



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: April 7, 2011 REPORT NO: 11-053

ATTENTION: Natural Resources and Culture Committee

SUBJECT: Agreement for Services between the City of San Diego and Dr. Carol Williams, San Diego Civic Organist

REQUESTED ACTION:

1. Authorize the Mayor or his Designee to award and execute, for and on behalf of the City, an Agreement with Dr. Carol Williams, San Diego Civic Organist, for a term not to exceed ten (10) years, until completion of the Scope of Services or June 30, 2021; whichever is the earliest.
2. Authorize the Chief Financial Officer to expend an amount not to exceed \$286,000 over the ten (10) year term of the Agreement, for the purpose of funding the Agreement with Dr. Carol Williams contingent upon the City Council adoption of the approved Ordinance for the applicable Fiscal Year and the Comptroller certification that the funds necessary for this expenditure are, or will be on deposit in the City Treasury.
3. Authorize the Chief Financial Officer to expend \$28,860 in Fiscal Year 2012 from Fund 100000, General Fund, for the purpose of executing year one (1) of the Agreement.

STAFF RECOMMENDATION:

Approve the requested actions.

BACKGROUND:

The Spreckels Outdoor Pipe Organ located in Balboa Park is the world's largest outdoor pipe organ. The Austin Organ and the Spreckels Organ Pavilion were gifted to the City of San Diego for the free enjoyment of its citizens in 1915 by philanthropists, John D. and Adolph B. Spreckels. The organ has been in continuous service since then and is played at events throughout the year at the direction of the San Diego Civic Organist.

Beginning in 1926 the City of San Diego initially funded the position of Civic Organist to provide free weekly organ concerts which have become a San Diego tradition. The Spreckels

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Organ Society (SOS) works cooperatively with the City to program, preserve and promote this unique instrument. The San Diego Civic Organist is a full time position jointly funded by the City and the SOS. Dr. Carol Williams has served as the San Diego Civic Organist and Artistic Director of the SOS since 2001.

Dr. Williams is an Independent Contractor for the City working under the supervision of the Balboa Park Cultural Arts District Manager and Area Manager. She works closely with them as well as the Organ Curator. She is also a salaried employee for SOS, reporting to their Board of Trustees. Dr. Williams' contract with the City has expired and a new contract is required to continue services uninterrupted.

As an Independent Contractor, Dr. Williams is the first woman to be appointed Civic Organist in the United States. She is responsible for one (1) hour Sunday concerts on the Spreckels Organ for each Sunday of the year and three (3) civic events per year such as the Community Christmas Center and Balboa Park December Nights. Scheduled concerts are performed on Sundays from 2:00 P.M. – 3:00 P.M. in Balboa Park. The Civic Organist also performs at other events at the Spreckels Organ Pavilion such as graduations, weddings, memorial services, or convention concerts for an additional fee. She supervises the use of the Organ by all guest or substitute organists. The position permits time for additional concertizing, teaching, community involvement, and personal development.

Dr. Williams is instrumental in the planning and administration of the International Summer Organ Festival, a separate program of thirty (30) weekly educational outreach concerts for children, the Guest of the Month Sunday Concerts and programs for membership events. She has made audio and video recordings for sale by the SOS.

Dr. Williams has exercised creativity to maximize the Organ's appeal to the diverse residents of San Diego as well as worldwide guests who are drawn to this prominent tourist attraction. As an example, she has hosted Halloween Costume Contests, Dog Parades, the January 1, 2005 Ninetieth (90) Birthday Party for the Spreckels Organ and other musical events with a wide repertoire of instrumentation.

As the SOS Artistic Director, Dr. Williams serves as an Ex Officio member of the Board of Trustees. She meets with a variety of committees to guide SOS to fulfill their Mission to "Preserve, Program and Promote the Spreckels Organ as a world treasure for all people." She works with the Board to set goals and complete long range planning, prepare budgets and to develop, publicize and promote musical programs.

