

RESOLUTION NO. 2014-178

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK AUTHORIZING AND APPROVING AN AGREEMENT FOR ON-SITE AUDIO/VISUAL TECHNICIAN SERVICES WITH PETALUMA COMMUNITY ACCESS

WHEREAS, the City of Rohnert Park Municipal Code Title 3 Chapter 3.04 provides that the City's purchasing functions shall be governed by the City's purchasing policy, and;

WHEREAS, the City broadcasts several public meetings a month on the City's Public Education Government (PEG) Cable channels, and;

WHEREAS, the City requires individuals with production and technical skillset to produce public meetings that the general public can follow and appreciate; and,

WHEREAS, as per the City Ordinance 843, Resolution 2012-22 audio/visual technician services are available through a Cooperative Purchase Agreement with the City of Petaluma. The City is authorized to purchase from the United States of America, any state, municipality or other public corporation, or agency, without following formal purchasing procedures as defined in the Purchasing Policy No 441.1.5 Section 3.6.6.C.; and,

WHEREAS, Staff recommends authorizing and approving an agreement for on-site audio/visual technician services with Petaluma Community Access, of Petaluma, California for a term of three (3) years with the option to extend the contract for two additional years in the amount not to exceed \$15,000 per contract year.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rohnert Park that it does hereby authorize and approve an agreement for on-site audio/visual technician services from the following authorized vendor at or below the following amount:

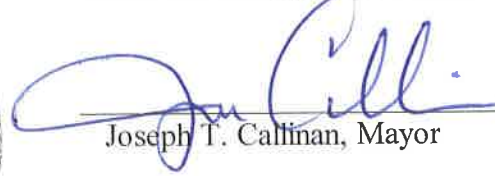
<u>CONTRACTOR NAME</u>	<u>TERM</u>	<u>NOT TO EXCEED</u>
Petaluma Community Access	1-1-2015 to 12-31-2018	\$15,000/year
Petaluma, California	w/2 year extension option	

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to take all actions necessary to effectuate this agreement, including the execution of documents pertaining to the same for and on behalf of the City of Rohnert Park.

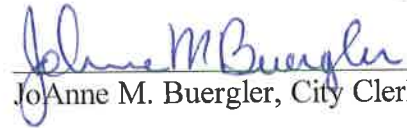
DULY AND REGULARLY ADOPTED this 9th day of December, 2014.

CITY OF ROHNERT PARK




Joseph T. Callinan, Mayor

ATTEST:


JoAnne M. Buergler, City Clerk

Attachment: Exhibit A -Contract

BELFORTE: AYE MACKENZIE: AYE STAFFORD: AYE AHANOTU: AYE CALLINAN: AYE
AYES: (5) NOES: (0) ABSENT: (0) ABSTAIN: (0)



CONTRACT

ON-SITE AUDIO/VISUAL TECHNICIAN SERVICES

THIS AGREEMENT is entered into as of December 9, 2014, by and between the CITY OF ROHNERT PARK ("City"), a California municipal corporation, and Petaluma Community Access ("Contractor"),

Recitals

WHEREAS, City desires to obtain services for on-site audio/visual technician services; and

WHEREAS, Contractor hereby warrants to the City that Contractor is skilled and able to provide such services described in Section 3 of this Agreement; and

WHEREAS, City desires to retain Contractor pursuant to this Agreement to provide the services described in Section 3 of this Agreement.

Agreement

NOW, THEREFORE, in consideration of their mutual covenants, the parties hereto agree as follows:

1. Incorporation of Recitals. The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.

2. Project Coordination.

A. City. The City Manager or his/her designee, shall represent City for all purposes under this Agreement. The Information Systems Manager is hereby designated as the Project Manager. The Project Manager shall supervise the progress and execution of this Agreement.

B. Contractor. The Contractor shall assign John Bertucci, Executive Director to have overall responsibility for the progress and execution of this Agreement.

3. Scope and Performance of Services

A. Scope of Services. Subject to such policy direction and approvals as the City through its staff may determine from time to time, Contractor shall perform the services set out in the "Scope of Services" attached hereto as Exhibit A and incorporated herein by reference.

