

VENDING MACHINE SERVICES

REQUEST FOR PROPOSALS



OCTOBER 30, 2013

RESPONSE DUE: DECEMBER 6, 2013

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1. INTRODUCTION

1.1. Introduction

The City of West Hollywood, hereinafter referred to as "City," is soliciting proposals from qualified vendors to provide vending machine services to City Hall and other City locations. The required services and performance requirements are described in the Scope of Services.

Responses must conform to the requirements of this Request for Proposals (RFP). The City reserves the right to waive any irregularity in any proposal or to reject any proposal, which does not comply with this RFP. The selection of the proposal will be made solely by the City on criteria determined by the City.

The successful proposer will be required to enter into an agreement, which will include the requirements of this RFP as well as other requirements. The initial term of the agreement will be the duration of the project with the option to extend the agreement for a mutually agreed upon term.

The City expects, but does not guarantee, that the decision on selection of a firm will be made on the date indicated in the Proposal Schedule. The City assumes no obligation for any costs incurred by any proposer in preparing the response to this RFP, attending an interview, or any other activity prior to the award of the contract to the selected proposer.

The City's principal contact for this proposal will be Tim Thomson, Claims Specialist, (323) 848-6420, tthomson@weho.org, 8300 Santa Monica Boulevard, West Hollywood, CA 90069. Proposers may not contact any City of West Hollywood official, employee, vendor or customer to gather information about this RFP.

City Hall is located at 8300 Santa Monica Blvd., West Hollywood, CA 90069. The telephone number is (323) 848-6400, and the fax is (323) 848-6575.

1.2. West Hollywood Background

The City of West Hollywood is a General Law City with five Council members elected at large to four year terms on a staggered basis. The City is also a contract city, which contracts out many of its public services. Police service is contracted with the Los Angeles County Sheriff's Department and Fire protection through the Los Angeles County and Consolidated Fire Protection District. The City has approximately 210 full-time and about 30 part-time employees. Its operating budget is approximately \$90 million. The City fiscal year begins on July 1 and ends on June 30.

With a population of over 35,000 and approximately 25,000 residential units in a land area of only 1.9 square miles, West Hollywood is a dense, urban community surrounded by the cities of Los Angeles and Beverly Hills. West Hollywood is home to a large immigrant Russian population, as well as one of the nation's best-known gay and lesbian communities. Relatively few children live in West Hollywood, as many of its residents are either adults with no children or senior citizens.

The City is home to the world famous Sunset Strip and hosts the Halloween Carnaval in October, and the Christopher Street West Gay, Lesbian and Transgender Pride Parade and Festival in June, as well as dozens of visitor attractions that include a wide variety of restaurants and entertainment venues that cater to local residents, visitors, and tourists.

1.3. Mission Statement and Core Values

Mission Statement

As a premiere city, we are proactive in responding to the unique needs of our diverse community, creative in finding solutions to managing our urban environment, and dedicated to preserving and enhancing its well being. We strive for quality in all our actions, setting the highest goals and standards.

Core Values

- Respect and Support for People

We recognize and celebrate the diversity of our community by treating all individuals with respect for their personal dignity and providing a wide array of specialized services. We promote mutual respect, courtesy, and thoughtfulness in all interactions.

- Responsiveness to the Public

We hold ourselves accountable to the members of our community and are committed to actively seeking public participation. We promote a public process whereby we can respond to the community's needs while balancing competing interests and diverse opinions.

- Idealism, Creativity and Innovation

We value our artistic richness and support idealism and creativity. We are dedicated to consistently finding innovative and better solutions to provide the best public service possible.

- Quality of Residential Life

We maintain a balanced sense of community by protecting quality of life, conserving our historic neighborhoods, safeguarding housing affordability, and proactively governing growth with care and thought.

- Promote Economic Development

We recognize that economic development is essential to maintaining quality of life for the total community. We support an environment where our diverse and eclectic businesses can flourish, and seek mutually beneficial relationships with the business community.

- Public Safety

We protect the personal safety of our constituents and safeguard the community from the threats of natural, technological and other man-made hazards. Through preparation and planning, we minimize the effects of these disasters.

- Responsibility for the Environment

We make it our responsibility to protect and improve our natural and built environments, pursuing opportunities to preserve and create open and green space in our urban setting. We initiate partnerships with other cities and agencies to address regional and global environmental challenges.

2. PROJECT INFORMATION

2.1 *Project Purpose*

The purpose of this Request for Proposal (RFP) is to select a qualified Vendor to provide vending machine services to the City at various City-owned properties throughout the City.