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The Civic Organist position requires a high level of specialized knowledge in the operation and use of this unique and specialized instrument; strong musicality and theatricality in the execution of each concert; solid directorial and administrative ability to organize, arrange and deliver each recital; and, a strong commitment to community outreach and involvement. Dr. Williams has very successfully demonstrated all of these qualities and skills.

Dr. Williams studied at London's Royal Academy of Music. She was awarded all of the prizes for organ performance. Later she studied in Paris, France, at Yale University, and New York's Manhattan School of Music where she earned her Doctorate in Music and the Helen Cohn Award. Dr. Williams has been awarded an Honorary Fellow of the North and Midlands School of Music (Hon. FNMSM) in the United Kingdom.

She has performed throughout the world, including at Westminster Abbey and St. Paul's Cathedral in London; Notre-Dame Cathedral and St. Sulpice in Paris; St. Patrick's Cathedral and Riverside Church in New York; St. Bartholomew's in Brighton; Holy Trinity Blythburgh; St. Mary's in Great Yarmouth; the Winchfield Festival in Hampshire; in Poland; and at the Peter Eben Festival sponsored by the American Embassy in Prague.

SUMMARY:

Authorize the Mayor or his Designee to execute an Agreement with Dr. Carol Williams, San Diego Civic Organist, for a term not to exceed ten (10) years, until completion of the Scope of Services or June 30, 2021; whichever is the earliest.

FISCAL CONSIDERATIONS:

Funding in the amount \$286,000 will be available in the Park and Recreation Department Budget for the duration of the Agreement.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Dr. Carol Williams has held the position of San Diego Civic Organist since 2001, when she was selected after an extensive worldwide talent search. Fifty-three (53) candidates from the United States, United Kingdom, South Korea, Canada and Europe expressed interest in the position of the San Diego Civic Organist. The Selection Panel was comprised of the Balboa Park Cultural Arts District Manager and Area Manager, the Founding President and Chair of the Board of the Spreckels Organ Society, President of the SOS, Vice-President of the SOS, Spreckels Organ Curator, San Diego Civic Organist Emeritus and SOS members.

KEY STAKEHOLDERS AND PROJECT IMPACTS:

Visitors to Balboa Park.

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Scott Reese, Assistant Director

Park and Recreation Department

Attachments: 1. Agreement for Services Between the City of San Diego and Dr. Carol Williams, San Diego Civic Organist



THE CITY OF SAN DIEGO
AGREEMENT FOR SERVICES
BETWEEN
THE CITY OF SAN DIEGO
AND

DR. CAROL WILLIAMS, SAN DIEGO CIVIC ORGANIST

ORDINANCE NUMBER: _____

THIS Agreement is made and entered into between the City of San Diego, a municipal corporation [City], and Dr. Carol Williams [Contractor] as the Contractor to provide services to the City as the San Diego Civic Organist.

ARTICLE I

SERVICES

1. **Scope of Services.** The Contractor shall provide Services to the City as set forth in Exhibit A attached and at the direction of the City.

ARTICLE II

DURATION OF AGREEMENT

2.1 **Term of Agreement.** This Agreement shall be effective on the date it is executed by the last Party to sign the Agreement, and approved by the City Attorney in accordance with San Diego Charter Section 40. Unless otherwise terminated, it shall be effective until completion of the Scope of Services or June 30, 2021; whichever is the earliest but not to exceed ten (10) years. The total duration of this contract shall not exceed ten (10) years as approval by the City of San Diego Council by Ordinance _____ pursuant to San Diego City Charter Section 99.

2.2 **Time of Essence.** Time is of the essence for each provision of this Agreement, unless otherwise specified in this Agreement.

2.3 **City's Right to Terminate for Convenience.** The City may, at its sole option and for its convenience, terminate all or any portion of the services agreed to pursuant to this Agreement by giving written notice of such termination to the Contractor. Such notice shall be delivered by certified mail with return receipt for delivery to the City. The termination of the Services shall be effective upon receipt of the notice by the Contractor. Contractor will be entitled to fair and reasonable compensation for all services completed in compliance with this Agreement prior to the notice of termination.

