PROFESSIONAL SERVICES AGREEMENT FOR
SERVICES IN SUPPORT OF REAL PROPERTY NEGOTIATIONS

THIS AGREEMENT is made and entered into this ___th day of April, 2010 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and_____, an individual ("Consultant").

W I T N E S S E T H :

A. WHEREAS, City proposes to have Consultant perform as described herein below; and

B. WHEREAS, Consultant represents that he has that degree of specialized expertise contemplated within California Government Code, Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and

C. WHEREAS, City and Consultant desire to contract for specific services in connection with the project described below (the "Project") and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

D. WHEREAS, no official or employee of City has a financial interest, within the provisions of California Government Code, Sections 1090-1092, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Services. Consultant shall provide professional services of advisement regarding financial evaluation, feasibility and accounting in connection with real estate negotiations between City and the State of California for the Orange County Fair and Event Center (OCFEC) and any related negotiations between City and proposed public or private parties involved in the OCFEC acquisition ("the Project"). Consultant shall advise the City Manager and Members of the City Council subcommittee regarding the Project, Katrina Foley and Gary Monahan, ("Council Subcomittee") through meetings and other contacts approved by City's City Manager.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided personally by Consultant, who is experienced in the field of real estate negotiations and development, and services shall be provided in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that he is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's

performance of this Agreement.

1.3. Warranty. Consultant warrants that he shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.4. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit his agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code. Violation of this provision may result in the imposition of penalties referred to in Labor Code, Section 1735.

1.5 Non-Exclusive Agreement. Consultant acknowledges that City has entered into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.6. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense, subject to any such personnel executing a confidentiality agreement as shown in Exhibit "A."

1.7. Confidentiality. The parties agree that Consultant's work for City pertains to confidential real estate negotiations relating to the potential purchase by City, either by City alone or jointly with another public entity or private partner, of the Orange County Fair and Event Center and that confidentiality is required to maintain the integrity of the negotiating process and to protect the public interest. To that end, Consultant shall not disclose information obtained by him from City in connection with the negotiations except as required to do so by law or pursuant to a valid court order. Consultant's work for City shall remain confidential and shall be communicated by Consultant only as permitted or directed by City's City Manager. Consultant shall take all reasonable steps to ensure the safety and confidentiality of any non-public information obtained by Consultant from City or others relating the real estate negotiations and to ensure the safety and confidentiality of Consultant's work product on behalf of City. Consultant may not communicate directly with any public or private agency with whom City may be negotiating or with any other person concerning either the information obtained by Consultant from City or Consultant's advisement to City Manager or the Council Subcommittee.

2.0. COMPENSATION AND BILLING

2.1. Compensation. Consultant shall perform the services provided for herein without compensation. Consultant expressly acknowledges that the fact that he is not being compensated does not affect the validity of the confidentiality or other provisions of this Agreement.

2.2. Additional Services. Consultant shall not provide any services or incur any expenses relating to this Agreement without the express consent of the City Manager, as Project Manager for this Project.

2.3. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the Effective Date.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence immediately upon the Effective Date of this Agreement. Said services shall be performed in strict compliance with the Project Schedule approved by the City Manager. The Project Schedule may be amended by mutual agreement of the parties. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of six months (6) months, ending on October 1, 2010, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, planning or development documents, data studies, drawings, proposals, agreements, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted

documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant. Consultant may not use any such documents after the date of termination of this Agreement without the express written consent of City.

5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain and maintain during the life of this Agreement all of the following insurance coverages:

(a) Comprehensive general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than One Million Dollars ($1,000,000.00), combined single limits, per occurrence and aggregate.

(b) Automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars ($1,000,000.00), combined single limits, per occurrence and aggregate.

(c) Workers' compensation insurance as required by the State of California.

5.2. Endorsements. The comprehensive general liability insurance policy shall contain or be endorsed to contain the following provisions:

(a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, agents, and employees are additional insureds with respect to this subject project and contract with City."