B. Time of Performance. The services of Contractor are to commence upon receipt of a written notice to proceed from City, but in no event prior to receiving a fully executed agreement

from City and obtaining and delivering the required insurance coverage, and satisfactory evidence thereof, to City. Contractor shall perform its services in accordance with the schedule attached hereto as Exhibit A, and incorporated herein by reference. Any changes to these dates in either this Section 3 or Exhibit A must be approved in writing by the Project Manager.

C. Standard of Quality. City relies upon the professional ability of Contractor as a material inducement to entering into this Agreement. All work performed by Contractor under this Agreement shall be in accordance with all applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Contractor's field of expertise.

4. Compensation and Method of Payment.

A. Compensation. The compensation to be paid to Contractor shall be at the rate and schedules attached hereto as Exhibit A. Payment by City under this Agreement shall not be deemed a waiver of unsatisfactory work, even if such defects were known to the City at the time of payment.

B. Timing of Payment. Contractor shall submit itemized monthly statements for work performed. City shall make payment, in full, within thirty (30) days after approval of the invoice by the Project Manager.

C. Changes in Compensation. Contractor will not undertake any work that will incur costs in excess of the amount set forth in Paragraph 4(A) without prior written amendment to this Agreement.

D. Taxes. Contractor shall pay all taxes, assessments and premiums under the federal Social Security Act, any applicable unemployment insurance contributions, Workers Compensation insurance premiums, sales taxes, use taxes, personal property taxes, or other taxes or assessments now or hereafter in effect and payable by reason of or in connection with the services to be performed by Contractor.

E. No Overtime or Premium Pay. Contractor shall receive no premium or enhanced pay for work normally understood as overtime, i.e., hours that exceed forty (40) hours per work week, or work performed during non-standard business hours, such as in the evenings or on weekends. Contractor shall not receive a premium or enhanced pay for work performed on a recognized holiday. Contractor shall not receive paid time off for days not worked, whether it be in the form of sick leave, administrative leave, or for any other form of absence.

F. Litigation Support. Contractor agrees to testify at City's request if litigation is brought against City in connection with Contractor's work product. Unless the action is brought by Contractor or is based upon Contractor's negligence, City will compensate Contractor for the preparation and the testimony at Contractor's standard hourly rates, if requested by City and not part of the litigation brought by City against Contractor.

5. Amendment to Scope of Work. City shall have the right to amend the Scope of Work within the Agreement by written notification to the Contractor. In such event, the compensation and time of performance shall be subject to renegotiation upon written demand of either party to the Agreement. Contractor shall not commence any work exceeding the Scope of Work without prior written authorization from the City. Failure of the Contractor to secure City's written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the contract price

or time due, whether by way of compensation, restitution, quantum meruit, etc. for work done without the appropriate City authorization.

6. Term. This Agreement is for a three (3) year term beginning January 1, 2015 to December 31, 2018, with the option for an additional two (2) year extension upon written agreement of both parties.

7. Inspection. Contractor shall furnish City with every reasonable opportunity for City to ascertain that the services of Contractor are being performed in accordance with the requirements and intentions of this Agreement. All work done shall be subject to the Project Manager's inspection and approval. The inspection of such work shall not relieve Contractor of any of its obligations to fulfill the Agreement as prescribed.

8. Ownership of Documents. Title to all plans, specifications, maps, estimates, reports, manuscripts, drawings, descriptions and other final work products compiled by the Contractor under the Agreement shall be vested in City, none of which shall be used in any manner whatsoever, by any person, firm, corporation, or agency without the expressed written consent of the City. Basic survey notes and sketches, charts, computations, and other data prepared or obtained under the Agreement shall be made available, upon request, to City without restriction or limitations on their use. Contractor may retain copies of the above-described information but agrees not to disclose or discuss any information gathered, discussed or generated in any way through this Agreement without the written permission of City during the term of this Agreement, unless required by law.

9. Employment of Other Contractors, Specialists or Experts. Contractor will not employ or otherwise incur an obligation to pay other Contractors, specialists or experts for services in connection with this Agreement without the prior written approval of the City.

10. Conflict of Interest.

A. Contractor covenants and represents that neither it, nor any officer or principal of its firm, has, or shall acquire any investment, income, business entity, interest in real property, or other interest, directly or indirectly, which would conflict in any manner with the interests of City, hinder Contractor's performance of services under this Agreement, or be affected in any manner or degree by performance of Contractor's services hereunder. Contractor further covenants that in the performance of the Agreement, no person having any such interest shall be employed by it as an officer, employee, agent, or subcontractor without the express written consent of the City. Contractor agrees to at all times avoid conflicts of interest, or the appearance of any conflicts of interest, with the interests of the City in the performance of the Agreement.

