

OAKLAND ZOO-TO-COMMUNITY PROGRAM REPORT

School/ Organization	Contact	Address	Zip Code	Type	2006-2007										Vouchers Redeemed
					Zoo Mobile # of programs	# served	Zoo School # of classes	# served	Zoo Trip # of buses	# served	Comments	Vouchers Distributed	Blank	Vouchers Redeemed	
26th Ave. Head Start	Michell Henry	1266 26th Ave.	94601	OHS	2	30	x	x	1	54		35		9	
85th Ave. Head Start	Michell Henry	8501 International Blvd.	94622	OHS	2	47	x	x	x	x		50		2	
92nd Ave. Head Start	Michell Henry	9202 International Blvd.	94603	OHS	4	105	x	x	x	x		105		11	
Alice St. Learning	Karen Wong	250 17th St.	94612	CDC	3	73	x	x	x	x		75		11	
Bridges @ Melrose	Marla Kamiya	1325 53rd Ave	94601	NS	6	122	x	x	2	91		124		20	
Brookfield Head Start	Michell Henry	9600 Edes Ave	94605	OHS	4	74	x	x	x	x		75			
Centro Main CDC	Gwendolyn Delaney	2660 East 16th St	94601	CDC	5	104	x	x	x	x		104		1	
City Towers Head Start	Fidelia Onyejekwe	1050 7th St.	94626	OHS	3	48	x	x	1	37	Head start day	50		8	
Cleveland Elementary	Sherfery	745 Cleveland Ave	94606	OUSD	1	36	x	x	x	x	CZM	36		7	
De Colores Center	Hafiza Mehtab	1155 35th Ave	94601	OHS	10	195	x	x	x	x		195		4	
De Colores Home Base	Marcie Paez	1155 35th Ave	94601	OHS	2	65	x	x	1	105		65		60	
Dia De Los Muertos	Cynthia Ashley	10000 Skyline Blvd	94619		1	1,000	x	x	x	x	Community ZM	500		32	
Eastmont Head Start	Michell Henry	7200 Bancroft Ave #203	94605	OHS	5	101	x	x	x	x		165			
Emerson CDC		4801 Lawton Ave	94609		1	38	x	x	x	x		40			
Fannie Wall Head Start	Michell Henry	647 55th St.	94609	OHS	1	22	x	x	x	x		25			
Fran G. Mar Head Start	Michell Henry	274 12th St.	94607	OHS	2	41	x	x	x	x		45		2	
Franklin Elementary	Robert Blanchard	915 Foothill Blvd	94606	OUSD	1	36	x	x	x	x	CZM	40			
Franklin Head Start	Michell Henry	1010 E. 15th St.	94606	OHS	2	34	x	x	x	x		35		8	
Fruitvale CDC		3200 Boston Ave.	94602		x	x	x	x	x	x		45			
Fruitvale Head Start	Yazmin Jara	1900 Fruitvale Suite 1A	94601	OHS	5	102	x	x	x	x		105		2	
Golden Gate	Margo Young	6232 Herzog Street	94608	CDC	2	61	x	x	1	78		65		13	
Harriet Tubman	Mrs. Figgs	800 33rd St.	94608	CDC	2	50	2	62	1	62	ZS with Trans	65		10	
Head Start Day	Oakland Unified Head Start				x	x	x	x	x	x		1608 families		1608	
Horace Mann	Dick Hues				x	x	2	65	x	x		65			
Lion Creek Crossing	Michell Henry	5818 International Blvd.	94621	OHS	4	48	x	x	1	55		50		9	
Lockwood		6701 International Blvd	94621		x	x	x	x	2	130		135		21	
Longfellow Ed. Center	Ann Johnson	500 Pacific Ave	94501		2	45	x	x	x	x		45			
Manzanita Head Start	Michell Henry	22nd Ave.	94606	OHS	1	10	x	x	x	x		10		1	
Mills Mont Academy	Claire Fisher	3200 62d Ave	94605		1	31	x	x	x	x	Career ZM	35			
ML King CDC	Jakatta Wallace	960 A 10th St.	94607	CDC	3	69	x	x	1	72		70		17	
New Highland Academy		8521 A St	94621		x	x	x	x	2	92		95		15	
Oak Park & Rec Summer Camp	Paul Bates Kip Walsh				x	x	x	x	x	x					
Prescott CDC	Dorothy Norwood	800 Campbell Street	94607	CDC	2	38	x	x	x	x		40		1	
San Antonio Park Head Start	Michell Henry	1701 E. 19th St.	94606	OHS	4	65	x	x	x	x		65			
Santa Fe CDC	Erna Wilson	5380 Adeline St.	94608	CDC	1	15	x	x	x	x		20			
SEED	Anne Perrone	2409 E 27th St.	94601	NS	x	x	2	58	2	130		75		22	
SOAR	Kip Walsh	150 Frank H. Ogawa Plaza	94612		x	x	x	x	x	x					
Stonehurst CDC	Gwendolyn Delaney	901 105th Ave	94603	CDC	6	94	x	x	x	x		95		10	
Studio 1 Art Center CXL					x	x	x	x	x	x					
Sun Gate Head Start	Michell Henry	2563 International Blvd.	94601	OHS	4	82	x	x	x	x		85		1	
Tassaforonga	Cynthia Hammock	975 85th Ave	94621		2	30	x	x	x	x		30		5	
Virginia Head Start	Michell Henry	4335 Virginia Ave.	94619	OHS	4	105	x	x	x	x		110		1	

Amendment No. 4 to Agreement
between
East Bay Zoological Society, Inc. and the City of Oakland

This Amendment No. 4 to the Agreement dated May 23, 2005 ("Agreement") between the City of Oakland, a municipal corporation, ("City") and East Bay Zoological Society, Inc., a California nonprofit public benefit corporation ("Society") for the operation and management of the City-owned zoo and park is made and entered into this first day of December, 2009.

The Parties agree as follows:

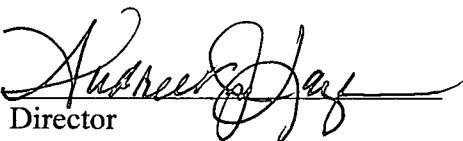
1. During Fiscal Year 2009 -2011 (July 1, 2009 to June 30, 2011) only, the annual City subsidy to Society shall be a total amount not to exceed \$846,900 per year. This amount reflects the action of the Oakland City Council as follows: 1) a \$100,000.00 Council Action on June 30, 2009 (Zoo - Reduce Subsidy) to reduce subsidy (#53); and 2) a 10% Council action on July 28, 2009 to reduce subsidies additional 10% (#36).
2. The funds will assist Society with managing, operating and improving the zoo and park, and provide essential support to the facilities and programs that benefit many Oakland residents, especially children and youth, and help to maintain and improve the quality of life in the City.
3. Society shall submit a written invoice to the Office of Parks and Recreation (OPR) for payment of the annual subsidy. City shall issue payment within 30 days of receipt of the invoice.
4. Except as amended herein, all other terms and conditions of the original Agreement shall remain unchanged and in full force and effect.

City of Oakland
a municipal corporation



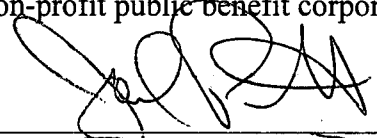
City Administrator
Date: 11/19/10

Office of Parks and Recreation



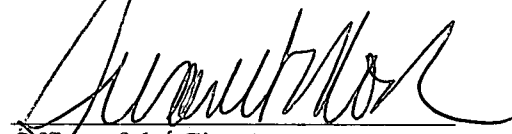
Director
Date: _____

East Bay Zoological Society, Inc.
a non-profit public benefit corporation



Title: Executive Director
Date: 12/22/09

Approved as to form and legality:



Office of the City Attorney
Date: 12/16/09

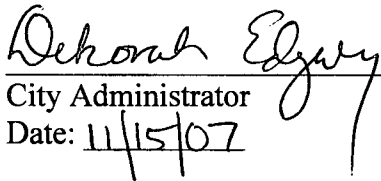
Amendment No. 3 to Agreement
between
East Bay Zoological Society, Inc. and the City of Oakland

This Amendment No. 3 to the Agreement dated May 23, 2005 ("Agreement") between the City of Oakland, a municipal corporation, ("City") and East Bay Zoological Society, Inc., a California nonprofit public benefit corporation ("Society") for the operation and management of the City-owned zoo and park is made and entered into this October day of 2007.

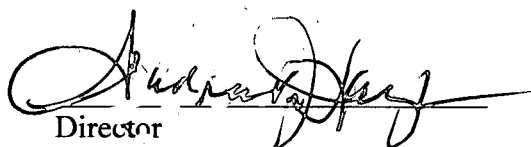
The Parties agree as follows:

1. During Fiscal Year 2007 -2009 (July 1, 2007 to June 30, 2009) only, the annual City subsidy to Society shall be a total amount not to exceed \$1,048,400 per year. The funds will assist Society with managing, operating and improving the zoo and park, and provide essential support to the facilities and programs that benefit many Oakland residents, especially children and youth, and help to maintain and improve the quality of life in the City.
2. Society shall submit a written invoice to the Office of Parks and Recreation (OPR) for payment of the annual subsidy. City shall issue payment within 30 days of receipt of the invoice.
3. Society acknowledges that Oakland Municipal Code Section 2.20.040A applies to the meetings of its governing board and that it will comply with the terms of that Section.
4. Except as amended herein, all other terms and conditions of the original Agreement shall remain unchanged and in full force and effect.

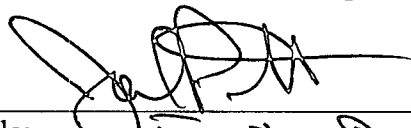
City of Oakland
a municipal corporation


City Administrator
Date: 11/15/07

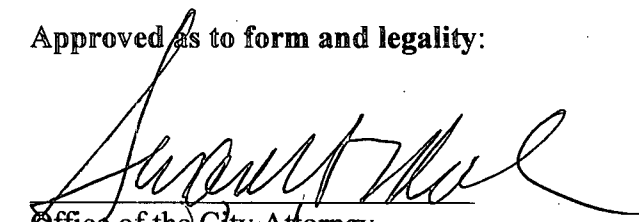
Office of Parks and Recreation


Director
Date: _____

East Bay Zoological Society, Inc.
a non-profit public benefit corporation


Title: Executive Director
Date: 10/19/07

Approved as to form and legality:


Office of the City Attorney
Date: 10/10/07

CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Office of the City Administrator
Deborah A. Edgerly
City Administrator

(510) 238-3301
FAX (510) 238-2223
TDD (510) 238-2007

December 27, 2006

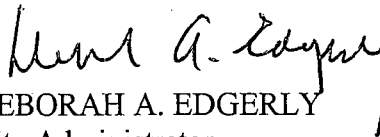
Dr. Joel Parrott
Executive Director
East Bay Zoological Society
P.O. Box 5238
Oakland, CA 94605

Dear Dr. Parrott:

Enclosed is the executed Amendment #2 to the agreement between the City of Oakland and the East Bay Zoological Society for the management of the Knowland Park and Zoo, for a fifteen-year period expiring on October 31, 2019.

Amendment No. 2, authorized by City Council Resolution No. 80087 C.M.S., provides for substitution of the required "one free admission day per month for Oakland residents" with the Zoo-to-Community: Urban Outreach Program to increase access for Oakland residents to the Zoo.

Sincerely,


DEBORAH A. EDGERLY
City Administrator

Enclosure

cc: Audree Jones-Taylor
Kip Walsh
Susan Mosk
Melanie Fong

Amendment No. 2 to Agreement
between
East Bay Zoological Society, Inc. and the City of Oakland

This Amendment to the Agreement between the City of Oakland, a municipal corporation, ("CITY") and East Bay Zoological Society, Inc., a California nonprofit public benefit corporation ("SOCIETY") for the operation and management of CITY-owned zoo and park dated May 23, 2005 (hereinafter "Agreement") is made and entered into this 18th day of December, 2006. Amendment No.2 pertains only to Section 11 (c), "Charges and Fees", (page 6 of the original Agreement),

In lieu of the One Free Admission Day per Month for Oakland Residents (Section 11 (c) "Charges and Fees", (c)), SOCIETY shall operate a Zoo-to-Community program, commencing September 1, 2006, which will increase the access for Oakland residents, especially children and youth, to the Zoo's variety of enriching exhibits, programs and experiences, which help to maintain and improve the quality of life in the City of Oakland.

The Zoo-to-Community Program shall include, but is not limited to, the following components and service goals as outlined in Exhibits A and B attached and incorporated herein:

- Zoo outings to explore Zoo exhibits
- Educational programs including classroom instruction and guided tours
- Zoomobile that brings the Zoo to schools, senior and community centers and medical facilities
- "Family Days" events for CITY Office of Parks and Recreation (OPR) participants
- Sponsored transportation
- Special education projects for target schools
- Paid internships for low-income diverse students each year.
- Distribute vouchers that will permit families to visit the Zoo on weekdays and weekends.

SOCIETY's Zoo-to-Community: An Urban Outreach Program description (including service goals), OPR-specific components, and monthly reporting format on program deliverables are attached as Exhibit A, Exhibit B and Exhibit C and incorporated herein.

SOCIETY shall work with CITY, OPR, Department of Human Services, Oakland Unified School District, and local community organizations in order to implement the program and gain participation from the diverse communities of Oakland.

SOCIETY commits to and shall perform on-going and annual Program Evaluation of the Zoo-to-Community program, including involvement of stakeholders.

SOCIETY shall present quarterly written reports to CITY concerning program implementation, including statistics on vouchers distributed and redeemed. SOCIETY shall present to CITY, on or before November 1st of each year, commencing 2007, its written annual evaluation findings regarding the extent to which the Zoo-to-Community program is achieving its goal to increase and enhance Oakland resident access to the Zoo and Zoo experiences.

If the Zoo-to-Community program does not meet that goal, CITY shall meet with SOCIETY to make necessary revisions, including the option to reinstate the free admission day per month for Oakland residents. Any Zoo-to-Community program revisions shall be presented to City Council for their approval so that the program achieves its goal of increasing Oakland resident access to the Zoo.

OPR is the City Administrator designee to oversee the Agreement.

SOCIETY shall submit the referenced quarterly and annual written reports to CITY, providing one copy to the Office of Parks and Recreation (ATTN: Director of Parks and Recreation, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland, CA 94612) and one copy to the Office of the City Administrator (ATTN: City Administrator, 1 Frank H. Ogawa Plaza, 3rd Floor, Oakland, CA 94612). SOCIETY shall make arrangements with OPR for scheduling its quarterly and annual reporting to the City Council.

Except as amended herein, all other terms and conditions of the original Agreement shall remain unchanged and in full force and effect.

CITY OF OAKLAND
a municipal corporation

EAST BAY ZOOLOGICAL SOCIETY, INC.
a non-profit public benefit corporation

Henry A. Lopez 12/23/06
City Administrator Date

[Signature] 12/19/06
Title: Executive Director Date

[Signature] 12/21/06
Director, Parks and Recreation Date

Approved for Form & Legality:

[Signature] 12/21/06
Office of the City Attorney Date

EXHIBIT B
ZOO-TO-COMMUNITY PROGRAM

OFFICE OF PARKS AND RECREATION

The Zoo-to-Community Program shall include delivery of the following services to or with the City of Oakland Office of Parks and Recreation (OPR):

1. Bring the Zoomobile to recreation centers at least five (5) times per year (these visits shall be included in the total count of Zoomobile visits for the year).
2. Work with OPR to coordinate "Family Days" events for OPR participants at least twice a year. OPR will contact and begin the planning with the Zoo for "Family Days" events at least 3 months prior to the date of each event.
3. Partner with OPR in the selection of appropriate candidates for paid internships for at least nine (9) annual low-income diverse students. OPR shall have the opportunity to recommend candidates for consideration in the Zoo's selection of paid internships for low-income diverse students. These candidates shall be OPR participants who have expressed interest in topics related to veterinary science and animal husbandry, and have also demonstrated some capacity for benefiting from the internship program.

ZOO-TO-COMMUNITY

An Urban Outreach Program

Of the Oakland Zoo
Oakland, California

A Presentation to the City of Oakland

CONSERVATION SOCIETY OF CALIFORNIA

OAKLAND ZOO

Mission of Zoo-To-Community

- To expand access to the educational and conservation programs of the Oakland Zoo to inspire respect for and stewardship of the natural world.

TARGET POPULATIONS

Citizens of Oakland with limited access to the Oakland Zoo due to geographical, economic, physiological or other barriers, including:

- Schools with federal low income designations
- City of Oakland Parks and Recreation programs in low income areas
- Headstart supported pre-schools
- Seniors
- Schools or centers for persons with disabilities
- Community Youth Clubs (Boys/ Girls Clubs, Big Brothers/Sisters)

A Multi-faceted Outreach Approach

- **Host groups for Zoo outings**
- **Host groups for educational programming**
- **Zoo Mobile visits to targeted sites**
- **Zoo sponsored transportation for groups**
- **Special projects with selected schools**
- **Internships for low income diverse teens**

ZOO OUTINGS

Zoo will host groups for general visits:

- Self-guided tours with zoo field guides
- Self-guided tours with teacher supervision
- Docent guided tours
- Conservation programs include Arroyo Viejo Creek Restoration Project

EDUCATIONAL PROGRAMMING

- Onsite state of the art educational facility
- Experience professional educational staff
- Curriculum integrated with California K-12 Education Standards
- Coordination with teachers prior to visits

ZOO MOBILE AND CONSERVATION VAN OUTREACH

- Take animals to citizens
- Take educational programs to citizens
 - Initial exposure to Zoo's mission
 - Create desire for total experience

ZOO SPONSORED TRANSPORT

- Providing bus transportation to Zoo
 - Relieves community of transport barrier
 - Enhances attendance of targeted groups

SPECIAL EDUCATIONAL PROJECTS

- Enhance relationships with selected schools
- Provide in-depth curriculum on animals and conservation

INTERNSHIPS FOR LOW INCOME DIVERSE TEENS

- Provide internships for select students
- Enhance career development opportunities for low income teens
- Enhance diversity of current Zoo staff
- Provide linkages to targeted low income diverse communities
- Enhance participation in conservation research

Program Objectives FY 2006-07

Increase Outreach to Targeted Populations

<u>Initiative</u>	<u>(#)</u>	<u>People Served</u>
◦ Zoo outings	(10)	500
◦ Ed'nal programs	(10)	500
◦ Zoo Mobile visits	(15)	300
◦ Transport (Bus Days)	(20)	Counted Above
◦ Special Projects	(2)	80
◦ Career Night (Teens)	(2)	100
◦ Internships for teens (3 per semester)	(9)	9
◦ Voucher Distribution		20,000
◦ Overnight Programs	(5)	<u>100</u>
» Total		21,589

Estimated Costs FY 2006-07

<u>Initiative</u>	<u>(#)</u>	<u>Estimated Value/Cost</u>
• Zoo outings	(10) (500 x \$6.00)	\$3,000
• Ed'nal programs	(10)	\$4,000
• Zoo Mobile visits	(15)	\$3,750
• Transport (Bus Days)	(20) (1,000 x \$6.00)	\$16,000
• Special Projects	(2)	\$10,000 (staff time)
• Career Nights	(2)	\$1,000
• Internships for teens	(9)	\$45,000 (staff time)
• Overnight Programs	(5)	\$4,000
• Voucher Distribution	(20,000)	
	(10,000 adults x \$9.00)	\$90,000
	(10,000 children x \$5.50)	\$60,000
	TOTAL	\$236,750

Zoo-To-Community PROGRAM EVALUATION

- **Front-end Evaluation**
 - Involvement of stakeholders in program design
- **Formative Evaluation**
 - Feedback during design and development
- **Remedial Evaluation**
 - Improvements/corrections during implementation
- **Summative Evaluation**
 - Assessment of outcomes or impact

Storksdieck, Martin, 2005. How to reach urban communities:
Lessons learned from museum evaluation in Ted Trzyna, ed., The
Urban Imperative. California Institute of Public Affairs,
Sacramento, California.

