

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

247



FROM: Department of Facilities Management

SUBMITTAL DATE:
January 10, 2007

SUBJECT: Owner's Representative Services-Downtown Law Building

RECOMMENDED MOTION: That the Board of Supervisors review and validate the attached agreement between the County of Riverside and JCM Group/Heery International, Inc. of Los Angeles, California, in the amount of \$2,995,513 (Attachment A), as originally approved during the January 9th, 2007 Board of Supervisors meeting as Item 3.40.

BACKGROUND: The attached agreement was first approved by the Board on January 9th, 2007; however, the actual agreement was not distributed to the Board at that time (it was made available at the Clerk of the Board's office for review due to its size) and, based on the magnitude and complexity of the agreement and underlying project, it was concluded that it would be appropriate to redistribute the agreement for an additional review and validation, and to give the Board the opportunity to query Facilities Management staff regarding the scope of services that JCM Group/Heery International, Inc. will provide.

Departmental Concurrence

Robert Field, Director
Department of Facilities Management

RF:JM:jle

FINANCIAL DATA	Current F.Y. Total Cost:	\$100,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$0	Budget Adjustment:	No
	Annual Net County Cost:	\$0	For Fiscal Year:	FY 06/07

SOURCE OF FUNDS: Capital Improvement Program to be reimbursed by bond proceeds from CORAL Financing	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: **APPROVE**

County Executive Office Signature

Reviewed by CIP TEAM

- Policy
- Policy
- Consent
- Consent

Dept's Recomm.:
Per Exec. Ofc.:

3003 7000 SF VHTI: 30
RECEIVED RIVERSIDE COUNTY

Prev. Agn. Ref.: 3.40, 1/9/07; 3.17, 10/24/06; 3.19, 5/2/06; 16.3, 5/3/05

District: 2nd

Agenda Number:

2.9

BACKGROUND: (Continued)

On June 1, 2006, Facilities Management advertised a Request for Qualifications (RFQ) regarding the selection of a firm to provide Owner's Representative Services for the upcoming Downtown Law Building project. The RFQ was distributed for the purpose of selecting the most qualified firms for the construction management of the Downtown Law Building project.

Per Board Policy H-7 and the Government Code, a selection committee made up of representatives from Facilities Management and the Executive Office was formed to review each firm's qualifications and interview selected firms. After reviewing all of the submitted Statements of Qualifications (SOQ) and conducting interviews, JCM Group/Heery International, Inc. was identified as the firm best suited to provide the services required to assist the county in successfully completing the Downtown Law Building project.

The attached agreement was subsequently negotiated with the assistance of County Counsel and County Risk Management. JCM Group/Heery International, Inc. offers particular strengths, experience, and capabilities in providing construction management/owner's representative services for projects with the size and complexity of the Downtown Law Building project.

1 Consultant in the course of the project. Prior authorization in writing by the County Project Manager will
2 be required before Consultant enters into any purchase exceeding \$500 for supplies or equipment.
3 Consultant shall provide a justification of the necessity or desirability of incurring such costs.

4 2.2 Reimbursable expenses shall include reproductions and report graphics, excluding
5 reproductions only for office use by the Consultant, postage, shipping, delivery expense for documents
6 shipped in connection with the work, on-site project office expense. All furniture or equipment purchased
7 by the Consultant for this project shall become the property of the County upon conclusion of the project.

8 **Section 3. METHOD OF PAYMENT.**

9 3.1 Payment Requests on account of services shall be submitted on a monthly basis utilizing a
10 format acceptable to County. Each invoice shall include a status report that identifies the approximate
11 percentage of services completed in each component of service identified in Exhibit "B".

12 3.2 Payment for any Additional Services shall be made monthly. All Additional Services shall
13 be approved in advance by County prior to performance, and shall be separately identified on the monthly
14 invoice.

15 3.3 Payment for Reimbursable Expenses shall be made monthly and shall be itemized on the
16 monthly invoice.

17 **Section 4. TIME FOR PERFORMANCE.** The Consultant agrees that it will diligently and
18 responsibly pursue the performance of the services required of it pursuant to his Agreement, and will
19 complete the specified services as described in Exhibit "B". The Consultant's fee is based upon an
20 anticipated project complete date of March 31, 2010. For authorized work extending beyond March 31,
21 2010, where the extended timeframe is not the result of delays caused by the Consultant, the Consultant
22 shall be entitled to a rate increase of the rates specified in Exhibit "C", commensurate with the CPI
23 increase for the previous year.

24 **Section 5. ADDITIONAL SERVICES.** Additional Services shall include any services
25 which are not specifically identified in Exhibit "B" hereto, and shall include any services which will result
26 in additional or unforeseen fees to be billed to the County in the performance of the services prescribed
27 herein.
28

1 5.1 The Consultant shall not perform any Additional Services until receiving written notice to
2 proceed from the County.

3 5.2 In the event the County directs the Consultant to provide services constituting Additional
4 Services, the County shall compensate the Consultant in an amount mutually agreed upon by the Parties
5 and set forth in a written amendment hereto, prior to commencement of such Additional Services.

6 **Section 6. AMENDMENTS TO AGREEMENT.** The Board of Supervisors and the County
7 Purchasing Agent are the only authorized County representatives who may at any time, by written order,
8 make alterations within the general scope of this contract, in the definition of services to be performed,
9 and the term and place of performance thereof. If any such alteration causes an increase or decrease in the
10 cost of, or the time required for the performance of any part of the work under this contract, an equitable
11 adjustment shall be made in the contract price or term, or both, and the contract shall be modified in
12 writing accordingly. Any claim by the Consultant for adjustment shall be submitted within 30 days of
13 when the Consultant received notice of the alteration in the work.

14 **Section 7. SEVERABILITY.** If any provision in this Agreement is held by a court of
15 competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless
16 continue in full force without being impaired or invalidated in any way.

17 **Section 8. COOPERATION BY COUNTY.** All information, data, reports, records, and
18 maps as exist and are available to the County, and which are necessary for providing the services
19 described herein, shall be furnished to the Consultant as appropriate to facilitate, without undue delay, the
20 work to be performed under this Agreement.

21 **Section 9. STANDARDS OF PERFORMANCE.** Consultant represents and maintains that
22 it is skilled in the professional calling necessary to perform all services, duties and obligations required by
23 this Agreement to fully and adequately complete the project. Consultant shall perform the services and
24 duties in conformance to and consistent with the standards generally recognized as being employed by
25 professionals in the same discipline in the State of California. Consultant further represents and warrants
26 to the County that it has all licenses, permits, qualifications and approvals of whatever nature are legally
27 required to practice its profession. Consultant further represents that it shall keep all such licenses and
28 approvals in effect during the term of this Agreement. The Consultant shall comply with all applicable

1 provided, however, that the Consultant shall not assign or subcontract the performance of this Agreement
2 or any part thereof without the prior written consent of the County.

3 **Section 13. NON-DISCRIMINATION REQUIREMENTS.** The County shall ensure that the
4 Project contains appropriate covenants that there shall be no discrimination against or segregation of any
5 person, or group of persons, on account of sex, marital status, race, religion, color, creed, national origin,
6 or ancestry in the use, occupancy, tenure, or enjoyment of the Project contemplated by this Agreement,
7 and that any consultant, contractor, subcontractor, or person claiming under or through the consultant
8 shall not establish or permit any such practice or practices of discrimination or segregation.

9 **Section 14. LEGAL REVIEWS.** The County may, in its sole and exclusive discretion,
10 conduct reviews to determine the legal sufficiency of any and all documents prepared by the Consultant,
11 by or through the Office of Riverside County Counsel.

12 **Section 15. AUTHORITY OF CONSULTANT.** County retains Consultant on an
13 independent contractor basis. Consultant is not, and shall not be considered to be in any manner, an
14 employee, agent or representative of the County. Personnel performing the services under this Agreement
15 on behalf of Consultant shall at all times be under Consultant's exclusive direction and control.
16 Consultant shall pay all wages, salaries and other amounts due such personnel in connection with their
17 performance of Service and as required by law. Consultant shall be responsible for all reports and
18 obligations respecting such personnel, including but not limited to, social security taxes, income tax
19 withholdings, unemployment insurance, and workers' compensation insurance.

20 The Consultant, its officers, agents, employees, contractors, and subcontractors shall have no any
21 authority to contract for or on behalf of, or incur obligations on behalf of, the County.

22 **Section 16. TERMINATION.**

23 16.1 County reserves the right to terminate this contract at County's discretion and without
24 cause, upon thirty (30) calendar days written notice to Consultant. In the event of termination of the
25 Agreement, upon demand Consultant shall deliver to County all field notes, surveys, studies, reports,
26 drawings, and all other materials and documents prepared by or provided to Consultant in the
27 performance of this Agreement. All such documents and materials shall be property of County. In the
28 event that the contract is terminated, Consultant is entitled to full payment for all services performed up to

1 the time written notice of contract cancellation is received by Consultant. Payment shall be made for
2 services performed and expenses incurred in accordance with the terms of this Agreement.