B. Contractor is not a designated employee within the meaning of the Political Reform Act because Contractor:

(1) will conduct research and arrive at conclusions with respect to its rendition of information, advice, recommendation, or counsel independent of the control and direction of the City or of any City official, other than normal contract monitoring; and

(2) possesses no authority with respect to any City decision beyond the rendition of information, advice, recommendation, or counsel. (2 Cal. Code Regs. § 18700(a)(2).)

11. Liability of Members and Employees of City. No member of the City and no other officer, elected official, employee or agent of the City shall be personally liable to Contractor or otherwise in the event of any default or breach of the City, or for any amount which may become due to Contractor or any successor in interest, or for any obligations directly or indirectly incurred under the terms of this Agreement.

12. Indemnity. To the fullest extent permitted by law, Contractor hereby agrees to defend (by counsel reasonably satisfactory to the City), indemnify, and hold harmless the City, its officers, elected officials, employees, agents, and volunteers from and against any and all claims, demands, damages, costs, liabilities, or obligations brought on account of or arising out of any acts, errors, or omissions of Contractor, its officers, employees, agents, and subcontractors undertaken pursuant to this Agreement excepting liabilities due to the sole negligence or willful misconduct of City. The City has no liability or responsibility for any accident, loss, or damage to any work performed under this Agreement whether prior to its completion and acceptance or otherwise. Contractor's duty to indemnify and hold harmless, as set forth herein, shall include the duty to defend as set forth in California Civil Code § 2778. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for Contractor under Worker's Compensation, disability or other employee benefit acts or the terms, applicability or limitations of any insurance held or provided by Contractor and shall continue to bind the parties after termination/completion of this agreement. This indemnification shall be regardless of and not in any way limited by the insurance requirements of this contract. This indemnification is for the full period of time allowed by law and shall survive the termination of this agreement.

13. Contractor Not an Agent of City. Contractor, its officers, employees and agents shall not have any power to bind or commit the City to any decision.

14. Independent Contractor. It is expressly agreed that Contractor, in the performance of the work and services agreed to be performed by Contractor, shall act as and be an independent contractor and not an agent or employee of City; and as an independent contractor, Contractor shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and Contractor hereby expressly waives any claim it may have to any such rights.

15. Compliance with Laws.

A. General. Contractor shall use the standard of care in its profession to comply with all applicable federal, state, and local laws, codes, ordinances, and regulations. Contractor represents and warrants to City that it has and shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance and approvals which are legally required for Contractor to practice its profession. Except as otherwise allowed by City in its sole discretion, Contractor and all sub-Contractors shall have acquired, at their expense, a business license from City in accordance with Chapter 5.04 of the Rohnert Park Municipal Code prior to City's issuance of an authorization to proceed with the Services. Such license(s) must be kept valid throughout the term of this Agreement. The City is not responsible or liable for Contractor's failure to comply with any or all of the requirements contained in this paragraph.

B. Workers' Compensation. Contractor certifies that it is aware of the provisions of the California Labor Code which require every employee to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Contractor certifies that it will comply with such provisions before commencing performance of the Agreement and at all times in the performance of the Agreement.

C. Prevailing Wage. Contractor and Contractor's sub-Contractors (if any) shall, to the extent required by the California Labor Code, pay not less than the latest prevailing wage rates to workers and professionals as determined by the Director of Industrial Relations of the State of California pursuant to California Labor Code, Part 7, Chapter 1, Article 2. Copies of the applicable wage determination are on file at the City's office of the City Clerk.

D. Injury and Illness Prevention Program. Contractor certifies that it is aware of and has complied with the provisions of California Labor Code § 6401.7, which requires every employer to adopt a written injury and illness prevention program.

E. City Not Responsible. City is not responsible or liable for Contractor's failure to comply with any and all of its requirements under this section and Agreement.

F. Waiver of Subrogation. Contractor and Contractor's insurance company agree to waive all rights of subrogation against City, its officers, elected officials, employees, agents and volunteers for losses paid under Contractor's workers' compensation insurance policy which arise from the work performed by Contractor for the City.

