

PROFESSIONAL SERVICES AGREEMENT

This agreement ("Agreement") is made as of June 13, 2023 by and between the **City of Commerce**, a municipal corporation ("City") and The Pun Group, LLP ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as a "Party" and collectively referred to as the "Parties."

RECITALS

WHEREAS, City desires to utilize the services of Consultant as an independent contractor to [insert brief description of work] as set forth in the Scope of Services attached hereto as **Exhibit A**; and

WHEREAS, Consultant represents that it is fully qualified to perform such consulting services by virtue of its experience and the training, education and expertise of its principals and employees.

NOW, THEREFORE, in consideration of performance by the parties of the covenants and conditions herein contained, the parties hereto agree as follows:

1. Company's Scope of Services. The nature and scope of the specific services to be performed by Consultant are as described in **Exhibit A**.

2. Term of Agreement. This Agreement shall commence on June 13, 2023, the "Commencement Date" and shall remain and continue in effect until tasks described in **Exhibit A** are completed, but in no event later than June 30, 2026, unless sooner terminated pursuant to the provisions of this Agreement.

3. Compensation.

A. City agrees to compensate Consultant for services under this Agreement in compliance with the schedule set forth in **Exhibit A**. Consultant shall submit proper monthly invoices in the form and manner specified by City. Each invoice shall include a monthly breakdown of all monthly services performed together with the hours spent on each service. Consultant shall maintain appropriate and necessary documentation supporting the monthly invoices detailing the type of service provided. It shall be available for review by the City at all reasonable times upon request.

B. Total payment to Consultant pursuant to this Agreement shall not exceed \$200,909.

C. If at the request of the City, Consultant is required to incur out of pocket expenses (including but not limited to, out-of-town travel and lodging) which are above and beyond the ordinary expenses associated with performance of this Agreement, Consultant shall be entitled to reimbursement of such expenses. Consultant shall only be reimbursed for those expenses which: (I) appear on Consultant's monthly invoices; (II) are accompanied by a copy of the City's written authorization for Consultant to incur

such expenses; and (III) receipts documenting such expenses.

4. General Terms and Conditions. The General Terms and Conditions set forth in **Exhibit B** are incorporated as part of this Agreement. In the event of any inconsistency between the General Terms and Conditions and any other exhibit to this Agreement, the General Terms and Conditions shall control unless it is clear from the context that both parties intend the provisions of the other exhibit(s) to control.

5. Addresses.

City of Commerce

City of Commerce
2535 Commerce Way
Commerce, CA 90040
Attn: Edgar P. Cisneros, City Manager

Company

The Pun Group LLP
Attn: Kenneth H. Pun, CPA, CGMA

6. Exhibits. All exhibits referred to in this Agreement are listed here and are incorporated and made part of this Agreement by this reference.

Exhibit A – Scope of Services and Compensation Schedule

Exhibit B – General Terms and Conditions

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates written below.

CITY

CITY OF COMMERCE

By: _____
Hugo A. Argumedo, Mayor

Date

CONSULTANT

[Insert Consultant Name]

By: _____
Kenneth H. Pun, CPA, The Pun Group, LLP

Date

ATTEST:

By: _____
Lena Shumway, City Clerk

Date

APPROVED AS TO FORM:

By: _____
Noel Tapia, City Attorney

Date

EXHIBIT A

SCOPE OF WORK

A. General

The City of Commerce is obtaining the services of The Pun Group, LLP certified public accountants (“AUDITOR”) to audit its financial statements for the fiscal years ending June 30, 2023 through 2025 with option for renewal for 2026 and 2027. These audits are to be performed in accordance with the provisions contained in the Request for Proposals dated April 20, 2023.

B. Scope of Work to be Performed

The City of Commerce desires the auditor to express an opinion on the fair presentation of the City’s basic financial statements in conformity with U.S. generally accepted accounting principles.

The audit firm is not required to audit the combining and individual fund and account group financial statements and schedules. However, the auditor is to provide an “in relation to” opinion on the combining and individual fund financial statements and supporting schedules.

The audit firm is not required to audit the schedule of federal financial assistance. However, the auditors must provide an “in-relation-to” report on that schedule based on the auditing procedures applied during the audit of the financial statements.

