

MEETING DATE: **03.11.13**

AGENDA ITEM: Approval of a Contract Amendment with VCA Code Group
for Building Inspection Services.

ATTACHMENTS

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CITY OF CULVER CITY

STANDARD FORM CONTRACT

WITH: VCA CODE GROUP, INC.

FOR: AS-NEEDED BUILDING INSPECTION SERVICES

THIS AGREEMENT is made and entered into by and between THE CITY OF CULVER CITY, a municipal corporation, hereinafter referred to as "City," and VCA CODE GROUP, INC., a California corporation, hereinafter referred to as "Contractor."

1. CONSULTANT'S SERVICES. Contractor agrees to perform, during the term of this Agreement, the tasks, obligations, and services set forth in the "Scope of Service" attached to and incorporated into this Agreement as Exhibit "A."
2. TERM OF AGREEMENT. The term of this Agreement shall be from the effective date pursuant to Paragraph 27 of this Agreement and shall end upon the date the Community Development Director reasonably determines all work has been satisfactorily completed or the maximum fee set forth in Exhibit "B" has been reached.
3. PAYMENT FOR SERVICES. City shall pay for the services satisfactorily performed by Contractor pursuant to the terms of this Agreement, the compensation set forth in the "Schedule of Compensation" attached to and incorporated into this Agreement as Exhibit "B." The compensation shall be paid in the maximum amount and manner set forth in Exhibit "B."
4. TIME FOR PERFORMANCE. Contractor shall not perform any work under this Agreement until (a) Contractor furnishes proof of insurance as required under Paragraph 7 of this Agreement; and, (b) City gives Contractor a written and signed Notice to Proceed.
5. DESIGNATED REPRESENTATIVE(S). Charles Russell, CBO, shall be the designated Contractor Representative, and shall be responsible for job performance, negotiations, contractual matters, and coordination with the City. Nick Gisler shall actually perform the Scope of Service.
6. INDEMNITY: To the fullest extent permitted by law, Contractor shall indemnify, defend (at Contractor's sole expense, with legal counsel approved by City) and hold harmless the City of Culver City, members of its City Council, its boards and commissions, officers, agents, and employees (hereinafter, "Indemnitees"), from and against all loss, damage, cost, expense, liability, claims, demands, suits, attorneys' fees and judgments arising out of or pertaining or relating to the willful

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misconduct, recklessness or negligent acts, errors or omissions of Contractor.

The duty to defend referenced herein is wholly independent from the duty to indemnify, arises upon written notice by City to Contractor of a claim within the potential scope of this indemnification provision.

7. INSURANCE. Without limiting its obligations pursuant to Section 6 of this Agreement, the Contractor shall procure and maintain, at Contractor's own cost and expense and for the duration of this Agreement, insurance coverage as set forth in "Insurance Requirements" attached to and incorporated into this Agreement as Exhibit "C."
8. INDEPENDENT CONTRACTOR STATUS. City and Contractor agree Contractor, in performing the services herein specified, shall act as an independent Contractor and shall have control of all work and the manner in which it is performed. Contractor shall be free to contract for similar service to be performed for other employers while under contract with City. Contractor is not an agent or employee of City, and is not entitled to participate in any pension plan, insurance, bonus or similar benefits City provides for its employees. Contractor shall be responsible to pay and hold City harmless from any and all payroll and other taxes and interest thereon and penalties therefor which may become due as a result of services performed hereunder.
9. NON-APPROPRIATION OF FUNDS. Payments due and payable to Contractor for current services are within the current budget and within an available, unexhausted and unencumbered appropriation of the City. In the event City has not appropriated sufficient funds for payment of Contractor services beyond the current fiscal year, this Agreement shall cover only those costs incurred up to the conclusion of the current fiscal year.
10. ASSIGNMENT. This Agreement is for the specific services with Contractor as set forth herein. Any attempt by Contractor to assign the benefits or burdens of this Agreement without written approval of City shall be prohibited and shall be null and void; except that Contractor may assign payments due under this Agreement to a financial institution.
11. RECORDS AND INSPECTIONS. Contractor shall maintain full and accurate records with respect to all services and matters covered under this Agreement. City shall have free access at all reasonable times to such records, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings and activities. Contractor shall maintain an up-to-date list of key personnel and telephone numbers for emergency contact after normal business hours.

