

REQUEST FOR PROPOSALS

City of West Hollywood - Issued March 3, 2015

CONSTRUCTABILITY REVIEW SERVICES FOR PHASE II OF THE WEST HOLLYWOOD PARK MASTER PLAN IMPLEMENTATION



Issued By: City of West Hollywood
8300 Santa Monica Boulevard
West Hollywood, CA 90069

Proposal due: March 23, 2015, no later than 3:00 pm

Submit to: City of West Hollywood
City Clerk
8300 Santa Monica Boulevard
West Hollywood, CA 90069
Attn: Francisco Contreras

Project Administrator: Francisco Contreras, Innovation and Strategic Initiatives Manager
City Manager's Department
323.848.6874
fcontreras@weho.org

**CONSTRUCTABILITY REVIEW SERVICES FOR
PHASE II OF THE WEST HOLLYWOOD PARK MASTER PLAN IMPLEMENTATION**

TABLE OF CONTENTS

Introduction and Schedule..... 3
West Hollywood and Project Overview 4
Scope of Work..... 6
Proposal Submission & Evaluation..... 7
Terms and Conditions 11

Exhibits:

- **Exhibit A**.....Project Location Map
- **Exhibit B**..... Project area bird’s eye rendering
- **Exhibit C**.....Sample Basic Contract

Introduction and Schedule

Purpose of RFP

The City of West Hollywood (“City”) seeks to retain the services of a highly-qualified firm (“Consultant”) to provide to provide a constructability review of the West Hollywood Park Phase II Project on the 50% and 100% Construction Document milestones for the Project.

RFQ Schedule

The following dates represent the City’s best estimate of the RFQ schedule that will be followed.

RFQ Schedule and Deadlines	Date
RFP issued by the City	March 3, 2015
Proposal due date (3:00 P.M. PST)	March 23, 2015
City completes screening process, proposal and pricing evaluations	March 25, 2015
Finalist selected	March 27, 2015
Awarding of contract and contract signing	April 2015
Contract start date	April 2015

The City reserves the right, at its sole discretion, to adjust this schedule, as it deems necessary.

Project Manager

All communications concerning this RFP must be submitted in email to the Project Manager identified below. The Project Manager will be the sole point of contact for this RFP.

Francisco J. Contreras, AICP
Innovation and Strategic Initiatives Manager
City of West Hollywood
8300 Santa Monica Blvd
West Hollywood, CA 90069
fcontreras@weho.org

Contact with anyone else in the City is expressly forbidden and may result in disqualification of the Consultant’s bid. The City has assigned the following identification that must be referenced in all communications: “RFP: WHP PII - Cost Estimate Review”.

Questions or Clarifications Pertaining to the RFQ

It shall be the Consultant’s responsibility to ask questions, request changes or clarifications, or otherwise advise the Project Manager if any language, specifications or requirements of the RFP appear to be ambiguous or contradictory.

Every attempt shall be made to ensure that the Consultant receives an adequate and prompt response. Questions and requests for clarification regarding this RFP must be directed in writing, via email, to the Project Manager by March 20, 2015. Therefore, Consultants are advised that any questions received after that date may not be answered. Consultants should not assume that electronic communications have been received unless confirmation of receipt has been sent.

West Hollywood and Project Overview

The City of West Hollywood

The City of West Hollywood, known as the “Creative City,” is a City of 34,000 people and approximately 25,000 residential units located in a 1.9 square mile area set in the heart of Los Angeles. Officially founded in 1984 as the 84th City in Los Angeles County, West Hollywood is a young, vibrant community with a colorful and entertaining past: it’s where rock & roll meets fashion, art merges with lifestyle and everyone is free to be different.

West Hollywood is a place that’s proud to stand out. The progressive spirit and creativity of the people who live, work and play here has put West Hollywood at the leading edge of culture, entertainment and design. Sixty percent (60%) of adults are college-educated, and 54% are employed in managerial and professional occupations. Approximately 35% of the City’s residents are gay or lesbian, 10% are Russian-speaking immigrants, and close to 20% are senior citizens.