16. Confidential Information. All data, documents, discussions or other information developed or received by or for Contractor in performance of this Agreement are confidential and not to be disclosed to any person except as authorized by the City, or as required by law.

17. Assignment; Subcontractors; Employees

A. Assignment. Contractor shall not assign, delegate, transfer, or convey its duties, responsibilities, or interests in this Agreement or any right, title, obligation, or interest in or to the same or any part thereof without the City's prior written consent. Any assignment without such approval shall be void and, at the City's option, shall immediately cause this Agreement to terminate.

B. Subcontractors; Employees. Contractor shall be responsible for employing or engaging all persons necessary to perform the services of Contractor hereunder. No subcontractor of Contractor shall be recognized by the City as such; rather, all subcontractors are deemed to be employees of the Contractor, and Contractor agrees to be responsible for their performance. Contractor shall give its personal attention to the fulfillment of the provisions of this Agreement by all of its employees and subcontractors, if any, and shall keep the work under its control. If any employee or subcontractor of Contractor fails or refuses to carry out the provisions of this Agreement or appears to be incompetent or to act in a disorderly or improper manner, it shall be discharged immediately from the work under this Agreement on demand of the Project Manager.

18. Insurance. Without limiting Contractor's indemnification provided herein, Contractor shall comply with the requirements set forth in Exhibit C to this Agreement.

19. Termination of Agreement; Default.

A. This Agreement and all obligations hereunder may be terminated at any time, with or without cause, by the City and / or Contractor upon 30 days' written notice.

B. If Contractor fails to perform any of its obligations under this Agreement within the manner herein provided or otherwise violate any of the terms of this Agreement, in addition to all other remedies provided by law, City may terminate this Agreement immediately upon written notice.

In such event, Contractor shall be entitled to receive as full payment for all services satisfactorily rendered incurred hereunder, an amount which bears the same ratio to the total fees specified in the Agreement as the services satisfactorily rendered hereunder by Contractor bear to the total services otherwise required to be performed for such total fee; provided, however, that the City shall deduct from such amount the amount of damages, if any, sustained by City by virtue of the breach of the Agreement by Contractor.

C. In the event this Agreement is terminated by City without cause, Contractor shall be entitled to any compensation owing to it hereunder up to the time of such termination, it being understood that any payments are full compensation for services rendered prior to the time of payment.

20. Suspension. The City shall have the authority to suspend this Agreement and the services contemplated herein, wholly or in part, for such period as it deems necessary due to unfavorable conditions or to the failure on the part of the Contractor to perform any provision of this Agreement. Contractor will be paid for satisfactory Services performed through the date of temporary suspension.

21. Merger; Amendment. This Agreement constitutes the complete and exclusive statement of the agreement between the City and Contractor and shall supersede all prior negotiations, representations, or agreements, either written or oral. This document may be amended only by written instrument, signed by both the City and Contractor. All provisions of this Agreement are expressly made conditions.

22. Interpretation. This Agreement shall be interpreted as though it was a product of a joint drafting effort and no provisions shall be interpreted against a party on the ground that said party was solely or primarily responsible for drafting the language to be interpreted.

23. Litigation Costs. If either party becomes involved in litigation arising out of this Agreement or the performance thereof, the court in such litigation shall award reasonable costs and expenses, including attorneys' fees, to the prevailing party. In awarding attorneys' fees, the court will not be bound by any court fee schedule, but shall, if it is in the interest of justice to do so, award the full amount of costs, expenses, and attorneys' fees paid or incurred in good faith.

24. Written Notification. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent by prepaid, first class mail. Any such notice, demand, etc. shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 72 hours from the time of mailing if mailed as provided in this section.

If to City:

City of Rohnert Park
City Manager
130 Avram Avenue
Rohnert Park, CA 94928

If to Contractor:

Petaluma Community Access
John Bertucci, Executive Director
205 Keller Street, Suite 201
Petaluma, CA 94952

25. Records. Contractor shall maintain adequate records of contract performance costs, expenses, etc., and make these records available for inspection, audit, and copying by the City during the agreement period and for a period of three (3) years from the date of final payment.

26. Agreement Binding. The terms, covenants, and conditions of this Agreement shall apply to, and shall bind, the heirs, successors, executors, administrators, assigns, and subcontractors of both parties.