ZOO AMENDMENT NO. 2
EXHIBIT A

EAST BAY ZOOLOGICAL SOCIETY

EXHIBIT C

Zoo-to-Community Program Report

Date _____

PROGRAM ACTIVITIES DESCRIPTION

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PROGRAM DELIVERABLES

Component	Annual Targets	Year to Date	Current Month
Free Zoo Outings - OUSD / Charter Schools	10		
Educational Programs - OUSD / Charter Schools	10		
Zoo Mobile Visits - Head Start Sites	5		
Zoo Mobile Visits - OPR	5		
Zoo Mobile Visits - Other	5		
OPR "Family Days" at the Zoo	2		
Free Transportation Provided to Zoo (days)	20		
Special Education Projects to OUSD	2		
Paid Internships for Low-Income, Diverse Teens	9		
Career Nights - Teens	2		
Overnight Programs	5		
Family Discount or Free Admission Vouchers Redeemed	20000		

OAKLAND POPULATIONS SERVED

*Low income families and children**

Seniors

Disabled patrons

Component	Annual Targets	Year to Date	Current Month
Zoo Outings - OUSD / Charter Schools	500		
Office of Parks & Recreation	150		
Head Start Children	150		
Oakland Family members	2000		
Paid internship participants	9		
Seniors	100		
Disabled patrons	50		
TOTALS	2959		

*Children and families who qualify for Federal free or reduced price meal programs (Income <\$37,000/yr. for a family of 4)

OFFICE OF THE CITY CLERK
OAKLAND

2006 JUN 29 PM 7:49

OAKLAND CITY COUNCIL

RESOLUTION No. 50087 C.M.S.

Approved as to Form and Legality


City Attorney

RESOLUTION AUTHORIZING AMENDMENT No. 2 TO THE FIFTEEN YEAR AGREEMENT BETWEEN THE CITY OF OAKLAND AND THE EAST BAY ZOOLOGICAL SOCIETY, INC., FOR THE MANAGEMENT AND OPERATION OF THE KNOWLAND PARK AND ZOO, EXPIRING ON OCTOBER 31, 2019, THAT SUBSTITUTES THE REQUIREMENT OF "ONE-FREE ADMISSION DAY PER MONTH FOR OAKLAND RESIDENTS" WITH THE "ZOO-TO-COMMUNITY: AN URBAN OUTREACH PROGRAM"

WHEREAS, the City of Oakland ("City") and the East Bay Zoological Society, Inc., a nonprofit corporation ("Society"), executed a fifteen year Agreement on May 23, 2005, as authorized by Resolution No. 78872 C.M.S., for the purpose of operating, managing, maintaining and improving Knowland Park and Zoo for the use and benefit of the public; and

WHEREAS, the Zoo and Park is a unique and important asset for the education, recreation and enjoyment of Oakland's children, students, residents and visitors; and

WHEREAS, the Agreement requires Society to provide one free admission day per month for Oakland residents to the Zoo and Park; and

WHEREAS, Society evaluated the potential impact and logistics of providing one free admission day per month to Oakland residents, and has proposed an alternative approach that Society believes would better meet City Council's desire to reach Oakland children, youth and families who might not otherwise have access to the Zoo; and

WHEREAS, Society proposes to substitute the required "one free admission day per month for Oakland residents" with the multi-faceted "Zoo-to-Community: Urban Outreach Program";

WHEREAS, the proposed "Zoo-to-Community: Urban Outreach Program" is comprised of targeted outreach, sponsored transportation, special education projects, paid internships for low-income diverse students, family vouchers for weekday and weekend Zoo visits, collaboration with City and community agencies for program implementation, program evaluation, and other key components and elements, it shows considerable promise for increasing Oakland resident access to the Zoo exhibit area and the entire Zoo experience; now therefore be it

RESOLVED: That the City Administrator of the City of Oakland is hereby authorized and directed to negotiate and execute an amendment to the original Agreement to substitute the required "one free admission day per month for Oakland residents" with the multi-faceted "Zoo-to-Community: Urban Outreach Program"; and be it

FURTHER RESOLVED: That the Office of the City Attorney shall review and approve the amendment to the Agreement authorized by this Resolution prior to the City Administrator's execution of same; and a copy of the amended Agreement will be on file at the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 25 2006, 2006

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, ~~BRUNNER~~, CHANG, KERNIGHAN, NADEL, QUAN, REID, and ~~PRESIDENT DE LA FUENTE~~ -6

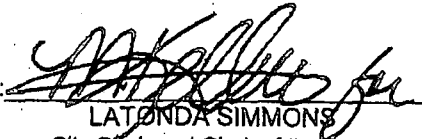
NOES- 1 Brunner

ABSENT- 0

ABSTENTION- 0

Excused- 1 De La Fuente

ATTEST:



LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Office of the City Administrator
Deborah A. Edgerly
City Administrator

(510) 238-3301
FAX (510) 238-2223
TDD (510) 238-2007

November 3, 2005

Dr. Joel Parrott
Executive Director
East Bay Zoological Society
P.O. Box 5238
Oakland, CA 94605

Dear Dr. Parrott:

Enclosed is the executed Amendment #1 to the agreement between the City of Oakland and the East Bay Zoological Society for the management of the Knowland Park and Zoo, for a fifteen-year period expiring on October 31, 2019. Amendment No. 1 addresses the additional annual subsidy amount to the Zoological Society, which was approved by City Council for Fiscal Year 2005 -2007 only, and clarifies the payment process.

Sincerely,


DEBORAH A. EDGERLY
City Administrator

Enclosure

cc: Audree Jones-Taylor
Margaret Fujioka
Melanie Fong

Amendment No. 1 to Agreement
between
East Bay Zoological Society, Inc. and the City of Oakland

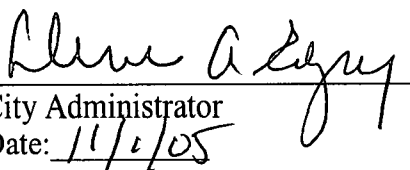
This Amendment to the Agreement between the City of Oakland, a municipal corporation, hereinafter referred to as "City" and East Bay Zoological Society, Inc., a California nonprofit public benefit corporation (hereinafter referred to as "SOCIETY") for the operation and management of the City-owned zoo and park dated May 23, 2005 (hereinafter "Agreement") is made and entered into this 3rd day of November, 2005.

During Fiscal Year 2005 -2007 (July 1, 2005 to June 30, 2007) only, the annual City subsidy to SOCIETY shall increase by Five Hundred Thousand (\$500,000) dollars, for a total amount not to exceed Six Hundred Seventy-Two Thousand, Four Hundred Fourteen (\$672,414) dollars per year. The funds will assist SOCIETY with managing, operating and improving the zoo and park, and provide essential support to the facilities and programs that benefit many Oakland residents, especially children and youth, and help to maintain and improve the quality of life in the City.

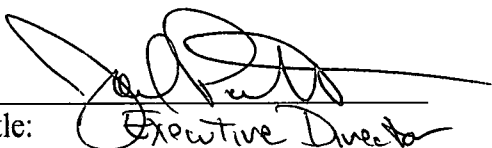
SOCIETY shall submit written invoice to the Office of Parks and Recreation (OPR) for payment of the annual subsidy.

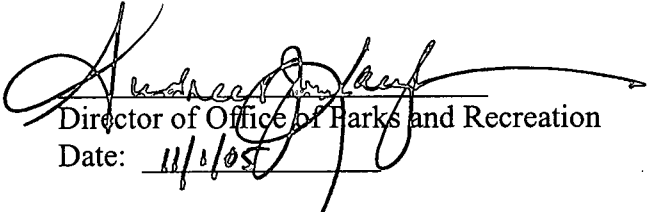
Except as amended herein, all other terms and conditions of the original Agreement shall remain unchanged and in full force and effect.

CITY OF OAKLAND
a municipal corporation

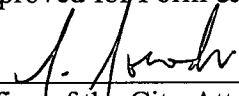

City Administrator
Date: 11/1/05

EAST BAY ZOOLOGICAL SOCIETY, INC.
a non-profit public benefit corporation


Title: Executive Director
Date: 10/28/05


Director of Office of Parks and Recreation
Date: 11/1/05

Approved for Form & Legality:


Office of the City Attorney Date: 11-3-05



Memo

Office of the City Administrator

November 3, 2005

To: Records Section, Office of the City Clerk
From: Melanie Fong *M Fong*
Re: Amendment #1 to Agreement between East Bay Zoological Society, Inc., and the City of Oakland

Enclosed for the City Clerk's official files is an executed **original of Amendment #1** to the Agreement between East Bay Zoological Society, Inc., and the City of Oakland, which was authorized by **City Council Resolution 78872 C.M.S., on October 19, 2004**, for the management of Knowland Park and Zoo. Please attach this to the Agreement that you have on file.

Thank you.

CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Office of the City Administrator
Deborah A. Edgerly
City Administrator

(510) 238-3301
FAX (510) 238-2223
TDD (510) 238-2007


May 24, 2005

Mr. Bob Montgomery
President
East Bay Zoological Society
P.O. Box 5238
Oakland, CA 94605

Dear Mr. Montgomery:

Enclosed is the executed agreement between the City of Oakland and the East Bay Zoological Society for the management of the Knowland Park and Zoo, for a fifteen-year period expiring on October 31, 2019.

Sincerely,


DEBORAH A. EDGERLY
City Administrator

Enclosures

cc: Dr. Joel Parrott
Audree Jones-Taylor
Margaret Fujioka
Melanie Fong

AGREEMENT

between

EAST BAY ZOOLOGICAL SOCIETY, Inc., and CITY OF OAKLAND

THIS AGREEMENT is made and entered into this 23rd day of May, 2005, between the CITY OF OAKLAND, a municipal corporation, hereinafter referred to as "CITY" and EAST BAY ZOOLOGICAL SOCIETY, INC., a California nonprofit public interest corporation (hereinafter referred to as "SOCIETY") for the operation and management of CITY-owned ZOO AND PARK.

WITNESSETH

WHEREAS, the CITY is the fee owner of that certain real property located at 9777 Golf Links Road, Oakland, California and which is described in **Exhibit "A"**, attached and incorporated herein by references (hereinafter referred to as "ZOO AND PARK"); and

WHEREAS, the ZOO AND PARK are a unique and important asset for the education, enjoyment and recreation of the CITY'S children, students, residents and visitors; and

WHEREAS, the CITY desires to promote and aid in said property's maintenance and improvement as an educational and recreational area consisting of, but not limited to, zoological and botanical gardens for the citizens of the CITY, among others; and

WHEREAS, the SOCIETY desires to maintain, operate and improve said real property consistent with the CITY'S desires; and

WHEREAS, the SOCIETY administers and manages an annual budget in excess of Six Million (\$6,000,000.00) dollars and which continues to grow; and

WHEREAS, the SOCIETY contributes in excess of One Million (\$1,000,000.00) dollars per year to the maintenance, operation, and improvement of the ZOO AND PARK over and above the revenues from the operation of the ZOO AND PARK; NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

IN CONSIDERATION OF THE ABOVE RECITALS AND PERFORMANCE OF THE RESPECTIVE COVENANTS HEREINAFTER DESCRIBED, the CITY and the SOCIETY hereby agree that the SOCIETY shall improve, maintain and operate the ZOO AND PARK, upon the following terms and conditions:

1. FEE INTEREST: The CITY shall retain the fee title to the above-referenced real property.
2. TERM: The term of this Agreement shall be for fifteen (15) years commencing upon execution hereof and expiring on October 31, 2019.
3. MANAGEMENT, IMPROVEMENT AND MAINTENANCE: For purposes of management, improvement, and maintenance, as described in Section 18a, Knowland Park is hereby divided into three (3) areas as shown on the map entitled "Knowland Park Management, Improvements and Maintenance Plan" which plan is attached and incorporated herein by reference as **Exhibit "B"**.
 - a. Upper Area: This area contains approximately 65 acres and is that portion of the ZOO AND PARK that lies between Golf Links Road and Skyline Blvd. The Upper Area is to be maintained in its present natural condition as undeveloped land during the contract period.
 - b. Mesa Area: This area contains approximately 275 acres and is that portion of the ZOO AND PARK that lies southerly of Golf Links Road and northerly of the private property from Golf Links Road westerly to Maggiora. The SOCIETY shall implement improvements to the Mesa Area pursuant to the Master Plan approved by the City Council in December 1998 and the City's Major Conditional Use Permit approved December 16, 1998 (collectively the "Master Plan"). Any planning and development of this area shall be done with the consultation of the neighborhood associations bordering ZOO AND PARK.
 - c. Lower Area: This area contains approximately 150 acres and is that portion of the ZOO AND PARK that is generally developed and contains, among other developments, the zoological collection. The two caretakers' homes, located northeast of the lower meadow, may be rented out by the SOCIETY, however such rental shall be limited to ZOO personnel only. The SOCIETY shall implement improvements to the Lower Area pursuant to the Master Plan approved by the City Council in December 1998. Improvements to be paid for with funds from any tax-exempt bond funds shall be performed in compliance with all agreements between the CITY and the SOCIETY and all documents pursuant to which such bonds were issued.

The SOCIETY agrees that it will not, except by prior approval of the City Council, cause any development of the meadowland area that is inconsistent with ZOO AND PARK uses. The meadowland areas are the two large cultivated turf areas in the lower park. One lies north-easterly of the main entrance to the park and the other southerly of the entrance and north of the zoological collection. The SOCIETY shall be entitled to close the picnic facilities if necessary for security and safety reasons with CITY approval.

4. **AGREEMENTS:** The SOCIETY and CITY agree that this Agreement supersedes all previous agreements with respect to SOCIETY'S operations in Knowland Park and further confirms the SOCIETY'S right to continue the operation of concessions including food, rides, the Snow Building, and programs, and further confirms the SOCIETY'S responsibility for all financial obligations of such agreements.
5. **IMPROVEMENTS AND MAINTENANCE:** The SOCIETY shall implement the improvements in the Lower Area as set forth in the Master Plan or any amendments thereto, as approved by the City Council. The SOCIETY shall, during implementation of the improvements, adhere to sound business and legal practices concerning the following areas: design, construction, financing, supervision, building codes, regulations, maintenance, and all other applicable laws. The SOCIETY shall keep the premises free and clear from any and all liens, claims and demands for work performed, materials furnished or operations conducted on said premises.

Any improvements shall be subject to all applicable federal, state, and local permitting and development requirements including, but not limited to, the California Environmental Quality Act, Oakland Planning Code, Oakland General Plan (including the Open Space Conservation and Recreation Element [OSCAR]), and Oakland Municipal Code, (including the Creek Protection Ordinance and Grading Ordinance). The SOCIETY shall obtain all necessary permits and regulatory approvals at its sole cost and expense prior to the commencement of any work.

6. **FINANCING:** The SOCIETY raises funds for the maintenance, operation and improvement of the ZOO AND PARK, over and above the revenues it receives from the ZOO AND PARK programs and activities. In order to implement said improvements, the SOCIETY will be required to raise funds through available means of financing. The SOCIETY shall, with the approval of the City Council, have the right and authority to:

- a. Collect and use in accordance with this Agreement all revenues collected at the ZOO AND PARK;
 - b. Sub-license concession areas to responsible parties for a period of time less than that remaining of the term of the Agreement;
 - c. Charge admission and/or Snow Building rental fees in accordance with paragraphs 11 (c) and (d) below;
 - d. Raise funds in any other lawful manner.
 - e. Make, execute or guarantee indebtedness secured by Society's improvements; but under no circumstances shall such indebtedness be construed as a debt of the City, nor shall it constitute in any way a lien or encumbrance on the fee of said leased premises or any interest of the City in said premises.
7. ACCOUNTING/FUND ACCUMULATION: SOCIETY agrees to comply with City accounting and audit requirements for nonprofit organizations, including any updates and modifications, set forth by the Finance Director, City Auditor and City Administrator during the term of the agreement. The audit provision shall conform to the requirements outlined in **Exhibit "C"**, including the Table of Contract Clauses Related to Financial Responsibilities, and any updates and modifications.
8. ACCESS TO RECORDS: SOCIETY shall provide requested records to CITY within five (5) working days of receipt of CITY's request and shall allow CITY access to books and records at all reasonable times. At the option of the City, SOCIETY shall provide payroll tax reports, sales tax reports, income tax reports, hazardous materials reports, and other reports filed with federal, state and local government.
9. RECORDS RETENTION: SOCIETY shall maintain financial and operational records until the later of five (5) years after the end of the agreement or two (2) years after closure of all disputed matters. Such records during the period of the Agreement and the retention period are to be retained at a site of local administration or a storage site nearby with availability to City parties in interest.
10. FUNDS: During the term of the Agreement, the SOCIETY may accumulate funds received from its operation of the ZOO AND PARK to be used for the following purpose: (1) Regular operation and maintenance as the SOCIETY expands, and 2) Improvements, construction of new exhibits and facilities, and animal acquisitions.

The SOCIETY shall apply funds from the Measure K and Measure G Bond Issues and other funds received from the CITY to the implementation of the Master Plan and the construction of such improvement projects, or other projects approved by the CITY, which funds shall be administered by the SOCIETY in accordance with all applicable laws and regulations and in accordance with the applicable bond documents and Master Agreements, if any, with respect to Measure K, Measure G or other funds received from the CITY.

It is the intention of the CITY and the SOCIETY that the improvements in Knowland Park be completed in a timely, continuous and expeditious manner.

In order to expedite capital improvements, the SOCIETY shall submit annually to the City Office of Parks and Recreation ("OPR"), within one hundred fifty (150) days after the end of its fiscal year, a capital improvement budget, spending plan, actual expenses and schedule describing its projected development for the current budget year and for the next two (2) following years.