The City of Commerce desires a Annual Comprehensive Financial Report (ACFR) and its component unit financial statements for the City of Commerce to be prepared by the independent auditor and be fully compliant with all applicable GASB pronouncements for the fiscal year ended June 30, 2023 and each of the subsequent years, June 30, 2024 and 2025 of the audit firm’s contract with the City (and optional years 2026-2027). The City will be planning to submit the ACFR to the California Society of Municipal Finance Officers (CSMFO) for review in their Certificate of Award for Outstanding Financial Reporting program and to the Government Finance Officers Association (GFOA) for review in their Certificate of Achievement for Excellence in Financial Reporting program.

The audit firm will perform an audit of all funds of the City of Commerce. The audit will be conducted in accordance with auditing standards generally accepted in the United States of America and Government Auditing Standards, issued by the Comptroller of the United States. The City’s Annual Comprehensive Financial Report (ACFR) will be prepared and word processed by the audit firm. The ACFR will be in full compliance with all applicable GASB pronouncements. The audit firm will render their auditors’ opinions on the basic financial statements which will include both Government-Wide Financial Statements (the governmental activities and business-type activities), Fund Financial Statements (each major fund and the aggregate remaining fund information). The audit firm will also apply limited audit procedures to Management’s Discussion and Analysis (MD&A) and required supplementary information pertaining to the Budgetary Information on the General Fund and each major special revenue fund of the City, GASB 68 and GASB 75 schedules.

The audit firm will perform a single audit on the expenditures of federal grants in accordance with OMB Uniform Guidance and render the appropriate audit reports on Internal Control over Financial Reporting and on Compliance and other matter based on an audit of the City's financial statements performed in accordance with *Government Auditing Standards* and the appropriate reports on compliance with Requirements Applicable to each Major Program, Internal Control over Compliance and on the Schedule of Expenditures of Federal Awards in Accordance with OMB Uniform Guidance. The single audit report will include appropriate schedule of expenditures of federal awards, footnotes, findings and questioned costs, including reportable conditions and material weaknesses, and follow up on prior audit findings where required.

The audit firm shall perform agreed-upon auditing procedures pertaining to the City's GANN Limit (Appropriations Limit) and render a letter annually to the City regarding compliance.

The audit firm shall issue a separate "management letter" that includes recommendations for improvements in internal control, accounting procedures and other significant observations that are considered to be non-reportable conditions. Management letters shall be addressed to the City Administrator.

The audit firm shall prepare the Annual State Controller's Reports for the City of Commerce and the Commerce Community Development Commission, and also the Annual Street Report.

C. Auditing Standards to be Followed

To meet the requirements of this Request for Proposals, the audit shall be performed in accordance with:

- Generally accepted auditing standards as set forth by the American Institute of Certified Public Accountants;
- The standards applicable to financial audits contained in *Government Auditing Standards (2018 Revision)*, issued by the Comptroller General of the United States;
- The provisions of the Single Audit Act as amended in 1996; and
- The provisions of U. S. Office of Management and Budget (OMB) Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart F, § 200.501.

D. Reports to be Issued

Following the completion of the audit of the fiscal year's financial statements, the auditors shall issue the following reports:

1. A report on the fair presentation of the financial statements in conformity with generally accepted accounting principles.
2. A separate Single Audit Report on grant activities, internal controls and compliance performed in accordance with the U. S. Office of Management and Budget (OMB) Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart F, § 200.501.
3. A separate report on the City's calculation of the Gann Limit.
4. The audit firm shall prepare the Annual State Controller's Reports for the City of Commerce and the Commerce Community Development Commission, and also the Annual Street Report.
5. A separate management letter that includes disclosures of material and non-material weaknesses in internal controls, disclosures of violations of finance-related legal and contractual provisions, and auditors recommendations for financial and program management improvements.

E. Special Considerations

1. The City of Commerce will continue to send its ACFR to the Government Finance Officers Association of the United States and Canada for review in its Certificate of Achievement for Excellence in Financial Reporting program, and to the California Society of Municipal Finance Officers for review in its Award for Outstanding Financial Reporting program. The auditor will review the draft of the ACFR prepared by the City and assist the City such that the ACFR meet the requirements of those programs.
2. The schedule of federal financial assistance and related auditor's report, as well as the reports on the internal controls and compliance are not to be included in the ACFR report, but are to be issued separately.
3. The City of Commerce has in the past used the resources of its audit firm to provide services in areas such as payroll and non-profit tax issues, real estate advisory and consulting services, and card club auditing services. The city at its discretion may rely on the audit firm to provide services described above.

