



City of Sacramento City Council

915 I Street, Sacramento, CA, 95814
www.CityofSacramento.org

Meeting Date: 6/26/2012

Report Type: Consent

Title: Agreement: Stagehand/Stagecraft Services for Convention Center Complex

Report ID: 2012-00495

Location: 1400 J Street, District 4

Recommendation: Pass a Motion authorizing the City Manager or his designee to execute the NonProfessional Service Agreement with Sacramento Theatrical Lighting Ltd. (STL) for stagehand/stagecraft services at the Convention Center Complex.

Contact: Tina McCarty Administrative Officer (916) 808-5291, Convention, Culture and Leisure Department

Judy Goldbar, Convention Center Manager, 808-5291

Presenter: None

Department: Convention Culture & Leisure

Division: Convention Center

Dept ID: 17001111

Attachments:

- 1-Description/Analysis
- 2-Agreement-Sacramento

City Attorney Review

Approved as to Form
 Jeffrey Heeren
 6/13/2012 3:23:36 PM

City Treasurer Review

Reviewed for Impact on Cash and Debt
 Russell Fehr
 5/31/2012 10:48:31 AM

Approvals/Acknowledgements

Department Director or Designee: Rebecca Bitter - 6/12/2012 10:55:54 AM



Description/Analysis

Issue: The Convention Center requires the expertise of technical stagehands to intermittently augment City stagehand labor on an as-needed basis for the preparation and production of certain events at the Convention Center Complex. These services have been provided in the past by Sacramento Theatrical Lighting, Inc. (STL), per City Agreement 2006-1401; which will expire in June 2012. Stagehand services were competitively bid in April 2012. The City received only one response; from the current provider, STL. Staff recommends that Council award a contract to STL for continued stagehand services for an initial term of three years, with an option for two additional one year extensions upon mutual agreement, not to exceed a total agreement term of five years.

Policy Considerations: Staff's recommendations are consistent with the City's Strategic Plan Goal of Promoting and Supporting Economic Vitality by allowing the Convention Center Complex to remain competitive. The recommendations in the report are consistent with the provisions of Sacramento City Code Chapter 3.64.

Environmental Considerations: California Environmental Quality Act (CEQA): The actions recommended in this report are exempt from review under State CEQA Guidelines, California Code of Regulations, title 14, Section 15302.

Sustainability: Not Applicable.

Commission/Committee Action: Not applicable.

Rationale for Recommendation: The City will benefit from STL's stagehand services allowing for uninterrupted service to clients at competitive rates. Additionally, STL has a proven history of providing qualified, technical stagehand service through the use of Local 50 and has been involved with Convention Center Complex and its clients for over thirty (30) years. STL is in good standing with the City of Sacramento and has been a partner in providing staging equipment for civic events such as local high school graduation ceremonies.

Financial Considerations: The Convention Center Complex operates as a part of the City's Convention, Culture & Leisure Department and is funded through the Community Center Enterprise Fund (6010).

During its initial three year term, the payments to STL are not to exceed \$250,000 in any one year and will only be spent on an as-needed basis. These expenses are included in the Community Center Fund's operating budget in Fiscal Year 2012/13 and subsequent year's projections. Also, approximately 30% of STL's expenses are charged to the client, and therefore are passed through expenses, off-set as revenue when the client's payment is received.

Emerging Small Business Development (ESBD): STL is a certified Emerging Small Business with the City of Sacramento.



PROJECT #: B1217001151-2
 PROJECT NAME: Stagehand/Stagecraft Services for the Sacramento Convention Center
 DEPARTMENT: Convention, Culture, & Leisure
 DIVISION: Convention Center

CITY OF SACRAMENTO

NONPROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made at Sacramento, California, as of _____, by and between the **CITY OF SACRAMENTO**, a municipal corporation (“CITY”), and

Sacramento Theatrical Lighting, Ltd.
950 Richards Boulevard
Sacramento, CA 95814
(916) 447-3258
CHRISSYL@STLLTD.COM

(“CONTRACTOR”), who agree as follows:

1. **Contract.** The Contract shall consist of this Agreement and each of the following documents (if applicable), which are incorporated herein by reference:

- | | |
|--|-----------------------------------|
| Invitation to Bid | Workers= Compensation Certificate |
| Instructions to Bidders | Contractor=s Bid Proposal Form |
| Certificate(s) of Insurance | ESBD Program Statement |
| Drug-Free Workplace Policy and Affidavit | Technical Specifications |
| Declaration of Compliance (Equal Benefits Ordinance) | |
| Declaration of Compliance (Living Wage Ordinance) | |

2. **Services.** Subject to the terms and conditions set forth in this Agreement, CONTRACTOR shall provide to CITY the services described in Exhibit A. CONTRACTOR shall provide said services at the time, place, and in the manner specified in Exhibit A. CONTRACTOR shall not be compensated for services outside the scope of Exhibit A unless prior to the commencement of such services: (a) CONTRACTOR notifies CITY and CITY agrees that such services are outside the scope of Exhibit A; (b) CONTRACTOR estimates the additional compensation required for these additional services; and (c) CITY, after notice, approves in writing a Supplemental Agreement specifying the additional services and amount of compensation therefor. CITY shall have no obligations whatsoever under this Agreement and/or any Supplemental Agreement, unless and until this Agreement or any Supplemental Agreement is approved by the Sacramento City Manager or the City Manager’s authorized designee, or by the Sacramento City Council, as required by the Sacramento City Code.

3. **Payment.** CITY shall pay CONTRACTOR for services rendered pursuant to this Agreement at the times and in the manner set forth in Exhibit B. The payments specified in Exhibit B shall be the only payments to be made to CONTRACTOR for the services rendered pursuant to this Agreement unless pursuant to Section 1, above, CITY approves additional compensation for additional services. CONTRACTOR shall submit all billings for said services to CITY in the manner specified in Exhibit B, or, if not specified in Exhibit B, according to the usual and customary procedures and practices that CONTRACTOR uses for billing clients similar to CITY.

4. **Facilities and Equipment.** Except as set forth in Exhibit C, CONTRACTOR shall, at its sole cost and expense, furnish all facilities and equipment that may be required for furnishing services pursuant to this Agreement. CITY shall furnish to CONTRACTOR only the facilities and equipment listed in Exhibit C according to any terms and conditions set forth in Exhibit C.
5. **General Provisions.** The General Provisions set forth in Exhibit D, that include indemnity and insurance requirements, are part of this Agreement. In the event of any conflict between the General Provisions and any terms or conditions of any document prepared or provided by CONTRACTOR and made a part of this Agreement, including without limitation any document relating to the scope of services or payment therefor, the General Provisions shall control over said terms or conditions.
6. **Living Wage Requirements.** This Agreement is subject to the provisions of Sacramento City Code Chapter 3.58, Living Wage. The requirements of Sacramento City Code Chapter 3.58 are summarized in Exhibit E. The CONTRACTOR is required to sign the attached Declaration of Compliance (Living Wage Ordinance) to assure compliance with these requirements.
7. **Non-Discrimination in Employee Benefits.** This Agreement is subject to the provisions of Sacramento City Code Chapter 3.54, Non-Discrimination in Employee Benefits by City Contractors. The requirements of Sacramento City Code Chapter 3.54 are summarized in Exhibit F. CONTRACTOR is required to sign the attached Declaration of Compliance (Equal Benefits Ordinance), to assure compliance with these requirements.
8. **Authority.** The person signing this Agreement for CONTRACTOR hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of CONTRACTOR and to bind CONTRACTOR to the performance of its obligations hereunder.
9. **Exhibits.** All exhibits referred to herein are attached hereto and are by this reference incorporated as if set forth fully herein.

Executed as of the day and year first above stated.

CITY OF SACRAMENTO
A Municipal Corporation

ATTEST:

John F. Shirey, City Manager

City Clerk

Attachments

APPROVED TO AS FORM:

- Exhibit A - Scope of Service
- Exhibit B - Fee Schedule/Manner of Payment
- Attachment 1 to Exhibit B - IA Local 50 Contract
- Exhibit C - Facilities/Equipment Provided
- Exhibit D - General Provisions
- Exhibit E - Living Wage Requirements
- Exhibit F - Non-Discrimination in Employee Benefits

City Attorney

CONTRACTOR:

Sacramento Theatrical Lighting, LTD.

NAME OF FIRM

94-26-11811

Federal I.D. No.

077-7060-5

State I.D. No.

1799

City of Sacramento Business Op. Tax Cert. No.

TYPE OF BUSINESS ENTITY (*check one*):

_____ Individual/Sole Proprietor

_____ Partnership

Corporation (*may require 2 signatures*)

_____ Limited Liability Company

_____ Other (*please specify: _____*)

Signature of Authorized Person

John W. Cox, President

Print Name and Title

Additional Signature (*if required*)

Print Name and Title

**DECLARATION OF COMPLIANCE
Living Wage Ordinance**

Name of Contractor: Sacramento Theatrical Lighting, LTD

Address: 950 Richards Blvd., Sacramento CA 95811

The above-named contractor ("Contractor") hereby declares and agrees as follows:

1. Contractor has read and understands the Living Wage Requirements (the "Requirements") attached hereto as Exhibit E.
2. As a condition of receiving this Contract, Contractor agrees to fully comply with the Requirements, as well as any additional requirements that may be specified in the City of Sacramento's Living Wage Ordinance codified at Chapter 3.58 of the Sacramento City Code (the "Ordinance"). If required by the Ordinance, Contractor will pay not less than the minimum compensation specified in the Ordinance to Contractor's employees, for all time spent performing any work under this Contract.
3. If the amount of this Contract is less than \$100,000, as a condition of receiving this Contract, Contractor will notify the City of Sacramento ("City") in writing if the aggregate value of this Contract and of any other Nonprofessional Services contract(s) covered by the Ordinance that the City has awarded to Contractor within the previous 12 months, is \$100,000 or more.
4. Contractor acknowledges and agrees that the Requirements, the Ordinance and this Declaration shall constitute part of this Contract, and that these provisions shall govern in the event of any conflict with any other provisions of the Contract.
5. Contractor further acknowledges and agrees that any violation of the Requirements or the Ordinance constitutes a material breach of this Contract, and that, if such a breach occurs, the City will be authorized to terminate the Contract, and pursue all available legal and equitable remedies.
6. If requested by the City, Contractor will promptly submit certified payroll records to the City, for itself and/or for Contractor's subcontractor(s), as requested by the City, and Contractor will take any other steps as may be required by the City to determine whether Contractor's subcontractor(s) or Contractor have complied with the Requirements and the Ordinance.
7. Contractor will require all of its subcontractors who are covered by these requirements to comply with the Requirements and any additional requirements that may be specified in the Ordinance, and Contractor will include these requirements in all subcontracts covered by the Ordinance.
8. Contractor agrees to defend, indemnify and hold harmless the City, its officers and employees against any claims, actions, damages, costs (including reasonable attorney fees) or other liabilities of any kind arising from any violation of the Requirements or the Ordinance by Contractor or by any subcontractor retained to perform work or provide services under this Contract.

The undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that he or she is authorized to bind the Contractor to the provisions of this Declaration.

