

CITY OF WEST HOLLYWOOD

AGREEMENT FOR SERVICES

Consultant

This Agreement is made on this [REDACTED] day of [REDACTED], 20[REDACTED], 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 [REDACTED] (hereinafter referred to as the "CONSULTANT").

RECITALS

- A. The CITY proposes to contract for professional services as outlined below;
- B. The CONSULTANT 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 CONSULTANT, mutually agree as follows:
 1. **SERVICES.** The CONSULTANT 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 [REDACTED], 20[REDACTED] unless extended in writing in advance by both parties.
 3. **TIME OF PERFORMANCE.** The services of the CONSULTANT 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 CONSULTANT shall be compensated in an amount not to exceed \$ [REDACTED] 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 CONSULTANT shall be paid within thirty (30) days of presentation of an invoice to the CITY for services performed to the CITY's satisfaction. The CONSULTANT 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, [REDACTED] shall serve as the CITY's representative for the administration of the project. All activities performed by the CONSULTANT shall be coordinated with this person.

- 5.2. **Manager-in-Charge.** For the CONSULTANT, [REDACTED] 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 CONSULTANT. 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 CONSULTANT upon request in order to minimize duplication of efforts. The CITY's staff shall work with the CONSULTANT as necessary to facilitate performance of the services.
- 5.4. **Personnel.** The CONSULTANT 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 CONSULTANT or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. The CONSULTANT reserves the right to determine the assignment of its own employees to the performance of the CONSULTANT's services under this Agreement, but the CITY reserves the right, for good cause, to require the CONSULTANT 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 CONSULTANT 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 CONSULTANT 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 CONSULTANT shall be responsible for any additional costs incurred by the CITY in securing the services from another CONSULTANT.

7. **INDEMNIFICATION.** Consultant 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 CONSULTANT'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 CONSULTANT'S legal counsel unacceptable, then CONSULTANT 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 CONSULTANT 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 CONSULTANT, at the CONSULTANT'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 CONSULTANT 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 CONSULTANT 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 CONSULTANT for City.

This provision shall not apply if the CONSULTANT has no employees performing work under this Agreement. If the CONSULTANT has no employees for the purposes of this Agreement, the CONSULTANT 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 CONSULTANT 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 CONSULTANT shall maintain automobile liability insurance covering bodily injury and property damage for all activities of the CONSULTANT 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 CONSULTANT or CONSULTANT's employees will use personal autos in any way on this project, CONSULTANT 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. CONSULTANT 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 CONSULTANT, 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, CONSULTANT 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. CONSULTANT agrees to provide immediate notice to CITY of any claim or loss against CONSULTANT 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 CONSULTANT 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 CONSULTANT 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 CONSULTANT 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 CONSULTANT. Assignments of any or all rights, duties, or obligations of the CONSULTANT under this Agreement will be permitted only with the express consent of the CITY. The CONSULTANT 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 CONSULTANT 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 CONSULTANT 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 CONSULTANT agrees to pay all required taxes on amounts paid to the CONSULTANT 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 CONSULTANT and the audit in any way fails to sustain the validity of a wholly independent contractor relationship between the CITY and the CONSULTANT, then the CONSULTANT 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 CONSULTANT shall fully comply with the workers' compensation law regarding the CONSULTANT and the CONSULTANT's employees. The CONSULTANT further agrees to indemnify and hold the CITY harmless from any failure of the CONSULTANT to comply with applicable workers' compensation laws. The CITY shall have the right to offset against the amount of any compensation due to the CONSULTANT under this Agreement any amount due to the CITY from the CONSULTANT as a result of the CONSULTANT's failure to promptly pay to the CITY any reimbursement or indemnification arising under this Section.
- 10.3. **Licenses.** The CONSULTANT 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 CONSULTANT to practice its profession. The CONSULTANT represents and warrants to the CITY that the CONSULTANT 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 CONSULTANT to practice its profession. The CONSULTANT shall maintain a City of West Hollywood business license, if required under CITY ordinance.
11. **CONFLICT OF INTEREST.** The CONSULTANT 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 CONSULTANT 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 CONSULTANT 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 CONSULTANT 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 CONSULTANT 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 CONSULTANT shall abide by the provisions of the West Hollywood Living Wage Ordinance. During the term of this Agreement, the CONSULTANT 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 CONSULTANT shall abide by the provisions of the West Hollywood Equal Benefits Ordinance. During the term of this Agreement, the CONSULTANT 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 CONSULTANT'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 CONSULTANT hereby affirms it does not honor the Arab League Boycott of Israel.
16. **RECORDS AND AUDITS.** The CONSULTANT 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 CONSULTANT 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 CONSULTANT, except the CONSULTANT'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 CONSULTANT, but any re-use of such documents by the CITY on any other project without prior written consent of the CONSULTANT shall be at the sole risk of the CITY. The CONSULTANT shall at its sole expense provide all such documents to the CITY upon request.
18. **INDEPENDENT CONSULTANT.** The CONSULTANT is and shall at all times remain as to the CITY a wholly independent CONSULTANT. Neither the CITY nor any of its agents shall have control over the conduct of the CONSULTANT or any of the CONSULTANT's employees or agents, except as herein set forth. The CONSULTANT 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 CONSULTANT 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: _____

CONSULTANT:

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 CONSULTANT 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 _____
day of _____, 20____. CONSULTANT: Company Name

Name of Authorized Signer, Title

CITY OF WEST HOLLYWOOD:

Department Director

Paul Arevalo, City Manager

ATTEST:

Yvonne Quarker, City Clerk

CITY OF WEST HOLLYWOOD

AGREEMENT FOR SERVICES

Exhibit A

Scope of Services:

Special Payment Terms:

Hourly rate: \$xx.xx

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.

CONSULTANT Signature _____

Printed Name of CONSULTANT _____

Date _____