2.4 **City's Right to Terminate for Default.** If the Contractor fails to satisfactorily perform any obligation required by this Agreement, the Contractor's failure constitutes a Default. A Default includes the Contractor's failure to adhere to the Time Schedule. If the Contractor fails to satisfactorily cure a Default within ten calendar days of receiving written notice from the City specifying the nature of the Default, the City may immediately cancel and/or terminate this Agreement, and terminate each and every right of the Consultant, and any person claiming any rights by or through the Contractor under this Agreement. The rights and remedies of the City enumerated in this Section are cumulative and shall not limit, waive, or deny any of the City's rights under any other provision of this Agreement. Nor does this Section otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of this Agreement or hereinafter enacted or established, that may be available to the City against the Consultant.

ARTICLE III
COMPENSATION

3.1 Amount of Compensation. The City shall pay the Contractor for performance of all Services rendered in accordance with the scope of work in Section 1 of this Agreement, including reasonably related expenses for a total not to exceed (\$286,000) TWO HUNDRED EIGHTY SIX THOUSAND DOLLARS over the ten year period approved by the City Council approved Ordinance.

3.2 Additional Services. The City may require that the Contractor perform additional Services beyond those described in the Scope of Services [Additional Services]. Prior to the Contractor's performance of Additional Services, the City and the Contractor must agree in writing upon a fee for the Additional Services, including reasonably related expenses, in accordance with the Compensation and Fee Schedule.

3.3 Manner of Payment. The City shall pay the Contractor in accordance with the Compensation and Fee Schedule (Exhibit B). For the duration of this Agreement, the Contractor shall not be entitled to fees, including fees for expenses, that exceed the amounts specified in the Compensation and Fee Schedule. The Contractor shall submit one invoice per calendar month in a form acceptable to City in accordance with the Compensation and Fee Schedule. The Contractor shall include with each invoice a description of completed Services, reasonably related expenses, if any, and all other information, including but not limited to: the progress percentage of the Scope of Services and/or deliverables completed prior to the invoice date, as required by the City. The City will pay undisputed portions of invoices within thirty calendar days of receipt. Invoice shall be mailed to the following address:

Monica Davis, Administrative Aide,
City of San Diego Parks & Recreation
(619)235-5932 Fax (619) 235-1112
mdavis@sandiego.gov

ARTICLE IV
CONTRACTOR'S OBLIGATIONS

4.1 Industry Standards. The Contractor agrees that the Services rendered under this Agreement shall be performed in accordance with the standards customarily adhered to by an experienced and competent professional organist, using the degree of care and skill ordinarily exercised by reputable professionals practicing in the same field of service in the State of California. Where approval by the City Council, Mayor, or other representatives of the City is required, it is understood to be general approval only and does not relieve the Contractor of responsibility for complying with all applicable laws, codes, and good consulting practices.

4.2 Maintenance of Records. The Contractor shall maintain books, records, logs, documents and other evidence sufficient to record all actions taken with respect to the rendering

of the Services for the Project, throughout the performance of the Services and for a period of ten years following completion of the Services for the Project. The Contractor further agrees to allow the City to inspect, copy, and audit such books, records, documents and other evidence at all reasonable times.

4.3 Insurance. The Contractor shall not begin any work under this Services Agreement until it has: (a) obtained, and upon the City's request provided to the City, insurance certificates reflecting evidence of all insurance required in below; however, the City reserves the right to request, and the Contractor shall submit, copies of any policy upon reasonable request by the City; (b) obtained City approval of each insurance company or companies; and (c) confirmed that all policies contain the specific provisions required below. Contractor's liabilities, including but not limited to Contractor's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this Agreement and Contractor's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement may be treated as a material breach of contract by the City. The Contractor shall not modify any policy or endorsement thereto which increases the City's exposure to loss for the duration of this Agreement.

