

Offer and Acceptance

I. OFFER made by Contractor to the City of Brea:

I, the undersigned, hereby represent and warrant that I am authorized to submit this Offer on behalf of and to bind the principals who I represent to all the requirements of the City of Brea's Terms & Conditions, Specifications, Scope or Work, any attachments, exhibits, amendments; and I offer and agree to those requirements at the prices set forth in Exhibit B-Compensation. Further, I understand that no contract exists unless City accepts this Offer by signing below.

Business Name: CDCE, Inc.

Federal ID# 930988382

Business Type Individual/Sole Proprietor Partnership Limited Liability Company
(Contractor select one) Corporation (requires two signatures) Other

Address: 22641 Old Canal Road,

City, State, Zip: Yorba Linda, CA 92887-4601

Printed Name & Title: Carrie Solomon, President

Phone & Email: 714-282-8881 x202, csolomon@cdce.com


Signature(s):
(principal)



Date: 10/9/19

Signature(s):

(2nd Signature required if corp)



Date: 10/9/19

II. ACCEPTANCE of Offer by the City of Brea:

I, the undersigned, hereby represent and warrant that I am authorized to accept Offer on behalf of and to bind City of Brea and I accept the Offer accordingly. Contractor is now bound to furnish all requirements set forth in Contractor's Offer. Contractor is cautioned not to begin work until a written notice to proceed or purchase order is received from City.

City of Brea, a California Municipal Corporation

Mailing Address: 1 Civic Center Circle

City, State, Zip: Brea California 92821

Printed Name & Title: Christine Marick, Mayor

Authorized Signature: _____

Date _____

III. Attestation (if total contract value exceeds \$25,000)

Printed Name & Title: Lillian Harris-Neal, City Clerk

Authorized Signature: _____

Date _____

**EXHIBIT A
SCOPE OF WORK/SPECIFICATIONS**

I. Time of Performance

- A. **Commencement and Completion of Work.** As set forth in the Scope of Services.
- B. **Excusable Delays.** As set forth in Exhibit C.

II. Special Provisions

- A. City will provide a Computer Imaged hard drive for Contractor to clone onto each new computer.

III. Scope of Services

- A. **Initial Delivery.** Provide one of each type of computer so that City IT staff can prepare and provide the Computer Image hard drive for cloning. Make delivery within 3 working days of receipt of equipment.
- B. **Cloning Services.** Image all PCs with City-provided computer image and Sysprep (prepared with) Windows 10 so that each unit is ready for deployment. Complete this service within 10 working days of receipt of computer image.
- C. **Installation.** Provide the installation including wiring and configuration of CF-33's and CradlePoint modems into the identified Police and Fire units.

Note, the installation setup and testing of the equipment listed on RFB 2019092702; namely 6 Panasonic G1 tablets including 6 Lind DC Power, onto motorcycle inside saddlebags is to be done under this RFB 2019092701.

Installation of the above equipment expected to be 20 working day after the delivery of the equipment. The installation of equipment to be performed at our City facilities.

- D. **Delivery.** Deliver units within 5 working days after completing cloning services.
- E. **Testing.** Provide evidence each unit has been properly installed and configured and operates and communicates with City's infrastructure from the field.
- F. **Warranty Services.** Provide warranty on the hardware including service of the hardware for the entire 4-year warranty, and provide warranty of installation, wiring, and connectivity service for a 1-year warranty period. At no additional charge to City: have malfunctioning equipment picked up with three working days of notification from City; troubleshoot, repair, and return equipment within three working days of receipt of malfunctioning equipment.

IV. Specifications

- A. **Approved Manufacturer.** Panasonic. No substitutes for this procurement.
- B. **Details specifications listed on the price sheet.**

End of Exhibit A

**EXHIBIT B
COMPENSATION**

I. Quantities

- A. Quantities ordered may vary based on bid prices, selected options, and funding.
- B. City reserves the right to order additional quantities for up to 90 calendar days after initial award based on Vendor's willingness to hold their unit prices. Delivery costs may vary for additional quantities based on order size and delivery method.

