

000073

REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

1. CERTIFICATE NU (FOR AUDITOR'S) 103
7/17

TO: CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT): City Attorney

3. DATE: 06/18/07

4. SUBJECT: Applying for and accepting grant funds from State Victim Compensation and Government Claims Board to fund Criminal Restitution Compact Restitution Specialist position in City Attorney's Office, Criminal Division

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.) Catherine Bradley, 533-5800, M.S. 59

6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.) Abby Salaz, 533-5868, M.S. 59

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND				
DEPT.				
ORGANIZATION				
OBJECT ACCOUNT				
JOB ORDER				
C.I.P. NUMBER				
AMOUNT				

9. ADDITIONAL INFORMATION / ESTIMATED COST:
\$137,725 in grant funds for 2 years to fund position

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT	<i>[Signature]</i>	6/20/07	8			
2	AUDITOR	<i>[Signature]</i>	06/27/07	9	COO		
3	FM	<i>[Signature]</i>	6/26/07	10	CITY ATTORNEY	<i>[Signature]</i>	6/19/07
4	LIAISON OFFICE	<i>[Signature]</i>	6/26/07	11	ORIG. DEPT		
5					DOCKET COORD: <i>[Signature]</i>	COUNCIL LIAISON <i>[Signature]</i>	
6					<input checked="" type="checkbox"/> COUNCIL PRESIDENT	<input type="checkbox"/> SPOB <input checked="" type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION	
7					<input type="checkbox"/> REFER TO: _____	COUNCIL DATE: 7/17/07	

11. PREPARATION OF: RESOLUTIONS ORDINANCE(S) AGREEMENT(S) DEED(S)1

1. Authorizing the City Attorney's Office to apply for, accept, appropriate and expend up to \$137,725.00 in grant funds from the State Victim Compensation and Government Claims Board to fund the Criminal Restitution Compact Restitution Specialist position in the City Attorney's Office, Criminal Division, for two years, covering the period of July 1, 2007 through June 30, 2009.
2. Holding the state agency harmless from any liability that may arise out of the performance of the grant agreement, including court actions or damages.

11A. STAFF RECOMMENDATIONS:

12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)

COUNCIL DISTRICT(S): ALL

COMMUNITY AREA(S): ALL

ENVIRONMENTAL IMPACT: NOT A "PROJECT" FOR CEQA PURPOSES.

HOUSING IMPACT: NONE

OTHER ISSUES: PLEASE PROVIDE 3 CERTIFIED COPIES OF THE RESOLUTION TO ABBY SALAZ, M.S. 59 AFTER ADOPTION.

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EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE ISSUED: June 18, 2007 REPORT NO:
ATTENTION: Council President and Members of the City Council
ORIGINATING DEPARTMENT: City Attorney
SUBJECT: State Victim Compensation and Government Claims Board
Grant
COUNCIL DISTRICT(S): All
CONTACT/PHONE NUMBER: Sharon Spivak, Deputy City Attorney (619) 533-5800

REQUESTED ACTION: Authorize the City Attorney's Office to apply for and expend a grant for up to \$137,725.00 from the State Victim Compensation and Government Claims Board.

STAFF RECOMMENDATION: To adopt resolution.

EXECUTIVE SUMMARY:

The City Attorney has been notified by the State Victim Compensation and Government Claims Board that the City Attorney's Office has been awarded a grant in an amount not to exceed \$137,725.00 for a legal assistant to perform the duties outlined in the attached grant agreement. This grant will cover the position for two years, from July 1, 2007 through June 30, 2009.

The State Victim Compensation and Government Claims Board and the City Attorney's Office entered an agreement for the purpose of ensuring that restitution fines and orders are properly administered in accordance with applicable statutes. A previous, Fiscal Year 2006-2007 agreement was authorized and accepted by the City Council on May 9, 2005 by Resolution No. 300398.

FISCAL CONSIDERATIONS: None

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None

KEY STAKEHOLDERS AND PROJECTED IMPACTS: Office of the City Attorney



Originating Department

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RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

WHEREAS, the City Attorney has been notified by the State Victim Compensation and Government Claims Board [State Agency] that the City Attorney's Office has been awarded a grant in an amount not to exceed \$137,725.00 to fund the Criminal Restitution Compact Restitution Specialist position in the City Attorney's Office, Criminal Division, for a two-year period between July 1, 2007 through June 30, 2009; and

WHEREAS, the State Agency and the City Attorney's Office have signed an agreement detailing the scope of work and terms and conditions of the grant; NOW THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the City Attorney is hereby authorized to apply for, accept, appropriate and expend a grant in an amount not to exceed \$137,725.00 from the State Victim Compensation and Government Claims Board to fund the Criminal Restitution Compact Restitution Specialist position in the City Attorney's Office, Criminal Division, for the two-year period of July 1, 2007 through June 30, 2009, on the terms and conditions outlined in Standard Agreement Number VCGC-7073, a copy of which is on file with the City Clerk's Office as Document No. RR _____.