Signature of Authorized Representative

Date: _____

Print name: John W. Cox

Title: President

**DECLARATION OF COMPLIANCE
Equal Benefits Ordinance**

Name of Contractor: Sacramento Theatrical Lighting, LTD

Address: 950 Richards Blvd., Sacramento CA 95811

The above-named Contractor ("Contractor") hereby declares and agrees as follows:

1. Contractor has read and understands the Requirements of the Non-Discrimination In Employee Benefits Code (the "Requirements") attached hereto as Exhibit F.
2. As a condition of receiving this Contract, Contractor agrees to fully comply with the Requirements, as well as any additional requirements that may be specified in the City of Sacramento's Non-Discrimination In Employee Benefits Code codified at Chapter 3.54 of the Sacramento City Code (the "Ordinance").
3. Contractor understands, to the extent that such benefits are not preempted or prohibited by federal or state law, employee benefits covered by the Ordinance are any of the following:
 - a. Bereavement Leave
 - b. Disability, life, and other types of insurance
 - c. Family medical leave
 - d. Health benefits
 - e. Membership or membership discounts
 - f. Moving expenses
 - g. Pension and retirement benefits
 - h. Vacation
 - i. Travel benefits
 - j. Any other benefit offered to employees

Contractor agrees that if Contractor offers any of the above-listed employee benefits, Contractor will offer those benefits, without discrimination between employees with spouses and employees with domestic partners, and without discrimination between the spouses and domestic partners of such employees.

4. Contractor understands that Contractor will not be considered to be discriminating in the provision or application of employee benefits under the following conditions or circumstances:
 - a. If the actual cost of providing a benefit to a domestic partner or spouse exceeds the cost of providing the same benefit to a spouse or domestic partner of an employee, Contractor will not be required to provide the benefit, nor shall it be deemed discriminatory, if Contractor requires the employee to pay the monetary difference in order to provide the benefit to the domestic partner or to the spouse.
 - b. If Contractor is unable to provide a certain benefit, despite taking reasonable measures to do so, if Contractor provides the employee with a cash equivalent Contractor will not be deemed to be discriminating in the application of that benefit.
 - c. If Contractor provides employee benefits neither to employee's spouses nor to employee's domestic partners.
 - d. If Contractor provides employee benefits to employees on a basis unrelated to marital or domestic partner status.
 - e. If Contractor submits written evidence of making reasonable efforts to end discrimination in employee benefits by implementing policies that will be enacted before the first effective date

after the first open enrollment process following the date this Contract is executed by the City of Sacramento ("City"). Contractor understands that any delay in the implementation of such policies may not exceed one (1) year from the date this Contract is executed by the City, and applies only to those employee benefits for which an open enrollment process is applicable.

- f. Until administrative steps can be taken to incorporate nondiscrimination in employee benefits. The time allotted for these administrative steps will apply only to those employee benefits for which administrative steps are necessary and may not exceed three (3) months from the date this Contract is executed by the City.
 - g. Until the expiration of a current collective bargaining agreement(s) if employee benefits are governed by such collective bargaining agreement(s).
 - h. Contractor takes all reasonable measures to end discrimination in employee benefits by either requesting that the union(s) involved agree to reopen the agreement(s) in order for Contractor to take whatever steps are necessary to end discrimination in employee benefits or by ending discrimination in employee benefits without reopening the collective bargaining agreement(s).
 - i. In the event Contractor cannot end discrimination in employee benefits despite taking all reasonable measures to do so, Contractor provides a cash equivalent to eligible employees for whom employee benefits, are not available. Unless otherwise authorized in writing by the City Manager, Contractor understands this cash equivalent must begin at the time the union(s) refuse to allow the collective bargaining agreement(s) to be reopened or not longer than three (3) months after the date this Contract is executed by the City.
- 5. Contractor understands that failure to comply with the provisions of Section 4(a) through 4(i), above, will subject Contractor to possible suspension and/or termination of this Contract for cause; repayment of any or all of the Contract amount disbursed by the City; debarment for future contracts until all penalties and restitution have been paid in full and/or for up to two (2) years; and/or the imposition of a penalty, payable to the City, in the sum of \$50.00 for each employee, for each calendar day during which the employee was discriminated against in violation of the provisions of the Ordinance.
 - 6. Contractor understands and agrees to provide notice to each current employee and, within ten (10) days of hire, to each new employee, of their rights under the Ordinance. Contractor further agrees to maintain a copy of each such letter provided, in an appropriate file for inspection by authorized representatives of the City. Contractor also agrees to prominently display a poster informing each employee of these rights.
 - 7. Contractor understands that Contractor has the right to request a waiver of, or exemption from, the provisions of the Ordinance by submitting a written request to the City's Procurement Services Division prior to Contract award, which request shall identify the provision(s) of the Ordinance authorizing such waiver or exemption and the factual basis for such waiver or exemption. The City shall determine in its sole discretion whether to approve any such request.
 - 8. Contractor agrees to defend, indemnify and hold harmless, the City, its officers and employees, against any claims, actions, damages, costs (including reasonable attorney fees), or other liabilities of any kind arising from any violation of the Requirements or of the Ordinance by Contractor.

The undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that he or she is authorized to bind the Contractor to the provisions of this Declaration.

Signature of Authorized Representative

Date

John W. Cox
Print Name

President
Title

DEFINITION OF TERMS

For the purpose of this Agreement, the following definitions apply:

“Center” or “Complex” means the Convention Center, Community Center Theater, and Memorial Auditorium and their grounds, any additions thereto, and any adjacent land and/or structures temporarily used in connection with Center activities.

“Client/Clientele/Licensee” all terms mean those individuals who have directly contracted/rented space within the Complex or are guests of someone who has.

“Contractor” means the entity who will enter into a contract with City to provide services set forth in the Scope of Services, herein.

“Fiscal Year” means July 1 to June 30.

“General Manager” means the Complex’s General Manager, or a designated representative.

“Agreement/Contract/Agreement” all terms (interchangeable) refer to the legal binding document defining terms and conditions between the City and Stagehand/craft Provider.

“Premises” means the Convention Center, Community Center Theater, and Memorial Auditorium and their grounds, any additions thereto, and any adjacent land and/or structures temporarily used in connection with Center activities.

EXHIBIT A

NONPROFESSIONAL SERVICES AGREEMENT

SCOPE OF SERVICES

1. Representatives.

The CITY Representative for this Agreement is:

Tina McCarty, Administrative Officer
Sacramento Convention Center Complex
1030 15th Street, Suite 100, Sacramento, CA 95814
916-808-8220, 916-808-7687, tmccarty@cityofsacramento.org

All CONTRACTOR questions pertaining to this Agreement shall be referred to the CITY Representative or the Representative's designee.

The CONTRACTOR Representative for this Agreement is:

John W. Cox, President
Sacramento Theatrical Lighting, Ltd.
950 Richards Boulevard, Sacramento, CA 95814
916 447-3258, 916-447-5012 fax, CHRISYL@STLLTD.COM

All CITY questions pertaining to this Agreement shall be referred to the CONTRACTOR Representative. All correspondence to CONTRACTOR shall be addressed to the address set forth on page one of this Agreement. Unless otherwise provided in this Agreement, all correspondence to the CITY shall be addressed to the CITY Representative.

- 2. Scope of Services.** At the direction of the CITY, CONTRACTOR to provide labor to perform technical work which involves the installation, operation, maintenance and repair of stage and event equipment for a variety of theatrical and convention events on an "as needed" basis. The labor provided by CONTRACTOR shall include operation of theatrical or technical equipment necessary during performances and/or events.

For the purpose of this Agreement, Stagehand/stagecraft services are defined as person(s) hired for the purpose of installation, rigging operation, and dismantling of theatrical stage equipment used for a live theatrical stage performance of such caliber that traditional stage tasks are required (IE Stagecraft, spotlight operations, sound, stage lighting, drapery, stage and scenery construction, grips, stage electricians, props, productions, and motion picture and television productions). Additionally, stagehand services may be utilized for various event and equipment set up needs as required throughout the Complex.

Minimum Requirements.

- a. Contractor shall provide skilled stagehand technicians capable of fulfilling the theatrical/production requirements by utilizing members of the Stage Employees IATSE Local 50 of the International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada.
- b. Contractor shall provide the highest quality Stagehand Services to clients of the Complex, including prompt, efficient and courteous service, adequate to meet the reasonable demands on a fair and equal basis to all persons.
- c. Contractor shall furnish stagehand technicians with a neat and professional appearance.
- d. Contractor shall provide photo identification badges to all of its employees on the Premises. Contractor's employees shall enter and exit the Premises from specified doors only, and must display their identification badges when entering and while in the Complex.
- e. The City and Contractor shall meet annually during each year of the Agreement to review Contractor's performance during the prior year.

- 3. **Time of Performance.** The services described herein shall be provided during the period, or in accordance with the schedule, set forth herein:

The CONTRACTOR is to provide stagehand labor to the Sacramento Convention Center Complex stage hand staff in order to meet facility and event requirements on an "as needed" basis.

The term of this agreement shall be July 1, 2012 through June 30, 2015. The CITY and CONTRACTOR may, by mutual agreement, extend this Agreement for up to two additional one year terms. Any supplying of CONTRACTOR's services to CITY after the expiration of this Agreement shall not renew this Agreement, but shall be supplied in compliance with all of the provisions of this Agreement.

EXHIBIT B

NONPROFESSIONAL SERVICES AGREEMENT

FEE SCHEDULE/MANNER OF PAYMENT

1. **CONTRACTOR's Compensation.** The total of all fees paid to the CONTRACTOR for the performance of all services set forth in Exhibit A, including normal revisions (hereafter the "Services"), and for all authorized Reimbursable Expenses, shall not exceed the total sum of two hundred fifty thousand dollars, (\$250,000) annually.

2. **Billable Rates.** CONTRACTOR's compensation will be billed at the hourly rates set forth in Attachment 1 to Exhibit B, the Collective Bargaining Agreement between Sacramento Theatrical Lighting and the Stage Employees IATSE Local No. 50 of the International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada ("CBA") (as it exists now or as it may be amended in the future), plus an additional twenty two percent (22%) of the hourly labor costs for benefits and an additional thirty nine percent (39%) of the hourly labor costs for the Contractor's administrative services (18%), including payroll costs (21%) pursuant to this Agreement. All expenses shall be stated individually on invoices submitted to the City for payment pursuant to section 4. B.

The Contractor shall have the right to request an adjustment in wages for cost of living increases for the purpose of recouping increased costs related to the CBA between Sacramento Theatrical Lighting and International Alliance of Theatrical Stage Employees. Any such adjustment shall be limited by mutual written agreement by the General Manager and shall be limited to actual increased labor costs as determined by changes to the CBA between STL and IATSE. Separate labor rates specific to the Convention Center Complex stagecraft services are not allowed. This contract is only valid with rates contracted between Sacramento Theatrical Lighting and the Stage Employees IATSE Local No. 50 of the International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada.

3. **CONTRACTOR's Reimbursable Expenses.** Reimbursable Expenses shall be limited to actual expenditures of CONTRACTOR for expenses that are necessary for the proper completion of the Services and shall only be payable if specifically authorized in advance, in writing by CITY.

4. **Payments to CONTRACTOR.**

A. Payments to CONTRACTOR shall be made within a reasonable time after receipt of CONTRACTOR's invoice, said payments to be made in proportion to services performed or as otherwise specified in Attachment 1 to Exhibit B. CONTRACTOR may request payment on a monthly basis. CONTRACTOR shall be responsible for the cost of supplying all documentation necessary to verify the monthly billings to the satisfaction of CITY.