3 16.2 Notwithstanding any of the provisions of this Agreement, the Consultant's rights under this
4 Agreement shall terminate (except for fees accrued prior to the date of termination) upon the Consultant's
5 bankruptcy, or in the event of fraud, dishonesty or willful or material breach of the Agreement by the
6 Consultant, or at the County's election, in the event of the Consultant's unwillingness or inability for any
7 reason whatsoever to perform the duties hereunder. In such event, the Consultant shall be entitled to no
8 further compensation under this Agreement except for services actually rendered, it being the intent that
9 the Consultant shall be paid as specified only during such periods that the Consultant shall, in fact,
10 perform the services hereunder.

11 **Section 17. NOTICES.** All notices pursuant to this Agreement, including notice of
12 termination, shall be deemed delivered if sent by certified mail, return receipt requested, to the individuals
13 representing the County and Consultant at the addresses set forth in Section 10 herein.

14 **Section 18. CONFLICT OF INTEREST.** Consultant warrants, by execution of this
15 Agreement, that no person or selling agency has been employed or retained to solicit or secure this
16 contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee,
17 excepting bona fide employees or bona fide established commercial or selling agencies maintained by
18 Consultant for the purpose of securing business. For breach or violation of this warranty, County has the
19 right to annul this contract without liability, pay only for the value of the work actually performed, or in
20 its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of
21 such commission, percentage, brokerage, or contingent fee. Consultant may be requested to complete a
22 Conflict of Interest Statement prior to, during, or after execution of this contract. Consultant understands
23 that as a condition of this contract Consultant agrees to complete the Conflict of Interest Statement when
24 requested to do so by County.

25 **Section 20. INDEMNIFICATION.** Consultant shall indemnify and hold harmless the County
26 of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers,
27 Board of Supervisors, elected and appointed officials, employees, agents and representatives (the
28 "Indemnified Parties") from any liability whatsoever, including but not limited to, property damage,

1 bodily injury, or death, based or asserted upon any services of Consultant, its officers, employees,
2 subcontractors, agents or representatives to the extent caused by any negligent, reckless, or intentional act,
3 error or omission of Consultant, its directors, officers, partners, employees, agents or representatives or
4 any person or organization for whom Consultant is responsible. Consultant, to said extent, shall defend
5 at its sole expense and pay all costs and fees, including but not limited to, attorneys fees cost of
6 investigation, defense and settlements or award on behalf of the Indemnified Parties in any claim or action
7 based upon such liability.

8 With respect to any action or claim subject to indemnification herein by Consultant, Consultant
9 shall, at their sole cost, have the right to use counsel of their choice and shall have the right to adjust,
10 settle, or compromise any such action or claim without the prior consent of County; provided, however,
11 that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes
12 Consultant's indemnification to the Indemnified Parties as set forth herein.

13 The specified insurance limits required in this Agreement shall in no way limit or circumscribe
14 CONTRACTOR'S obligations to indemnify and hold harmless the Indemnified Parties herein from third
15 party claims.

16 Nothing herein is intended to make Consultant responsible or liable by reason of anything done by
17 County under or in connection with this Agreement. The County shall cause the Contractor to indemnify
18 and hold harmless Consultant to the same extent and in the same manner that Consultant has provided
19 indemnification for the County.

20 In the event there is conflict between this clause and California Civil Code Section 2782, this
21 clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the
22 CONTRACTOR from indemnifying the Indemnified Parties to the fullest extent allowed by law.

23 **Section 21. INSURANCE.** Without limiting Consultant's indemnification, the insurance
24 requirements under this Agreement are specified in Exhibit "A" attached hereto and incorporated herein.
25 The Consultant shall comply with those portions of Exhibit "A" that apply. The Consultant under this
26 Agreement IS participating in the Owner Controlled Insurance Program specified in Exhibit "A".

27 **Section 22. WAIVER OF PERFORMANCE.** No waiver by the County at any time of any of
28 the terms and conditions of this Agreement shall be deemed or construed as a waiver at any time

1 thereafter of the same or of any other terms or conditions contained herein or of the strict and timely
2 performance of such terms and conditions.

3 **Section 23. RECORD RETENTION/AUDITS.** Consultant, subcontractors, and County shall
4 maintain all books, documents, papers, accounting records, and other evidence pertaining to the
5 performance of the contract, but not limited to, the costs of administering the contract. All Parties shall
6 make such materials available at their respective offices at all reasonable times during the contract period
7 and for three years from the date of final payment under the contract. County shall have access to any
8 books, records, and documents of Consultant that are pertinent to the contract for audits, examinations,
9 excerpts, and transactions, and copies thereof shall be furnished if requested.

10 **Section 24. JURISDICTION/VENUE/ATTORNEYS FEES.** This Agreement is to be
11 construed under the laws of the State of California. The parties agree to the jurisdiction and venue of the
12 appropriate courts in the County of Riverside, State of California. Should action be brought to enforce or
13 interpret the provisions of the Agreement, the prevailing party shall be entitled to attorney's fees in
14 addition to whatever other relief is granted.

15 **Section 25. MEDIATION.** All disputes shall first be submitted to non-binding mediation
16 services conducted by the Judicial Arbitration and Mediation Services, Inc./Endispute, or its successor, or
17 any other neutral, impartial mediation service that the Parties mutually agree upon in accordance with its
18 rules for such mediation. The mediator chosen must decide each and every dispute in accordance with the
19 laws of the State of California, and all other applicable laws. Upon showing of good cause, the mediator
20 may permit limited discovery in the mediation proceeding.

21 **Section 26. PARAGRAPH HEADINGS.** The paragraph headings herein are for the
22 convenience of the parties only, and shall not be deemed to govern, limit, modify, or in any manner affect
23 the scope, meaning, or intent of the provisions or language of this Agreement.

24 **Section 27. RELEASE OF INFORMATION.** The Consultant shall consider all information
25 regarding the Project as confidential information. Any request for information from others shall be
26 directed to the County.

1 **Section 28. MISCELLANEOUS**

2 28.1 Nothing in this Agreement will make Consultant responsible for the adequacy or accuracy
3 of any part or all of the project design.

4 28.2 Nothing in this Agreement will make Consultant responsible for any construction
5 contractor's means or methods.

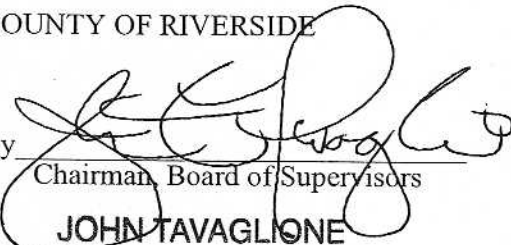
6 28.3 Nothing in this Agreement will make Consultant responsible for the finding, presence,
7 handling, or exposure of persons to hazardous materials in any form at the Project site including but not
8 limited to asbestos, PCB's, lead, mold or mildew.

9 **Section 29. ENTIRE AGREEMENT.** This Agreement shall constitute the entire agreement
10 between the parties with respect to the subject matter hereof, and all prior or contemporaneous agreements
11 of any kind or nature relating to the same shall be deemed to be merged herein. Any modifications to the
12 terms of this Agreement must be in writing and signed by the Parties hereto.

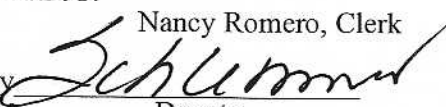
13
14 IN WITNESS WHEREOF, the parties hereto have caused their duly representatives to execute this
15 Agreement on the date first written above.

16
17 COUNTY OF RIVERSIDE

HEERY INTERNATIONAL, INC.

18
19 By 
20 Chairman, Board of Supervisors
21 **JOHN TAVAGLIONE**

By 
Ted Sak, Senior Vice President

22 ATTEST:
23 Nancy Romero, Clerk
By 
Deputy

By 
Richard Nikonovich-Kahn, Secretary

24
25 FORM APPROVED
COUNTY COUNSEL

26 JAN 03 2007

27 BY 
28

Exhibit "A"

District Attorney Office Building and Parking Garage County of Riverside Project Insurance Requirements *Table of Contents & Introduction*

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INTRODUCTION

This Exhibit "A" shall replace the insurance provisions of Section 21 (Insurance) of the Consulting Services Agreement and supersede all other insurance requirements elsewhere in the Contract Documents.

Includes All Project Subcontractors and Sub-Subcontractors

All Subcontractors shall comply with the requirements of this Exhibit "A" to the Construction Contract. Contractor shall provide this Exhibit to all Project Subcontractors who shall be bound by these provisions. Subcontractors shall also provide this Exhibit "A" to all their "Sub-Subcontractors", who shall be bound by these provisions.

