

ATTACHMENT A

REQUEST FOR QUOTATION BIDDER INSTRUCTIONS AND GENERAL TERMS AND CONDITIONS FOR CITY OF LOS ANGELES PURCHASING AGENT CONTRACTS

READ CAREFULLY

ON-LINE BIDDER INFORMATION AND FORMS

All companies wishing to bid on City of Los Angeles purchases are directed to the Los Angeles Business Assistance Virtual Network – www.labavn.org – to register as bidders and to complete the City's Equal Benefits Ordinance; Non-Discrimination/Equal Employment Practices/Affirmative Action Program; and Slavery Disclosure Ordinance Affidavits.

Questions regarding the Affidavits and compliance with the City's requirements should be directed to the Bureau of Contract Administration, (213) 847-2625 or (213) 847-2631, or via e-mail to bca.eeoe@lacity.org .

BIDDER INSTRUCTIONS (BI)

All communications regarding the Request for Quotation (RFQ) shall be directed in writing to the Procurement Analyst listed. Written communication may be made via e-mail, facsimile, U. S. Mail, or delivery service.

BI -1. Request for Quotation Bidder Responsiveness:

In order to be responsive, bidders shall complete and return all Quotation documents requested by the City, including addenda, specifications, drawings and all forms.

It shall be the bidder's responsibility to provide one (1) original and two (2) copies of the completed Quotation documents. The original and all copies shall include all Quotation documents requested by the City including addenda, specifications, drawings and all forms.

The Purchasing Agent may deem a bidder non-responsive if the bidder fails to provide all Quotation documents requested by the City at the Quotation closing date and time.

Any bidder who fails to respond to RFQ's for a period of three (3) years may be removed from the City's Supplier Database.

If you are receiving RFQ's for commodities or services that you are unable to provide to the City, it shall be your responsibility to inform the Purchasing Agent, in writing and on company letterhead, requesting that your company be removed from the commodity listing.

BI -2. Form of Quotation and Signature:

The Quotation must be made on the City form only. Telegraphic quotations are not acceptable. Facsimile Quotations may be submitted only when requested by the City Purchasing Agent as a Request for Fax Quotation. The Quotation should be enclosed in a sealed envelope, showing the Quotation number in the lower left corner, and addressed to the Los Angeles City Purchasing Agent, as indicated in the RFQ. The Quotation must be signed with the firm corporate name and by a responsible officer or authorized employee. In case of error in extension of prices, unit price will govern. **All prices must be firm unless the specifications provide for adjustment.**

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BI -3. New and Unused:

The equipment/products/materials furnished shall be new and unused, but may contain recycled materials in compliance with City, State, and Federal materials recycling guidelines and requirements.

BI -4. Cost of Preparing Quotations:

The City is not liable for any costs incurred by bidders in the preparation and presentation of Quotations submitted in response to this RFQ.

BI -5. Taxes:

Do not include any Sales Taxes or Federal Excise Tax in prices quoted unless the specifications require that Sales Tax be included. Sales Tax will be added by the City at time of award/order. Federal Excise Tax Exemption Certificate will be furnished to the supplier upon request, or IRS Identification No. 95-6000735 may be used to claim the tax exemption. Any other taxes must be included in the Quotation prices.

BI -6. Delivery Costs:

Prices quoted shall include all delivery and unloading charges to the City of Los Angeles.

BI -7. Payments:

Payment terms are NET 30 Days unless bidder otherwise quotes cash discount terms. Cash discounts offered for payment less than 25 days will not be considered by the City when evaluating Quotations. All cash discounts shall be taken and computed from the date of the City's acceptance of the material or service, or from the date of receipt of invoice by General Services Payment Services, whichever is latest.

The City will make partial payments in accordance with actual deliveries made and accepted by the City. Partial payments will in no way relieve the supplier of its responsibility for completing delivery of the entire order.

BI -8. Safety Requirements - OSHA and CALOSHA:

Any equipment or material furnished must conform with the current safety code of the California Division of Industrial Safety and all OSHA requirements, where applicable.

Supplier agrees to comply with the provisions of the California Occupational Safety and Health Act of 1973, or its latest revision, and the standards and regulations issued thereunder. Supplier further certifies that all items furnished under this contract will conform to and comply with said standards and regulations.

Supplier further agrees to indemnify and hold harmless the City of Los Angeles for all damages assessed against the City as a result of supplier's failure to comply with the Act and the standards and regulations issued thereunder, and for the failure of the items furnished under this contract to so comply.

BI -9. Safety Approval and Certification:

Items delivered to the City must conform to the safety orders/codes of the California Division of Industrial Safety, CalOSHA, and OSHA where applicable.