The total amount of money to be spent annually and the scheduling of development shall be the principal responsibility of the SOCIETY. In the event a disagreement arises concerning the schedule, the SOCIETY and OPR shall meet and attempt to resolve such issues at the earliest practical time. Both parties agree to act reasonably and in good faith. In the event that these differences cannot be resolved, final resolution shall rest with the City Council.

11. CHARGES AND FEES:

- a. Goods, Services, Rides: The SOCIETY and/or its licensees may set and determine prices for services, goods and products sold to the public; provided, however, that said prices shall not be more than those charged for similar services, goods and products at comparable facilities, such as San Diego Zoo, Sea World and Six Flags Marine World.
- b. Parking Fees: The SOCIETY may collect and receive parking fees charged to the public. Said fees shall not exceed those charged at comparable facilities, such as San Diego Zoo, Sea World and Six Flags Marine World.
- c. Admission Fees: The SOCIETY may charge and receive admission fees to the ZOO AND PARK. Said fees shall not

exceed those charged by other similar facilities such as the San Diego Zoo, Sea World and Six Flags Marine World. The SOCIETY agrees to allow one free admission day per month for Oakland residents. SOCIETY shall determine which day of the month will be the free admission day and shall notify CITY and public accordingly.

- d. Rental Fees: SOCIETY agrees to offset up to \$3,500 per year in rental fees for qualified non-profit organizations that desire to use rental facilities under the Community Access Grant Program. The Community Access Grant application is attached and incorporated herein by reference as **Exhibit "D"**.
- e. Submittal of New or Revised Fees: SOCIETY shall submit to OPR any proposed new or revised fees no later than 3 months prior to the desired effective date for the fee change. The change would take effect upon City Council action to amend the Master Fee Schedule.

12. SOCIETY SERVICES:

- a. On-Going Services: Society shall provide on-going services consistent with the accreditation standards of the American Zoo and Aquarium Association (AZA), Alameda County Health and any other federal, state or local standards or requirements.
- b. Programs and Entertainment: The SOCIETY will provide programs and entertainment at ZOO AND PARK for the benefit of the public.
- c. Concessionaires: The SOCIETY may enter into agreements with Concessionaires for the sale of food and/or souvenirs, and for the operation of children's rides or animal exhibits. The SOCIETY may enter into agreements with suppliers for goods, food, souvenirs, materials, supplies and services related to the operation of the park. Selection and award of contractors and suppliers shall follow the CITY'S established policies regarding awards of sub-contracts and/or selection of vendors. Improvements by a concessionaire shall be subject to prior approval by the City Administrator. In the event a concessionaire desires to retain ownership of improvements placed or constructed on the real property, they may be allowed to do so by the SOCIETY so long as the CITY'S interest in the land upon which improvements are located is not subordinate

land upon which improvements are located is not subordinate thereto at any time; provided further, that, upon termination of the concession, at the CITY'S option, the premises shall be returned in as good a condition as existed prior to commencement of construction of the improvements. The SOCIETY shall provide OPR copies of all sub-concession agreements and audited financial statements annually.

13. CITY OWNED ANIMALS:

- a. All animals and their issue now owned by the CITY and presently existing at the ZOO AND PARK shall be loaned to the SOCIETY during the term hereof for its use in developing and operating the premises; and the SOCIETY may, on the CITY'S account, buy, sell, trade and breed said animals during the term hereof so long as the proceeds there from are restricted to the acquisition, breeding and care of other animals. Further, all animals and their issue acquired by the SOCIETY subsequent to the execution of this Agreement shall become the property of the CITY. The CITY shall retain legal ownership of all animals and their issue at the ZOO AND PARK. The SOCIETY shall have exclusive control over and be responsible for the care, maintenance and feeding of such animals, or disposing of any deceased animals. All animals at the ZOO AND PARK at the expiration or termination of this Agreement shall be the sole property of the CITY.
- b. Should the SOCIETY, from time to time, receive animals by way of donation from third persons, or should the SOCIETY acquire animals with its own resources, the ownership of said donated animals shall immediately vest in CITY upon transfer of possession to the SOCIETY.
- c. The SOCIETY shall submit to OPR annually a written inventory of all animals. Said annual inventory is due at the beginning of the SOCIETY'S fiscal year.

14. CITY SUBSIDY: In consideration of the services to be performed by the SOCIETY for managing, operating and improving the ZOO AND PARK, and its efforts in raising and administering monies from private donations by local businesses and individuals and national and international funds, and governmental contributions from East Bay Regional Park District to the SOCIETY, the CITY agrees to subsidize the SOCIETY in an annual amount which totals One Hundred Seventy Two Thousand, Four Hundred Fourteen dollars (\$172,414.00) to be

passed through directly to the SOCIETY for zoo operations at the commencement of each fiscal year. The CITY also agrees to employ the one (1) CITY zookeeper until the employee ceases employment at the ZOO and PARK provided that no contract for service shall result in the loss of employment or salary by any person having permanent status in the competitive service. If the zookeeper ceases to be employed at the ZOO AND PARK, but SOCIETY hires a replacement zookeeper, the CITY shall contribute Forty Thousand dollars (\$40,000) toward the replacement zookeeper costs and expenses. The CITY's subsidy shall not exceed One Hundred Seventy Two Thousand, Four Hundred Fourteen dollars (\$172,414.00), however, should the SOCIETY elect not to hire a zookeeper replacement.

Such subsidy shall not be deducted from nor reduced by County real property taxes allocated by law to the ZOO AND PARK or the SOCIETY, approximately Twenty Three Million Six Hundred Thousand (\$23,600,000.00) dollars plus all interest earned in Measure G bond funds, Ten Million (\$10,000,000.00) dollars in Measure K funds payable to the SOCIETY, or any other monies paid to the CITY for the maintenance, operation or improvement of the ZOO AND PARK by any public or private person or entity. The CITY agrees to pay all such funds to the SOCIETY promptly in accordance with any terms or conditions required by the donor of any such funds.

The CITY recognizes that the SOCIETY must be able to ensure sufficient operating and maintenance funds for the ZOO AND PARK. SOCIETY may request for CITY Council consideration through the CITY's biannual budget process, an increase in CITY subsidy for the operation and maintenance of the ZOO AND PARK during the term of the Agreement. Such request shall be submitted to the City Administrator and OPR between September 1 through November 1 prior to a new 2-year budget. The request should state the requested dollar amount, identify the operational costs to be covered, explain the need relative to operating costs and projected revenues, and specify the impact if the request is not granted. The CITY agrees to assist the SOCIETY in its efforts to meet the ZOO AND PARK's annual operating and maintenance needs and retain its accreditation with the AZA.

15. REPORT OF EXPENDITURES: SOCIETY shall provide, during the course of the Agreement, reports of expenditures from the proceeds of City funds, loan funds from City administered programs and grants from programs administered by the City. The reports shall be at such frequency and of such content as specified by the City Administrator or

her designee (OPR) and/or the City Auditor. Supporting documents may be required to be attached.

16. **PROPERTY ACCOUNTING:** SOCIETY has a responsibility for the protection, maintenance and preservation of all property held as a custodian for the City. At the inception of this Agreement, the parties shall inventory all tangible property of the City transferred to the custody of SOCIETY. All tangible property acquired during the course of this Agreement shall be the property of the City when acquired by City grant, operating revenues, refunds, fund raising revenues, governmental grants and other grants. Annually, SOCIETY shall provide an acquisition and disposal report for tangible property. Property dispositions shall be approved by the City Administrator or her designee (OPR) prior to such disposition. At the conclusion of this Agreement, all City tangible property shall be returned to the City with shipping and delivery expenses to be at SOCIETY'S sole expense.

17. **RETURN OF FUNDS AT END OF TERM:** Upon termination of this Agreement, SOCIETY shall close all accounts; all account balances shall be determined and certified by an independent Certified Public Accountant; and such balances shall be forwarded to the CITY within one-hundred-twenty (120) days after such termination.

18. **SOCIETY OBLIGATIONS:** The parties agree that it is the intent of this Paragraph 18, and the subparts thereof, that the SOCIETY shall be solely responsible for all maintenance, management and rehabilitation of ZOO AND PARK, and shall comply with all applicable Federal (including ADA), State, County, and City rules and regulations. CITY shall not have any responsibility for maintenance, management, and rehabilitation of ZOO AND PARK.

a. Maintenance and Utilities

Maintenance includes, but is not limited to, animals, grounds, buildings, rides, elevators, equipment, and security, administration and staffing therefore. The SOCIETY further agrees that it will be responsible for proper budget and financial reporting for those maintenance, management and rehabilitation responsibilities stated hereinabove; for all licenses, fees, possessory interest taxes, if applicable, and all regulations relative to the care, feeding, importing and exporting of animals. The SOCIETY shall pay and be responsible for all charges for the furnishing of gas, water, electricity, telephone service and other public utilities to the premises during the term of this Agreement and for the removal of garbage and rubbish from said premises. The SOCIETY further agrees that all animals at the ZOO AND PARK shall be maintained

in a manner consistent with accreditation standards of the American Zoo and Aquarium Association (AZA) and in accordance with applicable Federal, State, County, or City rules and regulations.

b. Amusement Ride Inspection and Certification

The SOCIETY shall be solely responsible for conducting annual amusement ride inspections and obtaining certification from the State of California as required pursuant to Title 8 CCR 344.5 through 344.18. The SOCIETY shall also be solely responsible for inspection and certification of the Tram pursuant to Title 8 CCR 343.

19. BOARD OF TRUSTEES: The Board shall consist of up to twenty-seven (27) members, one of whom shall be a representative of the Docent Council and the remaining Board members shall be selected from a broad cross section of the people of the Bay Area that reflects the cultural diversity within the Oakland Community/East Bay area. An Executive Director for the SOCIETY shall be employed by the Board. The Executive Director shall be responsible for the efficient operation of the business of the SOCIETY, and shall exercise supervision of all employees, purchasing and actions of the SOCIETY, subject to the direction of the Board, and shall perform such other duties as may be prescribed by the Board from time to time. A copy of the Nonprofit Corporation's Articles of Incorporation and all currently approved Bylaws, and any Constitution and Amendments shall be submitted to OPR within thirty (30) days of the date of execution of this Agreement. Any amendments to these documents shall be submitted to OPR within thirty (30) days after the Board of Trustees' approval.

20. INSURANCE:

Unless a written waiver is obtained from the City's Risk Manager, SOCIETY shall provide the insurance listed in **Schedule Q** attached hereto and incorporated herein by reference.

21. NON-DISCRIMINATION/EQUAL EMPLOYMENT PRACTICES/EQUAL BENEFITS: In carrying out the maintenance and improvements of the subject property, in determining the appropriate fees to be charged, the SOCIETY shall endeavor to establish programs and charges that will make the subject property and facilities attractive and available to all levels of economic, racial and academic interest in the community, provided that the SOCIETY'S goal of financial self-sufficiency is not thereby endangered.

SOCIETY and SOCIETY'S Subcontractors shall state in all solicitations or advertisements for employees placed by or on behalf of SOCIETY that all qualified applicants will receive consideration for employment without regard to age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.

SOCIETY shall make its goods, services, and facilities accessible to people with disabilities and shall verify compliance with the Americans with Disabilities Act by executing **Schedule C-1** "Declaration of Compliance with the Americans with Disabilities Act," attached hereto and incorporated herein.

This Agreement is subject to the Equal Benefits Ordinance, Municipal Code, Chapter 2.32 requiring contractors on City contracts of \$25,000.00 or more to provide employee benefits to their employees with domestic partners equivalent to those provided to their employees with spouses. The ordinance covers all benefits that an employer offers its employees and their spouses, which include but are not limited to, health benefits, bereavement leave, family leave, retirement benefits, travel and other benefits. Contractor and vendors that do not have employees or do not provide employees with spousal benefits are not required to change their benefits policies. All Contractors shall execute an "Equal Benefits Declaration of Non-Discrimination" which shall be incorporated herein and attached as **Schedule C-2** to this Agreement.

If applicable, SOCIETY will send to each labor union or representative of workers with whom SOCIETY has a collective bargaining agreement or contract or understanding, a notice advising the labor union or workers' representative of SOCIETY'S commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The SOCIETY further agrees that it shall not discriminate against any employee or applicant for employment because of race, creed, religion, sex, sexual preference, color, national origin, age, marital status, Acquired Immune Deficiency Syndrome (AIDS), AIDS Related Complex (ARC) or disability, handicap and that such provisions shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other

form of compensation, and selection for training, including apprenticeship.

22. TWENTY PERCENT (20%) LOCAL, SMALL BUSINESS ENTERPRISE PROGRAM (LSBE); LOCAL EMPLOYMENT PROGRAM; FIFTEEN PERCENT (15%) APPRENTICESHIP PROGRAM

For contracts \$15,000.00 or higher, contractors utilizing subcontractors shall comply with the 20% LBE/SLBE participation requirement for the City's Professional Services Contract Program. Contractors shall comply with the twenty percent (20%) local business participation requirement at a rate of ten percent (10%) local and 10% small local business participation. The requirement may be satisfied by a certified prime consultant and/or sub-consultant (s) or a small local certified firm may meet the twenty percent requirement. A business must be certified by the City of Oakland in order to earn credit toward meeting the twenty percent requirement. Additionally, opportunities for training and employment shall be given to residents of the City of Oakland.

This agreement is subject to the (a) City's Local Employment Program and (b) the 15% Apprenticeship Program.

- (a) The objective of the Local Employment Program for public works and subsidized construction projects is to cause the hiring of Oakland residents on as many Prevailing Wage jobs as possible, and to encourage businesses to hire local residents for non-City-funded work. For any construction contract, subsidy, or development agreement with the City this policy establishes a goal for Oakland-resident employment on public works projects (as such projects are defined in this policy). Specifically, for work performed at the construction site, this policy establishes a goal of 50% of the work hours, which must be performed by Oakland residents on a craft-by-craft basis. In addition, a minimum of 50% of all new hires on the project (on a craft-by-craft basis) must be Oakland residents, and the first new hire must be an Oakland resident. A contractor or developer must achieve the goals or secure an exemption from the City.
- (b) The 15% Apprenticeship Program (Oakland Apprenticeship Workforce Development Partnership System – OAWDPS) requires contractors meet a 15% Oakland resident apprenticeship hire goal that is based on total hours worked and on a craft-by-craft basis. The hours worked may be performed on City of Oakland projects, or 7.5% of the hours worked may be performed by resident apprentices on non-City of Oakland or Oakland Redevelopment Agency projects.

A copy of the (1) Local Small Local Business Enterprise Program (2) Local Employment Program and (3) 15% Apprenticeship Program is attached and shall be incorporated herein as **Exhibit "E 1-2"**.

All affirmative action efforts of SOCIETY are subject to tracking by the City. This information or data shall be used for statistical purposes only. All contractors are required to provide data regarding the make-up of their subcontractors and agents who will perform City contracts, including the race and gender of each employee and/or contractor and his or her job title or function and the methodology used by SOCIETY to hire and/or contract with the individual or entity in question.

In the recruitment of subcontractors, the City of Oakland requires all contractors to undertake nondiscriminatory and equal outreach efforts, which include outreach to minorities and women-owned businesses as well as other segments of Oakland's business community. The City Administrator will track the City's MBE/WBE utilization to ensure the absence of unlawful discrimination on the basis of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.

In the use of such recruitment, hiring and retention of employees or subcontractors, the City of Oakland requires all contractors to undertake nondiscriminatory and equal outreach efforts which include outreach to minorities and women as well as other segments of Oakland's business community.

23. LIVING WAGE REQUIREMENTS

This Agreement is subject to the Living Wage Ordinance of Chapter 2.28 of the Oakland Municipal Code and its implementing regulations if it is for an amount of \$25,000.00 or more, or if it is amended to increase the contract amount by \$25,000.00 in any twelve-month period thereafter. The Ordinance requires among other things, submission of the Declaration of Compliance attached and incorporated herein as **Schedule N** and made part of this Agreement, and, unless specific exemptions apply or a waiver is granted, that SOCIETY provide the following to its employees who perform services under or related to this Agreement:

- a. Minimum compensation – Said employees shall be paid an initial hourly wage rate of \$9.66 with health benefits or \$11.11 without health benefits. These initial rates shall be upwardly

adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor.

- b. Health benefits – Said full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least \$1.25 per hour. SOCIETY shall provide proof that health benefits are in effect for those employees no later than 30 days after execution of the contract or receipt of City financial assistance.
- c. Compensated days off – Said employees shall be entitled to twelve compensated days off per year for sick leave, vacation or personal necessity at the employee's request, and ten uncompensated days off per year for sick leave. Employees shall accrue one compensated day off per month of full time employment. Part-time employees shall accrue compensated days off in increments proportional to that accrued by full-time employees. The employees shall be eligible to use accrued days off after the first six months of employment or consistent with company policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required 12 compensated days off. Ten uncompensated days off shall be made available, as needed, for personal or immediate family illness after the employee has exhausted his or her accrued compensated days off for that year.
- d. Federal Earned Income Credit (EIC) – SOCIETY shall inform said employees who earn less than \$12.00 per hour that he or she may be eligible for EIC and shall provide forms to apply for advance EIC payments to eligible employees.
- e. SOCIETY shall provide to all employees and to the Office of Contract Compliance, written notice of its obligation to eligible employees under the City's Living Wage requirements. Said notice shall be posted prominently in communal areas of the work site(s) and shall include the above-referenced information.
- f. SOCIETY shall provide all written notices and forms required above in English, Spanish or other languages spoken by a significant number of employees within 30 days of employment under this Agreement.

- g. Reporting – SOCIETY shall maintain a listing of the name, address, hire date, occupation classification, rate of pay and benefits for each of its employees. SOCIETY shall provide a copy of said list to the Office of Contract Compliance, on a quarterly basis, by March 31, June 30, September 30 and December 31 for the applicable compliance period. Failure to provide said list within five days of the due date will result in liquidated damages of five hundred dollars (\$500.00) for each day that the list remains outstanding. SOCIETY shall maintain employee payroll and related records for a period of four (4) years after expiration of the compliance period.
- h. SOCIETY shall require contractors and subcontractors that provide services under or related to this Agreement to comply with the above Living Wage provisions. Contractor shall include the above-referenced sections in its subcontracts. Copies of said subcontracts shall be submitted to the Office of Contract Compliance.

24. CITY OF OAKLAND CAMPAIGN CONTRIBUTION LIMITS

This Agreement is subject to the City of Oakland Campaign Reform Act of Chapter 3.12 of the Oakland Municipal Code and its implementing regulations if it requires Council approval. The City of Oakland Campaign Reform Act prohibits contractors that are doing business or seeking to do business with the City of Oakland from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of, or termination of, contract negotiations.

If this Agreement requires Council approval, SOCIETY must sign and date an Acknowledgment of Campaign Contribution Limits Form attached hereto and incorporated herein as **Schedule O**.