Insurance and Legal Counsel Review Requirement

Before executing any agreement incorporating this Exhibit "A" to a construction contract, all parties shall review this Exhibit in its entirety with legal and insurance counsel of its choosing to be certain that their particular business, casualty and other risks have been considered and that each party has provided for any insurance they deem necessary to manage those risks. Owner makes no representation to any other party as to the adequacy, coverage or other terms and limitations of any insurance provided hereunder.

Exhibit "A"
PROJECT INSURANCE REQUIREMENTS
Section 1 – Owner Controlled Insurance Program (OCIP)

SECTION 1 – OWNER CONTROLLED INSURANCE PROGRAM (OCIP)

Part 1 – What is the Owner Controlled Insurance Program

The Owner has elected to use an Owner Controlled Insurance Program ("OCIP") on this Project. Under such a program, the Owner purchases certain insurance policies for protection of some (but not all) of the insurable risks that exist on a construction project. The insurance purchased by the Owner will be endorsed to extend coverage of the policy to the Construction Manager, General Contractor and to any enrolled Subcontractors or Sub-Subcontractors. All Contractors and Subcontractors on the Project should carefully consider the OCIP and its implications to their company before executing a contract requiring their participation in the OCIP.

Insurance to be provided under the OCIP includes:

- General Liability and Excess/Umbrella Insurance
- Workers Compensation Insurance
- Builder's Risk Insurance

All as defined in the insurance policies themselves and summarized below.

Part 2 – Who Participates in the OCIP?

1. Notwithstanding anything to the contrary in the Agreement to which this Exhibit A is attached, unless specified otherwise by the Owner, all contractors, and subcontractors of every tier will be enrolled and insured under the OCIP except those specifically excluded pursuant to the terms of this Exhibit A. All contractors and subcontractors of every tier (other than those so excluded) are collectively referred to as "Participating Contractors." OCIP coverage is intended to insure loss, damage and injury occurring during the Project at the jobsite, and is not intended to cover all of the risks, operations and employees of the Participating Contractors. All Participating Contractors will be required to maintain and provide evidence of additional insurance coverage, at their own expense, in conformity with Section 2.
2. Participating Contractors. All Participating Contractors must be enrolled in the OCIP by the Broker appointed by the Owner upon completion and acceptance of enrollment forms regarding insurance furnished by the Broker. **Contractor and Subcontractors and Sub-Subcontractors must enroll in the OCIP before coverages are available to them for any loss, therefore no Contractor, Subcontractor, or Sub-Subcontractor shall begin work on site until they have properly enrolled in the OCIP.** All insurance,

Exhibit "A"
PROJECT INSURANCE REQUIREMENTS
Section 1 – Owner Controlled Insurance Program (OCIP)

underwriting, payroll, rating or loss history information including evidence of other insurance required under Section 2 requested by the Broker must be provided to the Broker by the Contractor, Subcontractor, or Sub Sub-Contractor within five (5) working days of the request. A Contractor, Subcontractor, or Sub-Subcontractor shall not be deemed to be a Participating Contractor and shall not be permitted to work on the project until enrolled in the OCIP by the Broker. Enrollment will be established only upon issuance by the Broker of an OCIP Certificate of Insurance to the Participating Contractor. Every Participating Contractor shall, at all times during and after the Project, cooperate with the Owner, the Broker, and the OCIP insurers and adjusters concerning matters relating to the OCIP.

3. Nonparticipating Contractors. Subcontractors and Sub-Subcontractors who will not be included in participation in the OCIP ("Nonparticipating Contractors") shall include all vendors, suppliers, crane riggers, truckers, material dealers and delivery services companies regardless of contract size.

Nonparticipating Contractors shall not be permitted to work on the Project until they have provided to the General Contractor evidence of their compliance with the insurance requirements specified in Section 3.

4. Exclusion of Contractors from the OCIP. Owner has the exclusive right to exclude other Contractors, Subcontractors, and Sub-subcontractors, from participating in OCIP. Such Nonparticipating Contractors, who will not be covered under the OCIP, must comply at their own expense with the insurance requirements specified under Section 3.
5. Premiums Payments for OCIP Policies. The Owner shall pay for all insurance premiums, broker fees and the costs of program administration for the OCIP. Contractors, Subcontractors, and Sub-Subcontractors shall participate in such costs only as described in item number 6 below.
6. Participating Contractor's Base Bid and calculation of the OCIP Credit. Contractors, Subcontractors and Sub-Subcontractors shall prepare their bids and proposals for the Project as if they were to provide all of the insurances described in Section 3 and as if they were NOT participating in the OCIP. Contractors, Subcontractors and Sub-Subcontractors shall also submit a completed "Form B, "Contractor's Insurance Cost Worksheet" with their bid, which will identify the estimated OCIP credit.

However, when the Participating Contractor enrolls in the OCIP, the Participating Contractor's estimated cost of its own insurance, which on this Project will be covered by the OCIP, will be deducted from each Participating Contractor's initial contract price and adjusted upon final completion of Work

Exhibit "A"
PROJECT INSURANCE REQUIREMENTS
Section 1 – Owner Controlled Insurance Program (OCIP)

and Closeout. Immediately after Contractor, Subcontractor, or Sub-Subcontractor is enrolled in OCIP, a deductive change order will be issued for the total estimated cost calculated on the Form B, "Contractor's Insurance Cost Worksheet". A final deductive or additive change order will be issued at the completion of the Contractor's or Subcontractor's work based upon the final calculation or audit of the OCIP credit.

The cost identified in the change orders will be derived from the particular Participating Contractor's actual insurance rates and related pricing factors as identified on the enclosed Form B, "Contractor's Insurance Cost Worksheet", which must be submitted with its bid. As applicable, these rates will be applied against actual, unburdened costs and final contract price.

As an example, workers compensation rates are multiplied by the applicable payroll cost to determine the workers compensation credit. Liability rates may use either labor or contract amount as the basis for the liability credit, depending how a Subcontractor's own insurance program is structured.

The OCIP Broker will be available to assist the Contractor in the preparation of Form B or answer any questions.

In the event the Owner elects not to include the Contractor's work under the OCIP, the standard terms and conditions regarding insurance listed in Section 3 will then apply. The OCIP Broker will advise a Contractor, which has submitted an enrollment form if they are excluded from the OCIP.

Contractor further agrees to cooperate fully with the Owner's Insurance Representatives in providing the necessary insurance data and information as required in the bid specifications and associated documents furnished by the Owners and/or Broker during the duration of the project or until Owners-furnished insurance coverage's are terminated.

Exhibit "A"
PROJECT INSURANCE REQUIREMENTS
Section 1 – Owner Controlled Insurance Program (OCIP)

Part 3 – Policy Summaries

Coverages provided under the OCIP. *The following summaries are provided for general informational purposes. The actual terms and conditions of the coverage provided are contained in the insurance policies issued under the OCIP, and the General Contractor and others shall not rely upon this summary in lieu of the policies themselves. Copies of the policies will be made available to all potential Participating Contractors upon request.*

- **Commercial General/Excess Liability Insurance (General Aggregate Limit Reinstated Annually)**
 - i. Insurer: Insurer with AM Best Rating of A 10 or better
 - ii. Term of Insurance: TBD
 - iii. Policy Limits:
 - \$2,000,000 Each Occurrence
 - \$4,000,000 Completed Operations Aggregate
 - \$4,000,000 general aggregate
 - \$ 10,000 Medical Payments – any one person
 - \$ 300,000 Fire Legal Liability – any one fire
 - iv. Policy Form: Commercial General Liability Occurrence Form
 - v. Excess Limits: Not less than \$100,000,000 per Occurrence / Aggregate
 - vi. Extensions of Coverage:
 - Limitation of Coverage to Designated Premises
 - Blanket Contractual Liability
 - Broad Form Property Damage including Completed Operations
 - Personal Injury with Extended Bodily Injury
 - Blanket Explosion, Collapse, and Underground Coverage
 - Aggregate Limit Amendment Endorsement
 - Broad Form Named Insured Endorsement
 - Amendment of Other Insurance
 - Amendment of Knowledge of Occurrence
 - Extension of Coverage – Fellow Employee
 - Incidental Medical Malpractice Liability
 - Automatic Additional Insured Endorsement
 - Assignment of Consent Endorsement
 - Waiver of Subrogation Endorsement, if required by contract.
 - Completed Operations and/or Products Liability coverage for a period of five (5) years after final acceptance of the work.
 - Exclusion – Pollution Liability, except Hostile Fire
 - Exclusion – Professional Liability
 - Exclusion – Employment Related Practices
 - Exclusion – Asbestos
 - Exclusion – Limited Fungus

Exhibit "A"
PROJECT INSURANCE REQUIREMENTS
Section 1 – Owner Controlled Insurance Program (OCIP)