(b) Notice: "Said policy shall not terminate, nor shall it be cancelled, nor the coverage reduced, until thirty (30) days after written notice is given to City."

(c) Other insurance: "Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."

5.3. Certificates of Insurance: Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement.

5.4. Non-limiting: Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

6.0. GENERAL PROVISIONS

6.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City Manager or his designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall personally be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. The City Manager shall be designated as Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall personally attend and assist in all coordination meetings called by City.

6.4. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:	IF TO CITY:
	City of Costa Mesa
	77 Fair Drive
	Costa Mesa, CA 92626
Fax:	Fax: 714-754-5191
Tel:	Tel: 714-754-4808
	Attn: City Manager

6.5. Drug-free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "B" and incorporated herein by reference. Consultant's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

6.6. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all

costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.8. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.9 Indemnification and Hold Harmless: Consultant shall protect, defend, indemnify and hold harmless City and its elected and appointed officials, officers, and employees from any and all claims, liabilities, expenses, including attorney fees, damage to property or injuries to or death of any person or persons or damages of any nature including, but not by way of limitation, all civil claims or workers' compensation claims arising out of or in any way connected with the intentional or negligent acts, error or omissions of Consultant, its employees, agents or subcontractors in the performance of this Agreement.

6.10. Independent Contractor: Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall secure, at its expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder.

6.11 Ownership of Documents: All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

6.12 Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.13. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.14. Prohibited Employment: Consultant will not employ any regular employee of City while this Agreement is in effect.

6.15. Order of Precedence: In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail.

6.16. Costs: Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.17. No Third Party Beneficiary Rights: This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.18. Headings: Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.19. Construction: The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this

Agreement.

6.20. Amendments: Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.21. Waiver: The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.22. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.23. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.24. Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY OF COSTA MESA,
A municipal corporation

_____ Date: _____
City Manager of the City of Costa Mesa

CONSULTANT

_____ Date: _____

Signature

_____
Name and Title

_____
Social Security or Taxpayer ID Number

ATTEST:

_____
City Clerk and ex-officio Clerk
of the City of Costa Mesa

APPROVED AS TO FORM:

_____ Date: _____
City Attorney

EXHIBIT A

FORM OF CONFIDENTIALITY AGREEMENT

CONFIDENTIALITY AGREEMENT

This Agreement is entered into and made effective as of _____ ("Effective Date") by and between the City of Costa Mesa, a California municipal corporation (hereafter "City"), and _____ (hereafter "Recipient") and ratifies and formalizes verbal agreements and/or understandings between the parties as to matters of "Confidential Information" (defined below), entered into as of Effective Date.

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. During and/or as part of relationship with City, Recipient may perform services for City's Consultant _____, during the course of which, Recipient may learn confidential, business, trade secret, proprietary or other like information concerning City and/or third parties to whom the City has an obligation of confidentiality (collectively "Confidential Information"). Recipient understands and agrees that the term "Confidential Information" shall include, but not be limited to, all information relating to the negotiations between City and the State of California regarding purchase of the Orange County Fair and Event Center ("OCFEC") and any related negotiations between City and vendors, tenants, prospective lessees, sublessees or any other public or private party or prospective operator/lessee with whom City may negotiate as part of or related to the OCFEC acquisition, including identification of any individual, partnership, consortium, corporation, or other business entity which may be solicited to, offer to, or actually engage in negotiations with the City, all proposals, solicitations, correspondence, data, contract information, materials, drawings, specifications, business plan, marketing plans, financial, bid and other information disclosed to Recipient by City or City's Consultant _____ (or learned by reason of Recipient's relationship with City or City's Consultant). Recipient on behalf of itself and its agents, hereby disclaims any and all right, title and interest to the Confidential Information, and agrees to make no ownership or title claims therein. Recipient will at City's request timely assign and/or convey to City any right, title and/or interest that may for any reason be vested in Recipient with respect to any Confidential Information, as City may request.