2.2 *Vending Machine Services*

The City is seeking vending machine services for various locations on City-owned property. The City currently has vending machines at the locations listed below. In addition to these current locations, the City may elect to place vending machines in additional locations through this RFP process or at a later time. The current vending machine locations are:

- City Hall – 3 story building – 3rd floor Break Room – there are currently two vending machines, one snack and one beverage
- West Hollywood Park and Council Chambers – Auditorium and Parking Garage Lobby – there are currently four vending machines, two in the lobby of the Parking Garage and two in the auditorium
- Plummer Park – Community Center Lobby – there currently is no vending machine but the City desires to have a machine at this location

The Vendor should be capable of providing at each vending machine the following:

- A variety of beverage vending including healthy selections such as fruit juices, coconut water, premium waters, protein shakes and sports drinks. Beverage vending should also include water and soft drinks, such as Coke, Coke Zero, Diet Coke, 7up and Diet 7up at a minimum.
- A variety of food vending including healthy snacks along with the more traditional items. Some examples of healthy items are dried fruit, granola, pita chips and hummus, fruit and protein bars, and an assortment of nuts. The more traditional items would include a selection of potato chips, pretzels, cookies, and candy bars.
- Items placed in all vending machines should be fresh and not close to the expiration date. Items should not be damaged or smashed.
- The price of each item should be clearly marked.
- Contact information should be placed on each vending machine in the event of money loss or other issue.

3. INSTRUCTIONS

3.1 Proposal Schedule

Request for Proposal Issued	October 30, 2013
RFP questions due via email	November 14, 2013
Distribution of answers to questions	November 21, 2013
Proposals Due at City Clerk's Office <i>No later than 4:00 p.m.</i>	December 6, 2013
Interviews, if required	January 7, 2014
Projected Selection	January 20, 2014
Implementation Start Date	February 2014

3.2 Proposal Submission

By submitting a proposal the Vendor affirms that the Company is familiar with all the terms and conditions of this RFP and is sufficiently informed in all matters affecting the performance of the work and provisions of labor, supplies, material, equipment and

facilities called for in this RFP. Additionally, the Vendor affirms that the Proposal has been checked for errors and omissions and that all information provided is correct and complete.

Failure to comply with the requirements of this RFP may result in disqualification. Proposals received subsequent to the time and date specified above will not be considered. Proposals must include all the sections listed below and must be indexed and numbered in the order outlined below. List your responses and/or any reference to attachments as indexed and numbered below. To assist in the evaluation of the responses, please utilize the section titles listed below.

All proposals shall be signed in ink by the President, Chief Executive Officer, or individual authorized to act on behalf of the Company, with current Power of Attorney if applicable. The name and mailing address of the individual making the proposal must be provided.

Proposals must be received at the City Clerk's Office no later than 4:00 p.m. on the date indicated in the Proposal Schedule. Proposals received after 4:00 p.m. on the date indicated in the Proposal Schedule, regardless of the date of their postmark, will be rejected.

Proposals must:

- not be folded and not be bound with any fabric, plastic, glue, staples, folder or rubber bands
- show page numbers for all pages in the proposal
- include seven (7) copies, each punched in a 3-ring binder and one (1) electronic copy on a disc or thumb drive as a PDF file
- be on 8-1/2" X 11", 20-24 lb. white paper (do not submit covers)
- be submitted in one or more envelopes, each of which clearly:
 - ✓ States "Vending Machine Services RFP"
 - ✓ Identifies the proposers
 - ✓ States the number of the envelope and the total number of envelopes by the proposer

The envelope must be addressed as follows:

City of West Hollywood
Attn: Corey Schaffer, City Clerk
8300 Santa Monica Blvd
West Hollywood, CA 90069

If hand delivered, address as above and deliver to the City Clerk's office.

Proposals must address the requirements of the RFP in the exact order set forth in this Section. They should be as concise as possible and must not contain any promotional, advertising or display material.

3.3 General Terms and Conditions

- A. Proposers may withdraw their proposals, without prejudice, prior to the date and time specified for proposal submission, by sending a written request to David Wilson, Director of Finance and Technology Services. No proposal received after the closing date will be considered.
- B. The proposer to which the award is made will execute a written contract with the City within one hundred (120) working days after Notice of the Award has been sent by mail to the address provided in the proposer's proposal unless both parties mutually agree to extend the contract execution deadline. If the proposer to which the award is made fails to enter into the contract, the City reserves the right to nullify the award and award may be made to the next best proposal as determined by the City.
- C. The successful proposer will not assign, transfer, convey, or otherwise dispose of the contract, or right, title of interest, or power to execute such a contract to any person, any other firm, or corporation without previous consent in writing from the City.
- D. The contract will provide that the City reserves the right to terminate the contract at any time upon sixty (60) days prior written notice of the City's intent to terminate the contract. Causes for termination of the contract may include, but are not limited to any one of the following: failure to promptly and faithfully provide the services required in this RFP; violation of any law; failure to cooperate upon receiving any reasonable request for information or service; and improper actions of the firm officers or employees which, in the opinion of the City, would adversely affect the City's interest. The contract may be terminated by the firm upon a 180 day written notice.

