit 1: Insurance Requirements for Contractors

Prior to commencing work, contractor must procure, maintain, and pay for insurance against claims for injuries to persons or damage to property that may arise from or in connection with the performance of the Services by contractor or contractor's agents, representatives, employees or subcontractor for the duration of this Agreement. Contractor must obtain insurance that, at a minimum, meets the requirements for insurance set forth in Exhibit 1.

Minimum Scope and Limits of Insurance
Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** 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 of 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 (Insurance Services Office Form CG 25 04) or the general aggregate limit shall be twice the required occurrence limit.

2. **Automobile Liability:** Insurance Services Office Form CA 00 01 covering Code 1 (any auto), or if contractor has no owned autos, Code 8 (hired) and Code 9 (non-owned), with limits of no less than $1,000,000 per accident for bodily injury and property damage.

3. **Workers' Compensation:** Workers' Compensation insurance as required by the State of California, with Statutory Limits and Employers' Liability Insurance with limits of no less than $1,000,000 per accident for bodily injury or disease (see footnote #1).

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

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

   a. **Additional Insured Status:** The City of Santa Monica, 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. CGL coverage can be provided in the form of an endorsement to contractor's insurance (at least as broad as Insurance Services Office 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).

   b. **Primary Coverage:** For any claims related to this Agreement, contractor's insurance shall be primary coverage at least as broad as Insurance Services Office Form CG 20 01 04 13 as respects the City of Santa Monica, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City of Santa Monica, its officers, officials, employees, or volunteers shall be in excess of contractor's insurance and shall not contribute with it.

   c. **Notice of Cancellation:** Each insurance policy required herein shall state that coverage shall not be cancelled except after notice has been given to the City of Santa Monica.

   d. **Waiver of Subrogation:** Contractor hereby grants to the City of Santa Monica a waiver of any right of subrogation which any insurer of said contractor may acquire against the City of Santa Monica by virtue of payment of any loss. 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 of Santa Monica has received a waiver of subrogation endorsement from the insurer.

Self-Insured Retentions
Self-insured retentions must be declared to and approved by the City of Santa Monica. The City of Santa Monica may require contractor to purchase coverage with a lower retention or provide satisfactory 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 name insured or the City of Santa Monica.

Acceptability of Insurers
Insurance is to be placed with insurers authorized to conduct business in California with a current A.M. Best rating of no less than A:VII, unless otherwise acceptable to the City of Santa Monica.

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

Failure to Maintain Insurance Coverage
If contractor, for any reason, fails to maintain insurance coverage which is required pursuant to this Agreement, the same shall be deemed a material breach of contract. The City of Santa Monica, at its sole option, may terminate this Agreement and obtain damages from contractor resulting from said breach.

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

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

Footnote # 1: Workers' Compensation insurance coverage is not required if contractor does not have employees. Contractor must, however, execute the City's Workers' Compensation Coverage Exemption Declaration Form.