- Sixty (60) days notice of Cancellation, non-Renewal or material change.
 - i. Premium Payments By Owner
 - ii. Subcontractor Bid Credits See Part 2 of this Exhibit "A"
 - iii. Change Order Credits See Part 2 of this Exhibit "A"
 - iv. Deductibles/SIR Any deductibles/SIR will be paid by Owner
The SIR will apply only to loss covered by insurance policies in the OCIP.
The SIR does not impose upon the Owner any duties of an insurer toward Participating Contractors or others.
- **Workers' Compensation and Employer's Liability Insurance for Workers Who Work on the Project at the Jobsite**
 - i. Insurer : Insurer with AM Best Rating of A 10 or better
 - ii. Term of Insurance: TBD
 - iii. Policy Limits:
 - Coverage A - Statutory Benefits
Liability imposed by the Workers' Compensation and/or Occupational Disease statute of the State in which the work is performed and any other state or governmental authority having jurisdiction or if related to the work performed on the project.
 - Coverage B - Employer's Liability \$1,000,000
 - iv. Policy Form Statutory form.
 - v. Extensions of Coverage:
 - Other States Endorsement
 - Voluntary Compensation, if exposure exists
 - United States Longshoreman's & Harbor workers Act, if exposure exists.
 - Jones Act, if exposure exists.
 - Sixty (60) Days notice of Cancellation, Non-Renewal, or Material Change
 - Alternate Employer Endorsement
 - Amendment if Notice of Occurrence
 - vi. Premium Payments By Owner
 - vii. Subcontractor Bid Credits See Part 2 of this Exhibit "A"
 - viii. Change Order Credits See Part 2 of this Exhibit "A"
 - ix. Deductibles/SIR Any deductibles/SIR will be paid by Owner

Workers' compensation coverage provided by OCIP does not alter or affect actual employment relationships, and does not make persons employed or working for Participating Contractors the employees or workers of Owner.

Exhibit "A"
PROJECT INSURANCE REQUIREMENTS
Section 1 – Owner Controlled Insurance Program (OCIP)

• **Builder's Risk Insurance**

The Owner shall obtain and maintain in force during the term of this Agreement, a Builder's Risk Insurance policy or policies separate from the OCIP, which shall insure against all risks of physical loss and/or damage (subject to normal policy exclusions), to all buildings, structures, materials and real property to be incorporated into and forming part of the Project, whether or not such buildings, structures, materials or real property will have been supplied or made available to Contractors or Subcontractors by Contractor.

The Builder's Risk policy shall be endorsed to add Contractor and all Subcontractors as additional named insureds, as their interests may appear and to waive the carrier's right of recovery under subrogation against General Contractor and all Subcontractors whose interests are insured under such policy.

Unless required otherwise by Owner, claims under the Builder's Risk insurance provided are subject to a deductible amount of five thousand dollars (\$5,000) per occurrence. If claim results from any construction activity, the Contractor herein shall pay the deductible amount. All Builders' Risk losses will be adjusted with and payable to the Owner or their Designee for the benefit of all parties as their interest may appear.

The Owner or General Contractor shall not be responsible for loss or damage to or obtaining and/or maintaining in force insurance on temporary structures, construction equipment, tools or personal effects, owned by or rented to or in the care, custody and control of any Subcontractor.

In the event of loss or damage to the Project not covered by the Builder's Risk policy, the cost of the repair and/or replacement of such loss or damage shall be the responsibility of the Owner. However, the foregoing shall not include elements not yet installed in the Project.

Vendors, suppliers, material dealers, day laborers and others who merely transport, pick up, deliver, or carry materials, personnel, parts, equipment, or any other items or persons to or from the Project Site will not be provided insurance protection under this Owner Controlled Insurance Program.

Part 4 – General Information

1. **Other Documentation Available to Participating Contractors**

All Participating Contractors shall comply with the following documents:

- a. The OCIP policies of insurance.

Exhibit "A"
PROJECT INSURANCE REQUIREMENTS
Section 1 – Owner Controlled Insurance Program (OCIP)

- b. The Downtown Law Building – Contractors Insurance Procedures dated January 1, 2007.
- c. Project Loss Control Manual

2. Coverage Expiration and Availability of Coverage

a. Expiration of Coverage

Except for completed operations coverage, the OCIP is intended to provide coverage only for operations and loss at the jobsite during the Project, and not to provide coverage for other operations or for a greater period of time. Accordingly, except for completed operations coverage, the OCIP insurance coverage furnished by Owner will terminate for each Participating Contractor six months after receiving the certificate of occupancy, unless a different date is mutually agreed to by Owner and Contractor. It is intended that Participating Contractors who are required to return to the project after the OCIP has been terminated (e.g., warranty work) will NOT be re-enrolled in the OCIP for that purpose, but instead shall provide insurance coverages in accordance with Section 3 of this Exhibit "A".

OCIP insurance may also be discontinued in the event the Project is substantially delayed for an extended period of time, or the Project is permanently terminated for any cause.

b. Availability

Subject to market availability, all insurance specified herein shall be maintained continuously until Project final completion as certified by Architect. All insurance shall provide for occupancy of the Work or any part thereof during the term of said insurance. If coverage is diminished or cannot be renewed due to market constraints and limitations, all Participating Contractors will be notified within the cancellation or non-renewal period as provided in the policies.

In the event any Participating Contractor must subsequently provide their own coverage in lieu of OCIP coverage because of the unavailability of OCIP coverage (as opposed to a decision by Owner to exclude the Contractor from OCIP participation) reimbursement for such coverages will be subject to the commercial terms and conditions as set forth in this contract or any amendments thereto.

3. Issuance of OCIP Insurance Policies and Certificates

Under the OCIP Program, the Broker and/or Insurer will issue the following coverage documents to each insured Participating Contractor:

- a. A Worker's Compensation Insurance policy;
- b. A certificate of insurance for Commercial General Liability Coverage;

Exhibit "A"
PROJECT INSURANCE REQUIREMENTS
Section 1 – Owner Controlled Insurance Program (OCIP)

- c. Subject to any named insured rights under the OCIP Program or Builders Risk policy, and upon written request by such an insured, the Broker will also issue a certificate, or a copy of the policy, of any the owner provided coverage.

4. Governing Conditions

The OCIP is an insurance program created by third parties. Owner is not an insurer or insurance broker/agent, and is not in the business of insurance. Under the OCIP, Owner assumes no responsibility or liability as an insurer, insurance broker, insurance agent or insurance advisor. Owner's insurance Broker is available to answer inquiries from Participating Contractors about the OCIP; all Participating Contractors should consult with their own insurance advisors about the OCIP and should do so with respect to additional insurance requirements.

5. Project Safety & Loss Control Requirements

All Participating Contractors and Nonparticipating Contractors shall comply with all loss prevention and control efforts of the OCIP and the General Contractor.

Forming part of this Agreement will be the Project Loss Control Manual that contains requirements and provisions that must be followed by all Subcontractors, and Sub-Subcontractors under contract. Contractor acknowledges that it has received, read and approved the Project Loss Control Manual. The purpose of the loss control program is to provide a safe environment for all workers and the protection for the public from hazards associated with the construction activities. The Contractor agrees that it shall follow, permit and implement all project safety and loss control requirements effected by Owner and/or the insurers or their representatives.

The Owner has established a primary goal to safely undertake construction activities with a "ZERO" level of accidents, injuries, and claims for the mutual benefit of the trade employees, environment, general public and the Owner. As such, all Contractors, Subcontractors, and Sub-Subcontractors, in coordination with the members of the Owner's team, including other management representatives, shall implement measures which will create safety awareness that will promote safe work practices at the job site level and pursue objectives in the safest possible manner.

The intent of the project safety and loss control requirements implemented pursuant to the Project Loss Control Manual is to enhance and supplement the Safety & Health Standards, which are required by contract documents, and by State, and Federal OSHA regulations that are applicable to work performed on project for Owners. As such, to the fullest extent required, each Contractor, Subcontractor, and Sub-Subcontractor shall assume full responsibility for safety

Exhibit "A"
PROJECT INSURANCE REQUIREMENTS
Section 1 – Owner Controlled Insurance Program (OCIP)

in all phases of their work and agree to comply with all applicable local, State, Federal safety laws and regulations.