27. Equal Employment Opportunity. Contractor is an equal opportunity employer and agrees to comply with all applicable state and federal regulations governing equal employment opportunity. Contractor will not discriminate against any employee or applicant for employment because of race, age, sex, creed, color, sexual orientation, marital status or national origin. Contractor will take affirmative action to ensure that applicants are treated during such employment without regard to race, age, sex, creed, color, sexual orientation, marital status, or national origin. Such action shall include, but shall not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; lay-offs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor further agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

28. City Not Obligated to Third Parties. The City shall not be obligated or liable for payment hereunder to any party other than the Contractor.

29. Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.

30. Severability. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.

31. Exhibits. The following exhibits are attached to this Agreement and incorporated herein by this reference:

- A. Exhibit A: Scope of Services/Fees
- B. Exhibit B: Insurance Requirements

32. Execution. This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

33. News Releases/Interviews. All Contractor and sub-Contractor news releases, media interviews, testimony at hearings and public comment shall be prohibited unless expressly authorized by the City.

34. Applicable Law; Venue. This Agreement shall be construed and interpreted according to California law. In the event that suit shall be brought by either party hereunder, the parties agree that trial of such action shall be held exclusively in a state court in the County of Sonoma, California.

35. Authority. Each individual executing this Agreement on behalf of one of the parties represents that he or she is duly authorized to sign and deliver the Agreement on behalf of such party and that this Agreement is binding on such party in accordance with its terms.

36. STATEMENT OF ECONOMIC INTEREST. If City determines Contractor comes within the definition of Contractor under the Political Reform Act (Government Code §87100), Contractor shall complete and file and shall require any other person doing work under this Agreement to complete and file a "Statement of Economic Interest" with the Clerk of the City of Rohnert Park disclosing Contractor and/or such other person's financial interests.

IN WITNESS WHEREOF, the City and Contractor have executed this Agreement as of the date first above written.

CITY OF ROHNERT PARK

PETALUMA COMMUNITY ACCESS

By: _____
City Manager

Date: _____
Per Resolution No. 2014-_____ adopted by the
Rohnert Park City Council at its meeting of
December 9, 2014

By: _____
Title: _____
Date: _____

ATTEST:

By: _____
City Clerk

EXHIBIT A

Scope of Services / Fee Schedule

CONTRACTOR AGREES TO:

- Engage, train and supervise a professionally conscientious and reliable pool of audio/visual technicians dedicated to the task.
- Provide routine maintenance monitoring and upkeep of equipment and inform City immediately of any known or suspected problems or issues. City retains responsibility for the technical integrity, head-end connectivity or quality of the video recording and broadcasting equipment installed in the Rohnert Park City Hall.
- Provide qualified operators to record all regularly scheduled meetings, and specially scheduled meetings with 72 hours or more notice.
- Provide services as designated for: Regular Meeting coverage, Special Meeting coverage, Minor Technical support, City Staff training
- Commence work 30 days from the date the contract is awarded. This delay is required for the training of PCA employees and to establish full understanding of basic technical functions and procedural operations onsite. PCA assumes "broadband VPN inbound" to permit eventual remote access to the control room for Rohnert Park government meetings.
- PCA to provide one (1) technician on-site for all designated meetings. A second technician will be made available as requested/required by the City.

CITY AGREES TO:

- Provide PCA regular notification by email for all meetings, even those convened on a regular basis, to be sent to the PCA Executive Director and Meeting Coverage Coordinator. A minimum of 3 days' notice for all meetings.
- City to provide video recording and broadcasting equipment installed at Rohnert Park City Hall.

FEE SCHEUDLE:

- Hourly rate of \$60.00 for one (1) technician and \$90.00 per hour for two (2) technicians
- Not to exceed \$15,000 per contract year

- PCA would also bill City of Rohnert Park at the same hourly rate for any set-up and shut-down time required
- DVDs produced in the operation of duties, at \$15 per duplication.
- Operators generally arrive 30 minutes prior to meetings and remain 30 minutes afterwards.