B. All invoices submitted by CONTRACTOR shall contain the following information:

- 1) Event Number
- 2) Description of services/Discipline per employee, (IE Lead, Electrician, Side, Etc.)
- 3) Name of employee

- 4) Number of hours worked per employee
- 5) Rate for each employee
- 6) Total of billable hours
- 7) Benefit Expense
- 8) Payroll Expense
- 9) Administration Fee
- 10) Date of Invoice Issuance
- 11) Sequential Invoice Number
- 12) CITY's Purchase Order Number
- 13) Amount of this Invoice (Itemize any Reimbursable Expenses)

C. Items shall be separated into Services and Reimbursable Expenses. Billings that do not conform to the format outlined above shall be returned to CONTRACTOR for correction. CITY shall not be responsible for delays in payment to CONTRACTOR resulting from CONTRACTOR's failure to comply with the invoice format described below.

D. Requests for payment shall be sent to:

Sacramento Convention Center Complex
1030 15th Street, Suite 100
Sacramento, CA 95814
916-808-5291, 916-808-7687 fax
Attn: Accounting

5. **Additional Services.** Additional Services are those services related to the scope of services of CONTRACTOR set forth in Exhibit A but not anticipated at the time of execution of this Agreement. Additional Services shall be provided only when a Supplemental Agreement authorizing such Additional Services is approved by CITY in accordance with CITY's Supplemental Agreement procedures. CITY reserves the right to perform any Additional Services with its own staff or to retain other contractors to perform said Additional Services.
6. **Accounting Records of CONTRACTOR.** During performance of this Agreement and for a period of three (3) years after completing all Services and Additional Services hereunder, CONTRACTOR shall maintain all accounting and financial records related to this Agreement, including, but not limited to, records of CONTRACTOR's costs for all Services and Additional Services performed under this Agreement and records of CONTRACTOR's Reimbursable Expenses, in accordance with generally accepted accounting practices, and shall keep and make such records available for inspection and audit by representatives of the CITY upon reasonable written notice.
7. **Taxes.** CONTRACTOR shall pay, when and as due, any and all taxes incurred as a result of CONTRACTOR's compensation hereunder, including estimated taxes, and shall provide CITY with proof of such payment upon request. CONTRACTOR hereby agrees to indemnify CITY for any claims, losses, costs, fees, liabilities, damages or injuries suffered by CITY arising out of CONTRACTOR's breach of this Section 7.

COLLECTIVE BARGAINING AGREEMENT

This Agreement is made this 1st day of November, 2006, by and between SACRAMENTO THEATRICAL LIGHTING (hereinafter referred to as the "Employer"), of Sacramento, State of California, on the one hand, and the STAGE EMPLOYEES I.A.T.S.E. LOCAL NO. 50 OF THE INTERNATIONAL ALLIANCE OF THEATRICAL STAGE EMPLOYEES AND MOVING PICTURE MACHINE OPERATORS OF THE UNITED STATES AND CANADA (hereinafter referred to as the "Union"), on the other hand.

1. UNION SECURITY.

All Employees covered under the provisions of this Agreement performing theatrical stage and trade show work who are currently members of the Union shall be required as a condition of employment to remain members of the Union while employed under the terms of this Agreement. Except as hereinafter provided all new Employees hired to perform theatrical stage and trade show work shall be required to, as a condition of continued employment, become and remain a member of the Union in good standing after the 30th day following the beginning of such Employee's employment under the terms of this Agreement. An Employee who fails to remain a member of the Union in good standing, as that term is defined under the National Labor Relations Act, shall be dismissed by the Employer within one (1) day after written demand by the Union is delivered to Employer. Nothing contained herein shall, however, require the Employer to discharge or in any way discriminate against any Employee for any reason other than the failure of such Employee to tender Periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership. The Union hereby indemnifies and holds Employer harmless from any damages incurred as a result of carrying out the demands of the Union under this paragraph.

2. SCOPE.

The application of this contract will be limited to the Sacramento Convention Center complex, including Memorial Auditorium, and Cal Expo. The Employer may choose, at its discretion, to hire Union employees for other venues under the terms of this contract. The theatrical stage and trade show Employees covered by this contract shall, unless otherwise specifically designated, be referred to as "Employees."

A. A theatrical stage Employee is an Employee dispatched by the Union Business Agent or his designee, hired for the sole purpose of installation, rigging, operation and dismantle of theatrical stage equipment used for a live theatrical stage performance of such caliber that traditional stage tasks are required (i.e., stage craft, spotlight operation, sound, stage lighting, drapery, stage and scenery construction, grips, stage electricians, props, audio visual productions, closed circuit telecasts, video tape, motion picture and television production); and

B. A trade show Employee is an Employee dispatched by the Union Business Agent or his designee for the installation and removal of all exhibits (floor to ceiling) and related materials in connection with trade shows and conventions, including, but not limited to: (1) trade show and convention booth assembly and disassembly; (2) installation and removal of flags, drapes, carpeting, and other display materials; and (3) uncrating, assembly, installation, removal, disassembly, and rekrating of all commercial exhibits.

3. STAFFING.

Theatrical Stage Events

A. With respect to theatrical stage events performed at the Memorial Auditorium and Community Center Theater. Employer shall staff the first position with company personnel who are not covered by the terms of this Agreement. Thereafter, the remaining positions will be staffed, subject to the provisions of paragraph 5 hereof, by Employees dispatched by the Union Business Agent or his designee. The minimum call for the Sacramento Community Convention Center theater stage and the Sacramento Memorial Auditorium theater stage for major theatrical events shall be two (2) persons, the electrician and the carpenter. If sound is used, a sound person will be added. If properties are used, a property person will be added. If the flyrail is used, a fly person will be added. City employed stagehands may count as part of the minimum call.

B. Except as provided in paragraph 3(C) below, at all other theatrical stage events, including those events when the body of the equipment is not the property of STL and STL is subcontracted to provide select and limited services, i.e., staging or camera platforms -- spot towers, or seating, to augment the traditional theatrical performance, the Employer shall be allowed to staff the first five (5) positions with its own personnel who shall not be covered by the terms of this Agreement. Thereafter, the remaining positions shall be staffed, subject to the provisions of paragraph 4 hereof, with Employees referred through the Union Business Agent or his designee.

C. Should Employer become primary contractor with respect to a traditional stage event that is being performed in areas of the Community Center other than the theater or in areas of Cal Expo, Employer shall staff such theatrical stage event under the staffing provisions set forth above for the Community Center Theater and/or the Memorial Auditorium in paragraph 3(A) above. However, as primary contractor or contractor for a packaged road show, Employer shall be entitled to subcontract to itself or others the sound and lighting for the events. Should the Employer subcontract to itself the sound or lighting, the Employer may staff the work it has subcontracted to itself in accordance with the staffing requirements set forth in paragraph 3(B) above.

Trade Show Events

D. At trade show events Employer shall be allowed to staff the first five (5) position, with its Company personnel who shall not be covered by the terms of this Agreement. Thereafter, the remaining positions shall be staffed, subject to the provisions of paragraph 4 hereof, with Employees referred through the Business Agent or his designee.

Combination Events

E. Should an event include both theatrical stage and trade show events, the Employer shall be allowed to staff the first five (5) theatrical stage positions and the first five (5) trade show positions with its own personnel who shall not be covered by the terms of this Agreement. The remaining positions shall be staffed, subject to the provisions of paragraph 4 hereof, with Employees referred through the Union Business Agent or his designee. Employees may cross over between theatrical stage work and trade show work as needed. Any regular help

who works a trade show and theatrical event in the same day shall be compensated for the entire day at the highest wage classification in which the Employee works during such day.

Construction

F. Employer shall be allowed to staff the first five (5) construction positions with its own personnel who shall not be covered by the terms of this Agreement. The remaining positions shall be stated, subject to the provisions of paragraph 4 hereof, with Employees referred through the Union Business Agent or his designee.

4. HIRING HALL PROCEDURE.

A. Except as provided herein, all calls for employment to cover theatrical stage and trade show services covered within the scope of this Agreement shall be made through the hiring lists of the Union pursuant to the procedures set forth herein. The Union shall provide to the Employer monthly an updated list of its persons who are eligible for call through the Union hiring hall. At the Union's option, this list may be separated into a list for theatrical calls and a separate list for trade show calls. In staffing Union positions as required under this collective bargaining agreement, the Employer, as the designee of the business agent, shall utilize the appropriate lists starting with the most senior person and continuing through the last person on the list. The Employer shall be entitled to staff its jobs with at least fifty percent (50%) journeymen employees and at no time shall Employer be obligated to offer employment to apprentices and trainees when their acceptance would result in a ratio of apprentices and trainees to journeymen of greater than fifty percent (50%). In those circumstances when the fifty percent (50%) ratio cannot be achieved, the employer may staff the balance of the call as follows:

(1) Through a subcontractor qualified to perform the required services (this does not include staffing the balance of the project with inexperienced Employees referred by a temporary employment agency);

(2) Hire journeymen, apprentices and trainees who are not covered under the terms of the collective bargaining agreement;

(3) Hire journeymen who are not included under the terms of the collective bargaining agreement and apprentices and trainees from the Union referral list; and

(4) Staff the balance of the project at a ratio of less than fifty percent (50%) journeymen with the apprentices and trainees hired through the Union referral list.

Within twenty-four (24) hours of the completion of the job list, the Employer shall notify the Union of the name of the event, the date, time and place of the event and the name and job classification of all persons doing bargaining unit work who will be working the event. All persons hired from the Union dispatch list will be covered under the terms of this Collective Bargaining Agreement.

B. In engagement of Employees under this Agreement, the Employer shall specify the nature of employment by distinguishing between theatrical engagements and trade show events which shall be considered different industries. In addition, Employer shall identify the job skills needed by the Employees by distinguishing between lead or head persons,

journeymen, apprentices and trainees. Trainees are persons with less than 250 verifiable hours of work experience in the industry in which they are working. Apprentice Employees are persons with a minimum of 250 hours of verifiable experience in the industry in which they are working. Journeymen are persons with a minimum of 500 hours of verifiable experience in the industry in which they are working. Lead or head persons are journeymen capable of performing required work without supervision, directing the work of others and are assigned to the lead or head person position. Both Employer and Union will verify the qualifications of an individual. Each individual shall have the responsibility to provide the Employer with sufficient written information to enable the Employer to verify the Employee's experience in each industry. Should a dispute arise as to the qualifications of an individual the dispute will be resolved according to the grievance and arbitration provisions herein, but the applicant shall be limited in the arbitration to demonstration of the qualifications that were provided to the Employer at the time of dispatch. The Employer may introduce evidence to dispute the qualifications. No Employee shall be eligible for employment unless the Employee brings to the job the minimum tools normally and customarily utilized in the trade. A list of tools required of journeymen, apprentices and trainees, respectively, is attached hereto as Exhibit A.

C. Once an Employee accepts the offer of employment from Employer in conjunction with the process described in paragraph 4A above, the Employee is obligated to attend and provide those services as announced in the job offer. Should the Employee fail to attend or should the Employee leave before the services are complete, the Employee shall be subject to appropriate progressive discipline up to and including discharge and elimination from consideration from further employment on the basis of good cause as provided in Section 4D below.