4.3.1 Types of Insurance. At all times during the term of this Agreement, the Contractor shall maintain insurance coverage as follows:

Commercial General Liability. Commercial General Liability (CGL) Insurance written on an ISO Occurrence form CG 00 01 07 98 or an equivalent form providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of \$ 1 million per occurrence and subject to an annual aggregate of \$2 million. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

Commercial Automobile Liability. For all of the Contractor's automobiles including owned, hired and non-owned automobiles, the Contractor shall keep in full force and effect, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1 million per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

Workers' Compensation. For all of the Contractor's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, the Contractor shall keep in full force and effect, a Workers' Compensation policy. That policy shall provide a minimum of \$1 million of employers' liability coverage, and the Contractor shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives.

4.3.2 Deductibles. All deductibles on any policy shall be the responsibility of the Contractor and shall be disclosed to the City at the time the evidence of insurance is provided.

4.3.3 Acceptability of Insurers. Except for the State Compensation Insurance Fund, all insurance required by this Contract or in the Special General Conditions shall only be carried by insurance companies with a rating of at least "A-, VI" by A.M. Best Company, that are

authorized by the California Insurance Commissioner to do business in the State of California, and that have been approved by the City.

The City will accept insurance provided by non-admitted, “surplus lines” carriers only if the carrier is authorized to do business in the State of California and is included on the List of Eligible Surplus Lines Insurers (LESLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

4.3.4 Required Endorsements. The following endorsements to the policies of insurance are required to be provided to the City before any work is initiated under this Agreement.

Commercial General Liability Insurance Endorsements

ADDITIONAL INSURED. To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Insured the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of (a) ongoing operations performed by you or on your behalf, (b) your products, (c) your work, including but not limited to your completed operations performed by you or on your behalf, or (d) premises owned, leased, controlled or used by you.

PRIMARY AND NON-CONTRIBUTORY COVERAGE. The policy or policies must be endorsed to provide that the insurance afforded by the Commercial General Liability policy or policies is primary to any insurance or self-insurance of the City of San Diego and its elected officials, officers, employees, agents and representatives as respects operations of the Named Insured. Any insurance maintained by the City of San Diego and its elected officials, officers, employees, agents and representatives shall be in excess of Contractor’s insurance and shall not contribute to it.

SEVERABILITY OF INTEREST. The policy or policies must be endorsed to provide that the Contractor’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability and shall provide cross-liability coverage.

Automobile Liability Insurance Endorsements

ADDITIONAL INSURED. To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Insured the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of automobile owned, leased, hired or borrowed by or on behalf of the Consultant.

SEVERABILITY OF INTEREST. The policy or policies must be endorsed to provide that Contractor’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability and shall provide cross-liability coverage.

Worker’s Compensation and Employer’s Liability Insurance Endorsements

WAIVER OF SUBROGATION. The Worker’s Compensation policy or policies must be endorsed to provide that the insurer will waive all rights of subrogation against the City and its

respective elected officials, officers, employees, agents and representatives for losses paid under the terms of this policy or these policies which arise from work performed by the Named Insured for the City.

4.3.5 Reservation of Rights. The City reserves the right, from time to time, to review the Contractor's insurance coverage, limits, deductible and self-insured retentions to determine if they are acceptable to the City. The City will reimburse the Contractor for the cost of the additional premium for any coverage requested by the City in excess of that required by this Agreement without overhead, profit, or any other markup.

4.3.6 Additional Insurance. The Contractor may obtain additional insurance not required by this Agreement.

4.3.7 Excess Insurance. All policies providing excess coverage to the City shall follow the form of the primary policy or policies including but not limited to all endorsements.

4.4 Drug-Free Workplace. The Contractor agrees to comply with the City's Drug-Free Workplace requirements set forth in Council Policy 100-17, adopted by San Diego Resolution R-277952 and incorporated into this Agreement by this reference (Exhibit "C").

4.5 ADA Certification. The Contractor hereby certifies that it agrees to comply with the City's Americans With Disabilities Act Compliance/City Contracts requirements set forth in Council Policy 100-04, adopted by San Diego Resolution R-282153 and incorporated into this Agreement by this reference.