25. NUCLEAR FREE ZONE DISCLOSURE: SOCIETY represents pursuant to Schedule P (“Nuclear Free Zone Disclosure Form”), that it is in compliance with the City of Oakland’s restrictions on doing business with service providers considered nuclear weapons makers. Prior to execution of this agreement. SOCIETY shall complete **Schedule P**, attached hereto.

26. HOLD HARMLESS/INDEMNIFICATION: The SOCIETY agrees to protect, defend (including any third party lawsuits), indemnify, and hold

harmless CITY, its Council Members, officers, agents, and employees from any and all claims, demands, actions or damages arising out of the performance of this Agreement by SOCIETY, its contractors, and their respective subcontractors, vendors, guests, and invitees to which CITY may be subjected, except for those claims, demands, actions or damages resulting from the sole negligence or willful misconduct of CITY, its Council Members, officers, agents, and employees.

The CITY agrees to protect, defend (including any third party lawsuits), indemnify, and hold harmless Society, its Board of Trustees, Advisory Council members, officers, directors, legal counsel, employees and agents from and any and all claims, demands, actions, or damages, arising out of the active negligence or willful misconduct of the City, its contractors (excepting Society) and their respective subcontractors, vendors, guests, and invitees to which Society may be subjected, except for those claims, demands, actions or damages resulting from the negligence or willful misconduct of Society, its Board of Trustees, Advisory Council members, officers, directors, legal counsel, employees and agents. As used in herein, "active negligence" shall exclude all conditions that the City may be aware but which falls under the obligations of Society to manage under the terms of the Agreement.

27. SUNSHINE ORDINANCE: All meetings of the SOCIETY Board of Directors shall be conducted pursuant to the provisions of Oakland Municipal Code Section 2.20.040B (City of Oakland Sunshine Ordinance.)
28. POLITICAL PROHIBITION: Subject to applicable law, funds received pursuant to this agreement shall not be used for political purposes, sponsoring or conducting candidate's meetings, engaging in voter registration activity, or for publicity or propaganda designed to support or defeat legislation and ballot measures pending before federal, state, or local government. The SOCIETY shall not use the property for political purposes, including, but not limited to, political fundraising and campaigning.
29. CONFLICT OF INTEREST: The following protections against conflict of interest will be upheld:
 - a. SOCIETY certifies that no member of or delegate of the Congress of the United States shall be permitted to share or take part in this agreement or in any benefit arising herefrom.
 - b. SOCIETY certifies that no member, officer, or employee of City or its designees or agents, and no other public official of the City who exercises any functions or responsibilities with respect to

the programs or projects covered by this agreement, shall have any interest, indirect or direct in this agreement or in its proceeds during his/her tenure or for one year thereafter.

- c. SOCIETY certifies that no one who has any financial interest in this agreement or receives compensation for the services from SOCIETY is related by blood or marriage within the third degree to the Mayor or any one or more of the members of the City Council, City Administrator, or the head of the department to which these services are to be provided pursuant to this agreement.

30. BONDS AND CONTRACTOR'S INSURANCE: SOCIETY shall require any contractor who performs work on the premises to maintain in force such insurance as may be necessary to assure that the City is indemnified and held harmless. In addition, the City and the SOCIETY shall require as a condition of any contracts for the construction, performance bonds and payment bonds in the amounts equal to one hundred percent (100%) of the amount of each contract over \$25,000.00. This amount shall be subject to review at five (5) year intervals by the City and SOCIETY. The SOCIETY shall be responsible for the labor utilized or materials furnished in the future repair or replacement of facilities at the premises and keep the ZOO and City's possessory interest therein free and clear of any liens or encumbrances of any kind whatsoever created by the SOCIETY'S act or omission.

31. DEFAULT BY THE SOCIETY: In the event the SOCIETY defaults or fails to perform under any of the obligations hereunder, the City Administrator shall give written notice hereof to the SOCIETY expressly stating the nature of said default or nonperformance. The SOCIETY shall have sixty (60) days from receipt of said notice to correct said default or nonperformance, and in the event of the SOCIETY'S failure to do so, the CITY, in addition to any other legal or equitable rights it may have, may do any or all of the following:

- a. Terminate this Agreement upon written notice to the SOCIETY;
or
- b. Direct the SOCIETY to assign its interest in and to this Agreement to a party designated by the City Council without compensation to the SOCIETY, or
- c. Perform itself whatever corrective measures are deemed necessary, which costs of such services plus administrative

overhead shall be charged to and paid by the SOCIETY to the CITY upon demand.

31. **RIGHT TO INSPECT:** The City shall have the right to inspect the premises and operations of the SOCIETY from time to time, in a reasonable manner.
32. **MONITORING:** The City Council shall continually review the SOCIETY'S performance to insure the success and quality thereof under the terms and conditions of this Agreement.
33. **NON-ASSIGNMENT OF INTEREST:** The SOCIETY shall not assign or otherwise transfer any rights, duties, or obligations or interest in this Agreement, either in whole or in part, without the prior written approval of the City Council. The CITY shall not assign this Agreement to a private corporation, firm or individual without the prior written approval of the SOCIETY, except as herein provided.
34. **INUREMENT:** This Agreement shall be and is hereby binding on the successors of the parties hereto.
35. **PARKS AND RECREATION ADVISORY COMMISSION:** Any and all matters with respect to this Agreement that require policy approval by the City Council, not including administrative decisions by the City Administrator that need no such approval, shall be first submitted to the PARKS AND RECREATION ADVISORY COMMISSION which shall, in turn, submit same to the City Council in conformance with applicable procedures.
36. **PERSONAL CONTRACT:** The qualifications and identity of EAST BAY ZOOLOGICAL SOCIETY, INC., are of particular interest to the CITY. Because of those qualifications and identity, the CITY has entered into this Agreement. No voluntary or involuntary successor in interest of the SOCIETY shall acquire any rights or powers under this Agreement unless so approved by the City Council, and until such successor is in compliance with the applicable rules, procedures and regulations of the Federal Government, the State of California, the County of Alameda and the provisions of this Agreement.
37. **PERMANENT IMPROVEMENTS:** At the conclusion or termination of the Agreement, or any renewals to the Agreement, all permanent fixtures shall become the property of the CITY, except as set forth under Paragraph 12(c), CONCESSIONAIRES.

38. **EASEMENT:** The SOCIETY agrees the CITY shall retain all rights and duties with respect to the granting and issuance of any and all easements on the property known as "Knowland Park" to third parties, provided such easements do not interfere with the operation of the ZOO AND PARK. The CITY shall retain all monies, profits, and fees collected pursuant to the granting of such easement rights to any and all third parties. As a courtesy to the SOCIETY, the CITY shall notify the SOCIETY of the granting of any such easements prior to the effective date of said easement.
39. **ILLEGALITY OF CONTRACT:** This Agreement is intended to satisfy the conditions of Internal Revenue Service Procedure 93-17. In the event that any of the obligations under this Agreement shall become null and void by Federal, State or local law, or in the event the future performance of the conditions or terms of this Agreement becomes a hardship for the parties to perform because of Federal, State or local law which is enacted, or court decision rendered, the parties may amend the Agreement to conform with Federal, State or local law, or the CITY may, at its option, terminate this Agreement. The CITY shall not be liable to the SOCIETY for any loss or damage of any nature suffered or claim to be suffered by the SOCIETY by reason of any modifications to the Agreement or its termination.
40. **WASTE OR NUISANCE:** The SOCIETY shall not commit or permit the commission by others of any waste on said premises; the SOCIETY shall not maintain, commit, or permit the maintenance or commission of any nuisance as defined in Section 3479 of the California Civil Code on said premises; and the SOCIETY shall not use or permit the use of said premises for any unlawful purpose.
41. **WAIVER OF BREACH:** The waiver by the CITY of any breach by the SOCIETY of any of the provisions of the Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach by the SOCIETY either of the same or a different provision of this Agreement.
42. **HOLDOVER:** Should the SOCIETY hold over and continue maintaining and operating the ZOO AND PARK after the end of the term of this Agreement, with the expressed or implied consent of the CITY, such holding over shall be construed as a continuation of the Agreement from month-to-month and upon the same terms and conditions as herein provided for the previous Agreement. Any holdover shall terminate upon the execution of a new Agreement.
43. **CITY'S REPRESENTATIVE:** The SOCIETY shall be considered the CITY'S representative for the sole purpose of improvements,

maintenance, and/or construction undertaken at the ZOO AND PARK, including, but not limited to, construction, alteration, repair, demolition or excavation of existing structures, buildings, roadways, paths, parking lots and other facilities and landscaping for which a California contractor's license, general or special, is required.

44. ACCESS TO PUBLIC RECORDS: The SOCIETY shall cooperate with CITY to provide public access for the purposes of public inspection of information, documents, correspondence, inspection records, logs, minutes, photographs, contracts and other documents in any way related to the expenditure of funds granted or otherwise provided to the ZOO AND PARK by CITY.

45. TERMINATION: This Agreement may be terminated by SOCIETY or the CITY at any time without cause and without penalty upon 180 days prior written notice. Upon termination of this agreement, all assets and operations will be turned over to the CITY or its designated representative, and the CITY will assume all financial and operational responsibilities for the ZOO AND PARK, except SOCIETY's debts and liabilities which SOCIETY shall be solely responsible.

46. NOTICES: Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to the CITY by the SOCIETY or the SOCIETY by the CITY shall be in writing and shall be deemed duly served and given when deposited in the United States mail, first-class postage prepaid, addressed as follows:

CITY

City of Oakland
Office of the City Administrator
One Frank Ogawa Plaza
Oakland, CA 94612
Attn: Deborah Edgerly

SOCIETY

East Bay Zoological Society
P.O. Box 5238
9777 Golf Links Road
Oakland, CA 94605
Attn: Dr. Joel Parrott

47. SEVERABILITY: In the event that any covenant, term or condition herein contained is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect any other valid covenant, term or condition herein contained.

48. GOVERNING LAW: This agreement shall be deemed to be made and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the City Administrator of the CITY OF OAKLAND has caused the name of the City of Oakland to be affixed hereto and the EAST BAY ZOOLOGICAL SOCIETY, INC., has caused its name to be affixed, all in quadruplicate, the day and year first above written. The City Administrator is duly authorized by Resolution No. 98872 C.M.S. passed by the City Council on October 19, 2004, to execute this agreement.

CITY OF OAKLAND,
a municipal corporation

EAST BAY ZOOLOGICAL
SOCIETY, INC.,
a nonprofit public
interest corporation

By: *Helen A. Key* 5/22/05
Date

By: *Robert A. Montgomery* 4/21/05
Date

Title: City Administrator

Title: President

Approved:

Margaret A. Spitzer
Office of the City Attorney Date

FILED
OFFICE of the City Clerk
Approved as to Form and Legality
OAKLAND
2004 SEP 30 AM 6:28
City Attorney

OAKLAND CITY COUNCIL

RESOLUTION NO. 78872 C.M.S.

**RESOLUTION AUTHORIZING AN AGREEMENT
BETWEEN THE CITY OF OAKLAND AND THE EAST BAY
ZOOLOGICAL SOCIETY, INC., FOR THE MANAGEMENT OF THE
KNOWLAND PARK AND ZOO, FOR A FIFTEEN-YEAR PERIOD
EXPIRING ON OCTOBER 31, 2019, IN AN ANNUAL AMOUNT NOT TO
EXCEED \$172,414 AND THE COST OF A ZOOKEEPER**

WHEREAS, the City of Oakland ("City") and the East Bay Zoological Society, Inc., a nonprofit corporation ("Society"), seek to enter into an Agreement for the purpose of operating, maintaining and improving Knowland Park and Zoo for the use and benefit of the public; and

WHEREAS, Knowland Park and Zoo, which real property and improvements are owned by the City of Oakland, is located at 9777 Golf Links Road, Oakland, California (hereinafter referred to as "Zoo and Park"); and

WHEREAS, the Zoo and Park is a unique and important asset for the education, recreation and enjoyment of Oakland's children, students, residents and visitors; and

WHEREAS, the City wishes to promote and assist in improving the Zoo and Park as an educational and recreational area and the Society agrees to be solely responsible for the maintenance, operation and improvement of said property; and

WHEREAS, the Society needs City Council approval for the right and authority to collect and use revenues collected at the Zoo and Park, including sub-licensed concession charges, admission charges, rental fees, parking fees, and raising of funds in any other lawful manner for the maintenance, operation and improvement of the Zoo and Park; and

WHEREAS, the Society will submit proposed changes to Zoo and Park fees and charges to the City Council for approval in the Master Fee Schedule; now therefore be it

RESOLVED: That the City Administrator of the City of Oakland is hereby authorized and directed to negotiate and execute an Agreement with the Society for a fifteen-year period expiring on October 31, 2019; and be it

FURTHER RESOLVED: That the City will pay the Society an annual subsidy in an amount not to exceed one hundred seventy two thousand four hundred fourteen dollars (\$172,414) and cover the cost of a zookeeper from the General Purpose Fund (1010), Zoo Organization (501260), and the Society will fund the balance of all costs of Zoo and Park maintenance, operations and improvements; and be it

78872

FURTHER RESOLVED: That the Office of the City Attorney shall review and approve the Agreement authorized by this Resolution prior to the City Administrator's execution of same; and a copy of the Agreement will be on file at the Office of the City Clerk; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to take whatever action is necessary with respect to the East Bay Zoological Society, Inc., Agreement for Zoo and Park operations in accordance with the basic purpose of this Resolution.

OCT 19 2004

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2004 _____

PASSED BY THE FOLLOWING VOTE:

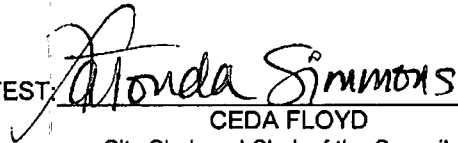
AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN and PRESIDENT DE LA FUENTE — 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST


CEDA FLOYD

City Clerk and Clerk of the Council
of the City of Oakland, California

KNOWLAND PARK & ZOO
MANAGEMENT AGREEMENT

List of Attachments

<u>Item</u>	<u>Description</u>	<u>Reference Page No.</u>
Exhibit A	Description of the Real Property	1
Exhibit B	Map entitled Knowland Park Management Improvements and Maintenance Plan	2
Exhibit C	Audit Requirements/Table	4
Exhibit D	Community Access Grant Program/Application	6
Schedule Q	Insurance Requirements	10
Schedule C-1	Americans with Disabilities Act – Declaration of Compliance	11
Schedule C-2	Equal Benefits - Declaration of Non-Discrimination	11
Exhibit E 1-2	L/SLBE, LEP & Apprenticeship Program	13
Schedule N	Living Wage Ordinance – Declaration of Compliance	15
Schedule O	Campaign Contributions Limits - Acknowledgement	15
Schedule P	Nuclear Free Zone Disclosure Form-S	15

14404

RE: 4063 IM: 201
75-117400

NO.

RECORDED

1975 AUG 18 AM 11:19

RENE C. DAVIDSON
ALAMEDA COUNTY, CA.

1 Recording Requested by:
2 City of Oakland and State of California
3 Document Entitled to Free Recordation
4 Pursuant to Government Code Section 6103
5 Not Subject to California Documentary
6 Stamp Act

7 When Recorded Mail To:
8 City of Oakland
9 Parks and Recreation Department
10 1520 Lakeside Drive
11 Oakland, California 94612

12 I D TAX DUE

Space above for Recorders Use

DK

10

11

Grantor: State of California

12

AGREEMENT AND QUITCLAIM DEED

Grantee: City of Oakland

13

Project: Knowland State
Arboretum and Park

14

15

THIS INDENTURE, made and entered into this 4th day of March

16

1973, by and between the STATE OF CALIFORNIA, acting through the Department of
17 Parks and Recreation, and the CITY OF OAKLAND, a municipal corporation;

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W I T N E S S E T H:

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WHEREAS, pursuant to Chapter 753, Statutes of 1973 of the State of

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California the Director of Parks and Recreation with the approval of the

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Director of General Services may convey those certain lands and improvements

24

thereon known as the Knowland State Arboretum and Park to the CITY OF OAKLAND,

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a municipal corporation, for public park purposes;

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1 NOW, THEREFORE, THE STATE OF CALIFORNIA, acting by and through its
2 Director of Parks and Recreation, pursuant to Chapter 753, Statutes of 1973,
3 for valuable consideration receipt of which is hereby acknowledged, does hereby
4 convey to the CITY OF OAKLAND, a municipal corporation, for public park purposes
5 all right, title and interest of the STATE OF CALIFORNIA in and to all that
6 certain real property situated in the City of Oakland, County of Alameda, State
7 of California within Knowland State Arboretum and Park and described as follows:

8
9 Parcel A:

10 All that certain real property described in the DEED from the
11 ALAMEDA COUNTY ZOOLOGICAL SOCIETY, a California Corporation to
12 the State of California, dated October 29, 1948, and recorded
as document number AD64184 on September 21, 1949 in Book 5892,
Page 341, Official Records of Alameda County, California.

13 Excepting and reserving therefrom to the State of California
14 all that certain real property described as PARCEL ONE in that
15 certain AGREEMENT between the DEPARTMENT OF PARKS AND RECREATION,
16 Division of Beaches and Parks and the DEPARTMENT OF PUBLIC WORKS,
Division of Highways dated February 9, 1965, and recorded as
document number AX78897 on June 8, 1965, in Reel 1523, Image
365, Official Records of Alameda County, California.

17 Parcel B:

18 All that certain real property described in the DEED from
19 W. L. MAYNARD, INCORPORATED to the State of California,
dated October 16, 1956, and recorded as document number
20 AM11912 on February 1, 1957 in Book 8276, Page 155, Official
Records of Alameda County, California.

21 Parcel C:

22 All that certain real property described in the DEED from J. A.
23 CLAPPER and BEULAH CAROL CLAPPER, his wife, to the State of
24 California, dated November 30, 1956, and recorded as document
number AM40665 on April 23, 1957, in Book 8346, Page 127,
Official Records of Alameda County, California.

25 Parcel D:

26 All that certain real property described in the DEED from
27 HOWARD WATT and ALMA WATT, Husband and Wife, to the State of
California, dated April 19, 1957, and recorded as document

1 number AM83139 on August 21, 1957, in Book 8448, Page 169,
 2 Official Records of Alameda County, California.

3 Parcel E1:

4 All that certain real property described in the DEED from
 5 LLOYD F. BAMBAUER, JOHN P. BAMBAUER, GEORGE B. BAMBAUER,
 6 LOUISE L. STRUVE, who acquired title as Louise L. Bambauer,
 7 DOLORES REINHART, MARIAN BERNSTEIN, MOLLIE VAN NORTWICK, who
 8 acquired title as Mollie See, CECILE MORROW, PETER DE MONT
 9 and NELLIE K. BAMBAUER, to the State of California, dated
 10 August 30, 1957, and recorded as document number AP37264
 11 on April 15, 1958, in Book 8646, Page 311, Official Records
 12 of Alameda County, California.