D. The Employer retains the right to refuse to hire any Employee referred by the Union Employer finds, in its sole discretion, unsatisfactory; provided, however, the Employer will provide the Union with a written explanation of its reasons. The Employer retains the right to terminate the employment of any Employee referred by the Union who has not yet worked 250 hours for Employer in the classification being staffed by the Employee should the Employer determine, in its sole discretion, that the Employee's performance is unsatisfactory. Employer shall have the right to terminate any Employee who has more than 250 hours experience with Employer in the classification in which the Employee is working if the Employer has good cause therefor. The Employer and Union agree not to discriminate against any Employee or applicant for employment by reason of membership or lack of membership in the Union. The Employer and the Union agree not to discriminate against any Employee or applicant for employment by reason of said Employee's race, creed, color, national origin, sex, sexual orientation, marital status, or religion to the extent that such discrimination is prohibited by law.

5. PREMIUM TIME

A. All Employees will receive double their respective hourly rate for work performed between midnight and 8:00 a.m. An Employee required to report to work prior to 6:00 a.m. will be paid double time for all hours worked until released for an eight (8) hour rest period. Employees who are required to work less than two (2) hours between midnight and 8:00 a.m. and/or if they are required to report to work at or after 6:00 a.m., the basic hourly rate shall prevail after 8:00 a.m. All Employees covered by this contract will receive time and one-half of their regular hourly rate for all hours worked after they have completed eight (8) straight time working hours in any calendar day.

Theatrical Stage Events

B. For theatrical stage events performances will be three and one-half (3 ½) hours minimum call which shall include one-half (1/2) hour set up time, performance time and restoration after the conclusion of the performance. For this service journeymen and department heads will be paid the performance rate and trainees and apprentices will be paid the apprentice performance rate. (Performance pay shall not be the equivalent of hours actually worked.)

C. If a performance lasts seventy-five (75) minutes or less, compensation will be paid under the provisions of paragraphs 7 and 8 of this Agreement and will not be considered a show call.

D. Should the performance last longer than three and one-half (3 1/2) hours an Employee will be paid on one-half (1/2) hour increments. Journeymen and department heads shall be paid the performance rate while trainees and apprentices shall be paid at the apprentice performance rate. If an Employee's actual work during such day shall have exceeded eight (8) actual straight time working hours the Employee shall be paid on one-half (1/2) hour increments at a rate of one and one-half (1 1/2) times the Employee's prevailing hourly performance rate. An Employee's prevailing hourly performance rate will be the applicable performance rate (the performance rate for journeymen and department heads and the apprentice performance rate for trainees and apprentices) divided by four. The term "prevailing hourly performance rate" reflects any required adjustments in the performance rate for holiday pay, meal penalty pay, or double time between midnight and 8:00 a.m.

Construction

Employees covered by this Agreement performing construction work shall be paid one and one-half (1 1/2) times their prevailing rate for construction work on Saturdays and Sundays. The prevailing rate shall be the applicable rate in effect during the work (i.e., the base rate, the double time rate for hours between midnight and 8:00 a.m., the holiday rate or the meal penalty rate).

6. GUARANTEED MINIMUM HOURS.

A. For the purposes of this provision relating to minimum call pay the term "prevailing hourly rate" shall be the base hourly rate except on holidays when it will include the holiday premium.

Theatrical Stage Events

B. For theatrical stage events at the Memorial Auditorium and Community Center theater, a department head who is dispatched by the Union Business Agent or his designee for work and is accepted by the Employer under the provisions of paragraph 4 shall be guaranteed a minimum of eight (8) hours pay at his/her prevailing hourly rate. All other Employees who are dispatched by the Union Business Agent or his designee to the Memorial Auditorium and the Community Center theater and are accepted by the Employer under the provisions of paragraph 4 shall be guaranteed a minimum of four (4) hours pay at their prevailing hourly rate. In other areas of the Community Center and Cal Expo where Employer acts as primary contractor for a theatrical stage event or contractor for a packaged road show, the

Employer will apply the minimum hours established for the Community Center theater, respectively, except as to work subcontracted to itself or others. All Employees who are dispatched by the Union Business Agent or his designee to other theatrical stage work and who are accepted by the Employer under the provisions of paragraph 4 shall be guaranteed a minimum of four (4) hours pay at their prevailing hourly rate.

C. When Employees are requested to take a meal break of more than two (2) hours duration, then a four (4) hour minimum call will be effective upon resumption of work. A fifteen (15) minute break will be taken in approximately the middle of each four (4) hour shift. Breaks may be staggered so as not to interfere with required work functions.

D. Employees shall be guaranteed one minimum call per day; however, any regular help who works "in" and "out" of the same event in one day shall be guaranteed eight (8) hours pay at their prevailing rate of pay for such day. Pay increments will be of one hour minimum starting on the hour or the half hour (with a five minute grace period).

Trade Show Events and Construction

E. Each Employee who is dispatched by the Union Business Agent for work at a trade show event or for construction and is accepted by the Employer under the provisions of paragraph 4 shall be guaranteed a minimum call of four (4) hours pay at their applicable prevailing hourly rate.

F. When Employees are requested to take a meal break of more than two (2) hours duration, then a four (4) hour minimum call will be effective upon resumption of work. A fifteen (15) minute break will be taken in approximately the middle of every four (4) hour shift. Breaks may be staggered so as not to interfere with required work functions.

G. Pay increments will be of one (1) hour minimum starting on the hour or the half hour (with a five minute grace period).

7. WAGES AND DUES DEDUCTIONS

A. For theatrical stage show, trade show events and construction the Employer agrees to pay not less than the following schedule of wages for work performed:

| <u>Classification of Employee</u> | <u>Wage Rate</u> <u>Effective November 1, 2006</u> |
|-----------------------------------|---|
| Department Head/Lead | 20.65 per hour |
| Journeyman/Sideman | 18.93 per hour |
| Apprentice | 16.58 per hour |
| Trainee | 12.73 per hour |
| Truck loader | 82.58/truck in or out (yellow card situation only) |
| Construction | 20.65 per hour |
| Rigger | 22.35 per hour |
| Show call/Journeyman | 82.58 per call |
| Show call/Apprentices/Trainees | 66.30 per call |

B. Fringe Benefits.

1. In addition, fringe benefits of twenty-two percent (22%) will be paid as follows: seven percent (7%) will be paid to the I.A.T.S.E. Health and Welfare Fund in the Employee's name for health and fifteen percent (15%) will be paid to the I.A.T.S.E. Annuity Fund in the Employee's name.
2. Payments to the I.A.T.S.E. Annuity Fund and the I.A.T.S.E. Health and Welfare Fund shall be due by the tenth (10th) of the month following each engagement.
3. Employer will mail to the Union a copy of its monthly fringe benefit remittance form. The form will be mailed to the Union by the Employer by the fifteenth (15th) day of the month following the month in which the hours were worked.
4. The Employer agrees to be bound by the terms and provisions of the Agreement and Declaration of Trust documents establishing the I.A.T.S.E. Annuity Fund and the I.A.T.S.E. Health and Welfare Fund.
5. Trainee level Employees are not eligible for fringe benefit contributions.

C. Dues Deductions

Employer agrees to deduct, weekly, from the wages of each Employee from which it has received a written, signed authorization form (see form attached hereto) five percent (5%) of the gross wages paid to an employee for work covered by the collective bargaining agreement. Such deductions shall be made from each paycheck paid to the Employees and the sum so deducted shall promptly (no later than the 15th day of the following month) be remitted to the Financial Secretary of the Union by check payable to the Union. Such remittances shall be accompanied by an itemized statement setting forth the name of each Employee from whose wages a deduction has been made and remitted thereunder and further specifying the precise amount thereof. The Union shall indemnify and hold harmless Employees for losses incurred by the Employer as a result of the Employer following the requirements of this provision and the cost of defense incurred by the Employer in responding to such claim.

8. HOLIDAYS.

Theatrical stage Employees and trade show Employees covered under this Agreement shall receive one and one-half (1 1/2) times the applicable hourly rate for any time worked on New Years Day, Easter Sunday, Labor Day, Thanksgiving Day, Christmas Eve after 6:00 p.m. and Christmas Day.

Construction Employees covered under this Agreement shall receive one and one-half (1 1/2) times the applicable hourly rate for any time worked on New Years Day, Presidents Day, Easter, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.

9. MEALS.

When Employees are not allowed eating time after five (5) hours of actual work, Employer shall have the following options:

A. Pay the Employee double the Employee's prevailing hourly rate until the Employee is provided one (1) hour break for a meal. The prevailing hourly rate shall be the rate paid at the time the meal is required. It includes adjustments in the base rate for holiday pay, overtime pay or double time pay if applicable;

B. The Employer provides the Employee a meal with a one-half (1/2) hour paid break; or

C. The Employees unanimously elect to work continuously without a meal break if the election occurs within one hour of the estimated time of job completion.

10. RIGGERS.

A rigger is an Employee who works at least twenty (20) feet above the deck without a scaffold, ladder, bos'n chair, JLG, manlift or walk grid with appropriate handrail. Riggers are to be part of the regular Employee call.

11. GRIEVANCE AND ARBITRATION LANGUAGE.

The word "grievance" as used in this Agreement is limited to a complaint arising out of a condition which occurs during the expressed term of this Agreement and involves the interpretation, application or compliance with an expressed provision or provisions of this Agreement.

A. The parties agree on the following procedure for the presentation and resolution of grievances:

Step 1: Except for grievances regarding the accuracy of wages paid to an Employee, an Employee having a grievance shall first present it to his Employer's immediate management superior, whether foreman or superintendent, within five (5) working days of the occurrence of the facts giving rise thereto or the time he should have reasonably known thereof, whichever is later. An Employee having a grievance over the accuracy of the wages paid to him or her shall first present the grievance to the Employer's business office within thirty (30) working days of the date of the payroll check. The superior shall make every effort to achieve a satisfactory adjustment of the grievance. If the Employer fails to respond to the grievance within ten (10) working days the grievance shall be deemed rejected and the grievant shall have the right to proceed to Step 2.

Step 2: A grievance which has not been resolved to Step 1 may continue by invoking Step 2, which is done by reducing the grievance to writing, and

presenting it to the designated Union representative and designated Employer representative within ten (10) working days of the notice of rejection. The appropriate Union and Employer representative shall then take up the grievance and conscientiously attempt to achieve a resolution thereof and shall record the results of their consultation within written report within ten (10) working days of the date when Step 2 was invoked. Agreement by the appropriate Union and Employer representative on a resolution of the grievance shall constitute a satisfactory adjustment thereof and shall be binding upon the grievant and the parties thereto.

Step 3: A grievance which was duly proceeded to Step 2, which has not been resolved at Step 2, and which is subject to arbitration in accordance with this paragraph, may, as Step 3, be submitted to arbitration. The party desiring arbitration shall, within twenty (20) days of the date when grievant received notice of rejection of his grievance at Step 2, serve upon the other party written demand for arbitration in respect to said grievance. The Union and the Employer shall then request a list from the Federal Mediation and Conciliation Service of seven (7) arbitrators from the Federal Mediation and Conciliation Panel and shall select an arbitrator from said list by alternatively striking a name therefrom until one (1) name remains. The arbitrator shall have no power or authority to add to, subtract from, alter, modify, or amend any provisions of this Agreement, nor to change the existing wage rates, nor to award general or punitive damages, nor to arbitrate proposals for the amendment or renewal of this Agreement nor to determine rights resulting from a breach of the no-strike clause contained in this Agreement. In matters lying within or reserved to the exercise of the Employer's or the Union's discretion or judgment, the arbitrator shall have no power to substitute his discretion or judgment for that of the Employer or Union, but shall, in certain circumstances and in assuming the issue to be otherwise pertinent, be limited to a determination of whether the judgment has been exercised in bad faith or discretion abused. No award shall be awarded retroactively beyond the date at which the grievance is first presented to the grievance procedures provided herein.