The City is home to the world famous Sunset Strip and hosts the annual Halloween Carnival 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.

The City’s main industries are hospitality (hotels, restaurants, and nightclubs), entertainment (production, post-production and related uses) and arts and design (furniture and art galleries). Its thriving retail community includes some of the region’s most well-known restaurants, hotels, and shops, including House of Blues, the Comedy Store, Mondrian and Sunset Marquis hotels, as well as the Sunset Plaza shopping district.

West Hollywood’s dynamic business community is a reflection of the City’s artistic richness and support of idealism and creativity. The City is the center of the fashion, design, and entertainment industries, and home to the Pacific Design Center and the Avenues of Art and Design. A business friendly community, it has one of the lowest business tax rates in the Los Angeles region, and the lowest rate of cities on the Westside.

West Hollywood is also known for its progressive public policies and sensitivity to civil and human rights issues. Extensive support programs for seniors, residents living with HIV and/or AIDS, and local youth are administered through the City. Since incorporation, the City has spent roughly \$50 million on social services programs, and spends an estimated \$1.7 million annually on various social-service related transportation programs.

West Hollywood Park Master Plan

In 2004, a Master Plan for West Hollywood Park was completed and adopted by the West Hollywood City Council. City Council modified the master plan through adoption of a feasibility study confirming the components of the Master Plan could be incorporated within existing park boundaries. The Master Plan addresses the park, the library, recreational and parking components and arranges them to maximize the area of uninterrupted open space with grass and trees on the West Hollywood Park Site. This is accomplished by consolidating buildings at the southern end of the existing park on a unified site. The arrangement of the park and associated structures maximizes accessibility to them via a wide variety of modes of mobility. The maximization of access to the park on foot and via public transportation is a high priority.

The location of the new library is a primary influence on the direction and configuration of the Master Plan. The selected site at the southeast corner of the park gives the library optimal orientation (facing north), proximity to parking, an intimate relationship with the park as well as visibility from Santa Monica Boulevard, San Vicente Boulevard and Melrose Avenue.

The Aquatic and Recreation Center consists of 70,000 square feet of multipurpose rooms for a variety of recreational and community uses, an at-grade parking facility, and public access television studios. Its centerpiece is multipurpose sports court gymnasium capable of supporting two basketball games simultaneously as well as volleyball and other team sports and activities. The roof-top swimming pools in the recreation center are designed to fulfill two different purposes. A rectangular 25-yard by 25-meter pool is conceived primarily for exercise, training and competition and is envisioned to be in use continuously from early morning through late evening seven days a week. A separate recreational pool is more flexible in design and will accommodate a variety of uses for all age groups. Each pool will be maintained at separate temperatures appropriate to its uses. The completed park will increase the total amount of uninterrupted grass and trees including playground areas and tree-lined promenades by approximately 3.5 acres.

Phase I of the West Hollywood Park Master Plan is complete. The new library, a 90-space single level library parking garage, a 5-story, 330-space municipal parking garage and development and improvement of approximately half of the park open space were completed as part of Phase I.

Scope of West Hollywood Park Master Plan Implementation Phase II Project

The primary Project components consist of:

1. A new 4-story Aquatic & Recreation Center building approximately 70,000 square feet.
 - a. The ground floor consists of parking, building operation offices, utility rooms and the City's Cable Television Studio.
 - b. The second floor includes a sports court sized to accommodate two full-sized basketball courts, park-and-recreation offices and meeting rooms.
 - c. The third floor incorporates additional offices, meeting rooms and lounge areas.
 - d. The fourth floor consists of building systems, staff break areas, and public shower/changing rooms.
 - e. The roof deck includes two swimming pools, an aquatic office and changing rooms.
2. Park Site Improvements of approximately 150,000 square feet including green space, promenades, children's and tiny tot play areas, an AIDS Monument and Public Art.