Any required certification necessary to place equipment or other items into service shall be the supplier's responsibility. A copy of the certification shall be delivered with the equipment or items.

All Electrical items shall have Underwriter's Laboratory Listing or Approval.

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BI - 10. "Or Equal":

Whenever a particular product or brand name is specified it shall be deemed to be followed by the words "or equal".

BI - 11. Specifications and Deviations from Specifications:

Specifications in the RFQ may consist of design, performance, or brand name specifications, or any combination thereof. The specifications are descriptive and indicate the quality, design and construction of the equipment or materials desired, and are not intended to be restrictive.

Quotations will be considered for equipment or materials deviating from the specifications if such products comply substantially with the specifications. Each deviation from the specifications must be stated in a letter attached to your quotation. Where specific brand, make, and/or model numbers are referenced, bidders quoting on other brands, makes and/or models must indicate so in the line item space provided. The specified brand, make and/or model must be furnished unless otherwise indicated by the bidder.

If provisions of the specifications restrict bidder from bidding, bidder may request in writing that the specifications be modified. Such request must be received by the Purchasing Agent at least five (5) working days before the Quotation closing date. All bidders will be notified by Addendum of any approved changes in the specifications.

City of Los Angeles staff shall be the sole determiner of substantial compliance with the specifications. Failure to submit or disclose deviations from the RFQ specifications will make your Quotation non-responsive.

BI - 12. Illustrative and Technical Data, Drawings and Printed Literature:

Bidder shall submit complete illustrative and technical data, drawings, and /or printed literature for the materials or equipment quoted. Deviations from specifications contained within printed literature will not be accepted. Only separately stated written deviations will be considered and/or accepted. Failure to furnish such data, drawings or literature may void your quotation.

BI - 13. Hazardous Substances/Chemicals:

Specifications including products which may contain hazardous substances shown on the list prepared by the Director of Industrial Relations, State of California, pursuant to California Labor Code Sections 6380-6386, require Material Safety Data Sheets (MSDS) be prepared in compliance with Title 8, California Code of Regulations, Section 5194. MSDS shall accompany this Quotation.

Chemicals shall be free of known carcinogens, and shall comply with the current Safety Code of the California Division of Industrial Safety, and with all OSHA requirements.

If any ingredient in the product quoted is a carcinogen as shown on the most current list prepared by the International Agency for Research on Cancer (IARC), bidder shall separately identify such ingredients as a carcinogen. Bidder is advised that the products will not be accepted unless (1) the product may be used safely and (2) no acceptable non-carcinogenic substitute is available. A copy of the MSDS shall accompany each product shipment to a City facility. Products/chemicals shall be delivered in containers labeled with the product's common chemical name and the common or technical name of each of the product's chemical ingredients, together with a statement of precautions to be taken in product use.

A copy of the MSDS shall be available at location of use in the performance of the contract.

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BI -14. Withdrawal of Quotations:

Bidder may withdraw Quotation in writing at any time prior to the RFQ Closing Date. Faxed withdrawals will be accepted. A written request signed by an authorized representative of the bidder must be submitted to the Procurement Analyst. After withdrawing a previously submitted Quotation, the bidder may submit another Quotation at any time up to the RFQ Closing Date.

BI -15. Waiver of Irregularities, Informalities, and Rejection of Quotations:

The City reserves the right, at its sole discretion, to waive minor administrative irregularities contained in any Quotation.

The City also reserves the right, as the interest of the City requires, to reject any or all Quotations, to reject unapproved alternate Quotations, and the right to reject the Quotation of any bidder that has previously failed to perform competently in any prior business relationship with the City, as determined through a Supplier Responsibility Hearing.

The rejection of any or all Quotations shall not render the City liable for costs or damages.

BI -16. Quotations Property of City/Proprietary Bid Material:

All Quotations submitted shall become the property of the City of Los Angeles and subject to the State of California Public Records Act. Bidders must identify all copyrighted material, trade secrets or other proprietary information that the bidders claim are exempt from the California Public Records Act (California Government Code Section 6350 et seq.).

Bidder hereby warrants and represents that in submitting its Quotation, it has not included or disclosed any intellectual property rights of any third party without authorization or license from the respective third party intellectual property rights owner(s). Bidder hereby further warrants and represents that in performing the contract, if awarded, Bidder would not directly or contributorily infringe upon any intellectual property rights of any third party, including without limitation trademarks, copyrights, patents, trade dress, trade secrets, know-how and proprietary information.

In the event a bidder claims such an exemption, the bidder is required to state in the Quotation the following: "The bidder will indemnify the City and its officers, employees and agents, and hold them harmless from any claim or liability and defend any action brought against them for their refusal to disclose copyrighted material, trade secrets, intellectual property rights or other proprietary information to any person making a request therefore."

