



Finance Department
General Services Division

REQUEST FOR PROPOSALS (RFP)
Specification No. 14-10783
FOR
MANAGEMENT OF THE TELEGRAPH CHANNING RETAIL MALL
PROPOSALS WILL NOT BE OPENED AND READ PUBLICLY

Dear Proposer:

The City of Berkeley is soliciting written proposals to manage the City's Telegraph Channing Mall, which has fourteen (14) retail spaces, totaling almost 16,000SF on the ground-floor of the City's Telegraph Channing Parking Garage structure. As a Request for Proposals (RFP) this is not an invitation to bid and although price is very important, other factors will be taken into consideration.

The scope of responsibilities and vendor selection process are summarized in the RFP (attached). **Submissions must be received no later than 2:00 pm, on Thursday, September 26, 2013.** All responses must be in a sealed envelope and have **Management of the Telegraph Channing Retail Mall** and **Specification No. 14-10783** clearly marked on the **outer most mailing envelope**. Please submit **one (1) original and four (4) unbound copies** of all materials:

Mail or Hand Deliver To:
City of Berkeley
Finance Department/General Services Division
2180 Milvia Street, 3rd Floor
Berkeley, CA 94704

Submissions will not be accepted after the date and time stated above. Incomplete submissions or submissions that do not conform to the requirements may, at the City's discretion, be rejected for further consideration. Issuance of the RFP does not obligate the City to award a contract, nor is the City liable for any costs incurred by the proposer in the preparation and submittal of materials for the subject work. The City retains the right to award all or parts of this contract to several bidders, to not select any bidders, and/or to re-solicit submissions. The act of submitting materials in response to this RFP is a declaration that the proposer has read the RFP and understands all the requirements and conditions.

The City will conduct a non-mandatory walk-through of the Telegraph Channing Mall on Friday, September 13, 2013 from 10:00 – 11:30am. While it is not mandatory it is highly encouraged for interested parties to attend.

For questions concerning the anticipated work, or scope of the project, please **contact Perry Fletcher, Facilities Maintenance Superintendent**, by email to PFletcher@cityofberkeley.info no later than **September 16, 2013**. Answers to questions will **not** be provided by phone; answers to all questions and any addenda will be **posted** on the City's website: [www.cityofberkeley.info/Finance/Home/Current Bid and Proposal Opportunities.aspx](http://www.cityofberkeley.info/Finance/Home/Current_Bid_and_Proposal_Opportunities.aspx). It is the vendor's responsibility to check this site. For general questions concerning the submittal process, contact purchasing at 510-981-7320.

We look forward to receiving and reviewing your proposal.

Sincerely,

Henry Oyekanmi
General Services Manager

BACKGROUND/SUMMARY

The City is seeking to contract with a management agent or agency that will have overall responsibility for the Telegraph Channing Mall, including but not limited to, marketing vacancies, collecting rents, paying expenses, addressing tenant needs, performing routine maintenance and other services, to be negotiated.

The Telegraph Channing Mall occupies the street level of the Telegraph Channing Parking Garage (formerly the Sather Gate Garage), with entrances to the Mall from both Durant Avenue and Channing Way, just west of Telegraph Avenue. There is no direct access to the Mall from Telegraph Avenue. The Mall has fourteen (14) principal retail spaces, almost 16,000SF overall, ranging in size from 420SF to over 2,000SF. ***Management responsibilities are for the Mall only; the Telegraph Channing Garage is managed under a separate contract with LAZ Parking California.***

The Sather Gate Garage was built in the late 1960s for the City of Berkeley by the Sather Gate Garage Company, a nonprofit corporation. It now has four hundred thirty six (436) parking spaces above a ground floor designated for retail use. The structure underwent seismic improvements that were completed in 1996, and another project in 2004 included installation of a ventilation system, automatic fire sprinklers, fire alarm, and other fire protection improvements.

Site Visit: The City will conduct a walk-through of the Mall on Friday, September 13, 2013 from 10:00 – 11:30am. All interested parties are encouraged to attend. The purpose of the site visit is to provide an opportunity to walk through the property and ask questions of staff, prior to submitting a proposal. Meet on the sidewalk at the Channing Street entrance to the Mall. The walk thru will start promptly at 10:00.

Mall Data: See [Exhibit A: Summary of data on Mall tenants and operations](#). This includes FY 2013 financial summary for the Mall (revenue: rents & utility reimbursements; and expenses); and Exhibit B- a separate attachment that is a simple layout drawing of spaces in the Mall with current tenants identified with each space.