4.6 Non-Discrimination Requirements.

4.6.1 Compliance with the City's Equal Opportunity Contracting Program. The Contractor shall comply with the City's Equal Opportunity Contracting Program Contractor Requirements. The Contractor shall not discriminate against any employee or applicant for employment on any basis prohibited by law. The Contractor shall provide equal opportunity in all employment practices. The Contractor shall ensure that its Sub-consultants comply with the City's Equal Opportunity Contracting Program Contractor Requirements. Nothing in this Section shall be interpreted to hold the Contractor liable for any discriminatory practice of its Sub-consultants. The Contractor's hiring or retaining of any Sub-contractor to perform services is subject to prior written approval by the City. Should the Contractor retain Sub-consultants with the City's written approval, the Contractor shall comply with all Equal Opportunity Contracting (EOC) requirements. For applicable rules and forms see <http://www.sandiego.gov/eoc/index.shtml>.

4.6.2 Non-Discrimination Ordinance. The Contractor shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of Sub-consultants, vendors or suppliers. The Contractor shall provide equal opportunity for Sub-consultants to participate in sub-consulting opportunities. The Contractor understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, and other sanctions. This language shall be in contracts between the Contractor and any Sub-consultants, vendors and suppliers.

4.6.3 Compliance Investigations. Upon the City's request, the Contractor agrees to provide to the City, within sixty calendar days, a truthful and complete list of the names of all Sub-consultants, vendors, and suppliers that the Contractor has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by the Contractor for each subcontract or supply contract. The Contractor further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Nondiscrimination in Contracting Ordinance [San Diego Municipal Code sections 22.3501-22.3517.] The Contractor understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in remedies being ordered against the Contractor up to and including contract termination, debarment, and other sanctions for violation of the provisions of the Nondiscrimination in Contracting Ordinance. The Contractor further understands and agrees that the procedures, remedies and sanctions provided for in the Nondiscrimination Ordinance apply only to violations of said Nondiscrimination Ordinance.

4.7 Conflict of Interest. The Contractor is subject to all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including but not limited to California Government Code sections 1090, et. seq. and 81000, et. seq., and the City of San Diego Ethics Ordinance, codified in the San Diego Municipal Code at sections 27.3501 to 27.3595.

4.8 Vendor Registration Form. All prospective consultants and sub-consultants, as well as existing consultants and sub-consultants, are required to complete and submit the online Contractor/Vendor Registration form. Registration will be a prerequisite for the following: submission of future contractor agreements or sub-contractor agreements for City projects; acceptance of all future contractor bills and invoices submitted to the City; and award of all future contracts issued by the City. The Contractor can register at <http://www.sandiego.gov/purchasing/vendor/index.shtml>. Contractor/Vendor Registration shall remain valid for two years from the date the registration form is originally submitted, and must be renewed at that time.

4.9 Business Tax Certificate. Any company doing business with the City of San Diego is required to comply with Section 31.0301 of the San Diego Municipal Code regarding Business Tax. For more information please visit the City of San Diego website at www.sandiego.gov/treasurer/ or call (619) 615-1500. The City requires that each Contractor to provide a copy of their Business Tax License, or a copy of their application receipt. Failure to provide the required documents with this agreement may result in a Contractor being declared non-responsive and rejected.

4.10 Equal Benefits. Effective January 1, 2011, any contract entered into, awarded, amended, renewed, or extended is subject to the City's Equal Benefits Ordinance (EBO). In accordance with the EBO, the Consultant must certify it will provide and maintain equal benefits as defined in section 22.4302 of the municipal code for the remaining duration of this Agreement. Failure to maintain equal benefits is a material breach of the Agreement. Consultant must notify employees of their equal benefits policy at the time of hire and during open enrollment periods and must post a copy of the following statement in an area frequented by employees:

During the performance of a contract with the City of San Diego, this employer will provide equal benefits to its employees with spouses and its employees with domestic partners.

The Consultant must also give the City access to documents and records sufficient for the City to verify the Consultant is providing equal benefits and otherwise complying with the EBO. The full text of the EBO and the rules implementing the EBO are posted on the City's website at www.sandiego.gov/purchasing/ or can be requested from the Equal Benefits Program at (619) 533-3948.