6. Enforcement of reporting Safety and OCIP information

- a. **Safety Documents:** Failure of the Contractor or its subcontractors to submit documents required in the Project Loss Control Manual may result in a \$250 surcharge for each late document. Such documents may include, but not limited to, OSHA logs, accidents, safety reports, and incident correction reports and claim information data. The penalty shall be applied to the Contractor's, Subcontractor's, or Sub-Subcontractor's current monthly pay request. This penalty may be waived at the discretion of the project manager representing the Owner after the applicable document(s) have been submitted and therefore made current. It will be the responsibility of the Contractor, Subcontractors, and Sub-Subcontractors to see that their subcontractors submit the same required documents in the manner prescribed herein.
- b. **OCIP Documents:** Failure of a participating Contractor to submit documents required in the administration of the OCIP program may result in a suspension of the Participating Contractor's monthly pay request until such time as the information has been provided. Failure of a Participating Contractor to strictly comply with these requirements may result in a \$250 surcharge for each late document and shall be applied to the Participating Contractor's monthly pay request. Such documents may include, but not limited to, enrollment forms, monthly-certified payrolls and other required insurance information. This penalty may be waived at the discretion of the project manager representing the Owner after the applicable document(s) have been submitted and therefore made current. Monthly payroll reports for each Subcontractor must be submitted through the Contractor. Failure for the same Subcontractor or Sub-Subcontractor to submit the aforementioned payroll report for two (2) consecutive months may additionally result in a "Stop Work Order" for said subcontractor's work. All resulting extra cost and expenses shall be to the account of said subcontractor.
- c. **Cost and Payroll Audits:** All Participating Contractors will be subject to payroll and cost audits by the insurance company(s) providing coverages under the OCIP. The purpose of such audits is to determine post-annual Project premium costs for the OCIP and Contractor's final change order. All Participating Contractors shall agree to comply with such audits in furnishing required payroll data by insurance classification and code, including any cost pertaining to the value of work in place.

Exhibit "A"
PROJECT INSURANCE REQUIREMENTS
Section 1 – Owner Controlled Insurance Program (OCIP)

7. Use of OCIP for other projects

The Owner reserves the right to cover additional construction projects separate from the Downtown Law Building under the OCIP. However, recognizing that all the OCIP participants may suffer a dilution of coverage if new construction work is added to the OCIP, the Owner agrees that it will not add any additional construction projects (other than work directly related to the current Project Name) to the OCIP without the written consent of the Contractor, which shall not be unreasonably withheld. Owner and Contractor agree that to avoid policy dilution, that the OCIP policy limits shall be increased, at Owner's expense, by a mutually agreeable amount to accommodate the added exposure.

Contractor agrees to the above, to implement the OCIP program summarized above and to include this Exhibit A in each of the subcontracts of every tier and to require all of its subcontractors of every tier to comply with the requirements herein and in the Project Loss Control Manual. Contractor will, and will require each subcontractor of every tier to, cooperate with Owner, the OCIP insurer and their representatives.

--- End of Section 1 ---

Exhibit "A"
PROJECT INSURANCE REQUIREMENTS
Section 2 – Other Insurance Requirements for All Participating Contractors

SECTION 2 – OTHER INSURANCE REQUIRED OF ALL PARTICIPATING CONTRACTORS

All Contractors, Subcontractors and Sub-Subcontractors (also called "Participating Contractors") who are enrolled in the OCIP shall obtain, maintain, and adhere to the following additional insurance requirements over and above the insurance provided by the OCIP:

1. Automobile Liability Insurance

All Participating Contractors of every tier will maintain at their own expense Automobile Liability Insurance covering the operations, maintenance, use and loading and unloading of all owned, non-owned and hired vehicles. As such, all contractors of every tier shall furnish to the Owner and General Contractor a Certificate of Insurance showing such coverage with the following minimum limits of liability and further providing not less than thirty (30) days prior written notice to the general Contractor of any material change in the insurance or cancellation or non-renewal:

Bodily Injury Liability: \$1,000,000 Combined Single Limit for Bodily Injury and/or Property Damage

The policy or policies will be endorsed to:

- a. Name the General Contractor and Owner as "additional insureds";

2. Construction Equipment Insurance

Any policies maintained by the Participating Contractors on their owned and/or rented equipment and materials shall contain a provision requiring the insurance carriers to waive their rights of subrogation against the Owner and all other indemnities named in the contract documents.

3. Commercial General Liability.

All Participating Contractors of every tier shall maintain at their own expense Commercial General Liability (CGL) Insurance applicable to all operations related to the project which are not covered by the OCIP Commercial General Liability Policy. This insurance shall include coverage for bodily injury, property damage and personal injury with limits of no less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in the aggregate annually. The insurance shall be endorsed to name Owner and General Contractor as additional insureds. A certificate of insurance evidencing this coverage shall be provided to the Owner and General Contractor, and shall also provide for no less than thirty (30) days written notice of any material change in coverage or cancellation or non-renewal.

Exhibit "A"
PROJECT INSURANCE REQUIREMENTS

Section 2 – Other Insurance Requirements for All Participating Contractors

4. Workers Compensation.

All Participating Contractors of every tier shall maintain at their own expense Workers' Compensation Insurance applicable to all employees and contractors hired by the insured, who are not covered under the OCIP workers compensation policy. The insurance shall include no less than statutory workers' compensation coverage and no less than one million dollars (\$1,000,000) employers liability. A certificate of insurance evidencing this coverage shall be provided to the Owner and General Contractor, and shall also provide for no less than thirty (30) days written notice of any material change in coverage or cancellation or non-renewal.

5. Professional Liability Insurance (Errors & Omissions)

In the event any contract specifications requires a Participating Contractor of any tier, including any professional service provider, to perform professional services, such as but not limited to, architectural, engineering, construction management, surveying, design, etc., a certificate of insurance must be provided to the General Contractor prior to commencing work evidencing such primary coverage with a limit of not less than \$ 1,000,000. Any material change in limits, coverages or loss of aggregate limit due to outstanding claims must be reported to the General Contractor within 30 days of any such event.

6. Aviation Insurance

In the event any fixed or rotary aircraft are used in connection with this Agreement and/or in the execution of the work, a minimum of \$10,000,000 of aviation liability insurance must be maintained with the following requirements: the General Contractor must be named as an "additional insured" and a waiver of hull damage must be provided in favor of the General Contractor and Owner. Also, if any aircraft is to be used to perform lifts at the project site, a "slung cargo" endorsement must be included to cover the full replacement value of any equipment or material being lifted. All such lifts must be coordinated with the General Contractor for approval prior to lift execution.

7. Environmental and Asbestos Abatement Coverages

If this Agreement involves the removal of asbestos, the removal/replacement of underground tanks or use of toxic chemicals and substances, the Subcontractor will be required to provide adequate coverages, not less than \$5,000,000 per claim basis, for such exposures subject requirements and approval of the General Contractor.

8. Conditions of Understanding and Other Insurance

The amount and types of insurance coverages required herein shall not be construed to be a limitation of the liability on the part of the General Contractor, Participating Contractors, Nonparticipating Contractors or any lower-tier Subcontractors. Any type of insurance, or any greater limits of liability, than described above, which the Contractor or Subcontractor requires for their own

Exhibit "A"

PROJECT INSURANCE REQUIREMENTS

Section 2 – Other Insurance Requirements for All Participating Contractors

protection or on account of statute, shall be the Contractor's or Subcontractor's own responsibility and at its own expense. The carrying of the insurance described shall in no way be interpreted as relieving the Contractor or Subcontractor of any responsibility of liability under this contract.

The Contractor shall file certificates of such insurance with the General Contractor, which shall be subject to the Owner's approval for adequacy of protection, including the satisfactory character of any Insurer. If requested by the General Contractor or Owner, a certified copy of the actual policy(s) with appropriate endorsement(s) and other documents shall be provided to the Owner and the Contractor.

In the event of failure of the Contractor or Subcontractor to furnish and maintain said insurance and to furnish satisfactory evidence thereof, the Owner shall have the right to take out and maintain same coverages for all parties on behalf of the Contractor or Subcontractor who also agrees to furnish all necessary information thereof and to pay the cost thereof to the Owner immediately upon presentation of a premium invoice.

--- End of Section 2 ---

Exhibit "A"
PROJECT INSURANCE REQUIREMENTS
Section 3 –Insurance Requirements for Non-Participating Contractors

SECTION 3 –REQUIREMENTS FOR SUBCONTRACTORS
NOT ENROLLED IN THE OCIP

For all Subcontractors and Sub-Subcontractors who are "Nonparticipating Contractors", and are not enrolled in the OCIP, the following insurance requirements shall apply:

Non-Participating Contractor shall maintain at all times beginning with inception of their Subcontract Agreement, and during the work of their Subcontract Agreement, and thereafter if required to return to the **Project** for any reason, policies of insurance, written by an insurance company with an A.M. Best's rating of A-VII or higher, with the following minimum limits and including the following specified coverage requirements:

- a) Worker's Compensation including Occupational Disease insurance meeting all statutory requirements of the State in which the work is to be performed together with a Broad Form All States Endorsement and containing Employers' Liability insurance in an amount of at least \$1,000,000. If required by **GENERAL CONTRACTOR**, **Subcontractor** shall provide a waiver of subrogation at **GENERAL CONTRACTOR'S** expense. **Subcontractor** is responsible to carry "Marine Coverages" if required by federal and/or state laws.
- b) Commercial Auto Liability on an occurrence basis covering all Owned, Non-Owned, and Hired Vehicles for limits of liability of at least \$1,000,000. If **Subcontractor** at any time transports hazardous materials, subcontractor shall carry appropriate auto pollution coverage.
- c) Commercial General Liability insurance on an occurrence basis, providing coverage for a combined single limit for Bodily Injury, Personal Injury, including its employees, and Property Damage, of at least \$2,000,000 for each occurrence and \$3,000,000 General Aggregate. Umbrella/Excess Insurance may be used to satisfy these limits. This policy must provide Premises-Operations, Elevators, Independent Contractors, Broad Form Property Damage, Hostile Fire Pollution, Contractual Liability, and Products & Completed Operations coverages (which shall be maintained for a period of not less than two years after substantial completion of the project or for such longer period as may be required by the **Subcontract Documents**). Explosion, Collapse, and Underground Exclusions must be deleted when applicable to operations performed by **Subcontractor**.