Failure to include such a statement shall constitute a waiver of a bidder's right to exemption from this disclosure.

BI -17. Lowest Bid Price, Lowest Ultimate Cost, or Best Overall Value to the City:

The award of the contract will be to the bidder(s) deemed to offer the material and/or service at the lowest bid price, lowest ultimate cost, or best overall value to the City based on responsive quotation(s) meeting the specifications set forth in the RFQ. The City's determination of lowest ultimate cost and best overall value may include consideration of the City's internal cost structure for meeting requirements, such as the City's inventory carrying costs, ordering lead times, equipment maintenance costs, and items typically identified with and relating to a "Life Cycle Cost Analysis".

BI -18. Quotation Acceptance and Contract Award:

Quotation shall be subject to acceptance by the City for a period of three (3) months. The City may make combined award of all items completely to one bidder or may award separate items or groups of items to various bidders.

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BI - 19. Appeal of Award:

In the event the Purchasing Agent proposes to award a contract to other than the lowest responsive monetary bidder, the Purchasing Agent will, prior to such award, notify each of those bidders submitting lower monetary quotations which have conformed to the specifications set forth in the Request for Quotation.

Upon issuance of such notification, each bidder submitting a lower responsive monetary Quotation may, within two (2) working days, request a hearing before the Purchasing Agent. Upon such request, the Purchasing Agent will furnish such bidder with a written statement setting forth the reasons for the proposed award. A hearing shall be provided no sooner than three (3) calendar days after the request for hearing, unless the time period is waived by the bidder.

At or prior to the hearing, the bidder may present evidence as to why the contract should be awarded to said bidder. After the close of the hearing, the Purchasing Agent shall make a determination with respect to the responsibility of the bidder or bidders involved, and thereafter shall award the contract accordingly or shall reject all Quotations. The determination of the Purchasing Agent shall be final.

END OF BIDDER INSTRUCTIONS

**GENERAL TERMS AND CONDITIONS (GTC) FOR
CITY OF LOS ANGELES PURCHASING AGENT CONTRACTS**

GTC-1. Integrated Contract:

This contract sets forth all the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous contracts, agreements or understandings, whether written or oral, relating thereto. This contract may only be amended by written mutual agreement of the supplier(s) and the City Purchasing Agent. No oral representations made by any City employee or representative will vary the terms of the written contract.

GTC-2. Applicable Law, Interpretation and Enforcement:

Performance under this contract shall comply with all applicable laws of the United States of America, the State of California, and the City of Los Angeles including but not limited to laws regarding health and safety, labor and employment, wage and hours and licensing laws that affect employees. This contract shall be enforced and interpreted under the laws of the State of California. The supplier shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this contract.

If any part, term or provision of this contract shall be held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this contract, the validity of the remaining parts, terms or provisions of the contract shall not be affected thereby.

GTC-3. Prevailing Wage Ordinance:

In accordance with City of Los Angeles Administrative Code Section 10.7 et seq., the supplier agrees to comply with applicable sections of the California State Labor Code pertaining to labor and prevailing wage rates. Where labor is required for public work as part of this contract, the supplier shall pay no less than the Prevailing Wage as determined by the California Department of Industrial Relations. Bidders may contact the Department of Public Works, Office of Contract Compliance for current prevailing wage information at 213 847-2629.

Certified Payroll Records (CPRs) and other related information pertaining to workers and wages shall be submitted electronically on a weekly basis through the Department of Public Works, Bureau of Contract Administration's Online Certified Payroll System (OCPS), in accordance with Section 1776 of the California State Labor Code. OCPS is available through the Bureau of Contract Administration's website at <http://bca.lacity.org>. While CPRs will be submitted electronically, a signed Statement of Compliance must be submitted with a wet signature to the Office of Contract Compliance. Failure to comply may result in wage restitution and/or State penalties in accordance with the State Labor Code.

GTC-4. Equal Benefits Ordinance:

Bidders are advised that any contract awarded pursuant to this procurement process shall be subject to the applicable provisions of Los Angeles Administrative Code Section 10.8.2.1, Equal Benefits Ordinance (EBO).

All Bidders shall complete and upload the Equal Benefits Ordinance Affidavit (2 pages) available on the City of Los Angeles' Business Assistance Virtual Network (BAVN) at www.labavn.org prior to award of a City contract valued at \$5,000 or more. The Equal Benefits Ordinance Affidavit shall be effective for a period of twelve months from the date it is first uploaded to the City's BAVN. Bidders do not need to submit supporting documentation with their bids. However, the City may request supporting documentation to verify that the benefits are provided equally as specified on the Equal Benefits Ordinance Affidavit.