- E. The initial term of the agreement will be for the duration of the project. Fees during the option periods will be negotiated between the City and the proposer. This RFP and the Proposal submitted in response to this RFP may be incorporated as part of the final contract.

3.4 *Inquiries*

The City's principal contact for this proposal will be Tim Thomson, Claims Specialist, (323) 848-6420, tthomson@weho.org, 8300 Santa Monica Blvd., West Hollywood, CA 90069. Proposers may not contact any City of West Hollywood official, employee, vendor or customer to gather information about this RFP.

3.5 *Evaluation Criteria*

The sole purpose of the proposal evaluation process is to determine which solution best meets West Hollywood's needs. The evaluation process is not meant to imply that one proposer is superior to any other, but rather that the selected proposer can provide the best solution for West Hollywood's current and future needs based on the information available and West Hollywood's best efforts of determination.

The proposal evaluation criteria should be viewed as standards that measure how well a proposer's approach meets the desired requirements and needs of West Hollywood. West Hollywood reserves the right to determine the suitability of proposals on the basis of any or all of these criteria or other criteria not included in the list below.

The following selection criteria will be used to evaluate the proposer responses to the RFP. The proposals will be evaluated against all of the following criteria. A percentage is assigned to each criterion thereby providing a weight to the importance of the criteria in the overall selection.

Evaluation Criteria	Weight
Capabilities and ability to meet the technical, business, and functional requirements of this RFP Response demonstrates how the firm will adequately meet the City's needs	20%
Demonstrated experience and ability to provide vending machine services Proposer highlights experience, particularly with public agencies, over the past five years	20%
Price Reasonableness of proposed cost, fees and expenses for services	20%
Completeness & quality of the response as outlined in the RFP Response adequately addresses all requirements of the RFP including formatting, inclusion of attachments and number of copies	15%
Feasibility, timeliness, and quality of project schedule Proposer provides realistic schedule and addresses the resources and time commitment required by West Hollywood personnel	15%
Quality and depth of references References adequately substantiate proposer's ability to deliver proposed services	10%

3.6 Data to Be Submitted with Proposal

The content and sequence of the information contained in each copy of the proposal shall be separated by tabs as follows:

- A. Letter of Transmittal
Include your understanding of the work to be performed and conformance with General Terms and Conditions. In addition, state why you believe you are the best qualified to perform the services requested.
- B. Summary Sheet
This section of the proposal must include a fully completed copy of the Summary Sheet (Appendix B) included with this RFP.
- C. Conceptual Plan
Provide a conceptual plan for services to the City that you believe is appropriate for the City. Indicate features, resources, technology, skills and/or services, which distinguish your firm and make it the better choice for the City.

Submittal of an implementation plan which includes: the process, requirements of City staff, training that will be provided and project schedule is required as part of the Conceptual Plan. In addition, explain how the firm will handle day-to-day problem resolution during the transition.

D. Cost Proposal

An estimated cost proposal for the conceptual plan must be provided. Provide an explanation of any assumptions that the proposer made in calculating the project costs.

E. Other Services

The firm may be required to provide vending services not specifically referenced in this RFP. Based on the information provided in the RFP and your firm's knowledge of the industry, please describe any services or technological enhancements, not previously mentioned, that should be considered for further improving the effectiveness of the City's services (two pages maximum).

F. References and Pending Litigation

List five similar companies or public agencies for which your firm has provided services in the last five years and when performed. In a table format, show name of the organizations, services provided, and names and telephone numbers of persons who can be contacted with regard to the services you have provided.

Include an explanation and status, if in the last five years, the firm or an officer or principal of the firm has been involved in any litigation, legal proceedings, or investigations by a regulatory authority.

G. Certification of Proposals

Return a copy of the entire completed certification properly executed as provided for in Appendix A.

H. Proposer's Insurance

The selected proposer must provide and maintain in force at all times during the term of the services contemplated herein insurance for Workers' Compensations, Commercial General Liability, and Errors and Omissions Liability or Professional Liability in amounts consistent with the services provided and as determined jointly by the City and the firm. Such policies should be issued by companies admitted in the State of California.

I. Environmental Sustainability

Please explain methods that will be used while conducting business in the City of West Hollywood that encourages recycling of materials and implementation of environmentally friendly practices and procedures.

3.7 Selection Process

Responsive proposals received by the deadline will be evaluated by an evaluation committee, which may include an outside consultant, established by the City. Additionally, an independent checking of references may be used to assist in selecting the finalist(s). Oral interviews at City Hall may be conducted by the City. Contract negotiations will take place with the finalist.