13 Parcel E2:

14 All that certain real property described in the TRUSTEE'S
 15 DEED from BANK OF AMERICA NATIONAL TRUST AND SAVINGS
 16 ASSOCIATION, a national banking association, as Trustee
 17 under the will of GEORGE R. DEMONT, alias, Deceased, to the
 18 State of California, dated April 23, 1957, and recorded as
 19 document number AP37265 on April 15, 1958, in Book 8646,
 20 Page 317, Official Records of Alameda County, California.

21 Parcel E3:

22 All that certain real property described in the DEED from
 23 W. L. MAYNARD, INCORPORATED, to the State of California,
 24 dated October 16, 1956, and recorded as document number
 25 AP37266 on April 15, 1958, in Book 8646, Page 320, Official
 26 Records of Alameda County, California.

27 Parcel F:

All that certain real property described in the DEED from
 W. L. MAYNARD, INCORPORATED, a California corporation, to the
 State of California dated November 21, 1962, and recorded as
 document number AU25249 on February 11, 1963, in Reel 797,
 Image 647, Official Records of Alameda County, California.

Parcel G:

All that certain real property described as PARCELS FOUR AND
 FIVE in that certain AGREEMENT between the DEPARTMENT OF PARKS
 AND RECREATION, Division of Beaches and Parks and the DEPARTMENT
 OF PUBLIC WORKS, Division of Highways dated February 9, 1965,
 and recorded as document number AX78897 on June 8, 1965, in
 Reel 1523, Image 365, Official Records of Alameda County,
 California.

Excepting and reserving from Parcels, A, B, C, D, E1, E2, E3,
 F, and G above to the State of California all right, title

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and interest it may have in and to all deposits of minerals, including oil and gas, in such land and to the State of California or persons authorized by the State of California the right to prospect or mine, and remove such deposits from such property without, however, the right to enter upon the surface of the land or any part of said subsurface of the land within one hundred (100) feet of the surface thereof.

This conveyance is made upon the condition that in the event the CITY OF OAKLAND, a municipal corporation, ceases to use the property for public park purposes, the hereinabove described property shall revert to the STATE OF CALIFORNIA.

It is mutually agreed by the parties hereto that the agreement and lease dated December 1, 1949 and the amendments thereto dated May 15, 1958, and September 22, 1966, between the parties hereto for the operation of Knowland State Arboretum and Park are hereby terminated.

IN WITNESS WHEREOF, the parties have executed this instrument the date first hereinabove appearing.

RECEIVED
JUL 14 1966
[Signature]
Chief Land Agent

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION
Herbert Rooden, Director

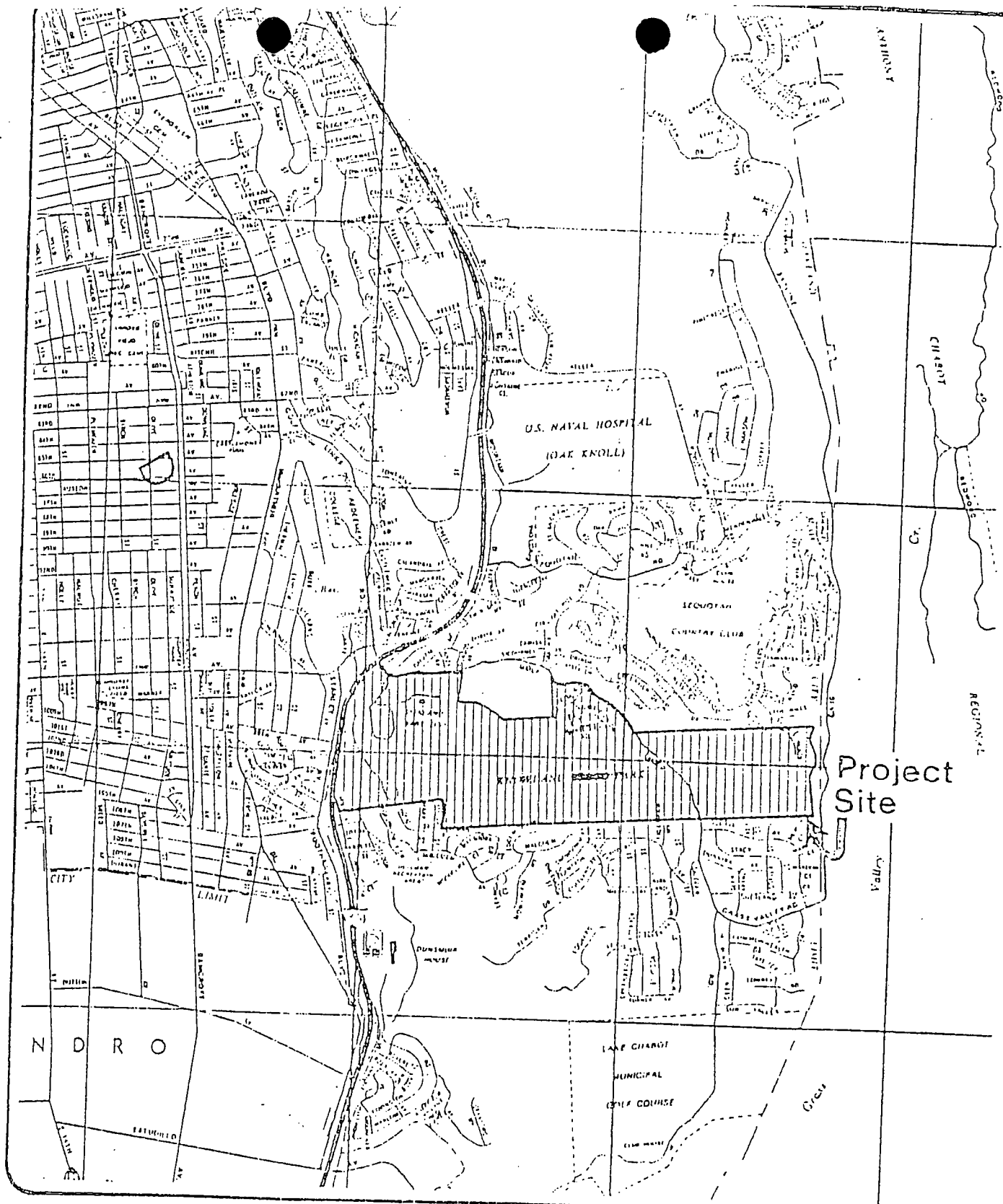
By _____

CITY OF OAKLAND, a municipal corporation

By *[Signature]* ASSISTANT CITY MANAGER

By *[Signature]* City Manager

[Signature]



Site Location Map

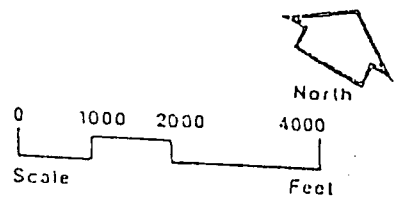


Figure No. 2

EXHIBIT C

AGREEMENT between EAST BAY ZOOLOGICAL SOCIETY, INC., and CITY OF OAKLAND

AUDIT REQUIREMENTS

SOCIETY, within one hundred eighty (180) days after the end of the fiscal year, shall provide to OPR and the City Auditor an audited financial statement prepared by a Certified Public Accounting firm acceptable to the City Auditor. The statement shall be prepared in accordance with Generally Accepted Accounting Principles (GAAP). Where applicable, such statements shall conform to the Single Audit Act, Circular OMB A-133. This audit provision shall conform to the Table of Contract Clauses Related to Financial Responsibilities. SOCIETY shall submit interim quarterly financial reports within forty-five (45) days after the end of each calendar quarter.

In addition, a copy of the Management Letter from the CPA firm shall be provided.

A. SOCIETY agrees to comply with the City's audit requirements for nonprofit organizations:

1. For agencies receiving annually less than \$100,000 in cumulative funding from all sources (government or private), the City Auditor's Office, will determine agencies to be selected for audit oversight of grant funded activities by the City Auditor's Office or a designated auditor.
2. For agencies receiving annually at least \$100,000 but less than \$300,000 in cumulative funding from all sources (government or private), an audited financial by a CPA is to be provided to the City Manager or designee (Office of Parks and Recreation-OPR) and the City Auditor.
3. For agencies receiving annually \$300,000 or more in cumulative funding from all sources (government or private) a single audit report shall be provided.

B. SOCIETY agrees to comply with the following general requirements for audits:

1. All audits must be conducted in accordance with Government Auditing Standards (1988 and subsequent revisions) prescribed by the U. S. Comptroller General.
2. SOCIETY is encouraged, to the extent feasible, to procure its audits from small, local and minority and women-owned Oakland audit firms.
3. A management letter shall be requested from the Certified Public Accountants and be presented to the City Auditor and the City Manager or designee (OPR).

4. When SOCIETY is not subject to the City's audit requirements but obtains its own audit, a copy must be provided for the City's files within sixty (60) days after the audit has been completed by the SOCIETY'S auditor along with the management letter.
5. SOCIETY shall prepare and maintain an up-to-date double entry General Ledger on the accrual basis in accordance with GAAP.
6. Inspection of Books and Records/Right to Audit
 - a. During the term of this Agreement, and for a period of five (5) years after the termination of this Agreement, or two (2) years after the closure of any disputed matter, whichever occurs later, (the "Audit Period"), SOCIETY shall maintain financial and operational records related to this Agreement or to any other agreement with City. SOCIETY shall make all books and records open to inspection by the governing agency, City Auditor or their individually assigned designee during normal business hours at a location within a twenty-five (25) mile radius of the City of Oakland for the period of this contract and for a period of four years after the close of each contract year.
 - b. During the Audit Period, SOCIETY hereby grants to City or its designee(s), upon one (1) days prior notice to SOCIETY, access to and the right to make copies of any of SOCIETY'S books, statements, documents, papers or records ("Financial Information") which arise from or relate to the terms and conditions of this Agreement and the performance of any services pursuant to this Agreement, or any other agreement between the parties, in order to permit City to conduct audits, examinations, excerpts and transition audits (collectively hereafter referred to as "Audit or Audits"). SOCIETY authorizes the City Auditor or his designee to obtain such information directly from these sources. City's right to Audit and to make copies shall apply whether such Financial Information is located at SOCIETY'S offices or at SOCIETY'S banks, financial institutions or lenders, or at the offices of SOCIETY'S financial consultants, accountants or bookkeepers. For the purposes of such Audit, SOCIETY waives its right to the confidentiality of all Financial Information and SOCIETY authorizes the City or its designee(s) to access, obtain and make copies of Financial Information directly from SOCIETY'S banks, financial institutions or lenders, or from SOCIETY'S financial consultants, accountants or bookkeepers.
 - c. Such Audits may be performed by City through its employees or by its designees including, without limitation, a third party auditor retained by City. City's right to Audit under this Section is independent, separate and distinct from any right to audit such books and records reserved by law or

contract, or as a condition of funding, by the county, state or federal government.

- d. If any Audit of SOCIETY'S invoices or other records reveals any variance from any invoice to City, or of any amount of any grant or loan funds provided to SOCIETY by City which is in excess of the amount actually due to or granted to SOCIETY by City, then: SOCIETY shall immediately refund any excess payment or funds received from City. In addition, if any Audit reveals any variance from any invoice or funds received from City in excess of one percent (1%) of the amount shown on such invoice or the amount of funds actually due to or granted to SOCIETY by City, SOCIETY shall immediately reimburse City for all costs and expenses incurred in conducting such Audit. Failure to pay such variance and the cost of the Audit as required herein shall constitute a material breach of the Agreement by City and will subject SOCIETY to termination of the Agreement by City and to a breach of contract claim for damages by City and the return of all grant or loan funds provided to SOCIETY by City.

EXHIBIT D

COMMUNITY ACCESS GRANT APPLICATION
(East Bay Zoological Society/Oakland Zoo)

The following are required to apply for a Community Access Grant at the East Bay Zoological facility.

Please read through it carefully.

- Applications must be submitted no later than three (3) months prior to the scheduled event.
- Non-Profit Organizations (NPO-defined as an organization that can verify its Internal Revenue Service IRS tax-exempt status) need to be based within the city of Oakland. Those NPO's based outside the city of Oakland need to provide direct benefits to Oakland residents sponsoring an event which directly advocates the goals and priorities of the Mayor and City Council and an annual operating budget less than \$1 million.
- NPO's cannot apply for the program if sponsoring a for-profit event or an event in which a private, commercial firm is promoting their products or services.
- Fee subsidies are granted for facility rental costs only. Hard costs (staffing, required third parties and other outside services) cannot be subsidized through the Community Access Grant program; NPO's must pay these costs directly.
- Should the organization be approved for a Community Access Grant, a non-refundable, non-transferable deposit is due with the East Bay Zoological Society/Oakland Zoo rental agreement. The Community Access Grant cannot be used as the deposit.
- NPO is limited to a six (6) hour period of time (inclusive of move-in, event and move-out) during the hours of 8am – 12midnight. If the NPO's event is longer than six (6) hours, the NPO will be responsible for the standard hourly rate for the facilities they are utilizing. Holidays (are/are not) available for Community Access Grants at this facility.
- NPO applicant has not previously applied and received a grant subsidy within the same calendar year of the current application.
- All marketing and promotional materials associated with the event must carry the following acknowledgement:

“This event has been made possible in part through a Community Access Grant from the East Bay Zoological Society.”
- The facility has a limit of available Community Access Grant funding and cannot award any Grants if it has exhausted its two (2) year allotment.
- If more than one NPO applies for the Community Access Grant Program for the same venue and date, or more than two applications are received for any one year, preference will be given to the NPO that: a) has not received a grant within the past two-year budget period; b) has not received any other City funding within the past two-year budget period; c) does not charge admission or request a donation for attendance at the event; d) is sponsoring an event to serve disadvantaged populations (e.g. low income, homeless, disabled, at-risk youth).

**COMMUNITY ACCESS GRANT
CRITERIA/REQUIREMENTS
East Bay Zoological Society/Oakland Zoo**

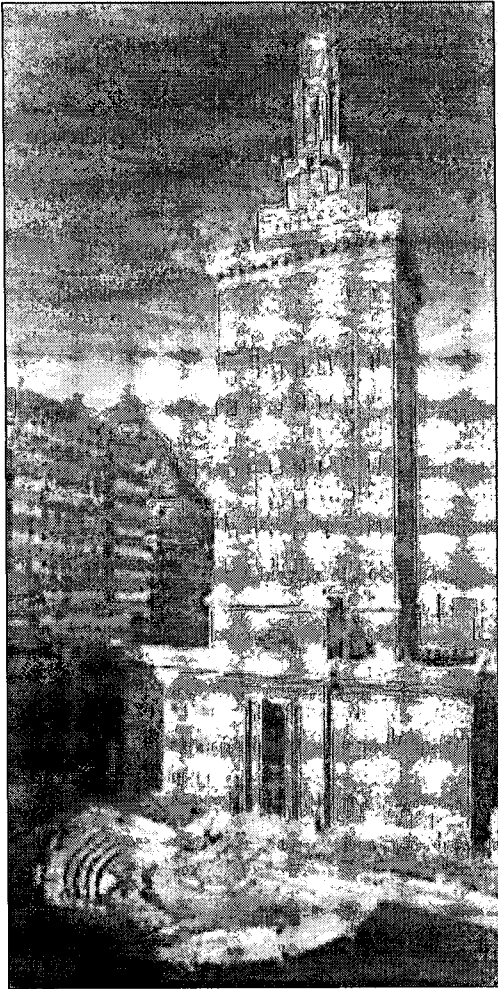
All criteria/requirements listed must be submitted no later than three (3) months prior to the event date.

- Rental Agreement
- Letter of Intent/Description of event and the benefit to the citizens of Oakland.
- State of California and IRS tax-exempt status.
- Previous fiscal year financial statements, including balance sheet and income statement.
- Current year operating budget.
- Names of Board of Directors or Trustees
- Incorporation papers (if applicable).
- Statement of purpose and organization description.
- Current year's programming.

Office Use Only	
Date of Event _____	Venue _____
Organization _____	Deposit _____



*Revised and Adopted by Oakland City Council
2003*



*Office of the City Manager
Contract Compliance & Employment Services Division
250 Frank Ogawa Plaza, Suite 3341
Oakland, California 94612
(510) 238-3970 - www.oaklandnet.com*

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Part I. Local and Small Local Business Enterprise Program (L/SLBE)

In order to provide economic opportunity for its residents and businesses, and stimulate economic development, the City of Oakland has developed and implemented various policies that directly impact how public funds are spent. These policies are aimed at using the power of the public purse to stimulate economic development through the support and empowerment of the local community, especially those aspects of it that have been placed at a disadvantage in the past. The City has demonstrated leadership through various cutting edge policies and is in the vanguard nationally in terms of harnessing local resources to achieve local benefits. The major programs that were created to serve these respective groups are the Local and Small Local Business Enterprise (L/SLBE) Program and the Local Employment Program (LEP). Supporting and/or complementing these programs are policies regarding living wage, local construction employment referral program, prevailing wage, disadvantaged business enterprises, certifications, apprenticeship, and equal benefits for domestic partners.

The L/SLBE program supports policies that established a twenty percent (20%) participation requirement and a minimum bid discount of two percent (2%) for meeting that requirement. In addition to bid discounts, the program provides for additional points in negotiated professional services contracts and increased points and discounts as the level of local and small local business participation increases. Specifics of the new policies are detailed under "Program Guidelines".

Intended Impacts of the L/SLBE Program

The intended impacts include:

- Increasing the number of Oakland certified businesses participating in City contracting and in development projects;
- Increase the circulation of city dollars within the Oakland community and thus stimulate a stronger economic base; and
- Promote the development of Oakland certified businesses through joint ventures, and mentor/protégé relationships.

The new policies provide economic opportunity to local residents and businesses by supporting local economic development while paying competitive prices for goods and services. At the same time, the program does not obstruct efforts to attract outside investments that are critical to the City's economic growth.

Definitions

- 1) **Availability** - The number of certified L/SLBE firms, by trade, ready and willing to compete for work with the City of Oakland.
- 2) **Business Suppliers/Prefabricators** - An individual or business entity that makes available a certain commodity for meeting demand or for purchase at a given price.
- 3) **City**- Reference to the City or City Council includes the Redevelopment Agency, and reference to the City Manager includes the Agency Administrator.
- 4) **City Financial Assistance Recipient (CFAR)** - A business or individual that receives a city subsidy for a public works project.