II. SCOPE OF SERVICES

SCOPE OF SERVICES: Comprehensive management responsibilities of the Telegraph Channing Mall: fourteen (14) retail spaces totaling approximately 16,000SF on the ground-floor level of the City's Telegraph Channing Parking Garage. Responsibilities include but are not limited to:

1. Marketing of vacancies.
2. Evaluating prospective tenants and making written recommendations to the City on tenant selection for a particular space.
3. Collecting rents and other payments. The method of remitting the collected rents and the disbursements of any funds will be a subject of negotiations, and must meet all City of Berkeley requirements.
4. Managing mall activity, addressing tenant needs and enforcing tenant obligations, and making written recommendations to the City for improvements.
5. Paying routine expenditures for services, goods, utilities, etc.
6. Overseeing routine maintenance, in coordination with LAZ and City Facilities Maintenance staff.
7. Submitting written financial and operational reports to the City on a monthly and annual basis.
8. Performing other services, to be determined and negotiated.

The City will provide the selected management agent with: current information on tenants and their lease agreements; account information for those services to be supervised and paid for by the agent; and a list of maintenance work scheduled to be conducted in the coming year.

Management responsibilities are for the Mall only; the Telegraph Channing Garage is managed under a separate contract with LAZ Parking California.

TERM: The initial contract term will be for two (2) years, with two (2) options mutually agreed upon by both parties, each to extend for another two (2) years, for a total of six (6) years.

III. SUBMISSION REQUIREMENTS

All proposals shall include the following information, organized as separate sections of the proposal. The proposal should be concise and to the point.

1. Contractor Identification

Provide the name of the firm, the firm's principal place of business, the name and telephone number of the contact person and company tax identification number.

2. Charges and Fee Schedule

Please provide a schedule of charges for services described above (Scope of Services), as well as any other fees for non-routine or additional services. The schedule should include the basis of charges, such as percentage or commission; hourly rates for professional, technical and support personnel; and any other charges related to execution of the work. The fee proposal should be comprehensive and clear, so that the city understands the basis for the fees and be able to analyze the fees adequately.

3. Client References

Provide a minimum of **three (3)** client references. References should be private retail/shopping center clients, or public sector landlords of retail operations that the contractor has worked with. Provide the designated person's name, title, organization, address, telephone number, and the properties held under that client's management or ownership.

4. Contract Terminations

If your organization has had a contract terminated in the last five (5) years, describe the circumstances surrounding the termination. Termination for default is defined as notice to stop performance due to the vendor's non-performance or poor performance and the issue of performance was either: a) not litigated due to inaction on the part of the vendor, or b) litigated and such litigation determined that the vendor was in default.

Submit full details of the terms for default including the other party's name, address, and phone number. Present the vendor's position on the matter. The City will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of the past experience.

If the firm has not experienced any such termination for default or early termination in the past five (5) years, so indicate.

5. Management Agent Experience

Provide a description of the business or team that would carry out the services, including general and specific experience of the management and assigned staff, and responsibilities comparable to those applicable here.

IV. SELECTION CRITERIA

Each RFP response will be reviewed to ensure that all elements listed under Submission Requirements, above, are included. Submissions missing any elements may be rejected for further consideration. The following criteria will be considered, although not exclusively, in determining a selection:

- 1. Commercial and/or retail property management experience..... 20%
- 2. Cost for management services and other fees 20%
- 3. Proposal submission-quality and completeness relative to the description given in the RFP.. 20%
- 4. Proposer's experience both similar types of projects, experience with public agencies, and staff experience and qualifications 20%
- 5. Understanding of the history and dynamics of the Telegraph Avenue/Southside commercial district..... 10%
- 6. References 10%

A selection panel of City staff and possibly outside representatives will be convened to review submittals.

V. PAYMENT

Invoices: Invoices must be fully itemized, and provide sufficient information for approving payment and audit. Invoices must be accompanied by receipt for services in order for payment to be processed. Mail invoices to the Project Manager and reference the contract number.

City of Berkeley – Accounts Payable
PO Box 700, Berkeley, CA 94701
Attn: Perry Fletcher, Project Manager/Public Works

Payments: The City will make payment to the vendor within thirty (30) days of receipt of a correct and complete invoice.