The project budget is \$90,000,000 including soft costs, hard costs and FF&E. The hard cost component of the budget is \$63,000,000 prior to consideration of Owner's reserve for escalation and market conditions and contingency for post-bid changes.

Other Information Available

The following information is available upon request:

1. Design Development documents
2. Soils Report

Scope of Work

Requested Services and Deliverables

Deliverables shall be considered those tangibles and resulting work products which are to be delivered to the City, such as draft documents, data, interim findings, drawings, schematics, training, meeting presentations, final drawings and reports. Deliverables shall be in an editable format such as MS Word, Excel, PowerPoint, or Visio and/or other formats specified below. Documents within documents shall also be in an editable format as mentioned in the previous statement.

All deliverables and resulting work products from this contract will become the property of the City of West Hollywood. The City recognizes that Consultants will approach this type of work in a variety of ways and the City will entertain various alternatives.

At a minimum the deliverables for this Project shall include:

1. Constructability review of the 50% and 100% Construction Document milestones. The Consultant shall review the Construction Documents to determine their adequacy and completeness of the project. Review shall consist of plans and specifications and consider information found in reference documents and geotechnical reports. Site inspection will be required. Shall identify risks including conflicts, errors and omissions that could impact cost, schedule or quality of the work. Provide written comments in a formatted Excel spreadsheet provided by the City (alternative formats will be considered). Back check the 50% review comments at the 100% review milestone.
2. Meetings: Allowance for one (1) meeting at each estimate milestone will be included. Additional meetings will be based on hourly rates.
3. Value Engineering: Value engineering is to be excluded. If needed, it would be additional scope of work based on hourly rates.

Proposal Submission & Evaluation

Proposals Due by March 23, 2015

By submitting a Proposal, the Consultant agrees to provide all services specified within the RFP pursuant to all requirements and specifications contained herein.

Sealed Proposals must be received no later than March 23, 2015 at 3:00 P.M. (PST). The package should be clearly labelled:

RFP: WHP PII – CONSTRUCTABILITY REVIEW SERVICES

Name of Consultant

Consultant's Address

Consultant's Contact Person

Consultant's Telephone Number

Proposals received after the scheduled closing time for filing will be returned to the Consultant unopened. Postmarks will not be accepted as proof of receipt. No faxed or emailed proposals will be accepted.

The RFP must be submitted to:

City Clerk

City of West Hollywood

8300 Santa Monica Boulevard

West Hollywood, CA 90069

Attn: Francisco Contreras

Proposal Submission

For purposes of this Proposal submission, the Consultant shall submit:

- One (1) complete original printed and signed copy
- One (1) electronic copy in Adobe PDF file format, submitted on a CD or USB flash drive

Proposal Organization

The Consultant must provide all information as requested in this RFP. Responses must follow the format outlined in this RFP. Additional materials in other formats may not be considered. The City may reject as non-responsive at its sole discretion any Proposal or any part thereof, which is incomplete, inadequate in its response, or departs in any substantive way from the required format. Proposal responses shall be organized in the following manner:

1. COVER LETTER

An overall introduction to the Proposal is required, including a statement of the Consultant's understanding of the needs of the City in an executive summary format. The Cover Letter must state the name of the person(s) authorized to represent the Consultant in any negotiations, the name(s) of the person(s) authorized to sign any contract that may result, the contact person's name, mailing or street addresses, phone and fax numbers and email addresses. A legal representative of the successful firm, authorized to bind the firm in contractual matters must sign the Cover Letter and the Proposal response. The letter may also briefly set forth any particular information the

Consultant wishes to bring to the City's attention and if any information contained in the response should be considered proprietary.

2. EXECUTIVE SUMMARY

Consultants must include an Executive Summary. This part of the response to the RFP should be limited to a brief narrative highlighting the Consultant's proposal. The summary should contain as little technical jargon as possible and should be oriented toward nontechnical personnel. Please include any benefits your company has over your competitors.