- 5) **Commercially useful function** - The business is directly responsible for providing the materials, equipment, supplies or services to the City as required by the solicitation or request for quotes, bids or proposals. LBEs and SLBEs that engage in the business of providing brokerage, referral or temporary employment services shall not be deemed to perform a "commercially useful function" unless the brokerage, referral or temporary employment services are those required and sought by the City.
- 6) **Contractor/Consultant/Vendor** - The individual, partnership, corporation, joint venture or other legal entity entering into a contractual agreement with the City.
- 7) **Dealer** - A firm that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the product in question. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers.
- 8) **Developer** - A person, entity, or business that prepares or develops real property for new development or redevelopment and receives a city subsidy.
- 9) **Emergency Work** - A public works contract awarded because of imminent danger (e.g. fires, floods, earthquakes) or immediate threat to health safety and welfare of Oakland residents and meeting the City's requirements for waiving normal bidding procedures
- 10) **Fixed office** - A fixed office is dedicated office space, owned or leased by the local business, in an established, non-portable building where regular work pertinent to the contract is conducted. For small local business certifications, the fixed office shall be the primary business location of the business. A residence may qualify as a fixed office provided that all the following conditions are met: (a) the business conducted in the residence complies with Oakland Zoning Regulations relating to Home Occupations; and (b) the residence is the primary business location of the business and contributes not less than 51% of the gross receipts of business. A fixed distribution point is a non-portable warehouse or an outside shipping yard owned or leased by the local business, where shipping, receiving and the owner and employees regularly and exclusively conduct distribution of goods and commodities on behalf of the business.
- 11) **Informal construction contracts** - For purposes of establishing a threshold for determining the application of the L/SLBE Program only, informal construction contracts are valued under \$100,000. For informally bid construction contracts, 75% of the work must be awarded to local firms.
- 12) **Informal professional services contracts** - For purposes of establishing a threshold for determining the application of the L/SLBE Program only, informal professional service contracts valued under \$50,000. For informal professional services contracts, 75% of the work must be awarded to local firms.

- 13) **Local Business Enterprise (LBE)** – An Oakland business (a) with a substantial presence in the city of Oakland’s geographic boundaries (b) fully operational for 12 consecutive months and (c) a valid business tax certificate.
- 14) **Manufacturer** - A firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies purchased.
- 15) **Non-profit/Not for Profit Corporation** - A nonprofit corporation is a corporation formed for purposes other than generating a profit and in which no part of the organization's income is distributed to its directors or officers. Nonprofit corporations are formed pursuant to state law, often under the Revised Model Non-Profit Corporation Act (1986). A nonprofit corporation can be a church or church association, school, charity, medical provider, legal aid society, volunteer services organization, professional association, research institute, museum, or in some cases a sports association. Nonprofit corporations must apply for tax-exempt status at both the federal and state level.
- 16) **Public works contract** - Any construction, alteration, demolition, or repair work done under contract and paid for in whole or in part with public funds, or by a developer who receives any type of governmental subsidy.
- 17) **Size Standard** -One factor used to determine a small business. For the City of Oakland, a small business is one with three-year average gross receipts at or below thirty percent (30%) of the United States Small Business Administration’s size standard.
- 18) **Small Local Business Enterprise (SLBE)** –A business with (a) a substantial presence in the city of Oakland’s geographic boundaries (b) a full operation conducting business for 12 consecutive months and (c) a valid business tax certificate, and (d) is an independent business headquartered in Oakland.
- 19) **Subcontractor/Sub-consultant** - The individual, partnership, corporation or other legal entity that contracts to perform part of or all of the obligations of another’s contract.
- 20) **Subsidiary/Affiliate** - Part of a larger company with national offices located in other cities outside Oakland, and controlled by a home office or headquarters outside Oakland.
- 21) **Subsidy** - A grant, loan, credit, tax rebate, or any other way that provides a measure of value to the developer from the City.
- 22) **Substantial Presence** – A fixed and established place where work is carried on of a clerical, administrative, professional or production nature directly pertinent to the business being certified. A temporary location or movable property or one that was established to oversee a project such as a construction project office does not qualify. Businesses with offices both within and outside of the City that seek certification as a local business must demonstrate the existence of a bona fide local office in accordance with the following criteria:
 - a) Independent Office Site: The local office can and does function as an independent office site. The local office is not merely a sham operation set up by a non-local business for the purpose of gaining L/SLBE certification;

- b) Fixtures and Equipment: The local office contains all fixtures and/or equipment, including but not limited to, as appropriate, computer(s) software, copy machine(s), furniture, vehicle(s), tools, appliances and/or machinery necessary to operate the business for which the certification is sought;
- c) Space: The local office contains all space necessary to operate the business for which certification is sought, including but not limited to, as appropriate, office space, warehouse space, parking, yard area and/or shop area;
- d) Dedicated Personnel: The local office must be the main office for assigned personnel who conduct a full range of the business' activities out of the local office including but not limited to, as appropriate, professional, clerical and/or administrative staff assigned and dedicated to the local office as necessary to operate the business for which certification is sought;
- e) Daily Function: The local office functions on a daily basis, or a regular basis as otherwise appropriate, providing all services to operate the business for which certification is sought.

23) **Tier** - The level of the relationship between the prime contractor and subcontractors, or between subcontractors.

24) **Waiver** - An intentional action by City Council, excusing a contractor or a department from (1) adhering to and/or complying with a City policy.

Program Requirements

There is a 20% minimum participation requirement for all construction contracts over \$100,000 and all professional services contracts over \$50,000. All construction contracts below \$100,000 and all professional services contracts below \$50,000 must include outreach to certified local firms such that a minimum of three local firms are included in the solicitation.

The 20% local business participation requirement must be met with a minimum participation of 10% for Local Business Enterprises (LBE)/Local Not For Profit Business Enterprise (LNFPBE) and 10% for Small Local Business Enterprises (SLBE)/Small Local Not For Profit Business Enterprise (SLNFPBE). SLBE and SLNFPB may meet the full 20% requirement.

Based on the "Rule of Three", there must be at least three certified businesses listed in the industry, trade or profession that constitutes a major category of work. If at least three L/SLBEs are not certified, then the requirement is either waived, or the 20% requirement may be set from 19 % to 0%. The awarding authority shall request an availability analysis if there is reason to believe that the availability of certified firms will not satisfy the 20% requirement. And the request must be made in time for completion prior to issuing an invitation for bids, request for proposals or any other solicitation.

Contractors are required to submit a completed Subcontractor Listing (Schedule R) as attached. The Subcontractor Listing provides the buyer with a formal list of subcontractors, the trade or service area to be provided, bid amounts and certification status on for all profit and not-for profit businesses that will be used on the project.

Schedule R will be used to calculate the level of certified local business participation. Unless a requirement is waived due to limited availability, the determination of responsive and responsible will include meeting the 20% minimum requirement. Each prime or lead contractor is urged to obtain, from each certified subcontractor, a copy of either the certification letter or certificate issued by the City of

Oakland, Office of the City Manager, Contract Compliance & Employment Services Division. The certification letter and certificate include the certification number and date of expiration.

Certifications must be current and valid prior to the submittal due date in order for the local participation to count toward meeting the 20% businesses participation requirement. Certification status is confirmed during the compliance evaluation process.

Program Incentives

Bid discounts are applied at a rate of one percent (1%) or one (1) preference point for every 10% of contract dollars attributable to certified firms. No more than five percent (5%) in bid discounts or five (5) preference points may be earned.

The three examples below demonstrate (#1) the 20% minimum requirement at a rate of 10% LBE and 10% SLBE; (#2) bid discount and preference point values when participation is above and beyond the minimum requirement; and (#3) the maximum allowable bid discount and preference points. The maximum allowable incentives are not designed to limit participation. To address participation above and beyond the 50% maximum, for profit and not for profit entities may bank the participation for future use.

Example 1

	L/SLBE Participation			Bid Discounts	Preference Points
Required	10%		Earn	1%	1
Required	10%		Earn	1%	1
Total	*20%		Total	2%	2
*20% SLBE participation also satisfies the 20% requirement					

Participation over and above the 20% requirement earns additional discounts and points up to a maximum of a 5% bid discount and 5 preference points.

Example 2

	L/SLBE Participation			Bid Discounts	Preference Points
Additional	10%		Earn	1%	1
Additional	10%		Earn	1%	1
Additional	10%		Earn	1%	1
Total	30%		Total	3%	3

Example 3

Maximum Allowed	50% or more		Earn	5%	5
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Dollars and hours attributable to subcontracting with Oakland for profit and not-for profit businesses and the hiring of Oakland residents beyond 50% of the contract amount or beyond the 50% employment and new hire work hours threshold, may be banked and applied to projects within a 12 month period following completion of the project on which the extra credit was earned.

Maintaining Participation

Incentives are earned based on the level of participation proposed prior to the award of a contract. Once a project begins, it is important to achieve and maintain the participation for which incentives were earned. Prime Contractors and consultants must maintain the L/SLBE percentages indicated at the time of a contract award and throughout the term of the contract.

Should the prime contractor fail to maintain the L/SLBE participation listed at the time the contract is awarded, the City may impose a penalty equal to the amount that should have been awarded to L/SLBE, and/or may stop the work.

If the City modifies the original scope of work, the contractor must make reasonable efforts to maintain the L/SLBE participation for which incentives were earned. If change orders affect only one discipline, staff may use their discretion to allow adjustments to L/SLBE percentages for the change order portion of the work. Upon request, City staff will help firms to determine methods of maintaining percentages.

Should the prime contractor fail to maintain the L/SLBE participation listed at the time the contract is awarded, the City may impose a penalty equal to the amount that should have been awarded to L/SLBE, and/or may stop the work upon approval by the full City Council or a designee approved by at least three Council Members of which one must include the Council Member representing the district in which the work is being performed.

Substitution of Listed Subcontractors

Prime consultants or contractors who have entered into a contract agreement with the City cannot substitute a listed subcontractor or sub-consultant without prior approval of the City.

The City will grant substitution of a listed subcontractor or consultant on the following conditions:

1. A written statement from the listed sub consultant agreeing to the substitution,
2. When the listed sub consultant has been given a reasonable opportunity to execute a contract, yet fails to, or refuses to execute a written contract when such written contract is based upon the City's conditions and scope of work,
3. When a listed sub consultant becomes insolvent,
4. When the listed sub consultant fails or refuses to satisfy contractual agreements,
5. When the listed sub consultant fails to meet contract insurance requirements, or
6. When the City or the duly authorized officer determines that the work performed by the listed Sub consultant is substantially unsatisfactory, or not in accordance with the contract agreement or that the sub consultant is substantially delaying or disrupting the progress of the work.

Prior to the approval of the prime consultant's request for substitution, the City shall give notice, in writing, to the listed sub consultant, of the prime consultant's request for substitution and/or the reason for such request. Such notice shall be served by certified or registered mail to the last known address of the sub consultant. The sub consultant who has been so notified shall have five (5) working days in which to submit to the City written objections to the substitution. Failure to file such written objection shall constitute the sub consultants consent to the substitution.

If written objections are filed, the City shall give written notice of a hearing date to the prime and sub consultant within five (5) working days. At the hearing, the prime and sub consultant will present their cases and the Hearing Officer will make a determination.

Emergency Contracts

Local businesses will be given first priority in the performance of emergency work as defined in Ordinance 7937 CMS, which formulates and establishes procedures for bidding, contracting, and purchasing goods and services.

The City established a goal wherein 75% of emergency contract dollars must be spent with local firms. Of that amount, at least two thirds must be spent with small local businesses. User agencies are required to solicit from certified local firms for all informally bid emergency work whenever feasible.

Compliance Monitoring and Penalties

To ensure compliance with the program, the contractor or consultant shall provide records upon request (within ten calendar days) and permit the City to review all pertinent records and documents of the contractor and subcontractors. The contractor or consultant shall provide a copy of all subcontractor agreements, purchase orders and/or other verification of the total amount to be paid to each subcontractor, supplier, etc., prior to commencement of work. A penalty of one percent (1%) of the contract amount or one thousand dollars (\$1,000) per day (whichever is less) may be applied if records or documents are not provided within the specified time. The City shall deem such refusal a material breach of contract, in which case the City may terminate the contract and/or stop the work until compliance is met. In addition, the contractor or subcontractors may be debarred from participating in future City contracts for a period of six months to five years, and may lose certification.

The subcontractor's progress payment report must be submitted with each progress payment in order for the progress payment to be processed. Also, prime contractors and/or prime consultants will provide the City and Redevelopment Agency with executed copies of its subcontractor/sub consultant agreements to verify dollar amounts stated for all L/ SLBEs. Contractors must also provide information with each progress payment indicating payments made to L/SLBEs in order to receive subsequent progress payments.

For construction contracts pursuant to Public Contracts Code Section 4107, et seq., no substitution of the listed L/SLBE subcontractors can be made without the approval of the City. Contractors are required to contact the Contract Compliance Office to request a substitution hearing.

Prevailing Wages

State prevailing wage rates apply to all public works contracts as set forth in Labor Code Sections 1720, 1720.2, 1720.3, 1720.4, and 1771. Workers employed on construction, alteration or demolition projects in California that use public funds are paid the prevailing wage, which is the basic hourly rate the majority of workers in a particular craft or classification earn. The prevailing wage also is based on the locality and nearest labor market. The California Department of Industrial Relations, (Divisions of Labor Statistics and Research) annually determines prevailing wages and may be reached at www.dir.ca.gov/DLSR/PWD.

The Contractor shall ensure that all workers performing construction work for the project are employed by the Contractor and shall include in its contracts with its contractors, requirements that its contractors' employees and their subcontractors' employees shall be compensated in an amount no less than the general prevailing wage rate of per diem wages pursuant to the California Labor Code Sections 1770, et seq.

The Contractor shall comply with, and shall include in its contracts with its contractors, requirements that its contractors and their subcontractors shall ensure that its contractors and subcontractors comply with all reporting and record keeping requirements of the applicable prevailing wage statutes and regulations. The Contractor is aware of and shall comply with the provisions of the City of Oakland and Redevelopment Agency's prevailing wage requirements contained in Resolution No. 87-4 CMS passed on January 20, 1987 or Resolution 57103 CMS, passed March 28, 1978. Copies are on file with the Division of Contract Compliance and Employment Services.

The prevailing wage requirement will be monitored and enforced by the City of Oakland and Redevelopment Agency. In addition to any other rights provided by California law to recover compensation, a worker that has been paid less than the prevailing wage rates shall have a right to commence an action or proceeding against the employer of the worker for the difference between the prevailing wage rates and the amount paid to such worker for each calendar day or portion thereof for which the worker was paid less than the compensation required to be paid under the provisions of this agreement.

Winning Compliance

Local Subcontracting Outreach

To ensure full disclosure of contracting and subcontracting opportunities available through the City of Oakland, each awarding City agency, department and division must post city funded contracting opportunities on the City's website.

The City of Oakland, Office of Contract Compliance & Employment Services, maintains a list of for profit and not-for profit businesses and organizations. The list is divided by trade or profession and includes contact information as and if the certification type is either Local Business Enterprise (LBE) or a Small Local Business Enterprise (SLBE). Each agency is required to solicit responses from certified firms appropriate to the nature and scope of the particular solicitation. Upon request, mailing lists of certified firms will be provided to using agencies and contractors/consultants.

Mentor Protégé Agreements

The City of Oakland strongly supports "Mentor-Protégé" relationships because they help to build capacity in underutilized service areas. Typically, prime contractors and consultants help develop the technical and business capabilities of local and small local as well as disadvantaged businesses (pursuant to DOT requirements). On a case-by-case basis, the City will allow a 5% preference for Mentor – Protégé teams on construction and professional services contracts.

If a prime contractor or prime consultant is able to develop a "Mentor-Protégé" relationship with a certified LBE or SLBE, the mentor will enjoy the benefit of credits against City goals particularly under circumstances where availability is zero, In order to earn credit for Mentor-Protégé relationships, the Mentor-Protégé Agreement must be submitted for approval to Contract Compliance and Employment Services prior to the project bid date for construction, and by proposal due date for professional services contracts.

A written mentor-protégé agreement must be completed by both parties and executed before a notary public. The agreement must delineate the rights and responsibilities of each mentor and protégé. The parties must agree to enter into the relationship for the life of the project.

During the duration of the contract both the mentor and protégé must each provide the Division of Contract Compliance and Employment Services with a monthly report of the kinds of mentor skills provided to the protégé, which shall include but not limited to:

- Number of hours expended in the fulfillment of the project by each partner;
- Managerial assistance provided (*e.g. bookkeeping services, personnel, payroll, etc.*);
- Technological assistance provided (*e.g. computer hardware/software, training, etc.*);
- Bonding assistance provided;
- Number of private sector projects bid on by the mentor-protégé team;
- Number of private sector contracts awarded to the mentor-protégé team; and
- Financial assistance provided.

No officer, director, employee or member of the mentor-protégé team shall be allowed to bid or otherwise participate independently on a city contract where the mentor-protégé team is bidding or otherwise participating. Each party is prohibited from submitting multiple bids on city contracts.

The protégé must be able to demonstrate that it is an independent business operation prior to submittal of a mentor-protégé agreement and throughout the term of the agreement. Unless specifically defined as one of the benefits to the protégé and spelled out in the agreement, the mentor and protégé must maintain separate office spaces while the mentor-protégé agreement is in effect.

Joint Venture Agreements

A business that is bidding or competing for City contracts may associate with a certified LBE or SLBE business to compete for contracts as a joint venture. A joint venture should be between two entities with the same discipline or license as required by the awarding department. Joint ventures receive bid discounts depending upon the LBE or SLBE percentage of participation as set forth in the Ordinance. The parties must agree to enter into the relationship for at least the life of the project.

Basic Elements of the Joint Venture Agreement:

A Joint Venture must submit a Joint Venture Management Plan and/or a Joint Venture Agreement two weeks prior to the bid due date. Copies of the JV applications are available upon request to the Contract compliance & Employment Services Division (510) 238-3970. Each agreement or management plan must include, but not limited to the following:

1. Detailed explanation of the financial contribution of each partner;
2. List of the personnel and equipment used by each partner;
3. Detailed breakdown of the responsibilities of each partner;
4. Explanation of how the profits and losses will be distributed;
5. Description of the bonding capacity of each partner; and
6. Management or incentive fees available for any one of the partners (if any).

Commercially Useful Functions Performed by Joint Venture Partners:

Each JV partner must perform a "commercially use function" as that term is defined herein. A LBE or SLBE that relies on the resources and personnel of a non-LBE or SLBE firm will not be deemed to perform a "commercially useful function"

Joint Venture License Requirements: Each joint venture partner must possess licenses appropriate for the discipline for which a proposal is being submitted. If a joint venture is

bidding on a single trade project, at the time of bid submittal, each of the joint venture partners must hold a Joint Venture License and possess the requisite specialty license for that trade bid.

Delineation of Joint Venture Work:

The LBE or SLBE partner must clearly define the portion of the work to be performed during the project. This work must be of the similar type of work the LBE or SLBE partner performs in the normal course of its business. The Joint Venture Participation Form must specify the project bid items to be performed by each individual joint venture partner. Lump sum joint venture participation is not acceptable.