VI. CITY REQUIREMENTS

A. Non-Discrimination Requirements:

Ordinance No. 5876-N.S. codified in B.M.C. Chapter 13.26 states that, for contracts worth more than \$3,000 bids for supplies or bids or proposals for services shall include a completed Workforce Composition Form. Businesses with fewer than five employees are exempt from submitting this form. (See B.M.C. 13.26.030)

Under B.M.C. section 13.26.060, the City may require any bidder or vendor it believes may have discriminated to submit a Non-Discrimination Program. The Contract Compliance Officer will make this determination. This applies to all contracts and all consultants (contractors). Berkeley Municipal Code section 13.26.070 requires that all contracts with the City contain a non-discrimination clause, in which the contractor agrees not to discriminate and allows the City access to records necessary to monitor compliance. This section also applies to all contracts and all consultants. **Bidders must submit the attached Non-Discrimination Disclosure Form with their proposal**

B. Nuclear Free Berkeley Disclosure Form:

Berkeley Municipal Code section 12.90.070 prohibits the City from granting contracts to companies that knowingly engage in work for nuclear weapons. This contracting prohibition may be waived if the City Council determines that no reasonable alternative exists to doing business with a company that engages in nuclear weapons work. If your company engages in work for nuclear weapons, explain on the Disclosure Form the nature of such work. **Bidders must submit the attached Nuclear Free Disclosure Form with their proposal.**

C. Oppressive States:

The City of Berkeley prohibits granting of contracts to firms that knowingly provide personal services to specified Countries. This contracting prohibition may be waived if the City Council determines that no reasonable alternative exists to doing business with a company that is covered by City Council Resolution No. 59,853-N.S. If your company or any subsidiary is covered, explain on the Disclosure Form the nature of such work. **Bidders must submit the attached Oppressive States Disclosure Form with their proposal.**

D. Conflict of Interest:

In the sole judgment of the City, any and all proposals are subject to disqualification on the basis of a conflict of interest. The City may not contract with a vendor if the vendor or an employee, officer or director of the proposer's firm, or any immediate family member of the preceding, has served as an elected official, employee, board or commission member of the City who influences the making of the contract or has a direct or indirect interest in the contract.

Furthermore, the City may not contract with any vendor whose income, investment, or real property interest may be affected by the contract. The City, at its sole option, may disqualify any proposal on the basis of such a conflict of interest. **Please identify any person associated with the firm that has a potential conflict of interest.**

E. Berkeley Living Wage Ordinance:

Chapter 13.27 of the Berkeley Municipal Code requires that contractors offer all eligible employees with City mandated minimum compensation during the term of any contract that may be awarded by the City. If the Contractor is not currently subject to the Living Wage Ordinance, cumulative contracts with the City within a one-year period may subject Contractor to the requirements under B.M.C. Chapter 13.27. A certification of compliance with this ordinance will be required upon execution of a contract. The Living Wage rate is currently \$13.34 (if medical benefits are provided) or \$15.56 (if medical benefits are not provided). The Living Wage rate is adjusted automatically effective June 30th of each year commensurate with the corresponding increase in the Consumer Price Index published in April of each year. If the Living Wage rate is adjusted during the term of your agreement, you must pay the new adjusted rate to all eligible employees, regardless of what the rate was when the contract was executed.

F. Berkeley Equal Benefits Ordinance:

Chapter 13.29 of the Berkeley Municipal Code requires that contractors offer domestic partners the same access to benefits that are available to spouses. A certification of compliance with this ordinance will be required upon execution of a contract.

G. Statement of Economic Interest:

The City's Conflict of Interest Code designates "consultants" as a category of persons who must complete Form 700, Statement of Economic Interest, at the beginning of the contract period and again at the termination of the contract. The selected contractor will be required to complete the Form 700 before work may begin.

VII. OTHER REQUIREMENTS

A. Insurance

The selected contractor will be required to maintain general liability insurance in the minimum amount of \$1,000,000; automobile liability insurance in the minimum amount of \$500,000; and if required a professional liability insurance policy in the amount of \$1,000,000 to cover any claims arising out of the performance of the contract. The general liability and automobile insurance must name the City, its officers, agents, volunteers and employees as additional insureds.

B. Worker's Compensation Insurance:

A selected contractor who employs any person shall maintain workers' compensation insurance in accordance with state requirements. Sole proprietors with no employees are not required to carry Worker's Compensation Insurance.