Bidders seeking additional information regarding the requirements of the Equal Benefits Ordinance may visit the Bureau of Contract Administration's web site at <http://bca.lacity.org>.

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GTC-5. Nondiscrimination, Equal Employment Practices and Affirmative Action Program:

Bidders are advised that any contract awarded pursuant to this procurement process shall be subject to the applicable provisions of Los Angeles Administrative Code Section 10.8.2., Non-discrimination Clause.

Procurements by the City for which the consideration is \$1,000 or more shall comply with the provisions of Los Angeles Administrative Code Section 10.8.3., Equal Employment Practices Provisions. All Bidders shall complete and upload the Non-Discrimination/Equal Employment Practices Affidavit (2 pages) available on the City of Los Angeles' Business Assistance Virtual Network (BAVN) at www.labavn.org at the time it registers on BAVN, but no later than the time when an individual Bid is submitted. Bidders with Certifications previously uploaded to BAVN and verified by the Office of Contract Compliance (OCC) do not need to re-submit.

Procurements by the City for which the consideration is \$100,000 or more shall comply with the provisions of Los Angeles Administrative Code Sections 10.8.4., Affirmative Action Program Provisions. All Bidders shall complete and upload the City of Los Angeles Affirmative Action Plan (4 pages) available on the City of Los Angeles' Business Assistance Virtual Network (BAVN) at www.labavn.org at the time it registers on BAVN, but no later than the time when an individual Bid is submitted. Bidders opting to submit their own Affirmative Action Plan may do so by uploading their Affirmative Action Plan onto the City's BAVN. Bidders with current OCC approval for their Affirmative Action Plan do not need to re-submit unless the approval is 30 days or less from expiration.

Subcontractors shall be required to submit the Non-Discrimination/Equal Employment Practices Certification and Affirmative Action Plan to the successful Bidder prior to commencing work on the contract. The subcontractors' Non-Discrimination/Equal Employment Practices Certification(s) and Affirmative Action Plan(s) and shall be retained by the successful Bidder and shall be made available to the Office of Contract Compliance upon request.

Both the Non-Discrimination/Equal Employment Practices Affidavit and the City of Los Angeles Affirmative Action Plan Affidavit shall be effective for a period of 12 months from the date they are uploaded to the City's BAVN.

Bidders seeking additional information regarding the requirements of the Non-Discrimination, Equal Employment Practices and Affirmative Action Programs may visit the Bureau of Contract Administration's web site at <http://bca.lacity.org>.

GTC-6. Child Support Assignment Orders Ordinance:

City of Los Angeles Administrative Code Section 10.10 requires all suppliers and sub-suppliers to fully comply with all applicable Federal and State employment reporting requirements for the supplier or sub-supplier's employees.

By signing the Signature Page, the bidder certifies and agrees that if it is awarded a contract with the City of Los Angeles, the bidder will:

1. Fully comply with all applicable Federal and State employment reporting requirements for its employees.
2. Fully comply with and implement all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code Section 5230 et seq.
3. Certify that the principal owner(s) of the business are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally.
4. Certify that the business will maintain such compliance throughout the term of the contract.
5. Include all language in this section in any contracts, agreements or understandings the bidder creates or has with sub-suppliers providing goods or services under a contract awarded by the City of Los Angeles.

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Failure of a supplier or sub-supplier to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignments or Notices of Assignment or failure of the principal owner(s) to comply with any Wage and Earnings Assignments or Notices of Assignment applicable to them personally shall constitute a default under the contract. Failure of the supplier or sub-supplier or principal owner thereof to cure the default within 90 days of notice of such default by the City shall subject the contract to termination.

GTC-7. Small Local Business Ordinance:

In accordance with City of Los Angeles Administrative Code Section 10.25 *et seq.*, any supplier who qualifies as a "Small Local Business" (SLB) and is a responsible bidder shall be granted a preference as to all contracts of \$100,000.00 or less, for which quotations were solicited, in an amount equal to 10% of the quotation of the lowest and best responsible bidder, if that latter bidder has not qualified as a SLB. If, after deduction of the 10% preference from the quotation of the SLB, the quotation is equal to or less than the lowest quotation, the quotation of that SLB shall be deemed to be the lowest quotation.

In order to be given preference as a certified SLB, your SLB application must be received at the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance, Centralized Certification Section no later than five (5) calendar days prior to the RFQ Closing Date, and approved prior to the RFQ award date.

The Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance, Centralized Certification Section is located at:

1149 S. Broadway Street, Suite 300
Los Angeles, CA 90015

Certification as a Small Local Business is valid for one calendar year from the date of approval. SLB's must be recertified annually by the Office of Contract Compliance, Centralized Certification Section. Questions concerning the Small Local Business Program should be directed to the Office of Contract Compliance at (213) 847-2625.