Subcontractor shall cause this policy to be endorsed, *effective as of the date of their Subcontract Agreement*, by the insurance company providing coverage to include the following items:

Exhibit "A"
PROJECT INSURANCE REQUIREMENTS

Section 3 – Insurance Requirements for Non-Participating Contractors

1. **Contractor, Owner**, and any others required in the contract documents shall be named as ADDITIONAL INSUREDS under the policy per ISO form CG2010-1185 or acceptable equivalent.

In the event of a loss or claim of an additional insured where the absence of the requested form would serve to deny coverage, it is understood and agreed that the contractual liability coverage requirements of this Exhibit shall be triggered and shall require immediate defense and indemnity as set forth in (Article ?) of the Subcontract Agreement.

2. This insurance shall be considered PRIMARY insurance and any other insurance carried by the ADDITIONAL INSUREDS will be excess and shall not contribute to any losses arising out of **Subcontractor's** or Sub-Subcontractor's work.
 3. A 30-day advance notice of cancellation to all additional insureds.
 4. If **Subcontractor's** or Sub-Subcontractor's liability policies do not contain the standard ISO separation of insureds provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.
- d) Umbrella/Excess Insurance may be used to satisfy the required limits of insurance. Coverage shall apply to all the same risks as the underlying insurance policies listed above. All requirements listed in paragraph 3(c) shall apply to this insurance.
 - e) **GENERAL CONTRACTOR** and Owner reserve the right to require higher limits for specific exposures.
 - f) Subcontractors performing Grading, Earthwork and/or Underground Utility activities shall **NOT** have risks relating to SUBSIDENCE excluded from coverage under their general liability and umbrella/excess policies.
 - g) The insurance coverages and limits required above shall not limit the extent of **Subcontractor's** responsibilities and liabilities specified within the **Subcontract Documents** or by law. **GENERAL CONTRACTOR** and Owner make no representation that coverage and limits required in Section 3 of this Exhibit "A" will necessarily be adequate to protect **Subcontractor** and such coverage and limits shall not be deemed as a limitation on **Subcontractor's** liability under the indemnities granted to **GENERAL CONTRACTOR** in the Subcontract Agreement.

Exhibit "A"
PROJECT INSURANCE REQUIREMENTS

Section 3 –Insurance Requirements for Non-Participating Contractors

- h) If **Subcontractor** employs sub-subcontractors in the performance of its work, **Subcontractor** agrees to obtain equivalent insurance provisions from its sub-subcontractors as required under this **Agreement** and provide a copy of their certificate of insurance to **GENERAL CONTRACTOR**.
- i) The words "endeavor to" and "but failure to mail such notice" on a certificate of insurance shall impose no obligation or liability of any kind upon **GENERAL CONTRACTOR** or Owner, its agents or representatives and shall be deleted from the certificate form's cancellation provision. Failure of **General Contractor** to demand such certificate or other evidence of full compliance with these insurance requirements or failure of **GENERAL CONTRACTOR** to identify a deficiency in the form that is provided shall not be construed as a waiver of **Subcontractor's** or Sub-Subcontractor's obligation to maintain such insurance.
- j) **Subcontractor's** or Sub-Subcontractor's failure to maintain the insurance coverage required pursuant to this Exhibit shall be deemed a **Subcontractor** default pursuant to Article 9 of the Subcontract **Agreement**. In such event, **GENERAL CONTRACTOR** may terminate the Subcontract **Agreement** and obtain damages from **Subcontractor** resulting from said default. Alternatively, **GENERAL CONTRACTOR** may purchase such required insurance coverage and without further notice to **Subcontractor**, **GENERAL CONTRACTOR** may deduct from sums due to **Subcontractor** any premium costs advanced by **GENERAL CONTRACTOR** for such insurance.
- k) **Subcontractor** shall provide certified copies of all insurance policies required above within 10 days of **GENERAL CONTRACTOR'S** written request for same.
- l) Other Insurance – Subcontractor shall consider on its own, and purchase if it deems necessary, insurance coverage for the following risks, which are not covered by Owner, Contractor or any other third party on the Subcontractor's behalf:
- Pollution and Environmental Liability
 - Equipment and property owned by Subcontractor
 - Equipment and property rented by Subcontractor
 - Materials purchased by the subcontractor for installation on the Project, but not yet installed in their final location on the Project.
 - Aviation Insurance

Exhibit "A"
PROJECT INSURANCE REQUIREMENTS

Section 3 –Insurance Requirements for Non-Participating Contractors

- m) **Professional Liability Insurance (Errors & Omissions)**
In the event any contract specifications requires a Contractor of any tier, including any professional service provider, to perform professional services, such as but not limited to, architectural, engineering, construction management, surveying, design, etc., a certificate of insurance must be provided to the Owner and General Contractor prior to commencing work evidencing such primary coverage with a limit of not less than \$ 1,000,000. Any material change in limits, coverages or loss of aggregate limit due to outstanding claims must be reported to the General Contractor within 30 days of any such event.
- n) **Aviation Insurance**
In the event any fixed or rotary aircraft are used in connection with this Agreement and/or in the execution of the work, a minimum of \$10,000,000 of aviation liability insurance must be maintained with the following requirements: the General Contractor and Owner must be named as an "additional insured" and a waiver of hull damage must be provided in favor of the General Contractor and Owner. Also, if any aircraft is to be used to perform lifts at the project site, a "slung cargo" endorsement must be included to cover the full replacement value of any equipment or material being lifted. All such lifts must be coordinated with the General Contractor for approval prior to lift execution.
- o) **Environmental and Asbestos Abatement Coverages**
If this Agreement involves the removal of asbestos, the removal/replacement of underground tanks or use of toxic chemicals and substances, the Subcontractor will be required to provide adequate coverages, not less than \$5,000,000 per claim basis, for such exposures subject requirements and approval of the General Contractor.
- p) **Conditions of Understanding and Other Insurance**
The amount and types of insurance coverages required herein shall not be construed to be a limitation of the liability on the part of the General Contractor, Participating Contractors, Nonparticipating Contractors or any lower-tier Subcontractors. Any type of insurance, or any greater limits of liability, than described above, which the Contractor, Sub-Contractor, or Sub-Subcontractor requires for their own protection or on account of statute, shall be the Contractor's, Subcontractor's, or Sub-Subcontractor's own responsibility and at its own expense. The carrying of the insurance described shall in no way be interpreted as relieving the Contractor, Subcontractor, or Sub-Subcontractor of any responsibility of liability under this contract.

Exhibit "A"
PROJECT INSURANCE REQUIREMENTS

Section 3 –Insurance Requirements for Non-Participating Contractors

- q) CERTIFICATES OF INSURANCE evidencing complete compliance with all of the provisions of this Section 3 of Exhibit "A", ***effective as of the date of this "Agreement"***, shall be submitted by **Subcontractor** to "**GENERAL CONTRACTOR**" prior to commencing any work on the project. Receipt and acceptance of all proper CERTIFICATE(S) OF INSURANCE is a prerequisite to all payments to Subcontractor. The Contractor shall file certificates of such insurance with the General Contractor, which shall be subject to the Owner's approval for adequacy of protection, including the satisfactory character of any Insurer. If requested by the General Contractor or Owner, a certified copy of the actual policy(s) with appropriate endorsement(s) and other documents shall be provided to the Owner and the Contractor.
- r) Failure to Comply - In the event of failure of the Contractor, Subcontractor, or Sub-Subcontractor to furnish and maintain said insurance and to furnish satisfactory evidence thereof, the Contractor or Owner shall have the right to take out and maintain same coverages for all parties on behalf of the Contractor or Subcontractor who also agrees to furnish all necessary information thereof and to pay the cost thereof to the Owner immediately upon presentation of a premium invoice.

--- End of Section 3 ---

Exhibit "A"
PROJECT INSURANCE REQUIREMENTS
Section 4 – Other Insurance Required of Owner

SECTION 4 – OTHER INSURANCE REQUIRED OF OWNER

PROPERTY INSURANCE

- 1 Boiler and Machinery Insurance: The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.
- 2 Loss of Use Insurance: The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.
- 3 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.
- 4 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of paragraph 6 below for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.
- 5 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverages required by this Section. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.
- 6 Waivers of Subrogation: The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and

Exhibit "A"
PROJECT INSURANCE REQUIREMENTS
Section 4 – Other Insurance Required of Owner

employees, each of the other, and (2) the Architect, Architect's consultants, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section, The Builder's Risk policy described in Section 1 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6 of the General Conditions to this Contract, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

- 7 A loss insured under Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.
- 8 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved as provided in the Agreements. The Owner as fiduciary shall, in the case of arbitration, make settlement with insurers in accordance with directions of the arbitrators. If distribution of insurance proceeds by arbitration is required, the arbitrators will direct such distribution.