3. COMPANY BACKGROUND

Consultant must provide their response to the following statements and questions in this section of their proposal.

1. Name of company.
2. Name of parent company if applicable.
3. Company website address.
4. Number of years company has been in business.
5. How many employees are in your company?
6. How many employees are available to work on this project?
7. Consultant's experience in providing comparable services to other organizations.

4. UNDERSTANDING OF SCOPE OF PROJECT AND REQUIRED SERVICES

Consultants must include a statement of their understanding of the requested project scope. Such understanding shall represent the Consultant's expert knowledge of the functions, methods, and problems related to providing effective products and/or services as described in this RFP.

5. PROPOSED PROFESSIONAL SERVICES & FEES

Propose and describe in detail the professional services that will be provided as requested in this RFP and include the following compensation information:

1. Proposal fee
2. Schedule of hourly billing rates
3. Reimbursable expenses list

In addition, include a schedule of hourly billing rates (schedule) for the various level of staff who may participate in the project, should the need for extra services and/or number of meetings (official meetings and/or public presentations) are increased or in the event that services and/or number of meetings (official meetings and/or public presentations) are reduced. Said schedule, shall identify the staff position and associated hourly rate. These fees will be considered when evaluating award of the contract. No additional mark up will be allowed on fees quoted.

In the cost proposal, also provide a reimbursable expenses list (list). The list shall include those items the Consultant will submit as part of their work on the project. Said list shall identify the reimbursable item and associated cost including any overhead and markup. Travel, phone calls, faxes and delivery charges shall be included in the proposal fee. If the City orders special overnight delivery, the charges will be reimbursed at 110% of the documented cost.

All prints and reproduction charges for documents used by the Consultant and for “in house” use shall be included in Consultant’s proposal fee. This includes prints and back up materials for pay requests, City check sets, progress sets, and presentation prints. Reimbursable prints and reproductions will be at local competitive rates, as determined by City, plus 10%.

Consultant shall not be reimbursed for travel expenses associated with work on this project unless the City specifically authorizes certain out-of-town travel. Travel to clients’ offices is not considered “out of town”.

The City’s payment terms are 45 days from receipt of an original invoice and City acceptance of the quantity and quality of the services being billed.

6. PROJECT TEAM

Declare the Consultant’s primary project team that will be working on this project and provide resumes for each individual.

7. REFERENCES

Consultant should include references to:

- Three (3) of the most relevant projects completed by the Consultant, of equivalent size (or larger) and similar complexity to this Project;
- The three (3) most recent projects completed by the Consultant; and
- Three (3) references from clients of project with similar scope and complexity.

A single project may fit into one or more of these reference categories. Please include the following information for each reference:

1. Contact Name
2. Contact Title
3. Address
4. Phone Number
5. Email address
6. Location/Jurisdiction
7. Project Name
8. Project Description
9. Project Dates
10. Client’s Project Contract Number

8. [OPTIONAL] COMMUNICATIONS MATERIALS

Consultant may include, if desired, communications materials, including newsletters, brochures, posters, and websites for review of Products, tools and services available. Supporting material may include references and case studies, and may include other information pertinent to the Proposal, such as reports and analysis of an implementation of their proposed solution. This material will not count towards the proposal page limit.

Sample Basic Contract

It is important for Consultants to review Exhibit C (Sample Basic Contract) in this RFP. The contract is the City's standard contract for these goods and services and will be used as a result of this selection process. Any deviations from this contract should be clearly identified in the Proposal. Please note the City's mandatory Living Wage and Equal Benefits clauses.