II. Pricing

- A. **Equipment:** include all costs in the unit price except as listed below. Unit prices will remain fixed regardless of actual ordered quantities.
- B. **Installation:** include all costs for installation of equipment.
- C. **Cloning Services:** include all costs for cloning the computers.
- D. **Delivery:** include all costs for delivery of equipment.
- E. **Miscellaneous:** include any costs not listed above as appropriate.
- F. **Sales Tax:** add 7.75% sales tax to the above items as appropriate.
- G. **E-Waste:** include electronic waste costs as appropriate.
- H. **Fixed Prices:** applies to all items for 90 calendar days after bid closing through final delivery.
- I. **Additional Charges:** none; any charges not included above will be disallowed.

III. Total Compensation

- A. CONTRACTOR agrees to accept the specified compensation as set forth in this Agreement as full payment for satisfactorily performing all work, including furnishing all labor and materials required to fully and satisfactorily complete the Services to CITY's reasonable satisfaction. To the maximum extent permitted by law, CONTRACTOR assumes all risks related to its performance of the Services and provision of the Items including risks of unforeseen difficulties or conditions which may arise or be encountered in the performance of the Services. CONTRACTOR shall only be compensated as set forth herein for work satisfactorily performed in accordance with the Scope of Work/Specifications.
- B. **Contract Amount.** Full and complete payment for all Items and Services shall not exceed \$ 388,143.41.
- C. **CITY shall have no obligation to pay any sum in excess of the Fixed Prices and/or Total Contract Amount unless authorized in writing by the CITY.**

IV. Manner of Payment and Accounting Requirements


- A. **Invoices.** Submit invoices in arrears, after Items have been received by City. The responsibility for providing an acceptable invoice to CITY for payment rests with CONTRACTOR. Incomplete or incorrect invoices are not acceptable and will be returned to CONTRACTOR for correction. Invoices and support documentation are to be forwarded to City of Brea, Accounts Payable, 1 Civic Center Circle, Brea CA 92821 or emailed to AccountsPayable@CityofBrea.net.

- B. **Payments.** CITY will make payment in net 30 days after receipt of an undisputed invoice in a format acceptable to CITY. Payments made by the CITY shall not preclude the right of the CITY from thereafter disputing any **Items** and **Services** involved or billed to City and shall not be construed as acceptance of any such items.
- C. **Accounting Records.** For a period of three (3) years after termination or expiration of this Agreement, CONTRACTOR shall maintain all accounting and financial records related to this Agreement, including, but not limited to, records of CONTRACTOR's costs **Items** and **Services** provided under this Agreement and shall keep and make the records available for inspection and audit by representatives of the CITY upon reasonable written notice.

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Price Sheet

Item	Description	Qty*	Unit	Price	Total
1	Panasonic : CF-33LE-08VM: Public Sector Specific - Elite 1, Win10 Pro, Intel Core i5-7300U 2.60GHz, vPro, 12.0" QHD Gloved Multi Touch+Digitizer, 16GB, 512GB SSD, Intel WiFi a/b/g/n/ac, TPM 2.0, Bluetooth, Dual Pass (Upper:WWAN/Lower:WWAN-GPS), 4G LTE Multi Carrier (EM7455), Infrared Webcam, 8MP Cam, Contactless SmartCard, 2D Bar Laser (N6603), Toughbook Preferred, 3 Year ProService Premier Deployment Service, TabletPC ProPlus Warranty, 512 SSD no return service, and Custom BIOS.	66	Each	\$ 3,228.00	\$ 213,048.00
2	Panasonic : CF-VEK331LMP : CF-33 Premium Keyboard	52	Each	\$ 524.00	\$ 27,248.00
3	Panasonic : CF-VST332U: CF-33 Rotating hand strap, Includes stylus pen holder and kickstand.	66	Each	\$ 69.00	\$ 4,554.00
4	Havis: H-33-LVD0: Havis laptop 2-in-1 vehicle dock (no pass) for the Panasonic CF-33. USB 2.0 (4), USB 3.0 (2), Serial, Ethernet (2), HDMI, VGA, Docking Connector, Power, Release Lever, Lock (Keyed alike). Features two front USB ports.	26	Each	\$ 659.00	\$ 17,134.00
5	Havis: DS-PAN-1204: Docking Station for Panasonic Toughbook 33 Tablet Only (Advanced Port Replication)	35	Each	\$ 838.00	\$ 29,330.00
6	Panasonic : CF-SVCPSY4: 4th year Public Safety Service Bundle Add on (Year 4 only). Must be purchased in conjunction with PS bundle base unit. Includes Premier, Protection Plus, Customer Portal, Disk Image Management, HDD No Return	66	Each	\$ 291.00	\$ 19,206.00
7	Panasonic : CF-LNDDC120HW: Lind 120 Watt 12-32 Volt DC Input Car Adapter for ToughBooks for Hardwired Installations	41	Each	\$ 115.00	\$ 4,715.00
8	CradlePoint: MA1-IBR900600M: 1YR NETCLOUD ESSEN FOR MOBILE ROUTERS & IBR900 ROUTER W WIFI	26	Each	\$ 667.00	\$ 17,342.00
9	CP-1002-1-PAN: Sharkfin 5-in-1 antenna 2xLTE, 2xWiFi, GPS, 5m leads	26	Each	\$ 230.00	\$ 5,980.00