4. The City of Commerce may prepare one or more official statements in connection with the sale of debt securities which will contain the basic financial statements and the auditor’s report thereon. The auditor shall be required, if requested by the fiscal advisor and/or underwriter, to issue a “consent and citation of expertise” as the auditor and any necessary “comfort letters” at no additional cost to the City.

COMPENSATION

The Schedule of Professional fees and expenses for the audits of the fiscal years ending June 30, 2023 through 2025 with the option to renew for 2026 and 2027 Financial Statements is detailed in Exhibit 1A which is attached hereto and incorporated by reference.

Total price for the audit and related services requested are as follows:

Service	Optional Years				
	2022-23	2023-24	2024-25	2025-26	2026-27
City Audit, including ACFR and Related Reports	\$ 46,500	\$ 47,895	\$ 49,332	\$ 50,812	\$ 52,336
Single Audit (up to 1 major program)	5,000	5,150	5,305	5,464	5,628
Annual State Controller’s Reports:					
City	5,000	5,150	5,305	5,464	5,628
Street Report	2,000	2,060	2,122	2,185	2,251
Special District	2,000	2,060	2,122	2,185	2,251
Transit Operators	2,000	2,060	2,122	2,185	2,251
Transit Operators Specialized Services	2,000	2,060	2,122	2,185	2,251
GANN Limit	500	515	530	546	563
Total for Fiscal Year (not-to-exceed)	\$ 65,000	\$ 66,950	\$ 68,959	\$ 71,027	\$ 73,158

EXHIBIT B
GENERAL TERMS AND CONDITIONS

1. Status as Independent Contractor.

A. Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of the City of Commerce or otherwise act on behalf of Commerce as an agent. Neither the City of Commerce nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. 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 of Commerce.

B. Consultant agrees to pay all required taxes on amounts paid to Consultant under this Agreement, and to indemnify and hold City harmless from any and all taxes, assessments, penalties, and interests asserted against City by reason of the independent Consultant relationship created by this Agreement. In the event that City is audited by any Federal or State agency regarding the independent status of Consultant and the audit in any way fails to sustain the validity of a wholly independent Consultant relationship between City and Consultant, then Consultant agrees to reimburse City for all costs, including accounting and attorney's fees, arising out of such audit and any appeals relating thereto.

C. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section 1.

D. Consultant represents to the City, and City relies on Consultant's representations, that Consultant shall serve solely in the capacity of an independent contractor to the City. Neither the City nor any of its agents will have control over the conduct of Consultant or any of Consultant's employees, except as otherwise set forth in the Agreement. Consultant may 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 City has no duty, obligation, or responsibility to the Consultant's agents or employees, including the Affordable Care Act coverage requirements. Consultant is solely responsible for any tax penalties associated with the failure to offer affordable coverage to its agents and employees under the Affordable Care Act with respect to Consultant's agents and employees. Consultant warrants and represents that the City will not be responsible and will not be held liable for issues related to Consultant's status as an independent contractor, including Consultant's failure to comply with Consultant's duties, obligations, and responsibilities under the Affordable Care Act. Consultant further agrees to defend, indemnify, and hold the City harmless

for any and all taxes, claims, and penalties against the City related to Consultant's obligations under the Affordable Care Act.

2. Standard of Performance

Consultant shall perform all work to the highest professional standards and in a manner reasonably satisfactory to the City Manager or his/her designee. No additional or different tasks or services shall be performed by Consultant other than those specified in **Exhibit A**.

3. Indemnification.

A. Consultant is skilled in the professional calling necessary to perform the services and duties agreed to be performed under this Agreement, and City is relying upon the skill and knowledge of Consultant to perform said services and duties.

B. City and its respective elected and appointed boards, officials, officers, agents, employees and volunteers (individually and collectively, "Indemnities") shall have no liability to Consultant or any other person for, and Consultant shall indemnify, defend, protect and hold harmless Indemnities from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements (collectively "Claims"), which Indemnities may suffer or incur or to which Indemnities may become subject by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of property, economic loss or other loss occurring as a result of or allegedly caused by Consultant's performance of or failure to perform any services under this Agreement or by the negligent or willful acts or omissions of Consultant, its agents, officers, directors, subcontractor, sub consultant or employees, committed in performing any of the services under this Agreement. Notwithstanding the foregoing, the provisions of this subsection shall not apply to Claims occurring as a result of the City's sole negligence or willful acts or omissions.

C. Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth in this Section from each and every subcontractor, sub consultant or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required in this Section, Consultant agrees to be fully responsible according to the terms of this Section. Failure of the City to monitor compliance with these requirements imposes no additional obligations on City and will in no way serve as a waiver of any rights hereunder. This obligation to indemnify and defend Indemnities as set forth herein shall survive the termination of this Agreement and is in addition to any rights which City may have under the law. This indemnity is effective without reference to the existence or applicability of any insurance coverage which may have been required under this Agreement or any additional insured endorsements which may extend to

City.

4. Insurance.

A. Without limiting Consultant's indemnification of Indemnities pursuant to Section 3 of this Agreement, Consultant shall obtain and provide and maintain at its own expense during the term of this Agreement the types and amounts of insurance as described below:

(I) Consultant shall maintain Commercial General Liability Insurance with coverage at least as broad as Insurance Services Office Commercial General Liability Form CG 00 01 in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

(II) Consultant shall maintain Business Auto Coverage on ISO Business Auto Coverage Form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.

(III) Consultant shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance with on a state approved policy form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000 per accident for all covered losses;

(IV) Consultant shall maintain Professional Liability or Errors and Omissions Insurance that covers the services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement and Consultant agrees to maintain continuous coverage through a period no less than three (3) years after completion of the services required by this Agreement.

B. City, its officers, officials, employees and volunteers shall be named as additional insureds on the policy(ies) as to commercial general liability and automotive liability.

C. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned

policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

D. All insurance policies shall provide that the insurance coverage shall not be non-renewed, canceled, reduced, or otherwise modified (except through the addition of additional insureds to the policy) by the insurance carrier without the insurance carrier giving City thirty (30) days' prior written notice thereof. Any such thirty (30) day notice shall be submitted to CITY via certified mail, return receipt requested, addressed to "Director of Human Resources & Risk Management," City of Commerce, 2535 Commerce Way, Commerce, California, 90040. Consultant agrees that it will not cancel, reduce or otherwise modify said insurance coverage.

E. Consultant shall submit to City (I) insurance certificates indicating compliance with the minimum worker's compensation insurance requirements above, and (II) insurance policy endorsements indicating compliance with all other minimum insurance requirements above, not less than one (1) day prior to beginning of performance under this Agreement. Endorsements shall be executed on City's appropriate standard forms entitled "Additional Insured Endorsement".

F. Consultant's insurance shall be primary as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees and volunteers shall be excess of Consultant's insurance and shall not contribute with it.

G. Consultant agrees that if it does not keep the aforesaid insurance in full force and effect, and such insurance is available at a reasonable cost. City may take out the necessary insurance and pay the premium thereon, and the repayment thereof shall be deemed an obligation of Consultant's and the cost of such insurance may be deducted, at the option of City, from payments due Consultant.

5. Release of Information/Confidentiality.

A. Consultant in the course of its duties may have access to confidential data of City, private individuals, or employees of the City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant, its officers, employees, agents, or subconsultants, shall not without written authorization from the City Manager, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena. Consultant's covenant under this section

shall survive the termination of this Agreement.

B. Consultant shall promptly notify City should Consultant, its officers, employees, agents, or subconsultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding. Consultant agrees to cooperate fully with City and to provide the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response

6. Ownership of Work Product.

A. The audit documentation for this engagement is the property of Consultant and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request at regulatory agency(ies). Consultant will notify the City of any such request. If requested, access to such audit documentation will be provided under the supervision of the Consultant personnel. Furthermore, upon request, Consultant may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of seven years after the report release date.

Consultant is required to undergo a "Peer Review" every three years. During the course of a Peer Review engagement, selected working papers and financial reports, on a sample basis, will be inspected by an outside party on a confidential basis. Consequently, the accounting work we performed for the organization may be selected. Signing this letter represents the organization's acknowledgement and permission to allow such access should this engagement be selected for review.

7. Conflict of Interest.

A. Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which may be affected by the services to be performed by Consultant under this Agreement, or which would conflict in any manner with the performance of its services hereunder. Consultant further covenants that, in performance of this Agreement, no person having any such interest shall be employed by it. Furthermore, Consultant shall avoid the appearance of having any interest which would conflict in any manner with the performance of its services pursuant to this Agreement.

B. Consultant covenants not to give or receive any compensation, monetary or otherwise, to or from the ultimate vendor(s) of services to City as a result of the performance of this Agreement, or the services that may be procured by the City as a result of the recommendations made by Consultant's covenants under this section shall survive the termination of this Agreement.