Evaluation Criteria

Each Proposal shall be evaluated on the following evaluation criteria, weighting, and maximum points, as follows:

Criteria	Maximum Score
Cover Letter	0
Consultant's Capabilities	80
Project Team	10
Project Approach and Understanding	10
Total	100

Proposal Review

The Project Team will evaluate the Proposals received. For the purpose of scoring Proposals each of the Project Team members will evaluate each Proposal based upon the criteria listed above. The Project Team may seek outside expertise, including but not limited to technical advisors. The City has the right to reject any or all Proposals for good cause, in the public interest.

TERMS AND CONDITIONS

Cancellation

The City of West Hollywood reserves the right to modify, revise or cancel this RFP. Receipt and evaluation of Proposals does not obligate the City to award a contract.

Acceptance or Rejection of Proposals

The City reserves the right to reject any and all proposals when such rejection is in the best interest of the City or the proposal contains major irregularities. Minor irregularities of the proposal may be waived by the City. The City also reserves the right to cancel this RFP at any time and/or to solicit and re-advertise for other proposals. The cost of preparing any responses to the RFP shall be borne by the respondents and shall not be reimbursed by the City.

Universal Access and Non-Discrimination in Employment

The City of West Hollywood has a long history of commitment to providing accessible programs and services to all citizens. In connection with the performance of this project, the selected Consultant, firm or team agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified solely because of race, color, religion, national origin, gender, gender variance, age, military status, sexual orientation, marital status, or physical or mental disability; and the Consultant, firm or team further agrees to insert the foregoing provision in all subcontracts hereunder.

Verification of Information

Proposers are hereby notified that the City will rely on accuracy and completeness of all information provided in making its selection. Proposers are urged to carefully review all information provided to ensure, clarity, accuracy, and completeness of such information. As the City deems necessary and appropriate in its sole discretion, the City reserves the right to make any inquiries or other follow-up required to verify the information provided.

Communications Regarding the Request for Proposals

If a Proposer is in doubt as to the true meaning or intent of any part of the RFP or discovers discrepancies in, or omissions from the RFP, she/he may submit a written request via email for an interpretation or a correction thereof to the Project Manager.

Non-Commitment of City

This Request for Proposals does not commit the City to award a Contract, to pay any costs incurred in the preparation of a proposal for this request, or to procure or contract services. The City reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified firm or to modify or cancel in part or in entirety the RFP if it is in the best interest of the City to do so.

Confidentiality

Prior to award of the Contract, all proposals will be designated confidential to the extent permitted by the California Public Records Act. After award of the Contract, or if not awarded, after rejection of all proposals, all responses will be regarded as public records and will be subject to review by the public.

Any language purported to render confidential all or portions of the proposals will be regarded as non-effective and will be disregarded.

Ownership of Reports and Data

The originals of all studies, reports, exhibits, documents data and/or other work / material(s) prepared and/or used to comply with any section/condition of this RFP, plus any copies of same required by the Contract to be furnished to the City, shall be deemed to be public records which shall be open to inspection by the public and as such shall become and remain the property of the City.

Independent Contractor

Consultant is and shall at all times remain as to the City a wholly independent contractor. Neither the City nor any of its officers, employees, Consultants, servants or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees or agents, except as herein set forth.

Liability for Direct Payment

City shall not be called upon to assume any liability for the direct payment of any salary, wage or other compensation to any person employed by the Consultant performing services hereunder for the City.

Contract Assignment

The Consultant shall not assign, transfer, convey or otherwise dispose of the contract, or its right, title or interest, or its power to execute such a contract to any individual or business entity of any kind without previous written consent of the City.

Non-Exclusive Contract

The City reserves the right to contract with other firms during the contract term.

Public Domain

All products used or developed in the execution of any contract resulting from this request for proposal will remain in the public domain at the completion of the contract.

Property of the City

At the earlier time of 1) termination of the contract agreement or 2) conclusion of all stages of work; all original documents, designs, drawings, reports, calculations, diskettes, computer files, notes, and other related materials whether prepared by Consultant or their consultant(s) or obtained in the course of providing services to be performed pursuant to the contract agreement shall become the sole property of the City and shall be delivered to the City upon demand.