Award will be made to the Proposer offering the most advantageous proposal after consideration of all evaluation criteria set forth in this RFP. The committee will evaluate all proposals received in accordance with the evaluation criteria. The City shall not be obligated to accept the lowest priced proposal, but will make an award in the best interest of the City after all factors have been evaluated.

A Notification of Intent to Award may be sent to any Proposer selected. Award is contingent upon the successful negotiation of final contract terms. Negotiations shall be confidential and not subject to disclosure to competing Proposers unless an agreement is reached. If contract negotiations cannot be concluded successfully, the City may negotiate a contract with the next highest scoring Proposer or withdraw the RFP.

3.8 General Requirements

- A. **Right to Request Additional Information**
During the evaluation process, the evaluation committee reserves the right, where it may serve the City's best interest, to request additional information or clarifications from Proposers, or to allow corrections of errors or omissions. At the discretion of the evaluation committee, firms submitting proposals may be requested to make oral presentations as part of the evaluation process.
- B. **Right to Reject Proposals**
The City reserves the right without prejudice to reject any or all proposals.
- C. **Right to Purchase From Any Source**
The City reserves the right to purchase from any source or sources, in part or in whole, any desired products or services relating to this proposal.
- D. **Proposal Interpretations and Addenda**
Any change to, or interpretation of, the RFP by the City will be sent via email to the contact person provided by each Proposer by the Director of Finance and Technology Services and any such changes or interpretations shall become part of the RFP for incorporation into any agreement awarded pursuant to the RFP.

- E. **Public Record**
All proposals accepted by the City of West Hollywood shall become the exclusive property of the City. **Upon opening, all proposals accepted by the City shall become a matter of public record and shall be regarded as public, with the exception of those elements of each proposal which are identified by the Contractor as business or trade secrets and plainly marked as “Trade Secret”, “Confidential” or “Proprietary”.** Each element of a proposal which the Contractor desires not to be considered a public record must be clearly marked as set forth above. If disclosure is required under the California Public Records Act or otherwise by law, the City will make an independent determination and retain the confidentiality to the extent permitted by the Public Records Act.
- F. **Additional Services**
The general service requirements outlined above describe the minimum work to be accomplished. Upon final selection of the firm, the scope of service may be modified and refined during negotiations with the City.
- G. **Undue Influence**
The firm declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of the City in connection with the award of this RFP, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of the Agreement or any work to be conducted as a result of the Agreement. Violation of this Section shall be a material breach of the Agreement entitling the City to any and all remedies at law of in equity.
- H. **Non-Discrimination**
The City maintains various policies related to contractual service providers. Among these is an anti-discrimination policy which requires that our contractors not discriminate in hiring on the basis of gender, race, religion, sexual orientation, or medical condition. Upon acceptance of a proposal, the City may request that the selected firm sign a statement affirming their compliance with this policy.

3.9 Revision to the RFP

West Hollywood reserves the right to revise the RFP prior to the date that proposals are due. Revisions to the RFP shall be mailed to all potential proposers. West Hollywood reserves the right to extend the date by which the Proposals are due. This RFP does not commit West Hollywood to award a contract, to defray any costs incurred in the preparation of a Proposal pursuant to this RFP, or to procure or contract for work. All

proposals submitted in response to this RFP become the property of West Hollywood and public records, and as such, may be subject to public review.

West Hollywood reserves the right to cancel, in part or in its entirety, this RFP, including, but not limited to: selection schedule, submittal date, and submittal requirements. If West Hollywood cancels or revises this RFP, all proposers will be notified in writing by West Hollywood.

West Hollywood reserves the right to request additional information and/or clarifications from any or all proposers to this RFP.

3.10 Common Questions and Answers

Q: *Is there a pre-bid conference?*

A: No. Questions about the RFP should be submitted prior to November 14, 2013, as detailed above.

Q: *Will the City grant an extension for submission of proposals?*

A: Unfortunately, extensions cannot be granted.

Q: *Is the RFP available as a Word document?*

A: The RFP is available electronically only as a PDF document.

Appendix A
Certification of Proposal to the City

1. The undersigned hereby submits its proposal and, by doing so, agrees to furnish services to the City in accordance with the Request for Proposal (RFP), dated October 30, 2013 and to be bound by the terms and conditions of the RFP.
2. The proposer has carefully reviewed its proposal and understands and agrees that the City is not responsible for any errors or omissions on the part of the Proposer and that the Proposer is responsible for them.
3. It is understood and agreed that the City reserves the right to accept or reject any or all proposals and to waive any informality or irregularity in any proposal received by the City.
4. The proposal includes all of the commentary, figures and data required by the Request for Proposals, dated October 30, 2013.
5. This proposer has carefully read and fully understands all of the items contained in the General Requirements. The proposer agrees to all of the General Requirements except for those listed on an attachment.
6. The proposal by this proposer is an irrevocable offer and shall be valid for 120 days from December 6, 2013.