GTC-8. Environmentally Preferable Products Purchasing Program:

In accordance with City of Los Angeles Administrative Code Section 10.32 *et seq.*, it is the policy of the City to specify and purchase Environmentally Preferable Products and services where criteria have been established by governmental or other widely recognized and respected third-party authorities (e.g., Energy Star, Green Seal, EPA Recycled Materials Advisory Notice (RMAN) Purchasing Guidelines, Federal Electronic Product Environment Assessment Tool (EPEAT) program guidelines for electronics, State Agency Buy Recycled Campaign (SABRC)).

Suppliers and Contractors are encouraged to offer environmentally preferable products and services at competitive prices, and to consider environmental impacts of service delivery by using environmentally preferable products and delivery methods whenever possible.

Suppliers shall certify in writing the minimum, if not the exact percentage of Recycled Material, both Post-Consumer Recycled Content and Secondary Waste, and other environmental attributes in products to be provided in the performance of any awarded contract. The supplier shall provide such certification even in instances in which the product contains no Recycled Material or other environmental attributes. Failure to provide such certification shall result in the product being deemed to contain no Recycled Material or Environmentally Preferable attributes.

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GTC-9. Service Contract Worker Retention and Living Wage Ordinances:

Unless otherwise exempt in accordance with the provisions of the Ordinances, this contract is subject to the Service Contract Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, and the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles City Administrative Code, as amended from time to time. The Ordinances require that all employers under contracts primarily for furnishing services to or for the City that involve an expenditure in excess of \$25,000 and a contract term of at least three months shall provide the following: (a) retention by a successor supplier for a 90-day transition period, the employees who have been employed for the preceding 12 months or more by the terminated supplier or sub-supplier, if any, as provided for in the SCWRO; (b) payment of a minimum initial wage rate to employees as defined in the LWO, and as may be adjusted each July 1 and provision of benefits as defined in the LWO.

Unless pre-empted by the California State Labor Code pertaining to Prevailing Wage in Item GTC-3 above, any supplier who enters into a service contract of \$25,000 or more with the City agrees to comply with applicable sections of the Los Angeles City Administrative Code pertaining to the Living Wage. Under the provisions of Section 10.36(c) of the Los Angeles Administrative Code, the City shall have the authority, under appropriate circumstances, to terminate this contract and otherwise pursue legal remedies that may be available if the City determines that the supplier violated the provisions of the referenced Code section. Contact the Bureau of Contract Administration, Office of Contract Compliance for living wage rules and regulations at (213) 847-2625.

GTC-10. Contractor Responsibility Ordinance:

City of Los Angeles Administrative Code Section 10.40 *et seq.* provides that every Request for Quotation (RFQ) is subject to the provisions of the Contractor Responsibility Ordinance (CRO), unless exempt pursuant to the provisions of the Code.

The Code requires that all bidders complete and return, with their RFQ, the responsibility questionnaire included in this solicitation. Failure to return the completed questionnaire may result in the bidder being deemed non-responsive.

Pursuant to the Code, by executing a contract with the City, the supplier pledges, under penalty of perjury, to comply with all applicable Federal, State and local laws in performance of the contract, including, but not limited to, laws regarding health and safety, labor and employment, wage and hours, and licensing laws which affect employees.

The Code also requires that if a contract is awarded pursuant to this procurement, the supplier must update responses to the questionnaire within thirty calendar days after any changes to the responses previously provided, if such change would affect contractor's fitness and ability to continue performing the contract.

The supplier further agrees to:

1. Notify the awarding authority within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the supplier is not in compliance with all applicable Federal, State and local laws in performance of this contract;
2. Notify the awarding authority within thirty calendar days of all findings by a government agency or court of competent jurisdiction that the supplier has violated the provisions of Section 10.40.3 (a) of the Code;
3. Ensure that its subcontractor(s) working on the supplier contract submit a Pledge of Compliance to awarding authorities; and
4. Ensure that its subcontractor(s) working on supplier's City contract comply with the requirements of the Pledge of Compliance and the requirement to notify awarding authorities within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor(s) has violated Section 10.40.3 (a) of the Ordinance in performance of the subcontract.

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GTC-11. Slavery Disclosure Ordinance:

Unless otherwise exempt in accordance with the provisions of Section 10.41 *et seq.* of the Los Angeles Administrative Code, any contract awarded pursuant to this RFQ will be subject to the City's Slavery Disclosure Ordinance.

All Bidders shall complete and upload the Slavery Disclosure Ordinance Affidavit (1 page) available on the City of Los Angeles' Business Assistance Virtual Network (BAVN) at www.labavn.org prior to award of a City contract.