C. Business License

Virtually every contractor that does business with the City must obtain a City business license as mandated by B.M.C. Ch. 9.04. The business license requirement applies whether or not the contractor has an office within the City limits. However, a "casual" or "isolated" business transaction (B.M.C. section 9.04.010) does not subject the contractor to the license tax. Warehousing businesses and charitable organizations are the only entities specifically exempted in the code from the license requirement (see B.M.C. sections, 9.04.295 and 9.04.300). Non-profit organizations are granted partial exemptions (see B.M.C. section 9.04.305). Persons who,

by reason of physical infirmity, unavoidable misfortune, or unavoidable poverty, may be granted an exemption of one annual free license at the discretion of the Director of Finance. (see B.M.C. sections 9.04.290).

Vendor must apply for a City business license and show proof of application to Purchasing Manager within seven days of being selected as intended contractor.

The Customer Service Division of the Finance Department located at 1947 Center Street, Berkeley, CA 94704, issues business licenses. Contractors should contact this division for questions and/or information on obtaining a City business license, in person, or by calling 510-981-7200.

D. Recycled Paper

All reports to the City shall be on recycled paper that contains at least 50% recycled product when such paper is available at a cost of not greater than ten percent more than the cost of virgin paper, and when such paper is available at the time it is required. If recycled paper is not available the Contractor shall use white paper. Written reports or studies shall be *printed on both sides of the page* whenever practical.

VIII. SCHEDULE (dates are subject to change)

- | | |
|--|------------|
| <input type="checkbox"/> Issue RFP to potential bidders: | 09/04/2013 |
| <input type="checkbox"/> Proposals due from potential bidders | 09/26/2013 |
| <input type="checkbox"/> Complete Selection Process | 10/18/2013 |
| <input type="checkbox"/> Council Approval of Contract (over \$50k) | 11/14/2013 |
| <input type="checkbox"/> Award of Contract | 11/15/2013 |
| <input type="checkbox"/> Sign and Process Contract | 11/29/2013 |
| <input type="checkbox"/> Notice to proceed | 12/02/2013 |

Thank you for your interest in working with the City of Berkeley for this service. We look forward to receiving your proposal.

Attachments:

- | | |
|---|--------------|
| 1. Check List of Required items for Submittal | Attachment A |
| 2. Non-Discrimination/Workforce Composition Form | Attachment B |
| 3. Nuclear Free Disclosure Form | Attachment C |
| 4. Oppressive States Form | Attachment D |
| 5. Living Wage Form | Attachment E |
| 6. Equal Benefits Certification of Compliance | Attachment F |
| 7. Right to Audit Form | Attachment G |
| 8. Insurance Endorsement | Attachment H |
| 9. Summary of data on Mall tenants and operations | Exhibit A |
| 10. Telegraph/Channing Mall Layout with tenant names | Exhibit B |
| 11. Information Only - Sample of Personal Services Contract | Exhibit C |

ATTACHMENT A

CHECKLIST

- Proposal describing service (**one (1) original and four (4) unbound copies**)
- Contractor Identification and Company Information
- Client References
- Costs proposal by task, type of service & personnel
- The following forms, completed and **signed in blue ink** (attached):
 - Non-Discrimination/Workforce Composition Form Attachment B
 - Nuclear Free Disclosure Form Attachment C
 - Oppressive States Form Attachment D
 - Living Wage Form (*may be optional*) Attachment E
 - Equal Benefits Ordinance Certification of Compliance (EBO-1) Attachment F

ADDITIONAL SUBMITTALS REQUIRED FROM SELECTED VENDOR AFTER COUNCIL APPROVAL TO AWARD CONTRACT.

- Provide **original-signed in blue ink** Evidence of Insurance
 - Auto
 - Liability
 - Worker's Compensation
- Right to Audit Form Attachment G
- Commercial General & Automobile Liability Endorsement Form Attachment H
- Berkeley Business License

NON-DISCRIMINATION/WORKFORCE COMPOSITION FORM FOR NON-CONSTRUCTION CONTRACTS

To assist the City of Berkeley in implementing its Non-Discrimination policy, it is requested that you furnish information regarding your personnel as requested below and return it to the City Department handling your contract:

Organization: _____

Address: _____ Business Lic. #: _____

Occupational Category: (See reverse side for explanation of terms)	Total Employees		White Employees		Black Employees		Asian Employees		Hispanic Employees		Other Employees	
	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male
	Official/Administrators											
Professionals												
Technicians												
Protective Service Workers												
Para-Professionals												
Office/Clerical												
Skilled Craft Workers												
Service/Maintenance												
Other (specify)												
Totals:												