Non-Discrimination

On the performance of the terms of the contract, the Consultant agrees that it will not engage in, nor permit such subcontractors as it may employ to engage in, discrimination in employment of persons because of age, race, color, sex, national origin or ancestry, or religion of such person(s).

Termination

The City reserves the right to terminate the contract once executed upon thirty (30) calendar days from written notice to the Consultant. Consultant may terminate with thirty (30) calendar days written notice for breach only.

Conflicts of Interest

Consultant agrees to promptly notify City whenever a client or consultant has an interest in any portion of the project referred to Consultant for professional services. In particular, Consultant shall disclose any financial interest or relationship with any construction company that might submit a bid on the resulting construction project. Such project may be withdrawn by the City with no compensation due, if the Consultant has a conflicting interest.

Indemnity Disclosure

The Consultant shall indemnify and hold City harmless from all claims, damages or liability, including all reasonable attorney's fees and other costs incurred in defending any claims arising out of or in connection with the Consultant's alleged negligence in the performance of its services.

Inspections

The City reserves the right to inspect the work being done by the Consultant or any consultants of the Consultant at any time.

No waiver

No waiver or any provision of the contract agreement shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding unless executed in writing by the party making the waiver.

Breach of Contract

In the event of any action, suit or proceeding is brought for the enforcement of or the declaration of any right or obligation pursuant to the contract or as a result of any alleged breach of any provision of the contract, the prevailing party shall be entitled to recover its costs and expenses including reasonable attorney's fees, from the losing party and any judgment or decree rendered in such a proceeding shall include an award thereof.

Arbitration

Cases involving a dispute between the City and Consultant may be decided by an arbitrator only if both sides agree in writing to arbitration and to the selection of the arbitrator with each party to bear its own costs.

Action Filed in Court

The contract shall be made, entered into, executed in Los Angeles County, California and any action filed in any court or for arbitration for the interpretation, enforcement or other action regarding the terms, conditions or covenants referred to herein shall be filed in the applicable court in Los Angeles County, California and shall be decided based upon the laws of the State of California.