Bidders seeking additional information regarding the requirements of the Slavery Disclosure Ordinance may visit the Bureau of Contract Administration's web site at <http://bca.lacity.org>.

GTC-12. Sweat-Free Procurement Ordinance:

This Agreement is subject to the Sweat-free Procurement Ordinance, Section 10.43, *et seq.* of the Los Angeles Administrative Code, as amended from time to time, unless otherwise exempt in accordance with its provisions. The Ordinance requires the Contractor to sign under oath and comply with the City's Contractor Code of Conduct, thereby promising the following:

1. Contractor shall comply with all applicable wage, health, labor, environmental and safety laws, legal guarantees of freedom of association, building and fire codes, and laws and ordinances relating to workplace discrimination.
2. Contractor shall comply with all human and labor rights and labor obligations that are imposed by treaty or law on the country in which the equipment, supplies, goods or materials are made or assembled, including but not limited to abusive forms of child labor, slave labor, convict or forced labor, or sweatshop labor.
3. Contractor shall take good faith measures to ensure, to the best of Contractor's knowledge, that Contractor's subcontractors also comply with the City's Contractor Code of Conduct.
4. Contractor shall pay a procurement living wage to employees working on contracts for garments, uniforms, foot apparel, and related accessories, meaning for domestic manufacturers a base hourly wage adjusted annually to the amount required to produce, for 2,080 hours worked, an annual income equal to or greater than the U.S. Department of Health and Human Services most recent poverty guideline for a family of three plus an additional 20 percent of the wage level paid either as hourly wages or health benefits. For manufacturing operations in countries other than the United States, a procurement living wage shall be comparable to the wage for domestic manufacturers as defined above, adjusted to reflect the country's level of economic development by using the World Bank's Gross National Income Per Capita Purchasing Power Index.

GTC-13. First Source Hiring Ordinance:

Unless otherwise exempt in accordance with the provisions of this Ordinance, this contract is subject to the applicable provisions of the First Source Hiring Ordinance (FSHO), Section 10.44 *et seq.* of the Los Angeles Administrative Code, as amended from time to time. Unless approved for an exemption, contractors under contracts primarily for the furnishing of services to or for the City, the value of which is in excess of \$25,000 and a contract term of at least three (3) months, and certain recipients of City Loans or Grants, shall comply with the provisions of the FSHO.

Unless otherwise exempt, contractor shall, prior to the execution of the contract, provide a list of anticipated employment opportunities that contractor estimates it will need to fill in order to perform the services under the contract. Contractor further pledges that it will, during the term of the contract, a) at least seven business days prior to making an announcement of a specific employment opportunity, provide notifications of that employment opportunity to the Community Development Department (CDD), which will refer individuals for interview; b) interview qualified individuals referred by CDD; and c) prior to filling any employment opportunity, the contractor shall inform the City of the names of the Referral Resources used, the names of the individuals they referred, the names of the referred individuals who the contractor interviewed and the reasons why referred individuals were not hired. Any subcontract entered

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into by the contractor relating to this contract, to the extent allowed hereunder, shall be subject to the provisions of the FSHO, and shall incorporate the FSHO.

Where under the provisions of Section 10.44.13 of the Los Angeles Administrative Code the City has determined that the contractor intentionally violated or used hiring practices for the purpose of avoiding the article, the determination must be documented in the Awarding Authority's Contractor Evaluation, required under Los Angeles Administrative Code Section 10.39 et seq., and must be documented in each of the contractor's subsequent Contractor Responsibility Questionnaires submitted under Los Angeles Administrative Code Section 10.40 et seq. This measure does not limit the City's authority to act under this article.

Under the provisions of Section 10.44.8 of the Los Angeles Administrative Code, the Awarding Authority shall, under appropriate circumstances, terminate this contract and otherwise pursue legal remedies that may be available if the City determines that the subject contractor has violated provisions of the FSHO.

Contact the Bureau of Contract Administration, Office of Contract Compliance for further information at (213) 847-2625.

GTC-14. Local Business Preference for Procurements in Excess of \$150,000

In accordance with City of Los Angeles Administrative Code Section 10.47 *et seq.*, Awarding Authorities shall grant an eight percent (8%) Local Business Preference for Contracts involving consideration in excess of \$150,000.00 to any supplier who qualifies as a "Local Business" and is a responsible bidder. The Awarding Authority shall provide a preference of up to five percent (5%) to a bid submitted by a business that does not qualify as a Local Business, but that identifies a qualifying Local Subcontractor to perform work under the Contract, provided the Local Subcontractor satisfies the criteria enumerated in Sections 10.47.2 and 10.47.7

The preferences awarded for equipment, goods or materials shall be applied only if the Local Business or Local Subcontractor substantially acts as the supplier or dealer, or substantially designs, manufactures or assembles the equipment, goods or materials, at a business location in Los Angeles County. The Bid Preference shall not exceed one million dollars (\$1,000,000.00) for any Bid. An Awarding Authority may, before the award of a Contract, determine that it is not in the City's best interest to grant a Bid preference and award the Contract to the bidder eligible for the award without consideration of the provisions of this Article.