2. Recipient by his/her/its signature below hereby agrees to hold the Confidential Information in confidence, shall not use the Confidential Information, nor any part thereof, other than for the purposes of its or City's Consultant's business with City, when and as specifically authorized by City in writing, and may only disclose such information to those officers, directors, agents, or employees, approved by City and who have a specific need to know such information, or when authorized or directed by City in writing. Recipient hereby represents and warrants, and further agrees to remain liable for the wrongful dissemination of any Confidential Information, by any person, agent or employee of Recipient to whom Recipient provides or has provided access to Confidential Information. In the event that Recipient or City's Consultant terminates their employment or contractual relationship with each other or with City ("Termination"), the obligations of Recipient hereunder and Recipient's duties to hold in confidence and not use or disclose Confidential Information or any part thereof, without the express written permission of City, shall remain in force and effect for the longer of (i) five (5) years from the date of Termination or (ii) for as long as Confidential Information shall remain protected from disclosure under California law, irrespective of any return thereof.

3. Confidential Information furnished in tangible form shall not be duplicated by Recipient except for the purposes approved by City. Upon the request of City, Recipient shall return all Confidential Information, whether written, tangible, in any existing form or media containing Confidential Information, copies or reproductions thereof.

4. Unless otherwise provided herein, Recipient shall have no obligation under this Agreement with respect to Confidential Information which is or becomes public knowledge through no fault of Recipient, or is rightfully received by Recipient without obligations of confidentiality, or is developed by Recipient both without breach of this Agreement and when City has no legal claim of title or ownership thereto.

5. Recipient agrees not to disclose the existence or terms and conditions of this Agreement or Recipient's access to Confidential Information, or the existence thereof except as otherwise required by law.

6. This Agreement shall be governed and construed in accordance with the laws of the United States and the State of California and Recipient consents to the exclusive jurisdiction of the State of California and U.S. Federal Courts located in California for any dispute arising out of this Agreement or the subject matter hereof. Recipient agrees that in the event of any breach or threatened breach by Recipient, City may obtain, in addition to any other legal remedies which may be available, such equitable relief (including injunctive relief) as may be necessary to protect City against any such breach or threatened breach.

7. This Agreement may only be modified by a writing that is duly executed by both parties. If any part of this Agreement is found to be unenforceable, only such offending provision(s) shall be stricken from this Agreement and this Agreement shall thereafter be construed consistent with the lawful intentions of the parties as hereby expressed, but without the offending provision(s). City's failure to exercise of any right hereunder shall in no event be construed as a waiver of such right or a breach by Recipient, which waivers are only valid if evidenced by a duly executed writing by City.

8. In the event that any legal action is initiated to enforce or interpret any of the terms and provisions of this Agreement, the prevailing party in such action shall be entitled to recover reasonable attorneys' fees and costs of suit.

9. BY SIGNING THIS AGREEMENT, RECIPIENT ACKNOWLEDGES THAT HE/SHE/IT HAS READ THIS AGREEMENT AND FULLY UNDERSTANDS IT AND INTENDS THAT IT SHALL BE A LEGALLY BINDING AGREEMENT.

Recipient: CITY:

_____ By: _____

Allan Roeder
City Manager

Date: _____ Date: _____

Approved as to form and content:

CITY CONSULTANT

By_____

EXHIBIT B

CITY COUNCIL POLICY 100-5

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	1 of 3

BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.

2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

POLICY

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:

    a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;

b. Establishing a Drug-Free Awareness Program to inform employees about:

   1. The dangers of drug abuse in the workplace;

   2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;

   3. Any available drug counseling, rehabilitation and employee assistance programs; and

   4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

c. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;

d. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:

   1. Abide by the terms of the statement; and

   2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

e. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;

f. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:

   1. Taking appropriate personnel action against such an employee, up to and including termination; or

   2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

g. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.

2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:

   a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;

   b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;

   c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.

3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.

EXHIBIT C

CERTIFICATE OF INSURANCE