10	Havis: C-MD-204: Low Profile Tilt Swivel Motion Device	26	Each	\$ 44.00	\$ 1,144.00
11	Havis: DS-DA-420: Havis screen support for CF-33 laptop dock	26	Each	\$ 42.00	\$ 1,092.00
12	Custom Fabricated stand for Havis Part DS-PAN-1204: : Desktop Stand for PD report writing. Includes hardware, Black Powdercoat. 	21	Each	\$ 30.00	\$ 630.00
13	Cable for Installation of Modem: : 15' CAT5 Cable	26	Each	\$ 14.00	\$ 364.00
14	Gamber Johnson: 7160-0529: Tall tablet Display Mount	12	Each	\$ 66.00	\$ 792.00
15	PMT: AS5.N101.002: Mousetrap slide arm	8	Each	\$ 136.00	\$ 1,088.00
16	Gamber Johnson: DS-56: Universal Horizontal Surface Base	8	Each	\$ 27.00	\$ 216.00
17	Gamber Johnson: 7160-0178: 7" Upper Pole with center mount	4	Each	\$ 48.00	\$ 192.00
18	Gamber Johnson: DS-LOWER-9: 9" Lower Pole	2	Each	\$ 35.00	\$ 70.00
19	Gamber Johnson: 7160-0350: 2011+ Ford Explorer Sedan/Utility Base	1	Each	\$ 85.00	\$ 85.00
20	Gamber Johnson: DS-144: 2010 Chevrolet Suburban SUV Passenger Side Base	1	Each	\$ 74.00	\$ 74.00
21	Gamber Johnson: DS-138: Universal Vertical Base	2	Each	\$ 40.00	\$ 80.00
22	Gamber Johnson: 7160-0454: Universal Adapter Plate	2	Each	\$ 30.00	\$ 60.00
23	ON-SITE PD MOTOR INSTALL: Install Lind DC Power onto motorcycle inside saddlebag	6	Each	\$ 225.00	\$ 1,350.00
24	ON-SITE PD PATROL INSTALL: Remove existing dock and clevis. Install low profile clevis onto existing motion arm. Install Havis 2-in-1 laptop dock onto low profile clevis. Install LIND power adapter to existing power management system. Run LIND power to Havis 2-in-1 laptop dock. Secure LIND brick inside center console. Install 5-in-1 antenna onto roof of patrol car. Install cradlepoint IBR900 into trunk of vehicle electronics tray. Wire CradlePoint GPIO cable for constant hot and IGN sense. Connect antennas to Cradlepoint. Run Cat5 cable	26	Each	\$ 425.00	\$ 11,050.00