This Article shall not apply to Contracts that involve the expenditure of funds that are not entirely within the City's control, such as state and federal grant funds, that due to legal restrictions prohibit its application.

Questions concerning the Local Business Preference Program should be directed to the Office of Contract Compliance at (213) 847-2625.

GTC-15. Contract Purchase Orders:

Contract Purchase Orders will be issued during the contract period for materials or services as required. Supplier shall deliver no goods or services until a City department issues a Contract Purchase Order.

GTC-16. Most Favorable Government Prices:

The prices charged the City of Los Angeles on any contract shall not exceed those charged any other government agency.

In the event of a price decline, or if the supplier sells the same products or services to other government agencies under similar quantity and delivery terms and conditions at prices below those stated herein, the supplier shall immediately extend such lower prices to the City of Los Angeles. A current price list must be available in the supplier's local office at all times for audit by the City.

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GTC-17. Price Reductions:

After the award of a contract, or during the contract term, any material, equipment, or product cost or price list reductions to the supplier shall be offered to the City in a corresponding price reduction. Periodically the City may request the supplier to certify in writing that any and all material, equipment, and product cost and price list reductions to the supplier are reflected in the City's prices.

GTC-18. Retention of Records, Audits and Reports:

Supplier shall maintain records at the supplier's facility, including records of financial transactions, pertaining to the performance of this contract, in accordance with requirements prescribed by the City. These records shall be retained for a period of no less than three years following final payment made by the City hereunder or the expiration date of this contract, whichever occurs last. The said records shall

be subject to examination and audit by authorized City personnel or by the City's representative at any time during the term of this contract or within the three years following the final payment made by the City hereunder or the termination date of this contract, whichever occurs last. Supplier shall provide any price lists, invoices and/or reports requested by the City regarding performance of this contract.

GTC-19. Contract Termination:

The contract may be terminated in whole or in part by the City for its convenience, without penalty, provided that the contractor is given not less than 30 days written notice (delivered by certified mail, return receipt requested) of the intent to terminate. The City will pay for that portion of orders fulfilled or work performed.

The City has the right to cancel the contract for cause at any time.

GTC-20. Termination for Non-appropriation:

The City's obligation to pay any amount due hereunder for any City fiscal years after the current fiscal year is contingent upon legislative appropriation of funds for the purpose. The City's fiscal year ends on June 30 of each calendar year. Accordingly, anything to the contrary notwithstanding, the City may terminate any contract and its future monetary obligations hereunder, effective as of the end of any fiscal year.

GTC-21. Assignment:

The supplier shall not assign or transfer by operation of law any obligation without prior submission and approval of a properly completed City of Los Angeles Contract or Payment Assignment Form to the Purchasing Agent.

GTC-22. Restocking Fee:

Supplier shall be entitled to a 5% (five percent) restocking fee that will be charged the City of Los Angeles for return of goods ordered in error.

Restocking fee shall not apply to shipping errors by the supplier, damaged or defective items, overshipments, production overruns, late shipments, or any other shipping/delivery related errors.

GTC-23. Care and Custody:

The supplier accepts full responsibility for any loss or damage to City equipment or materials while in the supplier's possession or its agents' possession. Supplier shall reimburse the City for any loss or damage to City equipment or materials while in the supplier's or its agent's care and custody.

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GTC-24. Default by Supplier:

In case of default by supplier, the City reserves the right to procure the items or services from other sources and to hold the supplier responsible for any excess costs occasioned to the City thereby.

GTC-25. Breach and Waiver of Breach:

Except for excusable delays, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

A waiver of a breach of any part, term or provision of this contract shall not be construed as a waiver of any succeeding breach of the part, term or provision itself. A party's performance after the other party's breach shall not be construed as a waiver of that breach.

GTC-26. Claims for Labor and Materials:

The supplier shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this contract so as to prevent any lien or other claim under any provision of law from arising against any City property, against the supplier's rights to payments hereunder, or against the City, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

GTC-27. Americans with Disabilities Act:

The supplier hereby certifies that it will comply with the Americans with Disabilities Act (ADA), 42, U.S.C. Section 12101 et seq., and its implementing regulations. The supplier will provide reasonable

accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of ADA. The supplier will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person of disability. Any sub-contract entered into by the supplier, relating to this contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

GTC-28. City Tax Registration Certificate:

The supplier shall obtain and maintain a Tax Registration Certificate (TRC) and all such certificates required of it and shall not allow any such certificates to be revoked or suspended while any contract is in effect.