Name of Firm: _____

By: _____

(Authorized Signature)

Type Name: _____

Title: _____

Address: _____

Telephone Number: _____

Fax Number: _____

Email: _____

Date: _____

Appendix B
Summary Sheet

Firm Name: _____

Address: _____

Telephone: _____ Fax: _____

Number of years in existence: _____

Management person responsible for direct contact with the City and services required for this Request for Proposal (RFP):

Name: _____ Title: _____

Telephone: _____ Fax: _____

Email: _____

Person responsible for day-to-day servicing of the project:

Name: _____ Title: _____

Telephone: _____ Fax: _____

Email: _____

Attach brief biographies/resumes, including experience with local governments, for all responsible person(s) assigned to the RFP and to the City of West Hollywood.

Appendix C

Sample of City Standard Contract

CITY OF WEST HOLLYWOOD

AGREEMENT FOR SERVICES

This Agreement is made on this #th day of Month, 2010, at West Hollywood, California, by and between the City of West Hollywood, a municipal corporation, 8300 Santa Monica Boulevard, West Hollywood, California 90069 (hereinafter referred to as the "CITY") and XYZ Corporation, 1500 Main Street, City CA 90000 (hereinafter referred to as the "CONTRACTOR").

RECITALS

- A. The CITY proposes to contract for services as outlined below;
- B. The CONTRACTOR is willing to perform such services and has the necessary qualifications by reason of experience, preparation, and organization to provide such services;
- C. NOW, THEREFORE, the CITY and the CONTRACTOR, mutually agree as follows:
 1. **SERVICES.** The CONTRACTOR shall perform those services set forth in "Exhibit A," which is attached hereto and incorporated herein by reference.
 2. **TERM OF AGREEMENT.** The term of this contract shall commence upon execution by both parties and shall expire on _____, 20__ unless extended in writing in advance by both parties.
 3. **TIME OF PERFORMANCE.** The services of the CONTRACTOR are to commence upon receipt of a notice to proceed from the CITY and shall continue until all authorized work is completed to the CITY's satisfaction, in accordance with the schedule incorporated in "Exhibit A," unless extended in writing by the CITY.
 4. **PAYMENT FOR SERVICES.** The CONTRACTOR shall be compensated in an amount not to exceed \$#,##0 for services provided pursuant to this Agreement as described in "Exhibit A." Compensation shall under no circumstances be increased except by written amendment of this Agreement. The CONTRACTOR shall be paid within thirty (30) days of presentation of an invoice to the CITY for services performed to the CITY's satisfaction. The CONTRACTOR shall submit invoices monthly describing the services performed, the date services were performed, a description of reimbursable costs, and any other information requested by the CITY.
 5. **CONTRACT ADMINISTRATION.**
 - 5.1. **The CITY's Representative.** Unless otherwise designated in writing, (City Staff Person) shall serve as the CITY's representative for the administration of the project. All activities performed by the CONTRACTOR shall be coordinated with this person.

- 5.2. **Manager-in-Charge.** For the CONTRACTOR, S. Jones shall be in charge of the project on all matters relating to this Agreement and any agreement or approval made by her/him shall be binding on the CONTRACTOR. The Manager-in-Charge shall not be replaced without the written consent of the CITY.
- 5.3. **Responsibilities of the CITY.** The CITY shall provide all relevant documentation in its possession to the CONTRACTOR upon request in order to minimize duplication of efforts. The CITY's staff shall work with the CONTRACTOR as necessary to facilitate performance of the services.
- 5.4. **Personnel.** The CONTRACTOR represents that it has or will secure at its own expense all personnel required to perform the services under this Agreement. All of the services required under this Agreement will be performed by the CONTRACTOR or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. The CONTRACTOR reserves the right to determine the assignment of its own employees to the performance of the CONTRACTOR's services under this Agreement, but the CITY reserves the right, for good cause, to require the CONTRACTOR to exclude any employee from performing services on the CITY's premises.
6. **TERMINATION.**
- 6.1. **Termination for Convenience.** Either party may terminate this Agreement without cause and in its sole discretion at any time by giving the other party thirty (30) days' written notice of such termination. In the event of such termination, the CONTRACTOR shall cease services as of the date of termination and shall be compensated for services performed to the CITY's satisfaction up to the date of termination.
- 6.2. **Termination for Cause.** All terms, provisions, and specifications of this Agreement are material and binding, and failure to perform any material portion of the work described herein shall be considered a breach of this Agreement. Should the Agreement be breached in any manner, the CITY may, at its option, terminate the Agreement not less than five (5) days after written notification is received by the CONTRACTOR to remedy the violation within the stated time or within any other time period agreed to by the parties. In the event of such termination, the CONTRACTOR shall be responsible for any additional costs incurred by the CITY in securing the services from another contractor.
7. **INDEMNIFICATION.** CONTRACTOR shall indemnify, defend with counsel approved by CITY, and hold harmless CITY, its officers, officials, employees and volunteers from and against all liability, loss, damage, expense, cost (including