Responsibilities of the LBE or SLBE Joint Venture Partners:

1. The LBE or SLBE partner must share in the ownership, control, management responsibilities, risks, and profits of the joint venture in proportion with level of participation in the project;
2. The LBE/SLBE partner must perform work that is commensurate with its experience.
3. The LBE/SLBE partner must use its own employees and equipment to perform its portion of the project.
4. For construction contracts only, the joint venture as a whole, must perform bid item work that equals or exceeds twenty-five percent (25%) of the total value of the contract, excluding the cost of manufactured items, in order to be eligible for a joint venture discount.

Application of Bid Discounts For Joint Venture Agreements

To be eligible for a bid discount, at the time of bid submittal, each joint venture partner must hold a Joint Venture License and each must have the license that is appropriate for the project as required in the contract document of the contract award authority. Unless permission is granted by the City Manager or his designee for good cause shown, based on sudden and unexpected necessity, the following actions are not permitted: i) the non-LBE/SLBE partner performing work for the LBE/SLBE partner; ii) leasing of equipment or property by the LBE/SLBE partner from the non-LBE/SLBE partner; and iii) the hiring of the non-LBE/SLBE partner's employees by the LBE/SLBE partner.

Other Joint Venture Conditions

The City Manager or designee must first approve the LBE/SLBE Joint Venture Agreement/Management Plan before the joint venture is eligible for bid discounts. Any changes must also receive the prior approval of the City Manager or designee. In addition to any other information required by conditions specified herein, each LBE/SLBE joint venture must provide upon request, cancelled checks and any other financial records to the City.

Earning Credits (Banking Dollars)

In order to increase the level of self-sufficiency of Oakland based firms, the City will allow contractors to accumulate credits for hiring local businesses and small local businesses on non-city funded projects. Prime contractors will be allowed to bank dollars paid to certified local firms on non-city funded projects prior to the notice to proceed. Those banked dollars will count toward achieving a bid discount or preference points (up to 2%) on a City contract. The ability of firms to bank hours on non-City projects will not be retroactive. Firms will only have one year to credit these hours.

City –Assisted Private Developments

For City-assisted private developments (e.g. Disposition and Development Agreements, affordable housing projects, and loans for construction projects) prime contractors are required to seek competitive bids from subcontractors and comply with the program goals and objectives as set forth in this document. Prime contractors must give SLBE contractors a 5% bid discount and LBE contractors a 2% bid discount. Prime contractors are required to award to the lowest responsible bidder.

Incentives for Supporting Local Business Participation on City Contracts

Each year, the City Manager will award a certificate of achievement to the city agency that reaches the highest level of support to small local businesses.

Other

Prime contractors shall not impose any unreasonable additional criteria on subcontractors that are not required by the City. Any demand on the subcontractors that would change the way the subcontractor may do business will be deemed unreasonable. The prime contractor shall not selectively impose criteria upon local certified businesses that are not applied to other business in similar contractual relationships with the prime.

In addition to any other documents required by the bid specifications, the contractor shall submit the Compliance Commitment Agreement as attached.

All bids submitted shall be made available to the public upon bid opening as required by the Sunshine Ordinance, including all bids prepared by subcontractors.

Attached herein are construction forms identified as (Schedule R-Subcontractor /Supplier/Trucking Listing; Schedule U-Compliance Commitment Schedule W-Bid Confirmation (lowest bidder must submit this form 48 hours after bid opening.

END

Part II. Certification

Certification Criteria

The City of Oakland now certifies both for-profit and not-for-profits operations. Certification criteria apply to both for profit and not-for-profit organizations.

1. An established operation located and doing business or operating within the geographical boundaries of the City of Oakland.
2. Fully operational for at least twelve (12) consecutive months prior to applying for certification.
3. A valid City of Oakland Business Tax certificate issued no less than twelve (12) months prior to applying for certification. All payments must be current and the certificate must reflect the address of the local business.
4. A fixed office that reflects a substantial presence in the geographical boundaries of the City of Oakland. Post Office boxes, temporary locations, and moveable work sites will not establish status as a local business. In the case of trucking firms, the truck inventory must be located within the city limits. A fixed office is a dedicated office space, owned or leased by the local business, in an established, non-portable building where regular work pertinent to the contract is conducted. For SLBE certification, the fixed office shall be the primary business location of the business. A residence may qualify as a fixed office provided the following conditions are met: (a) the business conducted in the residence complies with Oakland Zoning Regulations relating to Home Occupations; and (b) the residence is the primary business location of the business and contributes not less than 51% of the gross receipts of business. A fixed distribution point is a non-portable warehouse or an outside shipping yard owned or leased by the local business, where shipping, receiving and the owner and employees regularly and exclusively conduct distribution of goods and commodities on behalf of the business.
5. The owner or employees (person hired and paid directly by the local business to conduct work solely on behalf of the business at its fixed office or distribution point) shall be available during normal operating hours.
6. A LBE/SLBE must comply with all applicable Federal, State and local regulations, including, but not limited to the City of Oakland Zoning Regulations.
7. All taxes, fees, permit fees, and fines shall be current.
8. Upon request by the City's certifying officer, a LBE/SLBE must possess and make available for inspection the following documentation citing the Oakland business street address:
 - a. Executed (i.e. signed by all parties) copies of past/current contracts;
 - b. Oakland Business Tax Certificate and federal tax identification number;
 - c. Executed lease or other written agreement for occupancy of the Oakland office;

- d. Business cards and Utility bills (including but not limited to telephone, gas, electric, or water bills)
9. A business requesting certification shall supply the City with all such additional information, as the City may deem relevant to make a determination on its eligibility for certification. The City may wish to review additional documents that may include, but may not be limited to:
- a. Commercial advertising
 - b. On-site signage
 - c. Letterhead
 - d. Previous Lease Agreements
 - e. Marketing materials
 - f. Listing in the telephone book.
10. Small local businesses must present or make available copies of federal tax returns showing gross revenues for the three most recent fiscal years in order for the City to determine compliance with established business size standards.

Certification Eligibility Standards

Ownership And Control For Small Local Business Enterprise

The following standards shall be used by the City to determine if a firm is owned and controlled by one or more owners or businesses and eligible for certification as a Small Local Business Enterprise:

1. An eligible small local business shall be an independent business. The ownership and control of the SLBE shall be real, substantial and continuing and shall go beyond the pro forma ownership of the firm as reflected in its ownership documents. The small local business owner shall enjoy the customary incidents of ownership and shall share in the risks and profits commensurate with their ownership interests, as demonstrated by an examination of the substance rather than form of arrangements. Recognition of the business as a separate entity for tax, corporate or local status purposes is not necessarily sufficient for recognition as an SLBE. In determining whether a potential SLBE is an independent business, the City shall consider all relevant factors, including the date the business started, the adequacy of its resources for the work of the contract, and the degree to which financial, equipment leasing and other relationships with non local firms.
2. The owner(s) of the small local business must also possess the power to direct or cause the direction of the management and policies of the firm. Also, the owner shall make the day-to-day, as well as major decisions on matters of management, policy and operations. The firm shall not be subject to any formal or informal restrictions, which limit the customary discretion of the owners. There shall be no restrictions that would prevent the local business owners, without the cooperation or vote of any non-local owners, from making a business decision of the firm. (i.e. bylaws provisions, partnership agreements or charter requirements for cumulative voting rights)

- Where the actual management of the firm is contracted out to individuals other than the owners, those persons who have the ultimate power to hire and fire the managers are, for the purposes of this part, considered controlling the business.
- The contribution of capital or expertise by the local owner(s) to acquire their interests in the firm shall be real and substantial.
- Newly formed firms and firms whose ownership and/or control has changed since the date of the advertisement of the contract are closely scrutinized to determine the reasons for the timing of the formation of or change in the firm.
- A previous and/or continuing employer-employee relationship between or among present owners are carefully reviewed to ensure that the employee-owner has management responsibilities and capabilities.
- Any relationship between a SLBE and non- SLBE, which has an interest in the SLBE, is carefully reviewed to determine if the interest of the non-SLBE conflicts with the ownership and control requirements.
- SLBEs will be considered bona fide if the ownership interests are real and continuing, and not created solely to meet the City goals for SLBEs participation. The SLBEs included in the contract must perform commercially useful services and/or supplies and not merely act as a passive conduit. In the event the City has reason to question the ownership of SLBEs, the burden of proof is on the claimant and/or contractor to provide documentation to substantiate the SLBE business enterprise status.

Size Standards for Small Businesses

The City has established a size limit in order to set forth criteria and define small local businesses. In making the determination relative to size, the City will use thirty percent (30%) of the United States Small Business Administration's Small Business Size standards. Size is based on gross revenues realized by the firm for the three most recent fiscal years that the firm is doing business.

LBE/SLBE Certification Process

Step 1 – The Application: Down load Applications from the web site maintained by Contract Compliance & Employment Services (CC & ES). From Oaklandnet.com, select Contract Compliance on the "go to" link. Requests for certification applications can be made by phone, facsimile, electronic mail, in writing or in person. When submitting the application, remember to attach a copy of the most recent Business Tax Certificate and have the application notarized. If you are applying as a small business, attach the last three most recent business tax returns.

Step 2 – The Review Process: The City of Oakland employs a three-tier certification process as standard operating procedure. This process is used to determine the degree of difficulty and time necessary to complete the review.

- ✓ Tier I – The application, upon review by staff, is complete and accurate, and requires no further action. Analysis, recommendation and notification as to the status of the application to certify or deny certification will be conducted within 10 working days. Tier I applications are typically LBE re-certifications.
- ✓ Tier II – The application, upon review by staff, requires additional information (e.g. application information is incomplete or requires clarification, supporting documents missing, etc.) If the application is incomplete, additional documentation will be requested and must be submitted within 10 working days. Analysis, recommendation and notification as to the status of the application to certify or deny certification will be conducted within 10 working days.
- ✓ Tier III - The application, upon review by staff, necessitates a desk audit and site visit. The desk audit and site visit will be conducted within 15 working days. All parties are asked to cooperate fully with the investigation. Failure or refusal to furnish requested information or failure to cooperate voids the application. If the audit and review results in a satisfactory determination, analysis, recommendation and notification as to the status of the application to certify or deny certification will be conducted within 10 working days after the site visit.

During the process of certification, the City may review any documentation or information it deems necessary to determine whether the applicant meets the definition of a local business set forth in the section 2.01 of this document.

To ensure complete and accurate determination in a timely fashion, it is requested that all potential LBE/SLBE participants submit an application for certification a minimum of three (3) weeks prior to a bid opening or submittal of a proposal. In order to receive LBE or SLBE credit for listed subcontractors and suppliers certifications must be complete and existing at the date and time of bid opening or submittal due dates.

Certification with another agency does not constitute certification with the City of Oakland. The City reserves the right to approve LBE/SLBE status from other government or City agencies. Firms or individuals who knowingly submit false information concerning their LBE/SLBE business status are subject to action or actions for fraud under the State and Federal False Claims Act and will be debarred from bidding on future City work for a period of three (3) years.

Other Considerations

In addition to the above the City shall give special consideration to the following circumstances in determining eligibility:

- Newly formed firms and firms whose ownership and/or control has changed since the date of the advertisement of the contract are closely scrutinized to determine the reasons for the timing of the formation of or change in the firm.
- Previous and/or continuing employer-employee relationships between or among present owners are carefully reviewed to ensure that the employee-owner has management responsibilities and capabilities.

- Any relationship between an LBE/SLBE and a business that is not an LBE/SLBE, which has an interest in the LBE, is carefully reviewed to determine if the interest of the non-LBE conflicts with the ownership and control requirements.
- A joint venture is eligible for certification if the LBE/SLBE partner of the joint venture meets the standards for an eligible LBE. The LBE partner is responsible for a clearly defined portion of the work to be performed and shares in the ownership, control, management responsibilities, risks and profits of the joint venture. The City Attorney's office must approve joint venture agreements.
- The mentor and protégé must be certified prior to the submittal of a mentor-protégé agreement for approval.

Re-Certification

A City of Oakland certification is valid for a period of two years, unless otherwise specified. At the end of the certification period (October and April) the business may apply for re-certification. Notwithstanding the above, the City may require re-submittal of current documentation and information in the event a LBE/SLBE certification is challenged.

Appeal

Any firm that believes that it has been wrongfully denied certification as an LBE/SLBE or joint venture may file an appeal in writing. The written appeal must be signed and dated.

The appeal shall be filed no later than 30 days after the date of denial. The City may extend the time for filing, or waive the time limit in the interest of justice. The City may specify in writing the reason for so doing.

Third parties, who have reason to believe that another firm has been wrongfully denied or granted certification as an LBE/SLBE or joint venture, may advise the City in writing. This information is not considered an appeal.

The City ensures a prompt investigation, and may at its discretion; decertify the LBE/SLBE or joint venture pending the outcome of the investigation.

Part III: Local Employment Program

Program Objective

The objective of the Local Employment Program for public works and subsidized construction projects is to cause the hiring of Oakland residents on as many Prevailing Wage jobs as possible, and to encourage businesses to hire local residents for non-City-funded work.

Definitions

1. **Apprentice** – An individual who is registered with an apprenticeship program approved by the Division of Apprenticeship Standards (DAS).
2. **Apprenticeship Coordinator** – An individual who supervises apprenticeship-training activities.
3. **Apprentice Work Hours** – The work hours apprentices are required to work on public works projects.
4. **Bay Area Construction Sector Intervention Collaborative (BACSIC)** – A coalition of community based organizations, union representatives and apprenticeship coordinators partnering to provide necessary support services to assist job seekers in obtaining employment in the construction industry.
5. **City** – The City of Oakland, including the Redevelopment Agency. Reference to the City Manager includes the Redevelopment Agency Administrator.
6. **City Financial Assistance Recipient** – An entity or individual that receives a City subsidy for a public works project.
7. **Community Based Organization (CBO)** – A non-government agency created to provide training or employment assistance to job seekers.
8. **Contract** – The written agreement to provide services established between the City (or developer) and the general contractor.
9. **Contractor** – An individual, partnership, corporation, joint venture or other legal entity entering into a contract (or a subcontract of whatever tier) for a public works project (as such projects are defined in this policy). The general contractor is the entity that enters into the contract directly with the City or Developer; a Subcontractor is an entity that enters into a Contract with the General Contractor or a Subcontractor of whatever tier.
10. **Core Employee** – An apprentice or journey level employee who: possesses any license required by state or federal law for the project work to be performed; has worked a total of at least 1000 hours in the construction craft during the prior three years; was on the Contractor's active payroll for at least 60 out of the 180 calendar days prior to the contract award; and has the ability to perform safely the basic functions of the applicable trade.
11. **Craft-by-Craft** – Measuring the hours worked by an apprentice or journey person with regard to each craft, as defined in the Federal and State Wage Determination.
12. **Developer** – A person or entity that prepares or develops real property for development or redevelopment and receives a City subsidy.
13. **Division of Apprenticeship Standards (DAS)** – The agency responsible for apprenticeship in the state of California.

14. **Emergency Work** – A public works contract awarded because of imminent danger (i.e. fires, floods, earthquakes) or threat to the health, safety and welfare of Oakland residents and meeting the City’s requirements for waiving normal bidding procedures.
15. **Local Construction Employment Referral Program (LCERP)** – The Employment Services Unit of the Office of the City Manager created to identify Oakland residents for employment on City of Oakland and Oakland Redevelopment Agency construction projects.
16. **Monitoring** – The system established to measure compliance with the Local Employment Program Policy and the 15% Apprenticeship Utilization Policy. This system includes tracking the employment status (as reported by certified payrolls) on all public works projects. Monitoring occurs for:
 - a. Payment of prevailing wages
 - b. Resident workforce hours
 - c. Apprenticeship Hours
 - d. New Hires
17. **New Hire** – Any employee of a contractor who is not listed on the contractor’s quarterly tax statements for the tax period been hired prior to the commencement of work, unless the employee qualifies as a Core Employee.
18. **Owner Operator** – A contractor who operates their own, leased or rented equipment and uses that equipment on the public works project, and hires no other employees.
19. **Post Award** – The meeting held between the City and contractors after the award of a public works project and before the issuance of a notice to proceed. Post award meetings occur at the request of either the using agency or contractor/consultant.
20. **Public works project (project)** – Any construction, alteration, demolition, or repair work done under contract and paid for in whole or in part out of public funds or by a developer who receives a City subsidy for the project.
21. **Resident** - Any person whose primary residence is in Oakland. This individual must have established residency at least two weeks prior to commencement of work by the contractor.
22. **Subcontract** – A contract that exists between the general contractor and a subcontractor or between subcontractors of any tier.
23. **Subsidy** – A grant, loan, credit, tax rebate or any other instrument or means that provides a measure of value to the developer from the City.
24. **Tier** – The level of relationship to the prime contractor of a subcontractor who enters into a contract under a prime or another subcontractor to perform a portion of the work on a project.

Program Goals

For any construction contract or development agreement with the City this policy establishes a goal for Oakland-resident employment on public works projects (as such projects are defined in this policy). Specifically, for work performed at the construction site, this policy establishes a goal of 50% of the work hours, which must be performed by Oakland residents on a craft-by-craft basis. In addition, a minimum of 50% of all new hires on the project (on a craft-by-craft basis) must be Oakland residents, and the first new hire must be an Oakland resident. A contractor or developer must achieve the goals or secure an exemption from the City.

Apprenticeship is an essential pathway to a productive career in the construction trades. Therefore this policy recognizes that implementation of the 15% Oakland Apprenticeship Utilization policy on public works projects is important to achieve the goals of this policy. This policy will include additional incentives to both highlight and further encourage the use of Oakland apprentices. Utilization of Oakland Apprentices will count toward the 50% new hire goals and the 50% workforce hour goals.

General Provisions

The City shall require its developers and contractors to abide by the Local Employment Program. The City shall also require that the developers and contractors enforce the provisions of the Program on any and all parties with whom the developers and contractors intend to enter into a contract to perform any portion of said work.

The Local Employment Program required by the City will be incorporated in all contract specifications as well as Dispositions and Development Agreements (DDA) for subsidized projects and contract specifications. The developer or contractor shall cause this Program to be a part of all subcontracts, regardless of Tier or phase under the contract. The goals set forth must be maintained for the duration of the project.

The LEP applies when the project includes the purchase of construction services either by the City as buyer or by a City Financial Assistance Recipient (CFAR); and either the City is the buyer and the dollar amount of the project exceeds \$50,000.00 dollars; or the project exceeds 30 days; or new hires are needed to perform the work on the project.

The LEP does not apply when the contract or subcontract is performed by an owner/operator; or the project requires less than 140 hours of work; or the project is performed as emergency work; or a job requires no more than two craft-persons to perform the duties of the entire project; or a contractor's core workforce includes 50% Oakland residents, and no additional employees will be hired.