Contact the Office of Finance, Tax and Permit Division at 213-473-5901 for compliance requirements and general information.

GTC-29. Force Majeure:

Notwithstanding any other provisions hereof, neither the Supplier nor the City shall be held responsible or liable for failure to meet their respective obligations under this agreement, if such failure shall be due to causes beyond Supplier's or City's control. Such causes include but are not limited to: strikes, fire, flood, civil disorder, acts of God or the public enemy, acts of the Federal Government or any unit of state or local government in either sovereign or contractual capacity, insurrection, epidemics, freight embargoes or delays in transportation, and changes in federal, state or local laws.

GTC-30. Patent Rights:

The person, firm, or corporation to whom this contract is issued does, in case the materials or supplies to be furnished are covered wholly or in part by U.S. Letters Patent, by the acceptance of this contract agrees to indemnify and hold the City of Los Angeles harmless from any and all injuries or damage which

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the City may sustain by reason of the sale to or use by it of such materials or supplies and arising out of the alleged or actual infringement of said letters patent.

GTC-31. Indemnification:

Except for the active negligence or willful misconduct of the City, supplier undertakes and agrees to defend, indemnify and hold harmless the City and any and all of the City's Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including supplier's employees and agents, or damage of or destruction to any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions, or willful misconduct incident to the performance of this Contract on the part of supplier or sub-supplier of any tier. The provisions of this paragraph shall survive termination of this Contract.

GTC-32 Intellectual Properties:

The supplier represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patents, copyrights, trademarks, trade dress, trade secrets, right of publicity and proprietary information (Intellectual Property). This provision shall survive expiration or termination of this Contract.

The supplier, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the CITY and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees, experts' fees and cost of litigation, damage or liability of any nature whatsoever arising out of the infringement, actual or alleged, direct or contributory, of any Intellectual Property rights (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by supplier in performing the work under this Contract; or (2) as a result of the CITY'S actual or intended use of any Work Product furnished by supplier under the Contract.

Supplier's defense of the CITY shall be consistent with Los Angeles City Charter Sections 271, 272 and 273. Rights and remedies available to the CITY hereinabove are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the City of Los Angeles. This provision shall survive expiration or termination of this Contract.

In addition to the foregoing, if supplier has information or reasonably believes that (1) any of the Work Products allegedly or actually infringes or is likely to infringe upon any third-party Intellectual Property rights, or (2) any of the Intellectual Property licenses procured on behalf of the CITY under this Contract are to expire, to be terminated or enjoined, supplier shall immediately notify CITY of such alleged, actual or potential infringement or license status. Upon CITY'S request, supplier shall, at supplier's own expense:

1. procure for the CITY the right or license to continue using the Intellectual Property at issue; or
2. replace the Intellectual Property at issue with a functionally equivalent, non-infringing product, if practicable.

Exercise of any of the above-mentioned options shall not cause undue business interruption to the CITY, or diminish the intended benefits and use of the Work Products by the CITY under the specifications herein.

Unless otherwise provided for herein, all Work Products originated or prepared by supplier or its subcontractors of any tier under this Contract shall be and remain the property of the CITY for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, materials, data, reports, manuals, specifications, artwork, drawings, sketches, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas matters and combinations thereof, and all forms of intellectual

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property. Supplier hereby assigns, and agrees to assign, all goodwill, copyright, trademarks, patents, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by supplier under this Contract. Supplier further agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY'S ownership of rights provided herein. This provision shall survive expiration or termination of this Contract.

Supplier shall not provide or disclose any Work Product to any third party without prior written consent of the CITY.

Any subcontract entered into by supplier relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subcontractors performing work under this Contract such that the City's ownership rights of all Work Products are preserved and protected as intended herein. Failure of supplier to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject supplier to damages paid to the CITY and the imposition of any and all sanctions allowed by law, including but not limited to termination of supplier's contract with the CITY.

For all Intellectual Property (1) that have already been created, legally perfected or reduced to practice by whomever prior to the performance of this Contract (Pre-existing Intellectual Property) and (2) that are enmeshed in or discretely made part of the Work Products, supplier hereby grants and/or will cause the third-party Pre-existing Intellectual Property right owner to grant CITY, including its agents and consultants a royalty-paid, perpetual, irrevocable license to use such Pre-existing Intellectual Property so as to maximize the City's benefits from and use of the Work Products.

**END OF GENERAL TERMS AND CONDITIONS FOR
CITY OF LOS ANGELES PURCHASING AGENT CONTRACTS**