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12. OWNERSHIP OF CONTRACTOR'S WORK PRODUCT. City shall be the owner of any and all computations, plans, correspondence and/or other pertinent data, information, documents and computer media, including disks and other materials gathered or prepared by Contractor in performance of this Agreement, or at any earlier or later time when the same may be requested by City. Such work product shall be transmitted to City within ten (10) days after a written request therefor. Contractor may retain copies of such products. All written documents that are intended for public review shall be provided to City in a format suitable for posting on the Internet.
13. NOTICES. All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by mail. Notice sent by mail shall be addressed as follows:

To City: City of Culver City
 Attention: Craig Johnson, Building Official
 Building Safety Division
 9770 Culver Boulevard
 Culver City, California 90232

To Contractor: VCA Code Group, Inc.
 Attention: Charles Russell, CBO, Vice President
 2200 West Orangewood Ave Suite 100
 Orange, CA 92868
14. TAXPAYER IDENTIFICATION NUMBER. Contractor shall provide City with a complete Request for Taxpayer Identification Number ("TIN") and Certification, Form W-9, as issued by the Internal Revenue Service.
15. PERMITS AND LICENSES. Contractor, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement including, but not limited to, a Culver City business tax certificate.
16. APPLICABLE LAWS, CODES AND REGULATIONS. Contractor shall perform all work in accordance with all applicable laws, codes and regulations required by all authorities having jurisdiction over such work. Contractor agrees to comply with prevailing wage requirements as specified in the California Labor Code, Sections 1770, et seq.
17. PURCHASES OF SUPPLIES AND MATERIALS WITHIN CULVER CITY. For work performed, Contractor agrees to seek bids for supplies and materials from businesses located within the City of Culver City, with the intent to make purchases from these businesses if such purchases can be made at competitive prices.

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18. RIGHT TO UTILIZE OTHERS. City reserves the right to utilize others to perform work similar to the services provided hereunder.
19. MODIFICATION OF AGREEMENT. This Agreement may not be modified, nor may any of the terms, provisions or conditions be modified or waived or otherwise affected, except by a written amendment signed by all parties hereto.
20. WAIVER. If at any time one party shall waive any term, provision or condition of this Agreement, either before or after any breach thereof, then no party shall thereafter be deemed to have consented to any future failure of full performance hereunder.
21. COVENANTS AND CONDITIONS. Each term and each provision of this Agreement to be performed by Contractor shall be construed to be both a covenant and a condition.
22. RIGHT TO TERMINATE. City may terminate this Agreement at any time, with or without cause, in its sole discretion, with thirty-days' (30-days') written notice.
23. EFFECT OF TERMINATION. Upon termination as stated in Paragraph 22 of this Agreement, City shall be liable to Contractor only for work satisfactorily performed by Contractor up to and including the date of termination of this Agreement, unless the termination is for cause, in which event Contractor need be compensated only to the extent required by law. Contractor shall be entitled to payment for work satisfactorily completed to date, based on a proration of the monthly fees set forth in Exhibit "A" attached hereto. Such payment will be subject to City's receipt of a close-out billing.
24. GOVERNING LAW. The terms of this Agreement shall be interpreted according to the laws of the State of California. If litigation arises out of this Agreement, then venue shall be in the Superior Court of Los Angeles County.
25. LITIGATION FEES. If litigation arises out of this Agreement for the performance thereof, then the court shall award costs and expenses, including attorney's fees, to the prevailing party. In awarding attorney's fees, the court shall not be bound by any court fee schedule but shall award the full amount of costs, expenses and attorney's fees paid or incurred in good faith.
26. INTEGRATED AGREEMENT. This Agreement represents the entire Agreement between City and Contractor for the subject matter hereof, and all preliminary negotiations and agreements are deemed a part of this Agreement. No verbal agreement or implied covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and

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inure to the benefit of the parties to this Agreement, and any subsequent successors and assigns.

27. EFFECTIVE DATE. The effective date of this Agreement is the date it is signed on behalf of City, and shall remain in full force and effect until amended or terminated; provided, that the indemnification and hold harmless provisions shall survive the termination.

VCA CODE GROUP, INC.

Dated: _____

By Charles Russell

Its Vice President

Dated: _____

By _____

Its _____

CITY OF CULVER CITY, CALIFORNIA

Dated: 26 DEC 2012

By Martin R. Cole
John Nachbar MARTIN R. COLE
Asst. City Manager

APPROVED AS TO CONTENT:

Sol Blumenfeld
Sol Blumenfeld
Comm. Dev. Director

APPROVED AS TO FORM:

Carol A. Schwab
Carol A. Schwab
City Attorney

EXHIBIT A

CITY OF CULVER CITY

AGREEMENT

WITH: VCA CODE GROUP, INC.

FOR: AS-NEEDED BUILDING INSPECTION SERVICES

SCOPE OF SERVICE

Contractor shall conduct Building Safety inspection and support services as requested by City's Building Official or his designee.