The arbitrator's fees and expenses, the cost of any hearing room, the cost of the shorthand reporter and the original transcript, as requested by the arbitrator, shall be borne equally by the Employer and the Union. All other costs and expenses shall be borne by the parties incurring them.

If the supervisor at Step 1 or the Union and/or Employer's representative at Step 2 fail to respond to the grievance in a timely manner, said grievance shall be deemed rejected, notice of said rejection shall be deemed to have been given to the opposing party and the grievant shall be entitled to proceed to the next step.

The grievance and arbitration procedures are intended to be the sole and exclusive means of resolving a dispute subject to the grievance procedure and no persons, whether parties to the Agreement or third party beneficiaries thereof, shall have the right to litigate in Court any matter which is subject to the grievance procedure except to seek enforcement of the grievance award or to set aside a grievance award.

12. NO STRIKE – LOCKOUT.

The parties agree that so long as this Agreement is in effect neither the Union nor any of its members covered by this Agreement shall engage in a strike, slowdown, work stoppage, planned inefficiency or other interference with work, threat or inducement of the same for any reason whatsoever. The Union and its members agree to perform all work regularly required of them during the term of this Agreement even if it is necessary to cross picket lines to do so, except in those situations where they would be required to cross a picket line sanctioned by the International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada and/or the Sacramento Area Labor Council. Any Employee who violates any provisions of this Agreement shall be subject to disciplinary action, including discharge. The Union and its agents, agree to use their best efforts to assure that the provisions of this Agreement are not violated. The Employer agrees that so long as this Agreement is in effect, there shall be no lockouts.

13. PAYMENT OF WAGES.

A. Employer shall deduct from wages federal and state withholding, social security and state disability insurance taxes and provide the Employee with an itemized copy of such deductions. Employer shall also have the necessary workers' compensation coverage for its Employees.

B. Employees may be paid at the end of an engagement by checks mailed to the Employee within a two week period after the end of the engagement. The name and gross wages of each engagement shall be on the checkstub.

14. RULES.

Employer shall have the right to make reasonable rules and regulations necessary to conduct the management of its business and the Employees hereunder shall be required to obey all such rules and requirements insofar as they do not conflict with the terms of this Agreement.

15. MANAGEMENT RIGHTS.

Except as specifically limited by the express provisions of this Agreement, the Employer reserves the right to direct, manage and control its business operations in any manner that is not in violation of the provisions of any applicable law.

16. INTERNATIONAL RULES AND LAWS.

The Union represents that nothing in this contract shall interfere with any obligation the Union owes the International Alliance by reason of a prior obligation. The parties agree that in no event shall the language of this Agreement be construed so as to conflict with any applicable state or federal law.

17. PAST PRACTICE.

Unless specifically modified by language changes first adopted by the parties in negotiations immediately preceding the execution of this Agreement, all past practices of the parties under the terms of their collective bargaining agreement and all extensions thereof are

hereby adopted and will be maintained for the duration of this Agreement. Disputes under the Past Practice clause shall be subject to resolution under the Grievance and Arbitration Procedures of this Agreement.

18. TERM.

This contract shall be in full force and effect and binding from execution date hereof until October 31, 2006. The contract shall continue thereafter from year-to-year unless a party hereto provides to the other party ninety (90) days prior notice of its desire to renegotiate, the terms of this Agreement.

19. UNION STEWARD.

A steward will be recognized as the representative of the Union whose duty will be to see that the Employees and Employer observe the contract. However, no person will be recognized as a steward unless the Union Business Agent notifies the Employer of the identity of the steward at the time the Union Business Agent advises the Employer of the crew names and classifications according to the provisions of paragraph 4(C) above. During non-working time the steward shall be permitted to address jurisdictional and safety problems which may arise in the course of completing work under this contract provided, however, that whenever possible, he/she shall not make direct contact with exhibitors concerning jurisdictional matters without first contacting the Employer or his representative. If the steward leaves the job site, then the steward will be entitled to notify the Employer or his representative of the appointment of a successor steward from among the remaining Employees. As long as the steward performs his/her duties during non-working hours the Employer will not dismiss or otherwise discipline any steward for performing his/her duties nor will the Employer dismiss or otherwise discipline any Employee from making a complaint to a steward or giving evidence with respect to an alleged violation of this Agreement.

20. JOB SITE VISITS.

It is agreed by the parties hereto, that for the purpose of carrying out and enforcing the terms of this Agreement, the Employer will use its best efforts to assist the Business Agent of the Union or his designee in gaining access to the premises of a job site to interview Employees. The parties expressly recognize that job sites are not owned by the Employer so that the Employer does not, itself, have the right to authorize the entry of the Union Business Agent upon any of such premises.

21. TRUST FUND DEFAULTS.

The Employer shall be bound by the provisions of the annuity trust fund documents. If the Employer is in default in payment of any benefits due under the Annuity Fund, Employer shall be responsible for the payment of all amounts due and the liquidated damages provided for in the trust fund agreement. Employer will forward to Union a copy of the monthly contribution report filed each month by Employer with the Annuity Trust.

22. SEVERABILITY.

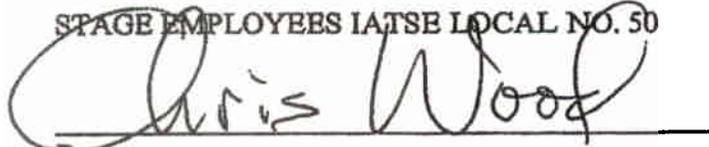
In the event that any provisions of this Agreement shall be found by a court or board of

competent jurisdiction to be in violation of any state or federal laws or regulations, such determination will not in any way affect the remaining provisions of this Agreement.

23. SUCCESSORSHIP ISSUES.

Should the Employer enter into negotiations to sell all or a majority of its assets to a third party, Employer agrees to provide to the potential purchaser timely advance notice of the existence of this collective bargaining agreement. Furthermore, Employer agrees to provide Union notice of the sale immediately after closing thereof.

STAGE EMPLOYEES IATSE LOCAL NO. 50



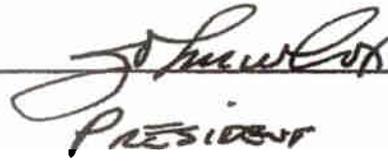
By:

Title: BUSINESS AGENT

SACRAMENTO THATRICAL LIGHTNING

By:

Title:



PRESIDENT

the Premises or in the vicinity thereof any signs without the express written approval of the General Manager.

4. No Unlawful Uses, Nuisances or Waste. The Contractor shall not use, occupy or permit the use or occupancy of the Premises in any unlawful manner or for any illegal purpose, or permit any offensive, noisy or hazardous use or commit any waste on or about the Premises. The Contractor shall take all precautions to eliminate any nuisances or hazards relating to its activities on or about the Premises.
5. Surrender of Premises. Upon termination of the Agreement, Contractor shall peaceably quit and surrender to the City the Premises in good order and condition as determined by the City, normal wear and tear and casualty beyond Contractor's control excepted. The Premises shall be surrendered free and clear of all liens and encumbrances created or suffered by, through, or under Contractor. Contractor shall, immediately after the termination of this Agreement, remove all of Contractor's personal property from the Premises.

B. MAINTENANCE, REPAIRS AND IMPROVEMENTS

1. Contractor's Responsibility. The Contractor shall keep all of the City-Owned Equipment, fixtures and furnishings used in connection with the Agreement in sanitary order and in good and safe condition as determined by the City throughout the term of the Agreement. The City reserves the right to equipment.
2. City's Responsibility. The City shall be responsible for the cost of repairs, replacement and preventative maintenance of equipment, fixtures and furnishings used in connection with the Agreement, except where the need for repair or replacement results from either Contractor's misuse.

C. UTILITIES. The City, at its own expense, shall provide to Contractor all currently available utility services at the Complex, including HVAC, water, sewer, data lines, and electricity, provided Contractor does not waste the utilities provided. The cost to repair or replace any utility service or lines damaged due to Contractor's negligence shall be at the Contractor's sole cost and expense.

**EXHIBIT D
NONPROFESSIONAL SERVICES AGREEMENT**

GENERAL PROVISIONS

1. Independent Contractor.

- A. It is understood and agreed that CONTRACTOR (including CONTRACTOR's employees) is an independent contractor and that no relationship of employer-employee exists between the parties hereto for any purpose whatsoever. Neither CONTRACTOR nor CONTRACTOR's assigned personnel shall be entitled to any benefits payable to employees of CITY. CITY is not required to make any deductions or withholdings from the compensation payable to CONTRACTOR under the provisions of this Agreement, and CONTRACTOR shall be issued a Form 1099 for its services hereunder. As an independent contractor, CONTRACTOR hereby agrees to indemnify and hold CITY harmless from any and all claims that may be made against CITY based upon any contention by any of CONTRACTOR's employees or by any third party, including but not limited to any state or federal agency, that an employer-employee relationship or a substitute therefor exists for any purpose whatsoever by reason of this Agreement or by reason of the nature and/or performance of any Services under this Agreement. (As used in this Exhibit D, the term "Services" shall include both Services and Additional Services as such terms are defined elsewhere in this Agreement.)
- B. It is further understood and agreed by the parties hereto that CONTRACTOR, in the performance of its obligations hereunder, is subject to the control and direction of CITY as to the designation of tasks to be performed and the results to be accomplished under this Agreement, but not as to the means, methods, or sequence used by CONTRACTOR for accomplishing such results. To the extent that CONTRACTOR obtains permission to, and does, use CITY facilities, space, equipment or support services in the performance of this Agreement, this use shall be at the CONTRACTOR's sole discretion based on the CONTRACTOR's determination that such use will promote CONTRACTOR's efficiency and effectiveness. Except as may be specifically provided elsewhere in this Agreement, the CITY does not require that CONTRACTOR use CITY facilities, equipment or support services or work in CITY locations in the performance of this Agreement.
- C. If, in the performance of this Agreement, any third persons are employed by CONTRACTOR, such persons shall be entirely and exclusively under the direction, supervision, and control of CONTRACTOR. Except as may be specifically provided elsewhere in this Agreement, all terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by CONTRACTOR. It is further understood and agreed that CONTRACTOR shall issue W-2 or 1099 Forms for income and employment tax purposes, for all of CONTRACTOR's assigned personnel and subcontractors.

D. The provisions of this Section 1 shall survive any expiration or termination of this Agreement. Nothing in this Agreement shall be construed to create an exclusive relationship between CITY and CONTRACTOR. CONTRACTOR may represent, perform services for, or be employed by such additional persons or companies as CONTRACTOR sees fit provided that CONTRACTOR does not violate the provisions of Section 5, below.