	from CradlePoint to Havis 2-in-1 laptop dock. Splitloom and secure all exposed wiring. Test to ensure power at Havis 2-in-1 dock and CradlePoint IBR900.				
25	ON-SITE FIRE ENGINE INSTALL: Remove existing mounting hardware and related items. Install DS-65 onto dash tray. Install PMT Mousetrap onto DS-56. Install Tall Tablet disply mount onto Mousetrap. Install Havis Tablet Dock onto Tall tablet display mount. Install LIND Power adapter into existing 12v constant 12v with 5A fuse inline. Secure LIND power brick to rear of tall tablet display mount. Connect LIND power to dock. Connect any other existing accessories to havis tablet dock (cat5, antennas, etc.) Test to ensure power at Havis tablet dock. Secure and split loom all exposed wires.	8	Each	\$ 325.00	\$ 2,600.00
26	ON-SITE FIRE SIDE CONSOLE MOUNT INSTALL: Remove existing mounting hardware and related items. Install DS-138 onto center radio console in agreed upon location. Install upper 7' pole with center mount. Install Tall Tablet disply mount onto 7" upper center. Install Havis Tablet Dock onto Tall tablet display mount. Install LIND Power adapter into existing 12v constant 12v with 5A fuse inline. Secure LIND power brick to rear of tall tablet display mount. Connect LIND power to dock. Connect any other existing accessories to Havis tablet dock (cat5, antennas, etc.) Test to ensure power at Havis tablet dock. Secure and split loom all exposed wires.	1	Each	\$ 325.00	\$ 325.00
27	ON-SITE FIRE BASEPLATE MOUNT INSTALL: Remove existing mounting hardware and related items. Install vehicle specific baseplate. Install lower 9" pole onto baseplate. Intall upper 7' pole with center mount. Install Tall Tablet disply mount onto 7" upper center. Install Havis Tablet Dock onto Tall tablet display mount. Install LIND Power adapter into existing 12v constant 12v with 5A fuse inline. Secure LIND power brick to rear of tall tablet display mount. Connect LIND power to dock.	2	Each	\$ 325.00	\$ 650.00

	Connect any other existing accessories to havis tablet dock (cat5, antennas, etc.) Test to ensure power at Havis tablet dock. Secure and split loom all exposed wires.				
28	<p>ON-SITE FIRE SIDE CONSOLE MOUNT WITH 2ND DOCK INSTALL: Remove existing mounting hardware and related items. Install DS-138 onto center radio console in agreed upon location. Install upper 7' pole with center mount. Install Tall Tablet display mount onto 7" upper center. Install Havis Tablet Dock onto Tall tablet display mount. Install LIND Power adapter into existing 12v constant 12v with 5A fuse inline. Secure LIND power brick to rear of tall tablet display mount. Connect LIND power to dock. Connect any other existing accessories to havis tablet dock (cat5, antennas, etc.) Test to ensure power at Havis tablet dock. Install universal adapter to agreed upon location on Command Box in rear of vehicle. Install Havis tablet dock onto universal adapter. Install LIND Power adapter into existing 12v constant 12v with 5A fuse inline. Secure LIND power brick inside of or behind command box on electronics tray or similar. Connect LIND power to dock. Connect any other existing accessories to Havis tablet dock (cat5, antennas, etc.) Test to ensure power at Havis tablet dock. Secure and split loom all exposed wires.</p>	1	Each	\$ 425.00	\$ 425.00

A	Equipment: (add lines 1-22)	\$ 344,444.00
B	Installation: (add lines 23-28)	\$ 16,400.00
C	Cloning Services: include all costs for cloning the computers	\$ Included
D	Delivery: include all costs for delivery of equipment	\$ 275.00
E	Miscellaneous: include any costs not listed above as appropriate	\$ None
F	Sales Tax: add 7.75% sales tax to the above items as appropriate	\$ 26,694.41
G	E-Waste: include electronic waste costs as appropriate	\$ 330.00
H	Total (Lines A-G)	\$ 388,143.41

* Quantities may change for a given line item at the time of award based on need. Prices will remain fixed regardless of actual quantities ordered.