BE IT FURTHER RESOLVED, that the City Attorney or his designee is authorized to submit all documents, negotiate and execute all agreements necessary, including any amendments, to comply with the grant requirements, and carry out and administer all obligations, responsibilities and duties under the grant.

BE IT FURTHER RESOLVED, that the City of San Diego hereby agrees to hold the State of California, its officers, agents and employees, harmless from any liability arising out of

the performance of the grant agreement, including court actions or damages, as detailed in the Standard Agreement Number VCGC-7073, and certifies that the City will not use the grant to supplant local expenditures.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Sharon B. Spivak
Sharon B. Spivak
Deputy City Attorney

CMB:SBS:als
06/18/07
Or.Dept:Atty
R-2007-1128

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

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STATE OF CALIFORNIA
STANDARD AGREEMENT
STD 213 (Rev 06/03)

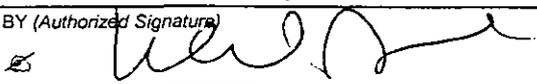
AGREEMENT NUMBER VCGC7073
REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:
- STATE AGENCY'S NAME
VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD
- CONTRACTOR'S NAME
CITY OF SAN DIEGO, CITY ATTORNEY'S OFFICE
2. The term of this Agreement is: JULY 1, 2007 through JUNE 30, 2009
3. The maximum amount of this Agreement is: **\$ 137,725.00**
One Hundred Thirty Seven Thousand, Seven Hundred Twenty Five Dollars
4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	Pages 2-5
Exhibit B – Budget Detail and Payment Provisions	Page 6
Exhibit B-1 – Budget Page	Page 7
Exhibit C* – General Terms and Conditions (GTC-307)	Page 8
Exhibit D – Special Terms and Conditions	Pages 9-14
Attachment I – Data Classification & Security Policy Memo 04-01-010	Pages 1-3
Attachment II – Confidentiality Statement	Page 1
Attachment III – Sample Invoice and Invoicing Instructions	Page 1
Attachment IV - Approved Travel Reimbursement Rates	Page 1
Attachment V - Equipment Purchase Authorization Form	Page 1

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at www.ols.dqs.ca.gov/Standard+Language.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		<i>California Department of General Services Use Only</i>
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) CITY OF SAN DIEGO, CITY ATTORNEY'S OFFICE		
BY (Authorized Signature) 	DATE SIGNED (Do not type) 5/14/07	
PRINTED NAME AND TITLE OF PERSON SIGNING Michael J. Aguirre, City Attorney		
ADDRESS 1200 Third Avenue, Suite 1620, San Diego, CA 92101		
STATE OF CALIFORNIA		<input type="checkbox"/> Exempt per:
AGENCY NAME VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING KAREN McGAGIN, EXECUTIVE OFFICER		
ADDRESS 400 "R" STREET, SACRAMENTO, CA 95814		

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EXHIBIT A

SCOPE OF WORK

The Victim Compensation and Government Claims Board (hereinafter, "VCGCB") and the City Attorney agree that the intent of this contract is to establish a positive, collaborative relationship for effective operation of California's criminal restitution system.

1. SCOPE OF WORK

The VCGCB and the City Attorney agree that:

- a. The Criminal Restitution Compact Restitution Specialist (hereinafter, "Specialist") shall ensure that the following are imposed, unless the court waives imposition for compelling and extraordinary reasons that are stated on the record:
 - i. Restitution orders in all appropriate cases involving a victim who has filed a claim with the VCGCB;
 - ii. Restitution fines on all convicted offenders;
 - iii. Parole revocation restitution fines in all cases in which the offender's sentence may include a period of grace;
 - iv. Diversion restitution fees for all diverted offenders; and
 - v. Probation revocation restitution fines in all cases in which the offender's sentence may include a period of probation.
- b. The Specialist shall facilitate contact and attend meetings between the VCGCB and the city collection entity(ies) to discuss ways of increasing collections of restitution orders.
- c. The Specialist shall be an employee of the City Attorney's Office, preferably at a level equivalent to a paralegal or above.
- d. The Specialist shall report to a supervisor designated by the City Attorney, preferably an Assistant or Chief Deputy City Attorney.
- e. The City Attorney (or his or her designee) and the VCGCB's Executive Officer (or his or her designee) shall meet as necessary to discuss the scope of work or any other aspect of this contract.
- f. This contract shall be modified if its terms are determined to be inconsistent with applicable law, or as otherwise necessary.
- g. The City Attorney shall ensure that there is sufficient staff to perform the services required under this contract. The City Attorney shall notify the VCGCB of the resignation or termination of any Specialist assigned to perform the functions of this contract within five (5) business days of being notified of the resignation or of issuing the notice of termination. The City Attorney shall hire or reassign another qualified Specialist to perform the services.
- h. The City Attorney shall notify the VCGCB when a Specialist assigned to perform the functions of this agreement has been absent, or is expected to be absent, for any reason, longer than three (3) weeks.