Exhibit A. Project location map

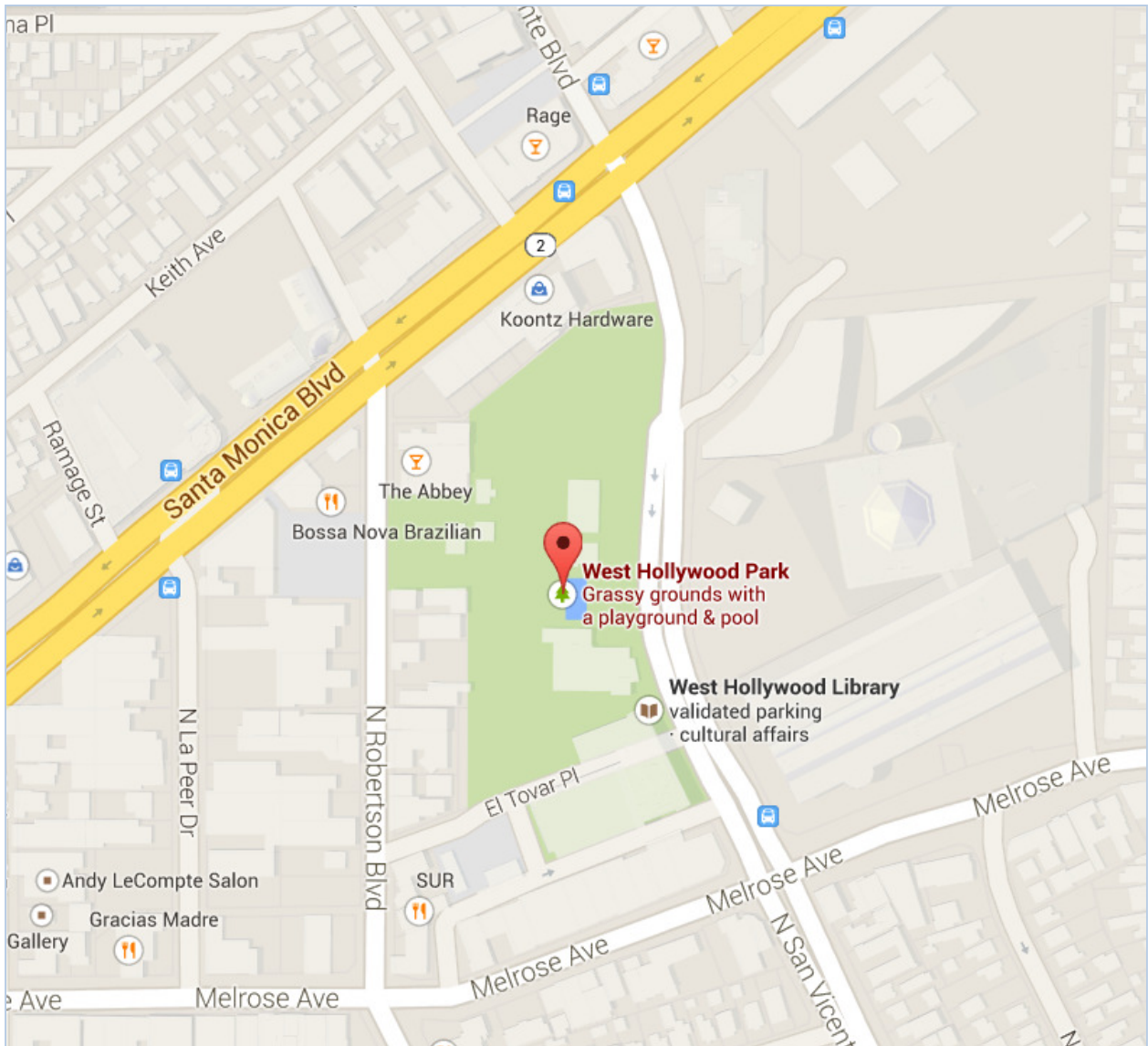


Exhibit B. Project area bird's eye rendering

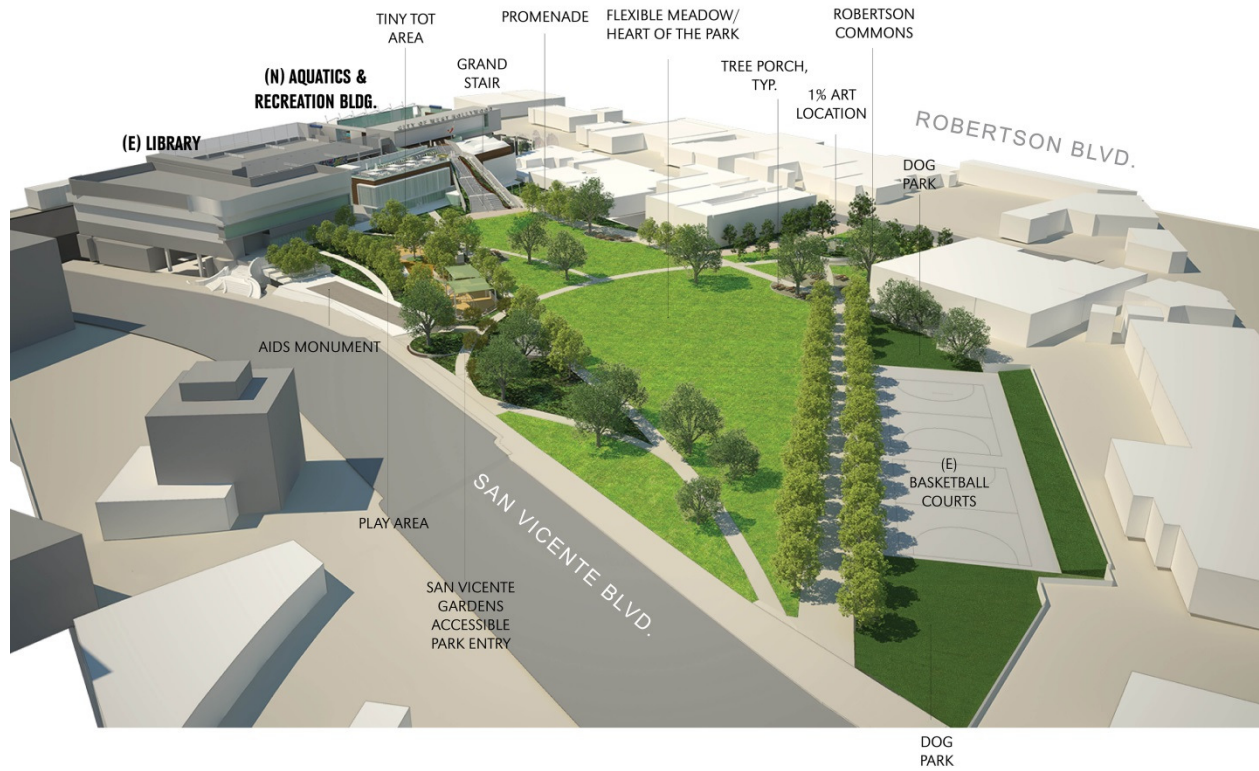


Exhibit C. Sample Basic Contract

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 professional 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 and hold harmless City from and against all liability arising out of or in connection with Contractor's negligent or wrongful acts, errors or omissions in the performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement. In the event that City is named as a party defendant in a lawsuit alleging injury as a result of Contractor's negligent or wrongful performance under this Agreement, Contractor shall defend City with counsel approved by CITY, which approval will not be unreasonably withheld, and bear responsibility for attorney's fees, expert fees and all other costs and expenses of litigation. Should conflict of interest principles preclude a single lawyer from representing both City and Contractor, or should City otherwise find Contractor's legal counsel unacceptable, then Contractor shall reimburse the City its costs of defense, including without limitation reasonable attorney's fees, expert fees and all other costs and expenses of litigation. Contractor shall promptly pay any final, non-appealable judgment rendered against

the CITY. 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 but the indemnity obligation will exclude such loss or damage which is determined to be caused by the sole negligence or willful misconduct of the City. The obligations established by this paragraph will survive termination of this Agreement.

For purposes of this paragraph:

- City means the City Council and its subordinate bodies, elected and appointed City officials and officers, City employees and authorized agents and volunteers of the City.