**EXHIBIT C
GENERAL PROVISIONS**

I. Standard Requirements

- A. **Assignment and Subcontracting.** To assignment of this Agreement or of any part or obligation of performance hereunder shall be made, nor shall any required performance be subcontracted, either in whole or in part, by CONTRACTOR without the prior written consent of CITY.
- B. **Compliance with Law.** CONTRACTOR shall forthwith undertake and complete the Services in accordance with Exhibit "A" attached to this Agreement and all in accordance with Federal, State and CITY statutes, regulations, ordinances and guidelines all to the reasonable satisfaction of CITY.
- C. **Confidentiality.** Any and all information and data provided to CONTRACTOR pursuant to this Agreement shall be forever maintained as confidential by CONTRACTOR, to the maximum extent permitted by law.
- D. **Excusable Delays.** Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations enacted after the Effective Date, riots, acts of war, or any other conditions beyond the reasonable control of a party.
- E. **Standard of Care.** CONTRACTOR shall provide exceptional Standard of Care while fulfilling the terms of this Agreement, is performing as a representative of CITY. Any negative contact with staff, residents/citizens, businesses, visitors or other contractors shall be reported by CONTRACTOR immediately to CITY. CONTRACTOR's management and supervisory personnel shall intercede to resolve or mitigate the negative contact in conjunction with CITY staff. CITY and CONTRACTOR may agree in advance to a single person contact, a representative of either the CITY or CONTRACTOR, for the investigation and response to complaints.
- F. **Hires.** CONTRACTOR shall, at CONTRACTOR's sole cost and expense, secure and hire such other persons as may, in the opinion of CONTRACTOR, be necessary to comply with the terms of this Agreement. In the event any such other persons are retained by CONTRACTOR, CONTRACTOR hereby warrants that such persons shall be fully qualified to perform services required hereunder. CONTRACTOR further agrees that no subcontractor shall be retained by CONTRACTOR except upon the prior written approval of CITY.
- G. **Independent Contractor.** CONTRACTOR is retained by CITY only to the extent set forth in this Agreement, and the CONTRACTOR's relationship to the CITY is that of an independent contractor. CONTRACTOR shall be free to dispose of all portions of CONTRACTOR's time and activities which CONTRACTOR is not obligated to devote to the CITY in such a manner and to such persons, firms, or corporations as the CONTRACTOR sees fit except as expressly provided in this Agreement. Neither the CITY nor any of its agents shall have control over the conduct of the CONTRACTOR or any of the CONTRACTOR's employees, except as set forth in this Agreement. CONTRACTOR shall not have the status of an employee under this Agreement, or be entitled to participate in any insurance, medical care, vacation, sick leave or other benefits provided for

CITY's officers or employees. CONTRACTOR shall have no power to incur any debt, obligation, or liability on behalf of CITY or otherwise act on behalf of the CITY as an agent. 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. CONTRACTOR agrees to pay all required taxes on amounts paid to CONTRACTOR under this Agreement, and to indemnify and hold CITY harmless from any and all taxes, assessments, penalties, and interest asserted against CITY by reason of the independent contractor relationship created by this Agreement. CONTRACTOR shall fully comply with the workers' compensation law regarding CONTRACTOR and CONTRACTOR's employees. CONTRACTOR further agrees to indemnify and hold CITY harmless from any failure of CONTRACTOR to comply with applicable workers' compensation laws. CITY shall have the right to offset against the amount of any fees due to CONTRACTOR under this Agreement any amount due to CITY from CONTRACTOR as a result of CONTRACTOR's failure to promptly pay to CITY any reimbursement or indemnification arising under this Section.

- H. **Information and Assistance.** CITY will provide information and assistance as set forth in Exhibit "A" hereto; photographically reproducible copies of maps and other information, if available, which CONTRACTOR considers necessary in order to complete the Project. Such information as is generally available from CITY files applicable to the Project. Assistance, if necessary, in obtaining information from other governmental agencies and/or private parties. However, it shall be CONTRACTOR's responsibility to make all initial contact with respect to the gathering of such information.
- I. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California. Venue for any legal action arising out this Agreement shall be the Superior Court of the County of Orange, California.
- J. **Entire Agreement.** This Agreement supersedes any and all other agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that no representation by any party which is not embodied herein nor any other agreement, statement, or promise not contained in this Agreement shall be valid and binding. Any modification of this Agreement shall be effective only if it is in writing signed by all parties.
- K. **Precedence of Documents.** In the event of any inconsistency or conflict between the Agreement and any of the Exhibits or any other attachments, the Agreement, then this Exhibit C, then the remaining Exhibits and attachments shall govern.
- L. **Termination.** This Agreement may be terminated by CITY for any or no reason upon the giving of a written notice of termination to CONTRACTOR at least fifteen (15) days prior to the date of termination specified in said notice. In the event this Agreement is so terminated, and provided CONTRACTOR is not then in breach, CONTRACTOR shall be paid on the Services and goods satisfactorily provided as of the date of termination. In no event, however, shall CONTRACTOR receive more than the Contract Amount. CONTRACTOR may not terminate this Agreement except for cause.