without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONTRACTOR's performance of work hereunder or its failure to comply with any of its obligations contained in this AGREEMENT, regardless of CITY'S passive negligence, but excepting such loss or damage which is caused by the sole active negligence or willful misconduct of the CITY. Should CITY in its sole discretion find CONTRACTOR'S legal counsel unacceptable, then CONTRACTOR shall reimburse the CITY its costs of defense, including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation. The CONTRACTOR shall promptly pay any final judgment rendered against the CITY (and its officers, officials, employees and volunteers) covered by this indemnity obligation. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

8. INSURANCE REQUIREMENTS.

8.1. The CONTRACTOR, at the CONTRACTOR's own cost and expense, shall procure and maintain, for the duration of the contract, the following insurance policies:

8.1.1. **Workers' Compensation Coverage.** The CONTRACTOR shall maintain Workers' Compensation Insurance and Employer's Liability Insurance for its employees in accordance with the laws of the State of California. In addition, the CONTRACTOR shall require any and every subcontractor to similarly maintain Workers' Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of California for all of the subcontractor's employees. Any notice of cancellation or non-renewal of all Workers' Compensation policies must be received by the CITY at least thirty (30) days prior to such change. The insurer shall agree to waive all rights of subrogation against the CITY, its officers, agents, employees, and volunteers for losses arising from work performed by the CONTRACTOR for City.

This provision shall not apply if the CONTRACTOR has no employees performing work under this Agreement. If the CONTRACTOR has no employees for the purposes of this Agreement, the CONTRACTOR shall sign the "Certificate of Exemption from Workers' Compensation Insurance" which is attached hereto and incorporated herein by reference as "Exhibit B."

8.1.2. **General Liability Coverage.** The CONTRACTOR shall maintain commercial general liability insurance in an amount of not less

than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury, and property damage. If a commercial general liability insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit.

8.1.3. **Automobile Liability Coverage.** The CONTRACTOR shall maintain automobile liability insurance covering bodily injury and property damage for all activities of the CONTRACTOR arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired, and non-owned vehicles, in an amount of not less than three hundred thousand dollars (\$300,000) combined single limit for each occurrence. If CONTRACTOR or CONTRACTOR's employees will use personal autos in any way on this project, CONTRACTOR shall obtain evidence of personal auto liability coverage for each such person.

8.2. **Endorsements.** Each general liability and automobile liability insurance policy shall be issued by insurers possessing a Best's rating of no less than A-:VII. Each general liability insurance policy shall be endorsed with the specific language of Section 8.2.1 below. CONTRACTOR also agrees to require all contractors, and subcontractors to do likewise.

8.2.1. "The CITY, its elected or appointed officers, officials, employees, agents, and volunteers are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of the CONTRACTOR, including materials, parts, or equipment furnished in connection with such work or operations."

8.2.2. This policy shall be considered primary insurance as respects the CITY, its elected or appointed officers, officials, employees, agents, and volunteers. Any insurance maintained by the CITY, including any self-insured retention the CITY may have, shall be considered excess insurance only and shall not contribute with this policy.

8.2.3. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

8.2.4. CONTRACTOR acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amounts of coverage required. Any insurance proceeds available to the CITY in excess of the limits and coverage required in this

agreement and which is applicable to a given loss, will be available to the CITY.

- 8.2.5. The insurer waives all rights of subrogation against the CITY, its elected or appointed officers, officials, employees, or agents regardless of the applicability of any insurance proceeds, and agrees to require all subcontractors to do likewise.
 - 8.2.6. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected or appointed officers, officials, employees, agents, or volunteers.
 - 8.2.7. The insurance provided by this policy shall not be suspended, voided or reduced in coverage or in limits except after thirty (30) days' written notice has been submitted to the CITY and approved of in writing, except in the case of cancellation, for which ten (10) days' written notice shall be provided.
 - 8.2.8. Contractor agrees to provide immediate notice to City of any claim or loss against Contractor arising out of the work performed under this agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.
- 8.3. **Self Insured Retention/Deductibles.** All policies required by this Agreement shall allow City, as additional insured, to satisfy the self-insured retention ("SIR") and/or deductible of the policy in lieu of the Owner (as the named insured) should Owner fail to pay the SIR or deductible requirements. The amount of the SIR or deductible shall be subject to the approval of the City Attorney and the Finance Director. Owner understands and agrees that satisfaction of this requirement is an express condition precedent to the effectiveness of this Agreement. Failure by Owner as primary insured to pay its SIR or deductible constitutes a material breach of this Agreement. Should City pay the SIR or deductible on Owner's behalf upon the Owner's failure or refusal to do so in order to secure defense and indemnification as an additional insured under the policy, City may include such amounts as damages in any action against Owner for breach of this Agreement in addition to any other damages incurred by City due to the breach."
- 8.4. **Certificates of Insurance.** The CONTRACTOR shall provide certificates of insurance with original endorsements to the CITY as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with the CITY on or before commencement of performance of this Agreement. Current certification of insurance shall be kept on file with the CITY at all times during the term of this Agreement. The CONTRACTOR