--- End of Section 4 ---

Exhibit "A"
PROJECT INSURANCE REQUIREMENTS
Section 5 - Insurance Required of Suppliers

SECTION 5 - INSURANCE REQUIRED OF PROJECT SUPPLIERS

For the purposes of this Exhibit "A", Project Suppliers are defined as entities that are providing but not installing, materials to the project, usually under purchase orders issued to the supplier by the Owner, General Contractor, Subcontractor or Sub-Subcontractor. The following insurance requirements shall be included in any such purchase orders issued by Owner, General Contractor, Subcontractor or Sub-Subcontractors.

- a) Worker's Compensation including Occupational Disease insurance meeting all statutory requirements of the State in which the work is to be performed together with a Broad Form All States Endorsement and containing Employers' Liability insurance in an amount of at least \$1,000,000. If required by **GENERAL CONTRACTOR, Supplier** shall provide a waiver of subrogation at **GENERAL CONTRACTOR'S** expense.

- b) Commercial Auto Liability on an occurrence basis covering all Owned, Non-Owned, and Hired Vehicles for limits of liability of at least \$1,000,000. If **Supplier** at any time transports hazardous materials, supplier shall carry appropriate auto pollution coverage.

- c) Commercial General Liability insurance on an occurrence basis, providing coverage for a combined single limit for Bodily Injury, Personal Injury, including its employees, and Property Damage, of at least \$1,000,000 for each occurrence and \$2,000,000 General Aggregate. Umbrella/Excess Insurance may be used to satisfy these limits. This policy must provide Premises-Operations, Independent Contractors, Broad Form Property Damage, Hostile Fire Pollution, Contractual Liability, and Products & Completed Operations coverages (which shall be maintained for a period of not less than two years after substantial completion of the project or for such longer period as may be required by the **Contract Documents**).

--- End of Section 5 ---

EXHIBIT "B"

District Attorney Office Building and Parking Garage County of Riverside Scope of Services for Construction Management

The scope of services for construction management shall be between the County of Riverside (hereinafter "Owner") and Heery International, Inc. (hereinafter "CM") for the District Attorney Office Building and Parking Garage project, as designed by Gruen Associates (hereinafter "Design Professional").

Design Phase

Project Management

- *Construction Management Plan:* Prepare a Construction Management Plan for the Project. In preparing the Construction Management Plan, we will consider the schedule, cost and general design requirements for the Project. If required, we will develop various alternatives for the scheduling and management of the Project and shall make recommendations.

Time Management

- *Master Schedule:* In accordance with the Construction Management Plan, prepare a Master Schedule for the Project. The Master Schedule will include the design and construction schedules as well as any additional activities identified by the Owner. As necessary throughout the Design Phase, recommend revisions to the Master Schedule.

Cost Management

- *Project and Construction Budget:* Based on Construction Management Plan and in consultation with the Design Professional and Owner, prepare a Project and Construction Budget.
- *Project and Construction Budget Revision:* Make recommendations to the Owner concerning revisions to the Project and Construction Budget that may result from design changes.
- *Cost Estimates:* Prepare detailed cost estimates at the completion of Schematic Documents, Design Development, and 90% Construction Documents. Coordinate reconciliation of each estimate with the Design Professional's estimate.
- *Value Analysis Studies:* Provide value analysis studies on major construction components.

Management Information System (MIS)

- *Establishing Project MIS:* We will review your current MIS and make recommendations regarding the appropriate system to manage communication between the Owner, CM, Design Professional, Contractor, and other parties involved with the Project.
- *Schedule Reports:* Prepare and distribute Schedule Maintenance Reports that compare actual progress with scheduled progress for the Design Phase and the overall Project.
- *Project Cost Reports:* Prepare and distribute Project Cost Reports that indicate actual or estimated costs compared to the Project and Construction Budget.
- *Cash Flow Report:* Periodically prepare and distribute a Cash Flow Report.

Project Management

- *Design Phase Information:* Monitor the Design Professional's compliance with the Construction Management Plan and coordinate and expedite the flow of information between the Owner, Design Professional and others.
- *Project Meetings:* Conduct regular project meetings attended by the Owner, Design Professional and others. Prepare and distribute minutes of these meetings to the Owner, Design Professional and others.
- *Review of Design Documents:* Review the design documents and make recommendations to the Owner and Design Professional as to constructability, clarity and consistency, scheduling, and time of construction. Coordinate meetings with the Design Professional to resolve document review comments. These reviews will be performed at the completion Schematic Documents, Design Development, and Construction Documents. The recommendations resulting from such review will be provided to the Owner and Design Professional in writing or as notations on the design documents.
- *Owner's Design Reviews:* Expedite the Owner's design reviews by compiling and conveying the Owner's review comments to the Design Professional.

- *Other Contract Conditions:* Prepare Supplemental Conditions of the Construction Contract, Division 1 and as necessary the General Conditions. Provide these to the Design Professional for inclusion in the Design Documents.
- *Project Funding:* Assist the Owner in preparing documents concerning the Project and Construction Budget for use in obtaining or reporting on Project funding.

Bid and Award Phase

Project Management:

- *Prequalifying Bidders:* Assist the Owner in developing lists of possible bidders and in prequalifying bidders.
- *Bidder's Interest Campaign:* Conduct a telephone and correspondence campaign to attempt to increase interest among qualified bidders.
- *Notices and Advertisements:* Assist the Owner in preparing and placing notices and advertisements to solicit bids for the Project.
- *Information to Bidders:* Develop and coordinate procedures to provide answers to bidder's questions.
- *Addenda:* Receive from the Design Professional a copy of all Addenda. Review Addenda for constructability, for effect on the Project and Construction Budget, scheduling and time of construction, and for clarity and coordination in documentation. Distribute a copy of all Addenda to each bidder receiving documents.
- *Bid Opening and Recommendations:* Assist the Owner in the bid opening and evaluate the bids for responsiveness and price. Make recommendations to the Owner concerning the acceptance or rejection of bids.
- *Construction Contracts:* Assist the Owner in the assembly, delivery and execution of the Contract Documents. Issue to the Contractor on behalf of the Owner the Notice of Award and the Notice to Proceed.

Time Management

- *Master Schedule:* Recommend to the Owner any appropriate revisions to the Master Schedule. Following acceptance by the Owner of such revisions, provide a copy of the Master Schedule to the Design Professional and to the bidders.

Cost Management

- *Estimates for Addenda:* Prepare an estimate of costs for all Addenda and submit a copy of the estimate to the Design Professional and to the Owner for approval.
- *Analyzing Bids:* Upon receipt of the bids, evaluate the bids, including alternate bid prices and unit prices, and make a recommendation to the Owner regarding the award of the construction contract.

Management Information System (MIS)

- *Schedule Maintenance Reports:* Prepare and distribute Schedule Maintenance Reports during the Bid and Award Phase. Compare the actual bid and award dates to scheduled bid and award dates and summarize the progress of the Project.
- *Cash Flow Reports:* Prepare and distribute Cash Flow Reports during the Bid and Award Phase. The Reports will be based on actual contract award prices and estimated other construction costs for the duration of the Project.

Construction Phase

Project Management

- *Pre-Construction Conference:* In consultation with the Owner and Design Professional, conduct a Pre-Construction Conference to review the Project reporting procedures and other rules.
- *Permits, Bonds and Insurance:* Verify that the required permits, bonds, and insurance, have been obtained.
- *On-Site Management and Construction Phase Communication Procedures:* Provide and maintain a management team on the Project site to provide contract administration as an agent of the Owner. Establish and implement coordination and communication procedures among the CM, Owner, Design Professional and Contractor.
- *Construction Administration Procedures:* Establish and implement procedures for reviewing and processing requests for clarifications and interpretations of the Contract Documents; shop drawings, samples and other submittals; contract schedule adjustments; change order proposals; written proposals for substitutions; payment applications; and the maintenance of logs.
- *Review of Requests for Information, Shop Drawings, Samples, and Other Submittals:* Examine the Contractor's requests for information, shop drawings, samples, and other submittals to determine the anticipated effect on compliance with the Project requirements, the Project and Construction Budget, and the Master Schedule. Forward to the Design Professional for review, approval or rejection, as appropriate, the request for clarification or interpretation, shop drawing,