8. Termination. Notwithstanding any other provision, this Agreement may be duly terminated at any time by the City at its sole discretion with or without cause by serving upon the consultant at least ten (10) days prior written notice ("Notice of Termination"). Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. Unless expressly agreed upon in writing by the City, the City shall not be obligated to pay for any services rendered nor any costs or expenses paid or incurred after the date of termination. The effective date of termination shall be upon the date specified in the written Notice of Termination. Consultant agrees that in the event of such termination, Consultant must refund the City its prorated share, except for services satisfactorily rendered prior to the effective date of termination. Immediately upon receiving written Notice of Termination, Consultant shall discontinue performing services, preserve the product of the services and upon payment for services, turn over to City the product of the services in accordance with written instructions of City.

In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City.

9. Personnel. 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 Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. Consultant reserves the right to determine the assignment of its own employees to the performance of Consultant's services under this Agreement, but City reserves the right, for good cause, to require Consultant to exclude any employee from performing services on City's premises.

10. Non-Discrimination and Equal Employment Opportunity.

A. Consultant shall not discriminate as to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation, in the performance of its services and duties pursuant to this Agreement, and will comply with all rules and regulations of City relating thereto. Such nondiscrimination shall include but not be limited to the following: employment, upgrading, demotion, transfers, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

B. Consultant will, in all solicitations or advertisements for employees placed by or on behalf of Consultant state either that it is an equal opportunity employer or that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation.

C. Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement except contracts or subcontracts for standard commercial supplies or raw materials.

11. Assignment. Consultant shall not assign or transfer any interest in this Agreement nor the performance of any of Consultant obligations hereunder, without the prior written consent of City, and any attempt by Consultant to assign this Agreement or any rights, duties, or obligations arising hereunder shall be void and of no effect.

12. Performance Evaluation. For any Agreement in effect for twelve months or longer, the City Manager may require a written annual administrative performance evaluation within ninety (90) days of the first anniversary of the effective date of this Agreement, and each year thereafter throughout the term of this Agreement. The work product required by this Agreement shall be utilized as the basis for review, and any comments or complaints received by City during the review period, either orally or in writing, shall be considered. City shall meet with Consultant prior to preparing the written report. If any noncompliance with the Agreement is found, City may direct Consultant to correct the inadequacies, or, in the alternative, may terminate this Agreement as provided herein.

13. Compliance with Laws. Consultant shall keep itself informed of State, Federal and Local laws, ordinances, codes and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. Consultant shall at all times comply with such laws, ordinances, codes and regulations. The City, its officers and employees shall not be liable at law or in equity occasioned by failure of Consultant to comply with this Section.

14. Licenses. At all times during the term of this Agreement, Consultant shall have in full force and effect all licenses (including a City business license) required of it by law for performance of the services hereunder.

15. Non-Waiver of Terms, Rights and Remedies. Waiver by either party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by City of any payment to Consultant constitute or be construed as a waiver by City of any breach of covenant, or any default which may then exist on the part of Consultant, and the making of any such payment by City shall in no way impair or prejudice any right or remedy available to City with regard to such breach or default.

16. Attorney's Fees. In the event that either party to this Agreement shall

commence any legal or equitable action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action or proceeding shall be entitled to recover its costs of suit, including reasonable attorney's fees and costs, including costs of expert witnesses and Consultant.

17. Notices. Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand during Consultant regular business hours or by facsimile before or during Consultant regular business hours; or (b) on the third business day following deposit in the United States mail, postage prepaid, to the addresses heretofore set forth in the Agreement, or to such other addresses as the parties may, from time to time, designate in writing pursuant to the provisions of this section.

18. Governing Law. This Agreement shall be construed and interpreted both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles, State of California. However, the Parties may agree to submit any dispute to non-binding arbitration.

19. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be the original, and all of which together shall constitute one and the same instrument.

20. Severability. If any provision or any part of any provision of this Agreement is found to be invalid or unenforceable, the balance of this Agreement shall remain in full force and effect.

21. Entire Agreement. This Agreement, and any other documents incorporated herein by specific reference, represents the entire and integrated agreement between Consultant and City. This Agreement supersedes all prior oral or written negotiations, representations or agreements. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by the Parties which expressly refers to this Agreement. Amendments on behalf of the City will only be valid if signed by the Mayor and attested by the City Clerk.

22. Authority. The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she has the authority to execute this Agreement on behalf of Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.