shall provide written evidence of current automobile coverage to comply with the automobile insurance requirement.

- 8.5. **Failure to Procure Insurance.** Failure on the part of the CONTRACTOR to procure or maintain required insurance shall constitute a material breach of contract under which the CITY may terminate this Agreement pursuant to Section 6.2 above.
9. **ASSIGNMENT AND SUBCONTRACTING.** The parties recognize that a substantial inducement to the CITY for entering into this Agreement is the professional reputation, experience, and competence of the CONTRACTOR. Assignments of any or all rights, duties, or obligations of the CONTRACTOR under this Agreement will be permitted only with the express consent of the CITY. The CONTRACTOR shall not subcontract any portion of the work to be performed under this Agreement without the written authorization of the CITY. If the CITY consents to such subcontract, the CONTRACTOR shall be fully responsible to the CITY for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between the CITY and subcontractor nor shall it create any obligation on the part of the CITY to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise is required by law.
10. **COMPLIANCE WITH LAWS, CODES, ORDINANCES, AND REGULATIONS.** The CONTRACTOR shall use the standard of care in its profession to comply with all applicable federal, state, and local laws, codes, ordinances, and regulations.
- 10.1. **Taxes.** The CONTRACTOR agrees to pay all required taxes on amounts paid to the CONTRACTOR under this Agreement, and to indemnify and hold the CITY harmless from any and all taxes, assessments, penalties, and interest asserted against the CITY by reason of the independent contractor relationship created by this Agreement. In the event that the CITY is audited by any Federal or State agency regarding the independent contractor status of the CONTRACTOR and the audit in any way fails to sustain the validity of a wholly independent contractor relationship between the CITY and the CONTRACTOR, then the CONTRACTOR agrees to reimburse the CITY for all costs, including accounting and attorneys' fees, arising out of such audit and any appeals relating thereto.
- 10.2. **Workers' Compensation Law.** The CONTRACTOR shall fully comply with the workers' compensation law regarding the CONTRACTOR and the CONTRACTOR's employees. The CONTRACTOR further agrees to indemnify and hold the CITY harmless from any failure of the CONTRACTOR to comply with applicable workers' compensation laws. The CITY shall have the right to offset against the amount of any

compensation due to the CONTRACTOR under this Agreement any amount due to the CITY from the CONTRACTOR as a result of the CONTRACTOR's failure to promptly pay to the CITY any reimbursement or indemnification arising under this Section.

- 10.3. **Licenses.** The CONTRACTOR represents and warrants to the CITY that it has all licenses, permits, qualifications, insurance, and approvals of whatsoever nature which are legally required of the CONTRACTOR to practice its profession. The CONTRACTOR represents and warrants to the CITY that the CONTRACTOR 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 of the CONTRACTOR to practice its profession. The CONTRACTOR shall maintain a City of West Hollywood business license, if required under CITY ordinance.
11. **CONFLICT OF INTEREST.** The CONTRACTOR confirms that it has no financial, contractual, or other interest or obligation that conflicts with or is harmful to performance of its obligations under this Agreement. The CONTRACTOR shall not during the term of this Agreement knowingly obtain such an interest or incur such an obligation, nor shall it employ or subcontract with any person for performance of this Agreement who has such incompatible interest or obligation.
12. **NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY.** The CONTRACTOR represents and agrees that it does not and will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, political affiliation or opinion, medical condition, or pregnancy or pregnancy-related condition. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, political affiliation or opinion, medical condition, or pregnancy or pregnancy-related condition. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to include in all solicitations or advertisements for employment and to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
13. **LIVING WAGE ORDINANCE.** The CONTRACTOR shall abide by the provisions of the West Hollywood Living Wage Ordinance. During the term of this Agreement, the CONTRACTOR shall keep on file sufficient evidence of its

employee compensation to enable verification of compliance with the West Hollywood Living Wage Ordinance.