- sample, or other submittal, along with the CM's comments. Receive from the Design Professional, and transmit to the Contractor, all information so received from the Design Professional.
- *Project Site Meetings:* Conduct meetings at the Project site with the Contractor, Owner, and the Design Professional. Prepare and distribute minutes to all attendees, Owner, and the Design Professional.
 - *Coordination of Other Independent Consultants:* Coordinate Technical Inspection and testing provided by others. Receive a copy of all inspection and testing reports and provide a copy of such reports to the Design Professional.
 - *Change Orders:* Establish and implement a change order control system. All changes to the Contract between the Owner and Contractor shall be only by change orders executed by the Owner. Review the contents of all Contractor-requested changes to the Contract Time or Price, to determine the cause of the request and assemble and evaluate information concerning the request. Provide the Design Professional a copy of each change request, and consider the Design Professional's comments regarding the proposed changes. Make recommendations to the Owner regarding all proposed change orders. At the Owner's direction, prepare and issue to the Contractor appropriate change order documents.
 - *Quality Review:* Establish and implement a program to monitor the quality of the construction. The purpose of the program shall be to assist in guarding the Owner against Work by the Contractor that does not conform to the requirements of the Contract Documents. Reject any portion of the Work and transmit to the Owner and Contractor a notice of nonconforming Work when it is the opinion of the CM, Owner, or Design Professional that such Work does not conform to the requirements of the Contract Documents.
 - *Contractor's Safety Program:* Require the Contractor to prepare and submit to the CM for general review a safety program, as required by the Contract Documents. Review the safety program to determine that the program is in compliance with the Contract Documents.
 - *Disputes Between Contractor and Owner:* Render in writing within a reasonable time decisions concerning disputes between the Contractor and the Owner relating to the acceptability of the Work, or the interpretation of the requirements of the Contract Documents pertaining to the furnishing and performing of the Work.
 - *Operation and Maintenance Materials:* Receive from the Contractor Operation and Maintenance Manuals, Warranties and Guarantees for materials and equipment installed in the Project. Deliver this information to the Owner and provide a copy of the information to the Design Professional.
 - *Substantial Completion:* In consultation with the Design Professional, determine when the Project and the Contractor's Work is substantially complete. In consultation with the Design Professional, prepare a list of incomplete Work or Work which does not conform to the requirements of the Contract Documents.
 - *Final Completion:* In consultation with the Design Professional, determine when the Project and the Contractor's Work is finally completed and issue a Certificate of Final Completion.

Time Management

- *Master Schedule:* Adjust and update the Master Schedule and distribute copies to the owner and Design Professional. All adjustments to the Master Schedule shall be made for the benefit of the project.
- *Contractor's Construction Schedule:* Review the Contractor's Construction Schedule and verify that the schedule is prepared in accordance with the requirements of the Contract Documents and that it establishes completion dates that comply with the requirements of the Master Schedule.
- *Construction Schedule Report:* On a monthly basis, review the progress of construction of the Contractor. Using a cost loaded schedule, prepared by the Contractor, evaluate the percentage complete of each construction activity as indicated in the Contractor's Construction Schedule and review such percentages with the Contractor. Advise and make recommendations to the Owner concerning the alternative courses of action that the Owner may take in its efforts to achieve Contract time compliance by the Contractor.
- *Effect of Change Orders on the Schedule:* Prior to the issuance of a change order, determine and advise the Owner as to the effect on the Master Schedule and Construction Schedule of the change. Verify that activities and adjustments of the time, if any, required by the approved change orders have been incorporated into the Contractor's Construction Schedule.
- *Recovery Schedules:* As necessary, require the Contractor to prepare and submit a Recovery Schedule, as specified in the Contract Documents.

Cost Management

- *Schedule of Values:* In participation with the Contractor, determine a Schedule of Values for the construction contract. The Schedule of Values shall be the basis for the allocation of the Contract Price to the activities shown on the Contractor's Construction Schedule.
- *Allocation of Cost to the Contractor's Construction Schedule:* Review the Contract Price allocations to the Construction Schedule and verify that such allocations are made in accordance with the requirements of the Contract Documents. Progress payments to the Contractor will be based on the Contractor's percentage of completion of the cost loaded scheduled activities.
- *Effect of Change Orders on Cost:* Advise the Owner as to the effect on the Project and Construction Budget of all proposed and approved change orders.

- *Progress Payments:* Review the payment applications submitted by the Contractor and determine whether the amount requested reflects the progress of the Contractor's Work. Make appropriate adjustments to each payment application prepare and forward to the Owner a Progress Payment Report.

Management Information System (MIS):

- *Schedule Maintenance Reports:* Prepare and distribute Schedule Maintenance Reports during the Construction Phase. The reports will compare the projected completion dates to the scheduled completion dates, and to the Master Schedule for the project.
- *Project Cost Reports:* Prepare and distribute Project Cost Reports during the Construction Phase. The reports will compare actual Project Costs to the Project and Construction Budget.
- *Project and Construction Budget Revisions:* Make recommendations to the Owner concerning changes that may result in revisions to the Project and Construction Budget. Copies of the recommendations will be provided to the Design Professional.
- *Cash Flow Reports:* Periodically prepare and distribute Cash Flow Reports during the Construction Phase. The Reports will compare actual cash flow to planned cash flow.
- *Progress Payment Reports (Each Contract):* Prepare and distribute the Progress Payment Reports, which will state the total Contract Price, payment to date, current payment requested, retainage, and amounts owed for the period.
- *Change Order Reports:* Prepare and distribute Change Order Reports. The Report will list all Owner-approved change orders, a brief description of the change order Work, the cost established in the change order. The Report will also include similar information for potential change orders of which the CM may be aware.

Post Construction Phase

Project Management

- *Operation and Maintenance Materials and Certificates:* Prior to the Final Completion of the Project, compile manufacturers' Operations and Maintenance Manuals, Warranties and Guarantees, and certificates, and index and bind such documents in an organized manner.
- *Occupancy Permit:* Assist the Owner In obtaining an Occupancy Permit by coordinating final testing, preparing and submitting documentation to governmental agencies, and accompanying governmental officials during inspections of the Project.

Time Management

- *Occupancy Plan:* Prepare an Occupancy Plan that shall include a schedule for location for furniture, equipment, and the Owner's personnel.

Cost Management

- *Change Orders:* Continue during Post-Construction Phase to provide services related to any outstanding change orders.

Management Information System (MIS)

- *Close Out Reports:* At the conclusion of the Project, prepare and deliver to the Owner final Project accounting and close out reports.

ALL PHASES

Owner Controlled Insurance Program:

Owner intends to implement an Owner Controlled Insurance Program (OCIP) for the project, in which Contractor and all qualified Subcontractors and Sub-Subcontractors will be enrolled. Owners Representative will publicly advocate and support the OCIP and assist in the facilitation of OCIP processes as follows.

Pre-Construction:

- *Confirm that the Owner approved OCIP documents are included in all bid packages.*
- *Confirm that Contractors of all tiers have complied with the OCIP Bidding Instructions.*
- *Provide OCIP Administration Team with correct contact information for all successful bidders.*
- *Confirm that all direct contracts include the Owner approved OCIP Insurance Exhibit.*
- *Verify that all eligible Contractors are enrolled in the OCIP through the review and approval of the OCIP Enrollment Report provided weekly by the OCIP Administration Team*
- *Facilitate communication by referring Contractor OCIP inquiries to the OCIP Administration Team.*

Construction Duration:

- Report all accidents or circumstances, which might lead to or involve a claim against the Project or Owner to OCIP Administration Team.
- Upon request, provide OCIP Administration Team with Project Change Order Log.
- Verify correct processing of OCIP related Contractor Change Orders.
- Verify Contractor Work Completion Dates.
- Facilitate communication by referring Contractor OCIP inquiries to the OCIP Administration Team.

Post-Construction:

- Provide OCIP Administration Team with Final Project Completion Date.
- Provide OCIP Administration Team with Final Report of Contract Amounts.
- Verify correct processing of final OCIP related Contractor Change Orders.
- Facilitate communication by referring Contractor OCIP inquiries to the OCIP Administration Team.

Exhibit "C"

**Heery/JCM Fee Proposal
District Attorney Office Building and Parking Garage
9/8/2006**

PERSONNEL	ROLE	2006	TOTAL	COST
		BILL RATE	HOURS	
Ron Clement	Project Director	180.00	2,916	558,300
Ray Juncosa	Dir. Preconstruction Services	175.00	188	33,628
John Reeser	Chief Estimator	145.00	612	91,130
Steve Cotner	Senior Estimator	145.00	460	68,904
Sahag Toutjian	Senior Estimator	145.00	0	0
Tony Layton	Constructability Reviewer	140.00	400	57,568
David Sagherian	Senior Scheduler	155.00	616	103,880
Sandy Partridge	FFE Coordinator	125.00	744	106,418
TBD	Project Engineer	125.00	4,916	677,466
TBD	Construction Manager	160.00	4,916	867,156
TBD	Office Administrator	60.00	4,916	325,183
			0	0
			20,684	2,889,633

Billing Rates escalate at 4% per year