4.11 Submittals. Failure to provide the required submittals listed below with the agreement shall delay completion of the agreement, and therefore, commencement of scope of work and payments to Consultant.

- Complete Insurance Certificates with all Endorsements per Section 4.3;
- Signed Drug Free Workplace Form per 4.4 (Form attached);
- Online Vendor Registration per 4.8 (Form attached);
- Business Tax License per Section 4.9;
- Taxpayer Identification Number (W-9) as specified in City of San Diego General Provisions, Section C, paragraph 15, if not currently on file. (<http://www.irs.gov/formspubs/lists>);
- Vendor Registration Form (attached);
- Workforce Form (attached);
- Equal Benefits Form www.sandiego.gov/purchasing/.

ARTICLE V

INDEMNIFICATION

5.1 Indemnification and Hold Harmless Agreement. With respect to any liability, including but not limited to claims asserted or costs, losses, attorney fees, or payments for injury to any person or property caused or claimed to be caused by the acts or omissions of the Consultant, or Contractor's employees, agents, and officers, arising out of any services performed under this Agreement, the Contractor agrees to defend, indemnify, protect, and hold harmless the City, its agents, officers, and employees from and against all liability. Also covered is liability arising from, connected with, caused by, or claimed to be caused by the active or passive negligent acts or omissions of the City, its agents, officers, or employees which may be in combination with the active or passive negligent acts or omissions of the Consultant, its employees, agents or officers, or any third party. The Contractor's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the sole negligence or sole willful misconduct of the City, its agents, officers or employees.

5.2 Insurance. The provisions of this Article are not limited by the requirements of Section 4.3 related to insurance.

5.3 Enforcement Costs. The Contractor agrees to pay any and all costs the City incurs enforcing the indemnity and defense provisions set forth in this Article.

ARTICLE VI

MISCELLANEOUS

6.1 Headings. All article headings are for convenience only and shall not affect the interpretation of this Agreement.

6.2 Independent Consultants. The Contractor and any Sub-consultants employed by the Contractor shall be independent consultants and not agents of the City. Any provisions of this Agreement that may appear to give the City any right to direct the Contractor concerning the details of performing the Services, or to exercise any control over such performance, shall mean only that the Contractor shall follow the direction of the City concerning the end results of the performance.

6.3 Jurisdiction and Venue. The venue for any suit or proceeding concerning this Agreement, the interpretation or application of any of its terms, or any related disputes shall be in the County of San Diego, State of California.

6.4 Conflicts Between Terms. If an apparent conflict or inconsistency exists between the main body of this Agreement and the Exhibits, the main body of this Agreement shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this Agreement, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this Agreement, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Agreement.

6.5 Notices. In all cases where written notice is required under this Agreement, service shall be deemed sufficient if the notice is deposited in the United States mail, postage paid. Proper notice shall be effective on the date it is mailed, unless provided otherwise in this Agreement. For the purpose of this Agreement, unless otherwise agreed in writing, notice to the City shall be addressed to: City of San Diego, Susan Lowery-Mendoza, District Manager, Park & Recreation Department, 2125 Park Blvd, San Diego, CA 92101. Notices for the Contractor shall be addressed to: Dr. Carol Williams, 2820 6th Ave. Apt. 10, San Diego, CA 92103-6313.

6.6 Product Endorsement. The Contractor shall conform to the City's Administration Regulation 95.65 concerning product endorsement which requires that any advertisement referring to the City as a user of a product or service will require the prior written approval of the City Manager.

6.7 Ownership of Documents. The City reserves full rights of ownership of all finished or unfinished documents, data, studies, surveys, reports and other material prepared by Contractor under this Agreement.

6.8 Integration/Amendments. This Agreement represents the entire understanding of the City and the Contractor as to those matters contained herein. No prior oral or written

Dr. Carol Williams, San Diego Civic Organist

understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by both parties.

6.9 Exhibits Incorporated. All Exhibits referenced in this Agreement are incorporated into the Agreement by this reference.