Prior to receipt of the Notice to Proceed (NTP), the developer or contractor and Contract Compliance & Employment Services staff together will create a project-specific plan to comply with the LEP goals on a craft-by-craft basis for all work forces and for planned new hires. The project-specific plan will recognize the lawful hiring hall rules of the union hiring halls where applicable. The Anticipated Project Workforce Form may be used in the development of a project specific compliance plan.

Winning Compliance

The Developer or Contractor must meet or exceed the 50% work force and new hire requirements in order for the following program criteria to apply:

Exemptions

Hours of work performed by employees of a subcontractor on a LEP-covered project may not be assessed against the Contractor's LEP goals, if the subcontract will be:

1. Performed by an Owner Operator;
2. Performed in less than 40 hours;
3. The Subcontractor's core work force includes 50% Oakland employees, and no additional employees will be hired; or
4. No more than two craft persons are required to perform the work of the subcontract, the Subcontractor hires no new employee to perform the work and the Subcontractor is a Small Business within the meaning of City policies.

When the Contractor has taken the steps and an Oakland resident is not available the City shall issue an exemption.

Conditional Exemptions

The Developer or Contractor's project manager must submit a request for conditional exemption to the Contract Compliance & Employment Service staff. They must determine whether to grant the exemption prior to issuance of the contract. The request is reviewed based on conditions (cited by Developer or project manager) that make compliance unfeasible. Examples of such conditions include but are not limited to:

1. Permanent core workforce performs short-term (five days) work.
2. Intermittent service by one trade throughout the life of the project
3. Overall project time is under three months.
4. Owner Operator performs the work.

If circumstances arise subsequent to the issuance of the contract, the results of which the Contractor believes will prevent attaining the local-hire goals, the contractor will immediately notify Contract Compliance & Employment Services staff by requesting a conditional exemption. Staff shall meet with the applicant as necessary and issue a decision within five days, including a determination as to any retroactive liability for failure to achieve the goals for work undertaken prior to the application for such a conditional exemption.

Local Construction Employment Referral Program (LCERP) – The Local Construction Employment Referral Program is a one-stop employment service for Oakland residents. The on site Job Developer evaluates the skill levels of Oakland residents seeking work as skilled or un-skilled workers on construction projects. Names, contact information and skill levels are maintained in a LCERP Data Bank. In order to satisfy the fifty percent (50%) new hire goal when employment vacancies occur on a job site, each contractor must follow the steps outlined below.

Referrals and Dispatching Oakland Residents:

1. For Open Shop – in the absence of a collective bargaining agreement the Contractor shall:
 - a. Contact Contract Compliance & Employment Services (CC&ES) to request a referral from the Local Construction Employment Referral data bank; and
 - b. Submit a completed "Job Request & Referral Form" by fax or e-mail.
 - c. The CC&ES will refer an Oakland resident (matching the qualifications identified by the contractor on the Job Request & Referral form) to the Contractor within three business days.
2. For Union Shop – contractors working under a collective bargaining agreement shall:
 - a. Contact local union hall to request an Oakland resident; and
 - b. If an Oakland resident is not available for dispatch, contact CC&ES to request a referral from the Local Construction Employment Referral data bank; and
 - c. Submit a completed "Job Request & Referral Form" (Attachment ___) by fax or e-mail to CC&ES.
 - d. The CC&ES will refer an Oakland resident (matching the qualifications defined by the contractor) to the local union hall and that resident will be dispatched within three business days in accordance with the lawful hiring hall rules of the Union.

Incentives and Penalties

Incentives (credit or banking of hours)

To encourage long-term retention and early hiring of Oakland residents as employees of contractors doing business in Oakland, the City will give a contractor credit towards the LEP goals when the contractor employs craft persons, superintendents, and foremen that are Oakland residents. Banked or credited hours may only be applied toward meeting 50% of the LEP requirement. Contractors may receive credit for hours performed by these Oakland-resident employees in the following circumstances:

1. When a contractor exceeds the LEP workforce hour goal on an existing project, those surplus hours will be banked for application on a subsequent City project.
2. When a contractor employs Oakland residents on non-City projects during the year prior to issuance of a notice to proceed on the City contract, those hours will apply toward the 50% workforce hour requirement.
3. When a Contractor employs Oakland residents on non-City projects during the six months following completion of a City Contract or Subcontract, those hours will be banked for application on a subsequent City project.
4. The general contractor may utilize the hours performed by its Oakland-resident employees that exceed LEP goals to meet the LEP goals of a Subcontractor that fails to achieve its own LEP goals. However, the City may designate a contractor as ineligible to receive excess-hours credit under this section for demonstrated prior non-compliance.

Contractors may fully avail themselves of other credits for local hire that may be available in other City programs and policies (such as tax credits) without regard to the credits that they may receive under the LEP policy for their use of Oakland-resident employees. The LEP is in no way designed to reduce or otherwise compromise those available incentives.

Penalties

Any penalty imposed under this policy for a Contractor's failure to achieve the LEP goals will be implemented under a system of progressive implementation. The City will assess factors such as the degree of failure; the efforts undertaken to achieve the goals and the presence or absence of repeated failure to achieve the goals in determining what level of penalty would be appropriate within the penalty range available in Article VI.

When a Contractor finishes its contract without meeting the LEP requirements, and a penalty is warranted, the City will withhold from final payment up to 150% of the wages for the deficient hours of the non-complying Contractor's contract. The Contractor will have one year to work off the hours owed by working Oakland residents on non-City projects. If at the end of this period all the deficient hours have not been eliminated, the Contractor will forfeit 150% of the wages for any remaining deficient hours to the City as a fine.

Repeated failure to comply with the LEP could lead to debarment under City contracting policies.

Outreach

The City may hold a post-award meeting to familiarize the contractors with the LEP requirements as well as with the requirements of the 15% Apprenticeship Program. If requested by the contractor the

City shall hold such a meeting within 10 business days. Post award meetings are most advantageous to contractors that wish to become more familiar with these programs and may also be held upon request of the contractor throughout the life of the project. Attendance at a post-award meeting will contribute to the contractor's ability to comply with the LEP and apprentice utilization policies. To the extent allowable by law, the meeting will be open to stakeholders.

A post-award meeting will include instructions on when and how to prepare and submit the following forms:

- Certified payroll reports
- Anticipated Project Workforce
- Job Request and Referral
- Apprentice Utilization Plan
- Certified Trucking Roster
- Quarterly Wage & Withholding Reports (DE-6)
- Progress Payment

A post-award meeting should also provide, when possible, information to support the contractors' success, and may include:

- California Labor Code relating to Apprentices on public works projects
- Certification Application
- Work Opportunity and Welfare-to-Work Tax Credit
- Construction & Demolition (C&D) Debris Recycling
- Prevailing Wages
- Apprenticeship Program

The City Manager's Office, Contract Compliance & Employment Services Division will conduct at least three "Winning Compliance" Workshops per year. Contractors are encouraged to attend at least one such workshop. Forms and information listed above under post award meeting will be the major topics of discussion. Attendance at these workshops will assist the contractor in complying with the LEP and apprentice utilization policies.

Reporting

The developer or contractor must submit reports for compliance with the LEP as required by the City. These reports may include weekly certified payroll records for all crafts covered under these Program provisions within fifteen working days of the end of each payroll period. In addition to the weekly-certified payroll records, the City may require a weekly or monthly summary of the information that would be obtainable from the certified payroll regarding local-hire by craft. These reports must show the person-hours on a craft-by-craft basis and, in the case of certified payroll records, identify the address, Social Security number, new hire, ethnicity, gender and trade and status (journeyman or apprentice) of all employees on the project. All reports must have an original signature and be signed by an authorized officer of the company under penalty of perjury. The City will make a copy of required forms available to Contractors. These forms will be available in hard copy or digitally.

Nothing in this Policy is intended to eliminate the requirement of a contractor to maintain certified payrolls, or of the subcontractors to provide certified payrolls to the prime Contractor, or for any contractor to provide certified payrolls to any party that requests them, as required in State law.

Monitoring

The City will monitor LEP and Apprentice-Utilization compliance, via means such as desk reviews or on-site monitoring. City employees conducting on-site monitoring are authorized to visit City-subsidized projects and are covered under the City of Oakland's insurance policy. Full-scale investigations of non-compliances or violations will be on an as-needed basis.

The City shall provide a general contractor with an audit of a subcontractor's LEP compliance within 45 days of the request, so long as the General Contractor provides the City with the information required by the City to make such an audit.

Audits of compliance may require the review of documents such as certified payrolls, Apprenticeship Utilization Form, Request & Referral Form, Certification of Compliance Hours Form, cancelled checks, progress payments, or Quarterly Wage and Withholding Reports (DE-6), among others.

A Developer or Contractor that fails to provide requested documents or misrepresents material facts in such documents shall be deemed to be non-compliant with the LEP.

Other Conditions

Developers or contractor will comply with the appropriate provisions of the California State Labor Code regarding the required ratio of apprentices to journeypersons to be employed on the job site.

Program Amendments

The City Manager may make changes as necessary to implement and achieve the goals of the Local Employment Program.

Conflicts

The provisions of this program may not be enforced to the extent that such enforcement results in a Developer or Contractor violating a consent decree or other judicial or administrative order or a statutory or regulatory provision.

Severability

In the event any provision of this Program is deemed illegal or invalid for any reason, said illegality or invalidity will not affect the remaining parts of the Program but the same shall be construed and enforced as if said illegal or invalid provision had never been inserted herein, and the Ordinance will be interpreted in a manner that best gives effect to its initial understanding.

End of Document

**ATTACHMENTS -
CONSTRUCTION FORMS**

Schedule Q

INSURANCE REQUIREMENTS FOR EAST BAY ZOOLOGICAL SOCIETY, INC (SOCIETY)

a. Insurance Types:

SOCIETY shall procure, prior to commencement of service, and keep in force for the term of this contract, at SOCIETY's own cost and expense, the following policies of insurance or certificates or binders as necessary to represent that coverage as specified below is in place with companies doing business in California and acceptable to the City. If requested, SOCIETY shall provide the City with copies of all insurance policies. The insurance shall at a minimum include:

- i. Commercial General Liability (Broad Form) insurance, providing coverage including, but not limited to:
- o Bodily Injury and Property Damage,
 - o Premises/Operations Liability,
 - o Contractual Liability,
 - o Contingent Ride Liability,
 - o Tram Liability,
 - o Special Event Liability for promotions, etc.,
 - o Personal/Advertising Injury,
 - o Employees Benefits Liability,
 - o Employees/Volunteers Added as Additional Insured,
 - o Products/Completed Operations,
 - o Directors and Officers Coverage, and
 - o Owners/Contractors Protective Liability.

The policy shall contain a "severability of interest" clause or cross liability clause or the equivalent thereof.

- A. Coverage afforded on behalf of the City shall be primary insurance and any other insurance available to the City under any other policies shall be excess insurance (over the insurance required by this Agreement).
- B. Limits of liability shall include the following:

Bodily Injury - \$5,000,000
Property Damage - \$5,000,000
Or, Combined Single Limit (C.S.L) for Bodily Injury and Property Damage - \$12,000,000

- C. If the policy is a “claim made” type policy, the following should be included as endorsements:
- 1) The retroactive date shall be the effective date of this Agreement or a prior date.
 - 2) The extended reporting or discovery period shall not be less than thirty-six (36) months.
- D. The minimum limits on these policies will be adjusted periodically by the City so that the limits generally reflect the values of the policies as of the date this agreement was signed. Deductibles or self-insured retentions of no more than \$15,000 for property damage and/or bodily injury are acceptable without further review by the City.
- ii. Commercial Automobile Liability insurance, including all owned, non-owned and hired automobiles used by the SOCIETY or its agents in the performance of this Agreement shall have the following minimum limits for Bodily Injury and Property Damage - \$1,000,000 Combined Single Limit.
 - iii. Worker's Compensation insurance as required by the laws of the State of California. Statutory coverage may include Employers Liability coverage with limits not less than \$1,000,000 covering SOCIETY employees and volunteers. The SOCIETY certifies that he/she is aware of the provisions of section 3700 of the California Labor Code, which requires every employer to provide Workers' Compensation coverage, or to undertake self-insurance in accordance with the provisions of that Code. The SOCIETY shall comply with the provisions of section 3700 of the California Labor Code before commencing performance of the work under this Agreement and thereafter as required by that code.
 - iv. All Risk Direct Physical Loss Property Coverage on improvements and betterments in an amount equal to ninety percent (90%) of the replacement cost of each improvement. Coverage to include endorsement for Equipment Breakdown. The City Manager or his/her designee may require, whenever deemed necessary, a review of the insured improvements as to insured values and items covered. The deductible limit of this coverage is not to exceed five thousand dollars (\$5,000) per occurrence. The City shall be named as loss-payee for this coverage.
 - v. Commercial Crime Policy covering Employee Dishonesty, Third Party Fidelity and Money and Securities. Additional coverages provided must include: Forgery or alteration; Inside the premises – theft, disappearance and destruction of money and securities; Inside the premises – robbery or safe burglary of other property; Outside the premises – theft, disappearance and destruction of money and securities and loss of other

fifty dollars (\$250), which reimbursement and service charge, at the discretion of the City Manager, may be either credited against any compensation or expense reimbursement due to SOCIETY or invoiced to them for payment to the City.

d. Insurance Interpretation

All endorsements, certificates, forms, coverage and limits of liability referred to herein shall have the meaning given such terms by the Insurance Services Office as of the date of this Agreement.

e. Proof of Insurance

SOCIETY will be required to provide proof of all insurance required for the work prior to execution of the contract, including copies of SOCIETY's insurance policies if and when requested. Failure to provide the insurance proof requested or failure to do so in a timely manner shall constitute ground for rescission of the contract award. If coverage is canceled or reduced, the SOCIETY shall, within 15 days after receipt of notice of such cancellation or reduction in coverage file with the City a certificate showing that the required insurance has been reinstated, or is in the process of being reinstated, or proved through another insurance company or companies.

f. Contractors and Sub-contractors

SOCIETY shall require all contractors/vendors to provide evidence of insurance in conformance with the CITY insurance requirements specific for the types of services rendered. The City reserves the right to perform an insurance audit during the course of the project to verify compliance with requirements.

1) SOCIETY shall require General Liability and Property Damage insurance for any vendor or concessionaire conducting business at zoo and park on a continuing or regular basis. SOCIETY shall require insurance limits in the minimum amount of \$2 million dollars for all major vendors or concessionaires unless an exception has been granted by the City's Risk Manager.

2) SOCIETY shall impose upon all building contractors performing work at zoo and park the requirements concerning insurance and indemnification. The required insurance and indemnification limits for building contractors are set forth in the City of Oakland Standard Specifications for Public Works Construction. In the event there are changes or amendments made to the Standard Specifications for Public Works Construction, the most current, updated version shall be in effect.

g. Deductibles and Self-Insured Retentions

Any deductible or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such

property from actual or attempted robbery; Computer fraud; Money orders and counterfeit paper currency. Includes additional endorsement for CITY/Client property in the care, custody and control of the SOCIETY; Funds transfer fraud; Extortion; Designated agents; and Leased workers. Coverage shall be provided with the minimum limits of \$500,000 per occurrence and a minimum annual aggregate limit of \$1,000,000. Maximum deductible under this policy shall not exceed \$25,000.

- vi. Business Interruption Insurance – the City will not be responsible for any “business interruption” losses suffered by SOCIETY as a result of operation of and damage to a Zoo facility. SOCIETY shall determine whether to acquire insurance to cover any such losses.

b. Terms Conditions and Endorsements

The aforementioned insurance shall be endorsed and have all the following conditions:

- i. Additional Insured: SOCIETY shall name the City of Oakland, its Councilmembers, directors, officers, agents and employees as additional insureds in its Comprehensive Commercial General Liability policy. If SOCIETY submits the ACORD Insurance Certificate, the additional insured endorsement must be set forth on a CG20 10 (or equivalent). A STATEMENT OF ADDITIONAL INSURED ENDORSEMENT ON THE ACORD INSURANCE CERTIFICATE FORM IS INSUFFICIENT AND WILL BE REJECTED AS PROOF OF THE ADDITIONAL INSURED REQUIREMENT; and
- ii. Cancellation Notice: 30-day prior written notice of cancellation, termination or material change in coverage; and
- iii. Certificate holder is to be the same person and address as indicated in the “Notices” section of this Agreement; and
- iv. Insurer shall carry a Best Rating of A- or greater.

c. Replacement of Coverage

In the case of the breach of any of the insurance provisions of this Agreement, the City may, at the City's option, take out and maintain at the expense of SOCIETY, such insurance in the name of SOCIETY as is required pursuant to this Agreement, and may deduct the cost of taking out and maintaining such insurance from any sums which may be found or become due to SOCIETY under this Agreement. In the event such insurance required of SOCIETY is procured by the City, SOCIETY shall also reimburse all costs incurred by the City to secure such insurance coverage as well as a service charge, the initial amount of which shall be two hundred and

deductible or self-insured retentions as respects the City, its Councilmembers, directors, officers, agents, employees and volunteers; or the SOCIETY shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Approved as to form and legality

[Signature]

INTRODUCED BY COUNCILMEMBER _____

05 APR -7 PM 2:08 CITY ATTORNEY

RESOLUTION NO. 79157

RESOLUTION SUSPENDING THE LIVING WAGE REQUIREMENTS FOR THE EAST BAY ZOOLOGICAL SOCIETY UNTIL JULY 1, 2005

WHEREAS, the East Bay Zoological Society contends that is unable to pay all or part of the living wage until July 1, 2005;

WHEREAS, on April 6, 2005, the City Council heard speakers on the hardship the East Bay Zoological Society would incur if the Living Wage Ordinance were imposed immediately upon the organization;

WHEREAS, the East Bay Zoological Society submitted a letter to the City Council describing the society's hardship;

WHEREAS, the City Council passed a motion expressing its intent to suspend for the East Bay Zoological Society living wage until July 1, 2005.

RESOLVED, That the City Council hereby finds and determines that that the East Bay Zoological Society has demonstrated economic hardship and that waiver will further the interests of the city in providing training positions which will enable employees to advance into permanent living wage jobs or better.

FURTHER RESOLVED, The City Council grants waiver to the East Bay Zoological Society of the Living Wage requirements until July 1, 2005.

APR 19 2005

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2005

PASSED BY THE FOLLOWING VOTE:

AYES- ~~8~~ BROOKS, BRUNNER, CHANG, ~~NADAL~~, QUAN, REID AND PRESIDENT DE LA FUENTE - 5

NOES- 0

ABSENT- 0

ABSTENTION- 2 - Brooks, Nadal

Attest: *[Signature]*
LATONDA SIMMONS

LATONDA SIMMONS
Interim City Clerk and Interim Clerk of the Council
of the City of Oakland, California