Such services shall include, but not be limited to:

1. Perform all building and safety inspections required by the City;
2. Provide accurate daily inspection sheets and note all discrepancies, cite code violations, and issue correction or stop-work notices if needed;
3. Perform timely or after-hour response to safety assessment of structures damaged by fire or other hazard conditions;
4. Perform all inspections in accordance with the City's adopted version of the California Building Code, California Residential Code, California Green Building Code, California Mechanical Code, California Plumbing Code, California Electrical Code, and the Accessibility, Noise and Energy Conservation requirements as mandated by State Title 24 and all applicable; and
5. Review permit packages to verify that onsite conditions are consistent with the appropriate records for square footage, setbacks, heights, and other requirements that may be applicable.

EXHIBIT B

CITY OF CULVER CITY

WITH: VCA CODE GROUP, INC.

FOR: AS-NEEDED BUILDING INSPECTION SERVICES

SCHEDULE OF COMPENSATION

- A. METHOD OF PAYMENT. Payment for all work performed by Contractor pursuant to the terms of this Agreement, shall be made on the basis of the hourly rate of Sixty Dollars (\$60.00) per hour. This rate shall include all out-of-pocket costs incurred in performing the work.
- B. BILLING. Contractor shall submit an invoice no more than once monthly by the 10th of the month for work satisfactorily completed in the previous month. The invoice shall be submitted to:

City of Culver City
Attn: Craig Jones, Building Official
9770 Culver Boulevard
Culver City, CA 90232-0507

The invoice submitted pursuant to this paragraph shall show the City Agreement Number, hours worked by each person who performed services during the billing period, the dates on which the services were performed, a description of the services performed, and such other information as City may reasonably require.

- C. TIME OF PAYMENT. Payment to Contractor shall be made within thirty (30) days after submittal of Contractor's invoice and approval by City, in accordance with City's normal demand procedure.
- D. Maximum Compensation. Notwithstanding the foregoing, Contractor shall complete all the work and tasks described in the Agreement for a total amount of compensation that does not exceed Thirty Thousand Dollars (\$30,000.00), which amount includes all out-of-pocket expenses.

EXHIBIT C

CITY OF CULVER CITY
AGREEMENT

WITH: VCA CODE GROUP, INC.

FOR: AS-NEEDED BUILDING INSPECTION SERVICES

INSURANCE REQUIREMENTS

A. Policy Requirements.

Contractor shall submit duly executed certificates of insurance for the following:

1. An occurrence based Comprehensive General Liability ("CGL") policy, at least as broad as ISO Form CG 0001, in the minimum amount of One Million Dollars (\$1,000,000) each occurrence, with not less than Two Million Dollars (\$2,000,000) in annual aggregate coverage.

The CGL Policy shall have the following requirements:

- a. The policy shall provide coverage for personal injury, bodily injury, death, accident and property damage and advertising injury, as those terms are understood in the context of a CGL policy. The coverage shall not be excess or contributing with respect to City's self-insurance or any pooled risk arrangements;
- b. The policy shall provide \$1,000,000 combined single limit coverage for owned, hired and non-owned automobile liability;
- c. The policy shall include coverage for liability undertaken by contract covering, to the maximum extent permitted by law. Contractor's obligation to indemnify the Indemnitees as required under Paragraph 6 of this agreement;
- d. The Policy shall not exclude coverage for Completed Operations Hazards or Athletic or Sports Participants; and
- e. **The City of Culver City, members of its City Council, its boards and commissions, officers, agents, and employees will be named as an additional insured** in an endorsement to the policy, which shall be provided to the City and approved by the City Attorney.

2. Business Automobile Liability Insurance coverage in the amount of One Million Dollars (\$1,000,000), providing coverage for use of mobile equipment (i.e. heavy mobile equipment or vehicles primarily for use in an off-road environment), to the extent that (1) such mobile equipment will be used within the City limits or on City business, and (2) coverage for mobile equipment is not otherwise covered by the CGL policy listed in subparagraph (a), above.
3. Reserved.
4. Workers' Compensation limits as required by the Labor Code of the State of California with Employers' Liability limits of One Million Dollars (\$1,000,000.00) per accident, if the Agreement will have Contractor employees working within the City limits.

B. Waiver by City.

City may waive one or more of the coverages listed in Section A, above. This waiver must be express and in writing, and will only be made upon a showing by the Contractor that its operations in and with respect to City are not such as to impose liability within the scope of that particular coverage.

C. Additional Insurance Requirements.

1. All insurance listed in Paragraph A shall be issued by companies licensed to do business in the State of California, with a claims paying ability rating of "BBB" or better by S&P (and the equivalent by any other Rating Agency) and a rating of A:VII or better in the current Best's Insurance Reports;
2. Contractor shall provide City with at least thirty (30) days prior written notice of any modification, reduction or cancellation of any of the Policies required in Paragraph A, or a minimum of ten (10) days notice for cancellation due to non-payment.
3. City may increase the scope or dollar amount of coverage required under any of the policies described above, or may require different or additional coverages, upon prior written notice Contractor.