End of Exhibit C

**EXHIBIT D
INDEMNITY AND INSURANCE REQUIREMENTS**

I. Indemnity Requirements

- A. To the fullest extent permitted by law, CONTRACTOR shall, at its sole cost and expense, protect, defend, hold harmless and indemnify the Indemnitees from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, judgments, penalties, liens and losses of any nature whatsoever, including fees of accountants, attorneys and other professionals, and all costs associated therewith, and the payment of all consequential damages (collectively "Damages"), in law or equity, whether actual, alleged or threatened, which arise out of, pertain to, or relate to the acts or omissions of CONTRACTOR, its officers, agents, servants, employees, subcontractors, materialmen, suppliers, or contractors, or their officers, agents, servants or employees (or any entity or individual that CONTRACTOR shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Damages arising from the sole negligence or willful misconduct of the Indemnitees, as determined by final arbitration or court decision or by the agreement of the Parties. CONTRACTOR shall defend the Indemnitees in any action or actions filed in connection with any Damages with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. CONTRACTOR shall reimburse the Indemnitees for any and all legal expenses and costs incurred by the Indemnitees in connection therewith.
- B. These Indemnification provisions are independent of and shall not in any way be limited by Insurance Requirements of this Agreement.

II. Insurance Requirements

A. General

1. City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances. If the existing policies do not meet the Insurance Requirements set forth herein, Contractor agrees to amend, supplement or endorse the policies to do so.
2. Without limiting the Contractor's indemnity obligations hereunder, Contractor shall procure and maintain in full force and effect for the Term of this Agreement, the following policies of insurance.
3. For all insurance required by this Agreement, if a general aggregate limit applies, either the general aggregate limit shall apply separately to the Services or the general aggregate limit shall be twice the required occurrence limit.
4. If the Contractor maintains broader coverage and/or higher limits than the minimums required herein, City requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor.

B. Coverages

1. Commercial General Liability (CGL)

- a) CGL affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01, including products and completed operations, property damage, bodily injury, and personal & advertising injury.
- b) Limits shall be no less than \$2,000,000 per occurrence

2. Automobile Liability Insurance (ALI)

- a) ALI with coverage at least as broad as Insurance Services Office Form CA 0001 covering "Any Auto" (Symbol 1) for each accident for bodily injury and property damage with limit no less than \$1,000,000 per occurrence.
- b) If Contractor does not own any vehicles, Contractor may satisfy this requirement by providing the following:
 - (1) A personal automobile liability policy for the contractor's own vehicle, if Contractor is a one-person operation; and
 - (2) A non-owned & hired auto liability endorsement to the commercial general liability policy if the contractor may lease, hire, rent, borrow, or use vehicles of others (e.g., employee-owned vehicles).

3. Workers' Compensation (WC)

- a) Workers' Compensation as required by the State of California with statutory limits, and Employer's Liability Insurance with a limit of not less than \$1,000,000 per accident for bodily injury or disease.
- b) Self-Employment Affidavit or Declaration, signed under the penalty of perjury, if Contractor does not have any employees who will be performing work on behalf of City, Contractor must provide the following:
 - (1) A signed Self-Employment Affidavit Letter or a signed Declaration that Contractor is aware of the provisions of Section 3700 of the California Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and that Contractor will comply with such provisions before commencing the performance of the work of this contract; and
 - (2) A certification that Contractor does not employ any individual(s) in the course and scope of business operations.