14. **EQUAL BENEFITS ORDINANCE, No. 03-662.** The CONTRACTOR shall abide by the provisions of the West Hollywood Equal Benefits Ordinance. During the term of this Agreement, the CONTRACTOR shall keep on file sufficient evidence of its employee compensation and any applicable benefits packages, as those benefits relate to the coverage of the domestic partners of contractor's employees, which shall include; bereavement leave; family medical leave, and health insurance benefits, to enable verification of compliance with the West Hollywood Equal Benefits Ordinance.
15. **RESTRICTIONS: Arab League Boycott of Israel.** The CONTRACTOR hereby affirms it does not honor the Arab League Boycott of Israel.
16. **RECORDS AND AUDITS.** The CONTRACTOR shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to this Agreement and such other records as may be deemed necessary by the CITY or any authorized representative. All records shall be made available at the request of the CITY, with reasonable notice, during regular business hours, and shall be retained by the CONTRACTOR for a period of three years after the expiration of this Agreement.
17. **OWNERSHIP OF DOCUMENTS.** It is understood and agreed that the CITY shall own all documents and other work product of the CONTRACTOR, except the CONTRACTOR's notes and workpapers, which pertain to the work performed under this Agreement. The CITY shall have the sole right to use such materials in its discretion and without further compensation to the CONTRACTOR, but any re-use of such documents by the CITY on any other project without prior written consent of the CONTRACTOR shall be at the sole risk of the CITY. The CONTRACTOR shall at its sole expense provide all such documents to the CITY upon request.
18. **INDEPENDENT CONTRACTOR.** The CONTRACTOR is and shall at all times remain as to the CITY a wholly independent CONTRACTOR. Neither the CITY nor any of its agents shall have control over the conduct of the CONTRACTOR or any of the CONTRACTOR's employees or agents, except as herein set forth. The CONTRACTOR shall not at any time or in any manner represent that it or any of its agents or employees are in any manner agents or employees of the CITY. The CONTRACTOR shall have no power to incur any debt, obligation, or liability on behalf of the CITY or otherwise act on behalf of the CITY as an agent.
19. **NOTICE.** All Notices permitted or required under this Agreement shall be in writing, and shall be deemed made when delivered to the applicable party's representative as provided in this Agreement. Additionally, such notices may be given to the respective parties at the following addresses, or at such other

addresses as the parties may provide in writing for this purpose.

Such notices shall be deemed made when personally delivered or when mailed forty-eight (48) hours after deposit in the U.S. mail, first-class postage prepaid, and addressed to the party at its applicable address.

CITY OF WEST HOLLYWOOD
8300 Santa Monica Boulevard
West Hollywood, CA 90069-6216

Attention: _____

CONTRACTOR: XYZ Corporation
1500 Main Street
City, CA 90000

Attention: _____

20. **GOVERNING LAW.** This Agreement shall be governed by the laws of the State of California.
21. **ENTIRE AGREEMENT; MODIFICATION.** This Agreement supersedes any and all other agreements, either oral or written, between the parties, and contains all of the covenants and agreements between the parties. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein. Any agreement, statement, or promise not contained in the Agreement, and any modification to the Agreement, will be effective only if signed by both parties.
22. **WAIVER.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision under this agreement. Payment of any invoice by the CITY shall not constitute a waiver of the CITY's right to obtain correction or replacement of any defective or noncompliant work product.
23. **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.

24. **AUTHORITY TO ENTER AGREEMENT.** The CONTRACTOR has all requisite power and authority to conduct its business and to execute, deliver, and perform this Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.

**CITY OF WEST HOLLYWOOD
AGREEMENT FOR SERVICES**

IN WITNESS WHEREOF, the parties have executed this Agreement the #th day of Month, 2007.

CONTRACTOR: XYZ Corporation

J. Smith, President

CITY OF WEST HOLLYWOOD:

Department Director

Paul Arevalo, City Manager

ATTEST:

Corey Schaffer, City Clerk

**CITY OF WEST HOLLYWOOD
AGREEMENT FOR SERVICES**

Exhibit A

Scope of Services:

Time of Performance:

Special Payment Terms:

CITY OF WEST HOLLYWOOD

AGREEMENT FOR SERVICES

Exhibit B

**Certificate of Exemption from
Workers' Compensation Insurance**

TO: City of West Hollywood

SUBJECT: Sole Proprietor/Partnership/Closely Held Corporation with No Employees

Please let this memorandum notify the City of West Hollywood that I am a

- sole proprietor
- partnership
- nonprofit organization
- closely held corporation

and do not have any employees whose employment requires me to carry workers' compensation insurance. Therefore, I do not carry worker's compensation insurance coverage.

Contractor Signature _____

Printed Name of Contractor _____

Date _____