2. **Licenses; Permits, Etc.** CONTRACTOR represents and warrants that CONTRACTOR has all licenses, permits, City Business Operations Tax Certificate, qualifications, and approvals of whatsoever nature that are legally required for CONTRACTOR to practice its profession or provide any services under the Agreement. CONTRACTOR represents and warrants that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, and approvals that are legally required for CONTRACTOR to practice its profession or provide such Services. Without limiting the generality of the foregoing, if CONTRACTOR is an out-of-state corporation, CONTRACTOR warrants and represents that it possesses a valid certificate of qualification to transact business in the State of California issued by the California Secretary of State pursuant to Section 2105 of the California Corporations Code.
3. **Time.** CONTRACTOR shall devote such time and effort to the performance of Services pursuant to this Agreement as is necessary for the satisfactory and timely performance of CONTRACTOR's obligations under this Agreement. Neither party shall be considered in default of this Agreement, to the extent that party's performance is prevented or delayed by any cause, present or future, that is beyond the reasonable control of that party.
4. **CONTRACTOR Not Agent.** Except as CITY may specify in writing, CONTRACTOR and CONTRACTOR's personnel shall have no authority, express or implied, to act on behalf of CITY in any capacity whatsoever as an agent. CONTRACTOR and CONTRACTOR's personnel shall have no authority, express or implied, to bind CITY to any obligations whatsoever.
5. **Conflicts of Interest.** CONTRACTOR covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, that would conflict in any manner with the interests of CITY or that would in any way hinder CONTRACTOR's performance of Services under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor, without the written consent of CITY. CONTRACTOR agrees to avoid conflicts of interest or the appearance of any conflicts of interest with the interests of CITY at all times during the performance of this Agreement. If CONTRACTOR is or employs a former officer or employee of the CITY, CONTRACTOR and any such employee(s) shall comply with the provisions of Sacramento City Code Section 2.16.090 pertaining to appearances before the City Council or any CITY department, board, commission or committee.
6. **Confidentiality of CITY Information.** During performance of this Agreement, CONTRACTOR may gain access to and use CITY information regarding inventions, machinery, products, prices, apparatus, costs, discounts, future plans, business affairs, governmental affairs, processes, trade secrets, technical matters, systems, facilities, customer lists, product design, copyright, data, and other vital information (hereafter collectively referred to as "City Information") that are

valuable, special and unique assets of the CITY. CONTRACTOR agrees to protect all City Information and treat it as strictly confidential, and further agrees that CONTRACTOR shall not at any time, either directly or indirectly, divulge, disclose or communicate in any manner any City Information to any third party without the prior written consent of CITY. In addition, CONTRACTOR shall comply with all CITY policies governing the use of the CITY network and technology systems, as set forth in applicable provisions of the City of Sacramento Administrative Policy Instructions # 30. A violation by CONTRACTOR of this Section 6 shall be a material violation of this Agreement and shall justify legal and/or equitable relief.

7. CONTRACTOR Information.

- A. CITY shall have full ownership and control, including ownership of any copyrights, of all information prepared, produced, or provided by CONTRACTOR pursuant to this Agreement. In this Agreement, the term "information" shall be construed to mean and include: any and all work product, submittals, reports, plans, specifications, and other deliverables consisting of documents, writings, handwritings, typewriting, printing, photostating, photographing, computer models, and any other computerized data and every other means of recording any form of information, communications, or representation, including letters, works, pictures, drawings, sounds, or symbols, or any combination thereof. CONTRACTOR shall not be responsible for any unauthorized modification or use of such information for other than its intended purpose by CITY.
- B. CONTRACTOR shall fully defend, indemnify and hold harmless CITY, its officers and employees, and each and every one of them, from and against any and all claims, actions, lawsuits or other proceedings alleging that all or any part of the information prepared, produced, or provided by CONTRACTOR pursuant to this Agreement infringes upon any third party's trademark, trade name, copyright, patent or other intellectual property rights. CITY shall make reasonable efforts to notify CONTRACTOR not later than ten (10) days after CITY is served with any such claim, action, lawsuit or other proceeding, provided that CITY's failure to provide such notice within such time period shall not relieve CONTRACTOR of its obligations hereunder, which shall survive any termination or expiration of this Agreement.
- C. All proprietary and other information received from CONTRACTOR by CITY, whether received in connection with CONTRACTOR's proposal to CITY or in connection with any Services performed by CONTRACTOR, will be disclosed upon receipt of a request for disclosure, pursuant to the California Public Records Act; provided, however, that, if any information is set apart and clearly marked "trade secret" when it is provided to CITY, CITY shall give notice to CONTRACTOR of any request for the disclosure of such information. The CONTRACTOR shall then have five (5) days from the date it receives such notice to enter into an agreement with the CITY, satisfactory to the City Attorney, providing for the defense of, and complete indemnification and reimbursement for all costs (including plaintiff's attorney fees) incurred by CITY in any legal action to compel the disclosure of such information under the California Public Records Act. The CONTRACTOR shall have sole responsibility for defense of the actual "trade secret" designation of such information.
- D. The parties understand and agree that any failure by CONTRACTOR to respond to the notice provided by CITY and/or to enter into an agreement with CITY, in accordance with

the provisions of subsection C, above, shall constitute a complete waiver by CONTRACTOR of any rights regarding the information designated "trade secret" by CONTRACTOR, and such information shall be disclosed by CITY pursuant to applicable procedures required by the Public Records Act.

8. Standard of Performance. CONTRACTOR shall perform all Services required pursuant to this Agreement in the manner and according to the standards currently observed by a competent practitioner of CONTRACTOR's profession in California. All products of whatsoever nature that CONTRACTOR delivers to CITY pursuant to this Agreement shall be prepared in a professional manner and conform to the standards of quality normally observed by a person currently practicing in CONTRACTOR's profession, and shall be provided in accordance with any schedule of performance specified in Exhibit A. CONTRACTOR shall assign only competent personnel to perform Services pursuant to this Agreement. CONTRACTOR shall notify CITY in writing of any changes in CONTRACTOR's staff assigned to perform the Services required under this Agreement, prior to any such performance. In the event that CITY, at any time during the term of this Agreement, desires the removal of any person assigned by CONTRACTOR to perform Services pursuant to this Agreement, because CITY, in its sole discretion, determines that such person is not performing in accordance with the standards required herein, CONTRACTOR shall remove such person immediately upon receiving notice from CITY of the desire of CITY for the removal of such person.

9. Term; Suspension; Termination.

A. This Agreement shall become effective on the date that it is approved by both parties, set forth on the first page of the Agreement, and shall continue in effect until both parties have fully performed their respective obligations under this Agreement, unless sooner terminated as provided herein.

B. CITY shall have the right at any time to temporarily suspend CONTRACTOR's performance hereunder, in whole or in part, by giving a written notice of suspension to CONTRACTOR. If CITY gives such notice of suspension, CONTRACTOR shall immediately suspend its activities under this Agreement, as specified in such notice.

C. CITY shall have the right to terminate this Agreement at any time by giving a written notice of termination to CONTRACTOR. If CITY gives such notice of termination, CONTRACTOR shall immediately cease rendering Services pursuant to this Agreement. If CITY terminates this Agreement:

(1) CONTRACTOR shall, not later than five days after such notice of termination, deliver to CITY copies of all information prepared pursuant to this Agreement.

(2) CITY shall pay CONTRACTOR the reasonable value of Services rendered by CONTRACTOR prior to termination; provided, however, CITY shall not in any manner be liable for lost profits that might have been made by CONTRACTOR had the Agreement not been terminated or had CONTRACTOR completed the Services required by this Agreement. In this regard, CONTRACTOR shall furnish to CITY such financial information as in the judgment of the CITY is necessary for CITY to determine the reasonable value of the Services rendered by CONTRACTOR. The foregoing is cumulative and does not affect any right or

remedy that CITY may have in law or equity.

10. Indemnity.

- A. Indemnity: CONTRACTOR shall defend, hold harmless and indemnify CITY, its officers and employees, and each and every one of them, from and against any and all actions, damages, costs, liabilities, claims, demands, losses, judgments, penalties, costs and expenses of every type and description, including, but not limited to, any fees and/or costs reasonably incurred by CITY's staff attorneys or outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), including but not limited to Liabilities arising from personal injury or death, damage to personal, real or intellectual property or the environment, contractual or other economic damages, or regulatory penalties, arising out of or in any way connected with performance of or failure to perform this Agreement by CONTRACTOR, any subcontractor or agent, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, whether or not (i) such Liabilities are caused in part by a party indemnified hereunder or (ii) such Liabilities are litigated, settled or reduced to judgment; provided that the foregoing indemnity does not apply to liability for any damage or expense for death or bodily injury to persons or damage to property to the extent arising from the sole negligence or willful misconduct of CITY, its agents, servants, or independent contractors who are directly responsible to CITY, except when such agents, servants, or independent contractors are under the direct supervision and control of CONTRACTOR.
- B. Obligation to Defend: Contractor shall, upon City's request, defend at Contractor's Sole cost, any action, claim, suit, cause of action or portion thereof which asserts or alleges Liabilities to the extent such Liabilities are caused by or result from any negligent act or omission or willful misconduct of Contractor, its subcontractors or agents and their respective officers and employees, in connection with the performance or nonperformance of this Agreement, whether such action, claim, suit, cause of action, or portion thereof is well founded or not.
- C. Insurance Policies; Intellectual Property Claims: The existence or acceptance by CITY of any of the insurance policies or coverages described in this Agreement shall not affect or limit any of CITY's rights under this Section 10, nor shall the limits of such insurance limit the liability of CONTRACTOR hereunder. This Section 10 shall not apply to any intellectual property claims, actions, lawsuits or other proceedings subject to the provisions of Section 7.B., above. The provisions of this Section 10 shall survive any expiration or termination of this Agreement.

11. Insurance Requirements. During the entire term of this Agreement, CONTRACTOR shall maintain the insurance coverage described in this Section 11.

Full compensation for all premiums that CONTRACTOR is required to pay for the insurance coverage described herein shall be included in the compensation specified for the Services provided by CONTRACTOR under this Agreement. No additional compensation will be provided for CONTRACTOR's insurance premiums.

It is understood and agreed by the CONTRACTOR that its liability to the CITY shall not in any

way be limited to or affected by the amount of insurance coverage required or carried by the CONTRACTOR in connection with this Agreement.

A. Minimum Scope & Limits of Insurance Coverage

- (1) Commercial General Liability Insurance, providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than one million dollars (\$1,000,000) per occurrence. The policy shall provide contractual liability and products and completed operations coverage for the term of the policy.
- (2) Automobile Liability Insurance providing coverage at least as broad as ISO Form CA 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than one million dollars (\$1,000,000) per occurrence. The policy shall provide coverage for owned, non-owned and/or hired autos as appropriate to the operations of the CONTRACTOR.

No automobile liability insurance shall be required if CONTRACTOR completes the following certification:

"I certify that a motor vehicle will not be used in the performance of any work or services under this agreement." _____ (CONTRACTOR initials)

- (3) Workers' Compensation Insurance with statutory limits, and Employers' Liability Insurance with limits of not less than one million dollars (\$1,000,000). The Worker's Compensation policy shall include a waiver of subrogation for contracts involving construction or maintenance, or if required by the CITY by selecting the option below:

_____ Workers' Compensation waiver of subrogation in favor of the City is required for all work performed by the CONTRACTOR.

B. Additional Insured Coverage

- (1) Commercial General Liability Insurance: The CITY, its officials, employees and volunteers shall be covered by policy terms or endorsement as additional insureds as respects general liability arising out of activities performed by or on behalf of CONTRACTOR, products and completed operations of CONTRACTOR, and premises owned, leased or used by CONTRACTOR. The general liability additional insured endorsement must be signed by an authorized representative of the insurance carrier.

If the policy includes a blanket additional insured endorsement or contractual additional insured coverage, the above signature requirement may be fulfilled by

submitting that document with a signed declaration page referencing the blanket endorsement or policy form.

- (2) Automobile Liability Insurance: The CITY, its officials, employees and volunteers shall be covered by policy terms or endorsement as additional insureds as respects auto liability.

C. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

- (1) CONTRACTOR's insurance coverage shall be primary insurance as respects CITY, its officials, employees and volunteers. Any insurance or self-insurance maintained by CITY, its officials, employees or volunteers shall be in excess of CONTRACTOR's insurance and shall not contribute with it.
- (2) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to CITY, its officials, employees or volunteers.
- (3) Coverage shall state that CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (4) CITY will be provided with thirty (30) days written notice of cancellation or material change in the policy language or terms.

D. Acceptability of Insurance

Insurance shall be placed with insurers with a Bests' rating of not less than A:V. Self-insured retentions, policy terms or other variations that do not comply with the requirements of this Section 11 must be declared to and approved by the CITY Risk Management Division in writing prior to execution of this Agreement.

E. Verification of Coverage

- (1) CONTRACTOR shall furnish CITY with certificates and required endorsements evidencing the insurance required. The certificates and endorsements shall be forwarded to the CITY representative named in Exhibit A. Copies of policies shall be delivered to the CITY on demand. Certificates of insurance shall be signed by an authorized representative of the insurance carrier.
- (2) The CITY may withdraw its offer of contract or cancel this Agreement if the certificates of insurance and endorsements required have not been provided prior to execution of this Agreement. The CITY may withhold payments to CONTRACTOR and/or cancel the Agreement if the insurance is canceled or CONTRACTOR otherwise ceases to be insured as required herein.

F. Subcontractors

CONTRACTOR shall require and verify that all subcontractors maintain insurance coverage that meets the minimum scope and limits of insurance coverage specified in subsection A, above.

12. Equal Employment Opportunity. During the performance of this Agreement, CONTRACTOR, for itself, its assignees and successors in interest, agrees as follows:

- A. Compliance With Regulations: CONTRACTOR shall comply with the Executive Order 11246 entitled "Equal Opportunity in Federal Employment", as amended by Executive Order 11375 and 12086, and as supplemented in Department of Labor regulations (41 CFR Chapter 60), hereinafter collectively referred to as the "Regulations".
- B. Nondiscrimination: CONTRACTOR, with regards to the work performed by it after award and prior to completion of the work pursuant to this Agreement, shall not discriminate on the ground of race, color, religion, sex, national origin, age, marital status, physical handicap or sexual orientation in selection and retention of subcontractors, including procurement of materials and leases of equipment. CONTRACTOR shall not participate either directly or indirectly in discrimination prohibited by the Regulations.
- C. Solicitations for Subcontractors, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiations made by CONTRACTOR for work to be performed under any subcontract, including all procurement of materials or equipment, each potential subcontractor or supplier shall be notified by CONTRACTOR of CONTRACTOR's obligation under this Agreement and the Regulations relative to nondiscrimination on the ground of race, color, religion, sex, national origin, age, marital status, physical handicap or sexual orientation.
- D. Information and Reports: CONTRACTOR shall provide all information and reports required by the Regulations, or by any orders or instructions issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the CITY to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, CONTRACTOR shall so certify to the CITY, and shall set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of noncompliance by CONTRACTOR with the nondiscrimination provisions of this Agreement, the CITY shall impose such sanctions as it may determine to be appropriate including, but not limited to:
 - (1) Withholding of payments to CONTRACTOR under this Agreement until CONTRACTOR complies;
 - (2) Cancellation, termination, or suspension of the Agreement, in whole or in part.
- F. Incorporation of Provisions: CONTRACTOR shall include the provisions of subsections A through E, above, in every subcontract, including procurement of materials and leases of equipment, unless exempted by the Regulations, or by any order or instructions issued pursuant thereto. CONTRACTOR shall take such action with respect to any

subcontract or procurement as the CITY may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, CONTRACTOR may request CITY to enter such litigation to protect the interests of CITY.

13. **Entire Agreement.** This document, including all Exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement. No alteration to the terms of this Agreement shall be valid unless approved in writing by CONTRACTOR, and by CITY, in accordance with applicable provisions of the Sacramento City Code.
14. **Severability.** If any portion of this Agreement or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.
15. **Waiver.** Neither CITY acceptance of, or payment for, any Service or Additional Service performed by CONTRACTOR, nor any waiver by either party of any default, breach or condition precedent, shall be construed as a waiver of any provision of this Agreement, nor as a waiver of any other default, breach or condition precedent or any other right hereunder.
16. **Enforcement of Agreement.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California. Venue of any litigation arising out of or connected with this Agreement shall lie exclusively in the state trial court or Federal District Court located in Sacramento County in the State of California, and the parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.
17. **Assignment Prohibited.** The expertise and experience of CONTRACTOR are material considerations for this Agreement. CITY has a strong interest in the qualifications and capability of the persons and entities who will fulfill the obligations imposed on CONTRACTOR under this Agreement. In recognition of this interest, CONTRACTOR shall not assign any right or obligation pursuant to this Agreement without the written consent of the CITY. Any attempted or purported assignment without CITY's written consent shall be void and of no effect.
18. **Binding Effect.** This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the parties, subject to the provisions of Section 17, above.
19. **Use Tax Requirements.** During the performance of this Agreement, CONTRACTOR, for itself, its assignees and successors in interest, agrees as follows:
 - A. Use Tax Direct Payment Permit: For all leases and purchases of materials, equipment, supplies, or other tangible personal property used to perform the Contract or Agreement and shipped from outside California, the Contractor and any subcontractors leasing or purchasing such materials, equipment, supplies or other tangible personal property shall obtain a Use Tax Direct Payment Permit from the California State Board of Equalization ("SBE") in accordance with the applicable SBE criteria and requirements.

- B. Sellers Permit: For any construction contract and any construction subcontract in the amount of \$5,000,000 or more, Contractor and the subcontractor(s) shall obtain sellers permits from the SBE and shall register the jobsite as the place of business for the purpose of allocating local sales and use tax to the City. Contractor and its subcontractors shall remit the self-accrued use tax to the SBE, and shall provide a copy of each remittance to the City.
- C. The above provisions shall apply in all instances unless prohibited by the funding source for the Contract or Agreement.

EXHIBIT E

LIVING WAGE REQUIREMENTS (Nonprofessional Service Agreement)

The Living Wage Ordinance

The City of Sacramento's Living Wage Ordinance (the "LWO") is codified as Chapter 3.58 of the Sacramento City Code. The LWO requires certain firms that enter into agreements or contracts (all subsequent references to a "contract" or "contracts" will refer to both contracts and agreements) to provide certain services to or for the CITY, to pay a specified minimum level of compensation to their employees for time spent performing any work on the CITY contract. The LWO also applies to certain subcontractors.

The LWO applies to contracts entered into, amended, or renewed or extended at the CITY's discretion, on or after March 1, 2004 (the "LWO Effective Date").

Contracts and Contractors Covered by the LWO

Determining whether the LWO applies to a specific CITY contract, contractor or subcontractor, depends on whether the contract, contractor and/or subcontractor meet the criteria specified in the LWO for contract type, contract amount, contractor size (# of employees), subcontract amount and subcontractor size (# of employees). These criteria are summarized below.

Contract Type

The LWO applies only to contracts for Nonprofessional Services. Under the LWO, this includes contracts for any services of a nonprofessional character, including but not limited to tree trimming services, repair services for motor vehicles and office equipment, vehicle towing, and security services.

The LWO does not apply to: (1) Incidental services, such as delivery, installation or maintenance, that are provided under contracts for the purchase or lease of equipment, supplies, or other personal property; (2) contracts that are subject to CITY, state, or federal prevailing-wage requirements; (3) contracts for professional services (including but not limited to services rendered by engineers, architects, auditors, banks, consultants, actuaries and attorneys); and (4) contracts with nonprofit corporations that are organized under section 501 of the Internal Revenue Code and have fewer than 100 employees, whether full or part time.

Contract Amount

The LWO applies to contracts entered into or amended after the LWO Effective Date that provide compensation from the CITY of \$100,000 or more. In addition, the LWO applies to a contract entered into or amended after the LWO Effective Date that, by itself, does not reach this amount, if the aggregate value of that contract and of any other Nonprofessional Services contracts covered by the LWO that the CITY has awarded to the same person or firm within the previous 12 months, is \$100,000 or more. IT IS THE CONTRACTOR'S RESPONSIBILITY TO DETERMINE WHETHER THIS AGGREGATE VALUE IS \$100,000 OR MORE, AND TO NOTIFY THE CITY IN WRITING WHENEVER THIS IS THE CASE.

Contractor Size

The LWO only applies to a contractor that has at least 25 employees, working either full or part time. The number of employees that a contractor has is determined by adding the contractor=s employees and the employees of any other person or entity deemed to be a “Related Person” under the LWO.^a

Subcontract Amount

The LWO applies to a subcontractor providing services under a covered contract if the amount of the subcontract is at least 25 % of the contract amount, without regard to the number of employees the subcontractor has.

Subcontractor Size

The LWO also applies to a subcontractor providing services under a covered contract if the subcontractor has at least 25 employees, working either full or part time, whether or not the amount of the subcontract is at least 25 % of the contract amount.

Payment of Living Wage to Covered Employees

If a contractor or subcontractor meets the criteria specified in the LWO for contract type, contract amount, contractor size, subcontract amount and/or subcontractor size, the contractor or subcontractor is deemed to be a “Covered Employer” under the LWO. The LWO requires a Covered Employer to provide specified minimum compensation to its employees who perform work directly related to the

^a The LWO provides that a person or entity is a Related Person when any of the following circumstances exists:

- (1) The person or entity and the contractor are both corporations, and (i) share a majority of members of their governing boards, or (ii) have two or more officers in common, or (iii) are controlled by the same majority shareholder or shareholders (control means more than 50% of the corporation=s voting power), or (iv) are in a parent-subsidiary relationship (such a relationship exists when one corporation directly or indirectly owns shares possessing more than 50% of another corporation=s voting power); or
- (2) The person or entity otherwise controls and directs, or is controlled and directed by, the contractor, as determined by the City Manager.

CITY contract (these employees are called "Covered Employees" under the LWO), for all hours the Covered Employees perform under the CITY contract.^b

The minimum compensation required is as follows:

- (1) If health benefits are provided to Covered Employees and the Covered Employer=s contribution for the benefits is at least \$1.50 for each hour, then the rates are as follows:
 - (a) During 2007, the greater of \$10.00 an hour or \$9.00 adjusted by the increase in the Consumer Price Index for All Urban Consumers, San Francisco/Oakland/San Jose area (1982--1984=100) from January 1, 2004, through December 31, 2006.
 - (b) For each year after 2007, the rate shall be based on the rate from the immediately preceding year adjusted by the increase in the Consumer Price Index for All Urban Consumers, San Francisco/Oakland/San Jose area (1982--1984=100) from January 1 through December 31 of the immediately preceding year.

- (2) If health benefits are not provided to Covered Employees or if health benefits are provided but the Covered Employer=s contribution for the benefits is less than \$1.50 for each hour, then the rates are as follows:
 - (a) During 2007, the greater of \$11.50 an hour or \$10.50 adjusted by the increase in the Consumer Price Index for All Urban Consumers, San Francisco/Oakland/San Jose area (1982--1984=100) from January 1, 2004, through December 31, 2006.
 - (b) For each year after 2007, the rate shall be based on the rate from the immediately preceding year adjusted by the increase in the Consumer Price Index for All Urban Consumers, San Francisco/Oakland/San Jose area (1982--1984=100) from January 1 through December 31 of the immediately preceding year.