C. Endorsements

Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. The insurance policies shall contain or be endorsed to contain, the following provisions:

1. Commercial General Liability & Contractors Pollution Liability

a) Additional Insured

- (1) City, its elected officials, officers, employees, volunteers, boards, and representatives shall be additional insureds with regard to liability and defense of suits or claims arising out of the work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations.
- (2) Additional Insured Endorsements shall not:
 - (a) Be limited to "Ongoing Operations"
 - (b) Exclude "Contractual Liability"
 - (c) Restrict coverage to the "Sole" liability of Contractor
 - (d) Exclude "Third-Party-Over Actions"
 - (e) Contain any other exclusion contrary to the Contract
- (3) Additional Insured Endorsements shall be at least as broad as ISO Form(s) CG 20 10 11 85; or CG 2010 and CG 20 37.

b) Primary Insurance

This insurance shall be primary and any other insurance whether primary, excess, umbrella or contingent insurance, including deductible, or self-insurance available to the insureds added by endorsement shall be in excess of and shall not contribute with this insurance. Coverage shall be at least as broad as ISO CG 20 01 04 13.

2. Auto Liability

a) Additional Insured

City, its elected officials, officers, employees, volunteers, boards, agents and representatives) shall be additional insureds with regard to liability and defense of suits or claims arising out of the work or operations performed by or on behalf of the Contractor.

b) Primary Insurance

This insurance shall be primary and any other insurance whether primary, excess, umbrella or contingent insurance, including deductible, or self-insurance available to the insureds added by endorsement shall be in excess of and shall not contribute with this insurance.

3. Workers' Compensation

A waiver of subrogation stating that the insurer waives all rights of subrogation against the indemnified parties.

D. Insurance Obligations of Contractor

The Insurance obligations under this Agreement shall be: (1) all the Insurance coverage and/or limits carried by or available to Contractor; or (2) the minimum Insurance coverage requirements and/or limits shown in this agreement; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and/or minimum required limits, which are applicable to a given loss, shall be available to City. No representation is made that the minimum Insurance requirements of this agreement are sufficient to cover the obligations of the Contractor under this agreement.

E. Notice of Cancellation

Required insurance policies shall not be cancelled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon City except ten (10) days shall be allowed for non-payment of premium.

F. Waiver of Subrogation

Required insurance coverages (except professional liability) shall not prohibit Contractor from waiving the right of subrogation prior to a loss. Contractor shall waive all rights of subrogation against the indemnified parties and policies shall contain or be endorsed to contain such a provision. This provision applies regardless of whether City has received a waiver of subrogation endorsement from the insurer.

G. Evidence of Insurance

All policies, endorsements, certificates, and/or binders shall be subject to approval by City as to form and content. These requirements are subject to amendment or waiver only if so approved in writing by City. City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15 days) prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with City. If such coverage is cancelled or reduced, Contractor shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

H. Deductible or Self-Insured Retention

Any deductible or self-insured retention must be approved in writing by City and shall protect the indemnified parties in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention. City may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration and defense expenses within the retention.

I. Contractual Liability

The coverage provided shall apply to the obligations assumed by the Contractor under the indemnity provisions of this Contract.

J. Failure to Maintain Coverage

Contractor agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been furnished to City. City shall have the right to withhold any payment due until Contractor has fully complied with the insurance provisions of this Contract.

In the event that the Contractor's operations are suspended for failure to maintain required insurance coverage, the Contractor shall not be entitled to an extension of time for completion of the Work because of production lost during suspension.

K. Acceptability of Insurers

Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

L. Claims Made Policies

If coverage, including coverage for Construction Defect claims, is written on a claims-made basis, the retroactive date on such insurance and all subsequent insurance shall coincide or precede the effective date of the initial Contractor's Agreement with City and an extended reporting period shall be provided for a period of at least 2 years 3 years 5 years 10 years from termination or expiration of this Contract.

M. Insurance for Subcontractors

Contractor shall be responsible for causing Subcontractors to purchase the same types and limits of insurance in compliance with the terms of this Contract/Agreement, including adding City as an Additional Insured, providing Primary and Non-Contributory coverage and Waiver of Subrogation to the Subcontractor's policies. The Commercial General Liability Additional Insured Endorsement shall be on a form at least as broad as CG 20 38 04 13.

End of Exhibit D