IN WITNESS WHEREOF, this Agreement is executed by the City of San Diego, acting by and through its Mayor or designee, pursuant to Ordinance O-_____ authorizing such execution, and by Dr. Carol Williams.

I HEREBY CERTIFY that I can legally bind Dr. Carol Williams and that I have read all of this Agreement this _____ day of _____, 2011.

DR. CAROL WILLIAMS

BY: _____
CONTRACTOR

DATE: _____

**CITY OF SAN DIEGO
A MUNICIPAL CORPORATION**

BY: _____
Hildred Pepper, Jr. Purchasing Agent

DATE _____

I HEREBY APPROVE the form and legality of the foregoing Agreement this _____ day of _____, 2011.

Jan Goldsmith, City Attorney:

By: _____
Deputy City Attorney

Exhibits to Agreement:

- Exhibit A – Background & Scope of Work
- Exhibit B- Compensation and Fee Schedule
- Exhibit C – Drug Free Workplace Form

EXHIBIT "A"

BACKGROUND AND SCOPE OF SERVICES

Background: The Spreckels Outdoor Pipe Organ is the world's largest outdoor pipe organ, played throughout the year in Balboa Park. In 1915 philanthropists, John D. and Adolph B. Spreckels gifted the Austin Organ and the Spreckels Organ Pavilion to the City of San Diego for the free enjoyment of its citizens. A bronze plaque at the Spreckels Organ Pavilion commemorates the Spreckels' intention. The tablet reads in part, "For the free use, benefit, and enjoyment of the People of San Diego... To them and the people of the world this pavilion and organ are dedicated." The organ has been in continuous service since then and the City of San Diego funded the position of Civic Organist since 1926 to provide free weekly organ concerts, a San Diego tradition, in the Spreckels Organ Pavilion in Balboa Park.

The Spreckels Organ Society works cooperatively with the City to program, preserve and promote this unique instrument. Dr. Williams's full time position as the San Diego Civic Organist and Artistic Director of the SOS is jointly funded by the City and the SOS. The position requires a high level of organ performance, skill, stage presence, organizational and administrative ability, as well as creativity and a strong commitment to community outreach. Her position permits time for additional concertizing, teaching, community involvement, and personal development. She is an Independent Contractor for the City of San Diego and a salaried employee for the SOS, reporting to their Board of Trustees.

As the SOS Artistic Director, Dr. Williams serves as an Ex Officio member of the Board of Trustees. She meets with a variety of committees to guide the SOS to fulfill their Mission to, "Preserve, Program and Promote the Spreckels Organ as a world treasure for all people." She works with the Board to set goals, budget preparation, program development, publicity, promotion and long range planning.

Dr. Carol Williams has held the position of San Diego Civic Organist since 2001, when she was selected after an extensive worldwide talent search. She is the first woman to be appointed Civic Organist in the United States. Fifty-three (53) candidates from the United States, United Kingdom, South Korea, Canada and Europe expressed interest in the position of the San Diego Civic Organist.

The Selection Panel was comprised of the Balboa Park Cultural Arts District Manager and Area Manager, the Founding President and Chair of the Board of the Spreckels Organ Society (SOS), President of the SOS, Vice-President of the SOS, Spreckels Organ Curator, San Diego Civic Organist Emeritus and SOS members.

Dr. Williams studied at London's Royal Academy of Music. She was awarded all of the prizes for organ performance. Afterwards she studied in Paris, France, at Yale University, and New York's Manhattan School of Music where she earned her Doctorate in Music and the Helen

Cohn Award. Dr. Williams has been awarded an Honorary Fellow of the North and Midlands School of Music (Hon. FNMSM) in the United Kingdom.

She has performed all over the world, at Westminster Abbey and St. Paul's Cathedral in London; Notre-Dame Cathedral and St. Sulpice in Paris; St. Patrick's Cathedral and Riverside Church in New York; St. Bartholomew's in Brighton; Holy Trinity Blythburgh; St. Mary's in Great Yarmouth; the Winchfield Festival in Hampshire; in Poland; and at the Peter Eben Festival sponsored by the American Embassy in Prague.