Is your business MBE/WBE/DBE certified? Yes _____ No _____ If yes, by what agency? _____

If yes, please specify: Male: _____ Female: _____ Indicate ethnic identifications: _____

Do you have a Non-Discrimination policy? Yes: _____ No: _____

Signed: _____ Date: _____

Verified by: _____ Date: _____

City of Berkeley Contract Compliance Officer

Occupational Categories

Officials and Administrators - Occupations in which employees set broad policies, exercise overall responsibility for execution of these policies, or provide specialized consultation on a regional, district or area basis. Includes: department heads, bureau chiefs, division chiefs, directors, deputy superintendents, unit supervisors and kindred workers.

Professionals - Occupations that require specialized and theoretical knowledge that is usually acquired through college training or through work experience and other training that provides comparable knowledge. Includes: personnel and labor relations workers, social workers, doctors, psychologists, registered nurses, economists, dietitians, lawyers, systems analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers or instructors, and kindred workers.

Technicians - Occupations that require a combination of basic scientific or technical knowledge and manual skill that can be obtained through specialized post-secondary school education or through equivalent on-the-job training. Includes: computer programmers and operators, technical illustrators, highway technicians, technicians (medical, dental, electronic, physical sciences) and kindred workers.

Protective Service Workers - Occupations in which workers are entrusted with public safety, security and protection from destructive forces. Includes: police officers, fire fighters, guards, sheriffs, bailiffs, correctional officers, detectives, marshals, harbor patrol officers, and kindred workers.

Para-Professionals - Occupations in which workers perform some of the duties of a professional or technician in a supportive role, which usually requires less formal training and/or experience normally required for professional or technical status. Such positions may fall within an identified pattern of a staff development and promotion under a "New Transporters" concept. Includes: library assistants, research assistants, medical aides, child support workers, police auxiliary, welfare service aides, recreation assistants, homemaker aides, home health aides, and kindred workers.

Office and Clerical - Occupations in which workers are responsible for internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office. Includes: bookkeepers, messengers, office machine operators, clerk-typists, stenographers, court transcribers, hearings reporters, statistical clerks, dispatchers, license distributors, payroll clerks, and kindred workers.

Skilled Craft Workers - Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Includes: mechanics and repairpersons, electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, compositors and typesetters, and kindred workers.

Service/Maintenance - Occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or which contribute to the upkeep and care of buildings, facilities or grounds of public property. Workers in this group may operate machinery. Includes: chauffeurs, laundry and dry cleaning operatives, truck drivers, bus drivers, garage laborers, custodial personnel, gardeners and groundskeepers, refuse collectors, and construction laborers.

CITY OF BERKELEY
Nuclear Free Zone Disclosure Form

I (we) certify that:

1. I am (we are) fully cognizant of any and all contracts held, products made or otherwise handled by this business entity, and of any such that are anticipated to be entered into, produced or handled for the duration of its contract(s) with the City of Berkeley. (To this end, more than one individual may sign this disclosure form, if a description of which type of contracts each individual is cognizant is attached.)
2. I (we) understand that Section 12.90.070 of the Nuclear Free Berkeley Act (Berkeley Municipal Code Ch. 12.90; Ordinance No. 5784-N.S.) prohibits the City of Berkeley from contracting with any person or business that knowingly engages in work for nuclear weapons.
3. I (we) understand the meaning of the following terms as set forth in Berkeley Municipal Code Section 12.90.130:

"Work for nuclear weapons" is any work the purpose of which is the development, testing, production, maintenance or storage of nuclear weapons or the components of nuclear weapons; or any secret or classified research or evaluation of nuclear weapons; or any operation, management or administration of such work.

"Nuclear weapon" is any device, the intended explosion of which results from the energy released by reactions involving atomic nuclei, either fission or fusion or both. This definition of nuclear weapons includes the means of transporting, guiding, propelling or triggering the weapon if and only if such means is destroyed or rendered useless in the normal propelling, triggering, or detonation of the weapon.

"Component of a nuclear weapon" is any device, radioactive or non-radioactive, the primary intended function of which is to contribute to the operation of a nuclear weapon (or be a part of a nuclear weapon).