Notification to Covered Employees

The LWO requires a Covered Employer to give each existing employee and (at the time of hire) each new employee a copy of the following written notification:

^b A Covered Employee includes full-time, part-time, contingent, contract and temporary employees, but does not include: (1) individuals who participate in job-training-and-education programs that have, as their express purpose, the provision of basic job skills and education to participants, with the goal of earning a high-school-equivalency diploma and permanent employment; (2) student interns; (3) individuals participating in specialized-training programs; and (4) an employee whose term and conditions of employment are governed by a bona fide collective-bargaining agreement containing an express waiver of the LWO.

This company may enter into a contract to perform services for the City of Sacramento. If you work on such a contract, then you are entitled to be paid a living wage for each hour so worked. For more information, see Chapter 3.58 of the Sacramento City Code, which can be viewed at www.cityofsacramento.org.

The LWO requires the above notification to be provided in each language spoken by 10% or more of the Covered Employer=s workforce.

The LWO also requires a Covered Employer to inform all employees of their possible right to the federal Earned Income Credit (EIC), and to make available to those employees any forms required to secure advance EIC payments from the Covered Employer.

Subcontractor Compliance

A contractor is responsible for requiring all of its subcontractors who are covered by these requirements to comply with the provisions of the LWO, by including these requirements in all subcontracts covered by the LWO.

Other Provisions of the LWO

Use of Funds Paid Under CITY Contracts

Under the LWO, Covered Employers may not directly use CITY funds to persuade Covered Employees to support or oppose unionization, and Covered Employers may not directly use CITY funds to schedule or hold meetings related to union representation during the Covered Employees= working hours. These restrictions do not apply to expenditures made during good-faith collective bargaining or to expenditures required under bona fide collective-bargaining agreements.

No Reduction in Non-Wage Benefits

Under the LWO, Covered Employers may not fund any wage increases required by the LWO, nor shall Covered Employers otherwise respond to the enactment of the LWO, by reducing the health, insurance, pension, vacation, or other non-wage benefits of any of their employees.

No Retaliation

The LWO prohibits a Covered Employer from taking any adverse action against a Covered Employee because the Covered Employee does any of the following: (1) exercises or asserts his or her rights under the LWO; (2) informs or assists other Covered Employees concerning their rights and the Covered Employer=s obligations under the LWO; (3) complains about the Covered Employer=s failure to comply with the LWO; or (4) seeks to enforce the LWO.

No Reduction in Collective-Bargaining Wage Rates

The LWO does not require or authorize any Covered Employer to reduce wages set by a collective-bargaining agreement or required under any prevailing-wage law.

Violations and Monitoring

The LWO provides that any violation of the LWO by a CITY contractor constitutes a material breach of the contract, and authorizes the CITY to terminate the contract and pursue all available legal and equitable remedies. In order to monitor compliance, the LWO authorizes the CITY to require Covered Employers to verify their compliance with the LWO by submitting certified payroll records to the CITY, and to take such other steps as may be necessary for the CITY to determine whether the requirements of the LWO have been satisfied.

The LWO also includes provisions authorizing an employee or interested person to file a judicial action against a contractor or subcontractor for violation of the LWO.

Declaration of Compliance

To assure compliance with the LWO, any person or entity entering into a contract to provide Nonprofessional Services to or for the CITY, on or after March 1, 2004, is required to provide the CITY with a signed Declaration of Compliance in the form required by the CITY, prior to the CITY=s execution of the contract. The Declaration of Compliance shall be signed by a duly authorized representative of the person or entity entering into the contract, and, when accepted by the CITY, shall constitute part of the contract.

Additional Information

- X For a complete description of the LWO=s provisions, refer to the LWO codified at Sacramento City Code Chapter 3.58. The Sacramento City Code is available on the internet at www.cityofsacramento.org.
- X For more information on the LWO requirements and the CITY=s LWO program, contact Procurement Services at 916-808-6240.

EXHIBIT F

REQUIREMENTS OF THE NON-DISCRIMINATION IN EMPLOYEE BENEFITS CODE

INTRODUCTION

The Sacramento Non-Discrimination In Employee Benefits Code (the "Ordinance"), codified as Sacramento City Code Chapter 3.54, prohibits City contractors from discriminating in the provision of employee benefits between employees with spouses and employees with domestic partners, and between the spouses and domestic partners of employees.

APPLICATION

The provisions of the Ordinance apply to any contract or agreement (as defined below), between a Contractor and the City of Sacramento, in an amount exceeding \$25,000.00. The Ordinance applies to that portion of a contractor's operations that occur: (i) within the City of Sacramento; (ii) on real property outside the City of Sacramento if the property is owned by the City or if the City has a right to occupy the property; or (iii) at any location where a significant amount of work related to a City contract is being performed.

The Ordinance does not apply: to subcontractors or subcontracts of any Contractor or contractors; to transactions entered into pursuant to cooperative purchasing agreements approved by the Sacramento City Council; to legal contracts of other governmental jurisdictions or public agencies without separate competitive bidding by the City; where the requirements of the ordinance will violate or are inconsistent with the terms or conditions of a grant, subvention or agreement with a public agency or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or agreement; to permits for excavation or street construction; or to agreements for the use of City right-of-way where a contracting utility has the power of eminent domain.

DEFINITIONS

As set forth in the Ordinance, the following definitions apply:

"Contract" means an agreement for public works or improvements to be performed, or for goods or services to be purchased or grants to be provided, at the expense of the City or to be paid out of moneys deposited in the treasury or out of the trust money under the control or collected by the City. "Contract" also means a written agreement for the exclusive use ("exclusive use" means the right to use or occupy real property to the exclusion of others, other than the right reserved by the fee owner) or occupancy of real property for a term exceeding 29 days in any calendar year, whether by singular or cumulative instrument, (i) for the operation or use by others of real property owned or controlled by the City for the operation of a business, social, or other establishment or organization, including leases, concessions, franchises and easements, or (ii) for the City's use or occupancy of real property owned by others, including leases, concessions, franchises and easements.

"Contract" shall not include: a revocable at-will use or encroachment permit for the use of or encroachment on City property regardless of the ultimate duration of such permit; excavation, street construction or street use permits; agreements for the use of City right-of-way where a contracting utility has the power of eminent domain; or agreements governing the use of City property that constitute a public forum for activities that are primarily for the purpose of espousing or advocating causes or ideas

and that are generally protected by the First Amendment to the United States Constitution or that are primarily recreational in nature.

“Contractor” means any person or persons, firm partnership or corporation, company, or combination thereof, that enters into a Contract with the City. “Contractor” does not include a public entity.

“Domestic Partner” means any person who has a currently registered domestic partnership with a governmental entity pursuant to state or local law authorizing the registration.

“Employee Benefits” means bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; pension and retirement benefits; vacation; travel benefits; and any other benefit given to employees. “Employee benefits” shall not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state.

CONTRACTOR’S OBLIGATION TO PROVIDE THE CITY WITH DOCUMENTATION AND INFORMATION

Contractor shall provide the City with documentation and information verifying its compliance with the requirements of the Ordinance within ten (10) days of receipt of a request from the City. Contractors shall keep accurate payroll records, showing, for each City Contract, the employee’s name, address, Social Security number, work classification, straight time pay rate, overtime pay rate, overtime hours worked, status and exemptions, and benefits for each day and pay period that the employee works on the City Contract. Each request for payroll records shall be accompanied by an affidavit to be completed and returned by the Contractor, as stated, attesting that the information contained in the payroll records is true and correct, and that the Contractor has complied with the requirements of the Ordinance. A violation of the Ordinance or noncompliance with the requirements of the Ordinance shall constitute a breach of contract.

EMPLOYER COMPLIANCE CERTIFICATE AND NOTICE REQUIREMENTS

(a) All contractors seeking a Contract subject to the Ordinance shall submit a completed Declaration of Compliance Form, signed by an authorized representative, with each proposal, bid or application. The Declaration of Compliance shall be made a part of the executed contract, and will be made available for public inspection and copying during regular business hours.

(b) The Contractor shall give each existing employee working directing on a City contract, and (at the time of hire), each new employee, a copy of the notification provided as Attachment “A.”

(c) Contractor shall post, in a place visible to all employees, a copy of the notice provided as Attachment “B.”

Attachment A



YOUR RIGHTS UNDER THE CITY OF SACRAMENTO'S NON-DISCRIMINATION IN EMPLOYEE BENEFITS CODE

On (date), your employer (the "Employer") entered into a contract with the City of Sacramento (the "City") for (contract details), and as a condition of that contract, agreed to abide by the requirements of the City's Non-Discrimination In Employee Benefits Code (Sacramento City Code Section 3.54).

The Ordinance does not require the Employer to provide employee benefits. The Ordinance does require that if certain employee benefits are provided by the Employer, that those benefits be provided without discrimination between employees with spouses and employees with domestic partners, and without discrimination between the spouse or domestic partner of employees.

The Ordinance covers any employee working on the specific contract referenced above, but only for the period of time while those employees are actually working on this specific contract.

The included employee benefits are:

- Bereavement leave
- Disability, life and other types of insurance
- Family medical leave
- Health benefits
- Membership or membership discounts
- Moving expenses
- Pension and retirement benefits
- Vacation
- Travel benefits
- Any other benefits given to employees

(Employee Benefits does not include benefits that may be preempted by federal or state law.)

If you feel you have been discriminated or retaliated against by your employer in the terms and conditions of your application for employment, or in your employment, or in the application of these employee benefits, because of your status as an applicant or as an employee protected by the Ordinance, or because you reported a violation of the Ordinance, and after having exhausted all remedies with your employer,

You May . . .

- Submit a written complaint to the City of Sacramento, Contract Services Unit, containing the details of the alleged violation. The address is:

City of Sacramento
Procurement Services Division
5730 24th Street, Bldg. 1
Sacramento, CA 95822

- Bring an action in the appropriate division of the Superior Court of the State of California against the Employer and obtain the following remedies:
 - Reinstatement, injunctive relief, compensatory damages and punitive damages
 - Reasonable attorney's fees and costs

Attachment B



YOUR RIGHTS UNDER THE CITY OF SACRAMENTO'S NON-DISCRIMINATION IN EMPLOYEE BENEFITS CODE

If your employer provides employee benefits, they must be provided to those employees working on a City of Sacramento contract without discriminating between employees with spouses and employees with domestic partners.

The included employee benefits are:

- Bereavement leave
- Disability, life and other types of insurance
- Family medical leave
- Health benefits
- Membership or membership discounts
- Moving expenses
- Pension and retirement benefits
- Vacation
- Travel benefits
- Any other benefits given to employees

If you feel you have been discriminated against by your employer . . .

You May . . .

- Submit a written complaint to the City of Sacramento, Contract Services Unit, containing the details of the alleged violation. The address is:

City of Sacramento
Procurement Services Division
5730 24th Street, Bldg. 1
Sacramento, CA 95822
- Bring an action in the appropriate division of the Superior Court of the State of California against the employer and obtain reinstatement, injunctive relief, compensatory damages, punitive damages and reasonable attorney's fees and costs.

Discrimination and Retaliation Prohibited.

If you feel you have been discriminated or retaliated against by your employer in the terms and conditions of your application for employment, or in your employment, because of your status as an applicant or as an employee protected by the Ordinance, or because you reported a violation of this Ordinance . . .

You May Also . . .

Submit a written complaint to the City of Sacramento, Contract Services Unit, at the same address, containing the details of the alleged violation.