EXHIBIT B

(Insurance Requirements)

The following parties or entities shall be listed as additional insured by endorsement: The City of Rohnert Park, its officers, elected officials, employees, agents and volunteers. Contractors 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 by the Contractor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Contractor's bid. The Notice to Proceed with the work will not be issued, and the Contractor shall not commence work, until such insurance has been approved by the City. Such insurance shall remain in full force and effect at all times during the prosecution of the Work and until the final completion and acceptance thereof. In addition, the Commercial General Liability Insurance shall be maintained for a minimum of five (5) years** after final completion and acceptance of the Work. It shall be the Contractor's responsibility to ensure that proof of insurance is sent to the City during this time. The Notice to Proceed does not relieve the Contractor of the duty to obtain such insurance as required herein.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, Code 1 "any auto" or the exact equivalent. If Contractor owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Contractor or Contractor's employee(s) will use personal autos in any way on this project, Contractor shall provide evidence of personal auto liability coverage for each such person.
3. Workers' Compensation and Employers Liability: Workers' Compensation on a state-approved policy form providing statutory benefits as required by law with employers' liability insurance, with minimum limits of One Million Dollars (\$1,000,000) per occurrence.
4. Course of Construction insurance coverage shall provide "all risk" coverage for the completed value of the project. Policies shall contain the following provisions:
 - a. The City shall be named as loss payee, and
 - b. The insurer shall waive all rights of subrogation against the City.

Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subsection (b) of Section 2782 of the Civil Code.

B. Minimum Limits of Insurance

Contractor shall maintain limits no less than:

1. Commercial General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage and \$2,000,000 general aggregate. It is permissible to use excess/umbrella coverage to meet limit requirements provided the umbrella policies are appropriately endorsed and meet all other requirements. Additionally, a letter clearly identifying the primary policy or policies to which the excess umbrella coverage applies shall be submitted attesting to the following: *"Umbrella or excess liability policies shall provide coverage at least as broad as specified for underlying coverage's and covering those insured in the underlying policies. Coverage shall be "pay on behalf", with defense costs payable in addition to policy limits. There shall be no cross liability exclusion of claims or suits by one insured against another."*
2. Automobile Liability: \$2,000,000 combined single limit per accident for bodily injury and property damage.
3. Workers' Compensation and Employers Liability: Workers' Compensation providing statutory benefits as required by the Labor Code of the State of California with employers liability insurance, with minimum limits of \$1,000,000 per accident or disease.
4. Course of Construction insurance coverage shall provide "all risk" coverage for the completed value of the project. Policies shall contain the following provisions:
 - a. The City shall be named as loss payee, and
 - b. The insurer shall waive all rights of subrogation against the City.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, elected officials, employees, agents, and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverage's

- a. The City, its officers, elected officials, employees, agents and volunteers are to be covered as insured's as respects: liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations of the Contractor, premises owned, occupied or used by the Contractor, or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, elected officials, employees, agents or volunteers.
- b. The Contractor's insurance coverage shall be primary insurance as respects the City, its officers, elected officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officers, elected officials, employees, agents or volunteers shall be in excess of Contractor's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, elected officials, employees, agents or volunteers.
- d. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. Workers' Compensation and Employers Liability Coverage

The insurer shall agree to waive all rights of subrogation against the City, its officers, elected officials, employees, agents and volunteers for losses arising from work performed by Contractor for the City.

3. All Coverage's

- a. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.
- b. **Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an**

agreement to indemnify the additional insured would be invalid under Subsection (b) of Section 2782 of the Civil Code.

4. Course of Construction policies shall contain the following provisions:
 - a. The City shall be named as loss payee.
 - b. The insurer shall waive all rights of subrogation against the City.

E. Acceptability of Insurers

Insurance is to be placed with insurers with a Best's rating of no less than A:VII or as approved by the City.

F. Verification of Coverage

Contractor shall furnish the City with certificates of insurance and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by the City. Where by statute, the City's workers' compensation-related forms cannot be used, equivalent forms approved by the Insurance Commissioner are to be substituted. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

CERTIFICATE OF CONTRACTOR

I HEREBY CERTIFY that I am the _____, and a duly authorized representative of the firm of _____, whose address is _____, and that neither I nor the above firm I here represent has:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above Contractor) to solicit to secure this Agreement.
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the Agreement; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above Contractor) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement;

Except as here expressly stated (if any);

I acknowledge that this certificate is subject to applicable State and Federal laws, both criminal and civil.

Date

Signature