4. Neither this business entity nor its parent nor any of its subsidiaries engages in work for nuclear weapons or anticipates entering into such work for the duration of its contract(s) with the City of Berkeley.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Printed Name: _____ Title: _____

Signature: _____ Date: _____

Business Entity: _____

Contract Description/Specification No: **Management of the Telegraph Channing Retail Mall / 14-10783**

Attachment C

CITY OF BERKELEY
Oppressive States Compliance Statement

The undersigned, an authorized agent of _____ (hereafter "Vendor"), has had an opportunity to review the requirements of Berkeley City Council Resolution No. 59,853-N.S. (hereafter "Resolution"). Vendor understands and agrees that the City may choose with whom it will maintain business relations and may refrain from contracting with those Business Entities which maintain business relationships with morally repugnant regimes. Vendor understands the meaning of the following terms used in the Resolution:

"Business Entity" means "any individual, firm, partnership, corporation, association or any other commercial organization, including parent-entities and wholly-owned subsidiaries" (to the extent that their operations are related to the purpose of the contract with the City).

"Oppressive State" means: **Tibet Autonomous Region and the Provinces of Abo, Kham and U-Tsang**

"Personal Services" means "the performance of any work or labor and shall also include acting as an independent contractor or providing any consulting advice or assistance, or otherwise acting as an agent pursuant to a contractual relationship."

Contractor understands that it is not eligible to receive or retain a City contract if at the time the contract is executed, or at any time during the term of the contract it provides Personal Services to:

- a. The governing regime in any Oppressive State.
- b. Any business or corporation organized under the authority of the governing regime of any Oppressive State.
- c. Any person for the express purpose of assisting in business operations or trading with any public or private entity located in any Oppressive State.

Vendor further understands and agrees that Vendor's failure to comply with the Resolution shall constitute a default of the contract and the City Manager may terminate the contract and bar Vendor from bidding on future contracts with the City for five (5) years from the effective date of the contract termination.

The undersigned is familiar with, or has made a reasonable effort to become familiar with, Vendor's business structure and the geographic extent of its operations. By executing the Statement, Vendor certifies that it complies with the requirements of the Resolution and that if any time during the term of the contract it ceases to comply, Vendor will promptly notify the City Manager in writing.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Printed Name: _____ Title: _____

Signature: _____ Date: _____

Business Entity: _____

Contract Description/Specification No.: **Management of the Telegraph Channing Retail Mall / 14-10783**

I am unable to execute this Statement; however, Vendor is exempt under Section VII of the Resolution. I have attached a separate statement explaining the reason(s) Vendor cannot comply and the basis for any requested exemption.

Signature: _____ Date: _____

CITY OF BERKELEY
Living Wage Certification for Providers of Services

TO BE COMPLETED BY ALL PERSONS OR ENTITIES ENGAGING IN A CONTRACT FOR PERSONAL SERVICES WITH THE CITY OF BERKELEY.

The Berkeley Municipal Code Chapter 13.27, Berkeley's Living Wage Ordinance (LWO), provides that contractors who engage in a specified amount of business with the City (except where specifically exempted) under contracts which furnish services to or for the City in any twelve (12) month period of time shall comply with all provisions of this Ordinance. The LWO requires a City contractor to provide City mandated minimum compensation to all eligible employees, as defined in the Ordinance. In order to determine whether this contract is subject to the terms of the LWO, please respond to the questions below. Please note that the LWO applies to those contracts where the contractor has achieved a cumulative dollar contracting amount with the City. Therefore, even if the LWO is inapplicable to this contract, subsequent contracts may be subject to compliance with the LWO. Furthermore, the contract may become subject to the LWO if the status of the Contractor's employees change (i.e. additional employees are hired) so that Contractor falls within the scope of the Ordinance.

Section I.

1. IF YOU ARE A FOR-PROFIT BUSINESS, PLEASE ANSWER THE FOLLOWING QUESTIONS

a. During the previous twelve (12) months, have you entered into contracts, including the present contract, bid, or proposal, with the City of Berkeley for a cumulative amount of \$25,000.00 or more?

YES _____ NO _____

If **no**, this contract is NOT subject to the requirements of the LWO, and you may continue to Section II. If **yes**, please continue to question 1(b).

b. Do you have six (6) or more employees, including part-time and stipend workers?

YES _____ NO _____

If you have answered, "YES" to questions 1(a) and 1(b) this contract **IS** subject to the LWO. If you responded "NO" to 1(b) this contract IS NOT subject to the LWO. **Please continue to Section II.**

2. IF YOU ARE A NON-PROFIT BUSINESS, AS DEFINED BY SECTION 501(C) OF THE INTERNAL REVENUE CODE OF 1954, PLEASE ANSWER THE FOLLOWING QUESTIONS.

a. During the previous twelve (12) months, have you entered into contracts, including the present contract, bid or proposal, with the City of Berkeley for a cumulative amount of \$100,000.00 or more?