- Liability means any claims or causes of action raised or asserted by, damage to, loss or expense incurred by or judgments rendered in favor of persons or entities not a party to this Agreement.
- The types of damages included within this indemnity obligation include, but are not limited to, personal injury, bodily injury, death, loss of use, and damage to or loss of real and personal property.
- The indemnity obligation of this paragraph includes all forms of negligent acts, errors and omissions, wrongful behavior and willful misconduct (including but not limited to breaches of professional standards of care, if applicable, and breach of contract) by Contractor and any of its officers, agents employees and subcontractors.

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.
- 8.1.4. **Professional Liability Coverage.** The CONTRACTOR shall maintain professional errors and omissions liability insurance for protection against claims alleging negligent acts, errors, or omissions which may arise from the CONTRACTOR's operations under this Agreement, whether such operations be by the CONTRACTOR or by its employees, subcontractors, or subconsultants. The amount of this insurance shall not be less than one million dollars (\$1,000,000) on a claims-made annual aggregate basis, or a combined single-limit-per-occurrence basis.
- 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. Notwithstanding the provisions included in any of the ISO Additional Insured Endorsement forms, 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.

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:

Yvonne Quarker, City Clerk

Exhibit A

Scope of Services:

Time of Performance:

Special Payment Terms:

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 _____