Dr. Williams is instrumental in the planning and administration of the International Summer Organ Festival, thirty (30) weekly educational outreach concerts for children, the Guest of the Month Sunday Concerts and programs for membership events. She has made audio and video recordings for sale by the SOS. One of her Compact Discs, Sundays at 2, played on the historic Spreckels Organ features a playlist that typifies the weekly free concerts. It is a wonderful remembrance for Balboa Park visitors.

Dr. Williams supervises the use of the Organ by all guest or substitute organists. She works closely with the Balboa Park Cultural Arts District Manager and Area Manager as well as the Organ Curator. Dr. Williams has exercised creativity to maximize the Organ's appeal to the diverse residents of San Diego as well as worldwide guests who are drawn to this prominent tourist attraction. As an example, she has hosted Halloween Costume Contests, Dog Parades, the January 1, 2005 Birthday Party for the Spreckels Organ and other musical events with a wide repertoire of instrumentation.

Scope of Services: As an Independent Contractor for the City, Dr. Williams is responsible for one (1) hour Sunday concerts on the Spreckels Organ for each Sunday of the year, whether there be fifty-two (52) or fifty-three (53) Sundays in the year, Contractor is obligated to perform a maximum of three (3) civic events per year gratis such as the Community Christmas Center and Balboa Park December Nights. Scheduled concerts are to be performed on Sundays from 2:00 p.m. – 3:00 p.m. in Balboa Park. She has the right of first refusal for any additional events at the Spreckels Organ Pavilion such as graduations, weddings, memorial services, or convention concerts for an additional fee.

Technical Requirements: Possess a high degree in Organ Performance (doctorate preferred); demonstrate perfect musical pitch; ability to program and perform all music genres; command of the English language to explain the music being presented to the audience; supervise the use of the organ by all guests or substitute organists; have the right of refusal for all additional events which may request the use of the organ for an additional fee; ability to work closely with City staff on all uses of the organ; work with the Organ Curator concerning the organ's maintenance and expansion; exercise creativity in finding ways to maximize the organ's appeal to the diverse residents of San Diego and tourists; have knowledge, skills and abilities to initiate press contacts and submittal of articles to promote the organ; ability to perform an audition concert to be reviewed by a committee comprised of representatives from the City, the Spreckels Organ Society and other prominent community musicians on a Sunday; provide performance history; submit sample programs for six months of purposed Sunday concerts, past concert history reviews and references from major concert artists.

EXHIBIT "B"

COMPENSATION AND FEE

Contractor will receive \$555.00 per Sunday concert, billed monthly. Contractor is obligated to perform a maximum of three (3) civic events per year gratis.

Contractor shall be paid monthly, in arrears, for work performed satisfactorily. Billing shall be in accordance with the current Pricing Agreement, allowing for City approved adjustments if any. Invoices shall be submitted to the Contract Administrator or designee, at the address specified on the Purchase Order(s). One (1) invoice identified as the original invoice and one (1) identified invoice copy shall be submitted by the 7th of the following month work was performed. The invoice shall reference the purchase order number; include a description of the work performed by dates.

Any extra-ordinary work to include the date and description of work performed shall be provided and Contractor must attach written authorization from Contract Administrator approving extra-ordinary work. Failure to do so will result in payment being withheld for such services.

EXHIBIT "C"

CONTRACTOR CERTIFICATION FOR A DRUG-FREE WORKPLACE

PROJECT TITLE: _____

I hereby certify that I am familiar with the requirement of San Diego City Council Policy No. 100-17 regarding Drug-Free Workplace as outlined in the request for proposals, and that:

Name under which business is conducted

has in place a drug-free workplace program that complies with said policy. I further certify that each subcontract agreement for this project contains language which indicates the Subcontractors agreement to abide by the provisions of Section 4.9.1 subdivisions A through C of the policy as outlined.

Signed _____

Printed Name _____

Title _____

Date _____