YES _____ NO _____

If no, this Contract is NOT subject to the requirements of the LWO, and you may continue to Section II. If yes, please continue to question 2(b).

b. Do you have six (6) or more employees, including part-time and stipend workers?

YES _____ NO _____

If you have answered, "YES" to questions 2(a) and 2(b) this contract **IS** subject to the LWO. If you responded "NO" to 2(b) this contract IS NOT subject to the LWO. **Please continue to Section II.**

Section II

Please read, complete, and sign the following:

THIS CONTRACT **IS** SUBJECT TO THE LIVING WAGE ORDINANCE.

THIS CONTRACT **IS NOT** SUBJECT TO THE LIVING WAGE ORDINANCE.

The undersigned, on behalf of himself or herself individually and on behalf of his or her business or organization, hereby certifies that he or she is fully aware of Berkeley's Living Wage Ordinance, and the applicability of the Living Wage Ordinance, and the applicability of the subject contract, as determined herein. The undersigned further agrees to be bound by all of the terms of the Living Wage Ordinance, as mandated in the Berkeley Municipal Code, Chapter 13.27. If, at any time during the term of the contract, the answers to the questions posed herein change so that Contractor would be subject to the LWO, Contractor will promptly notify the City Manager in writing. Contractor further understands and agrees that the failure to comply with the LWO, this certification, or the terms of the Contract as it applies to the LWO, shall constitute a default of the Contract and the City Manager may terminate the contract and bar Contractor from future contracts with the City for five (5) years from the effective date of the Contract termination. If the contractor is a for-profit business and the LWO is applicable to this contract, the contractor must pay a living wage to all employees who spend 25% or more of their compensated time engaged in work directly related to the contract with the City. If the contractor is a non-profit business and the LWO is applicable to this contract, the contractor must pay a living wage to all employees who spend 50% or more of their compensated time engaged in work directly related to the contract with the City.

These statements are made under penalty of perjury under the laws of the state of California.

Printed Name: _____ Title: _____

Signature: _____ Date: _____

Business Entity: _____

Contract Description/Specification No: **Management of the Telegraph Channing Retail Mall / 14-10783**

Section III

-
- **** FOR ADMINISTRATIVE USE ONLY -- PLEASE PRINT CLEARLY ****

I have reviewed this Living Wage Certification form, in addition to verifying Contractor's total dollar amount contract commitments with the City in the past twelve (12) months, and determined that this Contract IS / IS NOT (circle one) subject to Berkeley's Living Wage Ordinance.

Department Name

Department Representative

To be completed by
Contractor/Vendor



**Form EBO-1
CITY OF BERKELEY**

CERTIFICATION OF COMPLIANCE WITH EQUAL BENEFITS ORDINANCE

If you are a **contractor**, return this form to the originating department/project manager. If you are a **vendor** (supplier of goods), return this form to the Purchasing Division of the Finance Dept.

SECTION 1. CONTRACTOR/VENDOR INFORMATION

Name:		Vendor No.:	
Address:	City:	State:	ZIP:
Contact Person:		Telephone:	
E-mail Address:		Fax No.:	

SECTION 2. COMPLIANCE QUESTIONS

- A. The EBO is inapplicable to this contract because the contractor/vendor has no employees.
 Yes No (If "Yes," proceed to Section 5; if "No," continue to the next question.)
- B. Does your company provide (or make available at the employees' expense) any employee benefits?
 Yes No
If "Yes," continue to Question C.
If "No," proceed to Section 5. (The EBO is not applicable to you.)
- C. Does your company provide (or make available at the employees' expense) any benefits to the spouse of an employee? Yes No
- D. Does your company provide (or make available at the employees' expense) any benefits to the domestic partner of an employee? Yes No

If you answered "No" to both Questions C and D, proceed to Section 5. (The EBO is not applicable to this contract.) If you answered "Yes" to both Questions C and D, please continue to Question E. If you answered "Yes" to Question C and "No" to Question D, please continue to Section 3.

- E. Are the benefits that are available to the spouse of an employee identical to the benefits that are available to the domestic partner of the employee? Yes No

**If you answered "Yes," proceed to Section 4. (You are in compliance with the EBO.)
If you answered "No," continue to Section 3.**

SECTION 3. PROVISIONAL COMPLIANCE

- A. Contractor/vendor is not in compliance with the EBO now but will comply by the following date:
 - By the first effective date after the first open enrollment process following the contract start date, not to exceed two (2) years, if the Contractor submits evidence of taking reasonable measures to comply with the EBO; or
 - At such time that administrative steps can be taken to incorporate nondiscrimination in benefits in the Contractor's infrastructure, not to exceed three months; or
 - Upon expiration of the contractor's current collective bargaining agreement(s).

B. If you have taken all reasonable measures to comply with the EBO but are unable to do so,
do you agree to provide employees with a cash equivalent?* Yes No

* The cash equivalent is the amount of money your company pays for spousal benefits that are unavailable for domestic partners.

SECTION 4. REQUIRED DOCUMENTATION

At time of issuance of purchase order or contract award, you may be required by the City to provide documentation (copy of employee handbook, eligibility statement from your plans, insurance provider statements, etc.) to verify that you do not discriminate in the provision of benefits.

SECTION 5. CERTIFICATION

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I am authorized to bind this entity contractually. By signing this certification, I further agree to comply with all additional obligations of the Equal Benefits Ordinance that are set forth in the Berkeley Municipal Code and in the terms of the contract or purchase order with the City.

Executed this _____ day of _____, in the year _____, at _____, _____
(City) (State)

Name (please print)

Signature

Title

Federal ID or Social Security Number

FOR CITY OF BERKELEY USE ONLY

Non-Compliant (The City may not do business with this contractor/vendor)
 One-Person Contractor/Vendor Full Compliance Reasonable Measures
 Provisional Compliance Category, Full Compliance by Date: _____
Staff Name(*Sign and Print*): _____ Date: _____

Attachment F

CITY OF BERKELEY
Right to Audit Form

The contractor agrees that pursuant to Section 61 of the Berkeley City Charter, the City Auditor's office may conduct an audit of Contractor's financial, performance and compliance records maintained in connection with the operations and services performed under this contract.

In the event of such audit, Contractor agrees to provide the Auditor with reasonable access to Contractor's employees and make all such financial, performance and compliance records available to the Auditor's office. City agrees to provide Contractor an opportunity to discuss and respond to/any findings before a final audit report is filed.

Signed: _____ Date: _____

Print Name & Title: _____

Company: _____

Contract Description/Specification No: **Management of the Telegraph Channing Retail Mall / 14-10783**

Please direct questions regarding this form to the Auditor's Office, at (510) 981-6750.

Attachment G

CITY OF BERKELEY
Commercial General and Automobile Liability Endorsement

The attached Certificates of Insurance are hereby certified to be a part of the following policies having the following expiration dates:

Policy No.	Company Providing Policy	Expir. Date
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The scope of the insurance afforded by the policies designated in the attached certificates is not less than that which is afforded by the Insurance Service Organization's or other "Standard Provisions" forms in use by the insurance company in the territory in which coverage is afforded.

Such Policies provide for or are hereby amended to provide for the following:

1. The named insured is _____.
2. CITY OF BERKELEY ("City") is hereby included as an additional insured with respect to liability arising out of the hazards or operations under or in connection with the following agreement:
_____.

The insurance provided applies as though separate policies are in effect for both the named insured and City, but does not increase the limits of liability set forth in said policies.

3. The limits of liability under the policies are not less than those shown on the certificate to which this endorsement is attached.
4. Cancellation or material reduction of this coverage will not be effective until thirty (30) days following written notice to _____, Department of _____, Berkeley, CA.
5. This insurance is primary and insurer is not entitled to any contribution from insurance in effect for City.

The term "City" includes successors and assigns of City and the officers, employees, agents and volunteers.

Insurance Company

Date: _____

By: _____
Signature of Underwriter's
Authorized Representative

Contract Description/Specification No: Management of the Telegraph Channing Retail Mall / 14-10783
Attachment H

Exhibit A: Summary of data on Mall tenants and operations

Telegraph Channing Mall FY 2013

Rent & Utility Payments	\$246,544
Misc & Maintenance	\$3,899
Water	\$4,512
Gas/Electric	\$7,507
Office Supplies & Postage	\$203
Refuse Services (estimate)	\$30,104
Expenditures Total	\$46,225
Net	\$200,319

See separate attachment Exhibit B – Mall Layout with Tenant Names