EXHIBIT A

SCOPE OF WORK

- i. When the Specialist is on leave, including vacation, sick or annual leave, the VCGCB shall compensate the City Attorney for that period of time only if the Specialist accrued the leave during the time the Specialist was assigned to perform the functions described in this agreement. The City Attorney agrees to provide, at the VCGCB's request, documentation verifying accrual leave under the agreement.
- j. The Specialist may not work overtime without prior written authorization from the VCGCB. The VCGCB reserves the option of not reimbursing overtime that is not first requested and approved in writing.
- k. The VCGCB shall notify the Specialist of all claims filed for Victim Compensation Program (VCP) assistance involving crimes committed in the City Attorney's city for which an offender/suspect has been identified.
- l. The Specialist shall have access to the necessary court records to monitor cases associated with claims identified in paragraph "k" above, as they proceed through the criminal or juvenile justice system.
- m. When the Specialist receives notice that a victim has filed for VCP assistance prior to the associated offender being sentenced, the Specialist shall determine the amount of assistance granted by the VCP, if any, and any other information necessary from the VCGCB's claims processing system, and provide this information to the prosecuting attorney.
- n. The prosecuting attorney shall submit the information described in paragraph "m" above to the court and request that the court impose one or more of the following, as appropriate: a restitution fine; a diversion restitution fee; a probation revocation restitution fine; a parole revocation restitution fine; a restitution order for an amount equal to that which the VCP has paid on the associated claim(s); a restitution order for an amount "to be determined" (if the VCP has not made a payment on the associated claim(s)); and/or a diversion restitution fee.
- o. If a case is forwarded to the probation department for completion of a pre-sentence investigation (PSI) report, in addition to notifying the prosecutor of the amount of assistance granted by the VCP, if any, pursuant to paragraph "m" above or the Specialist shall also provide the probation department with the same information and request that the probation department include the information in its PSI.
- p. The Specialist shall provide the VCGCB with information concerning the final disposition of juvenile and adult criminal cases associated with claims filed with the VCP within thirty (30) calendar days of the judge imposing the restitution order and fine.

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EXHIBIT A

SCOPE OF WORK

- q. The Specialist shall monitor, in the VCGCB's computer system, VCP claims associated with restitution orders imposed for an amount "to be determined" (TBD). The Specialist shall monitor TBD restitution orders every six months from the date of sentencing. When payments on a claim reach the \$2,000, the Specialist shall notify the prosecuting attorney, City Attorney, probation department, and/or other appropriate City Attorney staff that the TBD restitution order needs to be amended/modified. The Specialist shall provide a copy of the notification to the VCGCB. In all cases, one year before the offender is terminated from parole or probation, the Specialist shall seek a modification of the TBD restitution order to reflect the current payout. The VCGCB shall assist the Specialist and other appropriate City Attorney staff in preparing to take cases back to court for modification. The VCGCB shall provide expense breakdowns and redacted bills to substantiate any restitution orders requested. A custodian of records shall be available for testifying at restitution hearings. The VCGCB will measure the performance of this provision quarterly by analyzing the number of TBD restitution orders amended, in relation to the number of convicted offenders whose victims have received benefits from the VCGCB.
- r. The VCGCB and the Specialist shall each conduct training and outreach regarding restitution to agencies in the City Attorney's city. This includes initial and ongoing restitution-related training for the Specialist.
- s. Representative of the VCGCB and the City Attorney's Office shall meet with agencies in the City Attorney's city to promote the appropriate assessment and collection of restitution fines, parole and probation restitution fines, restitution orders, and diversion restitution fees.
- t. The Specialist shall serve as a city resource on restitution issues, statutes, and case law. To this end, the Specialist shall assist victims in obtaining restitution whether or not they have filed claims with the VCP. The Specialist shall engage in the following activities no more than 25% of his/her time: assisting victims in obtaining restitution orders for losses incurred as a direct result of a crime; assisting victims in enforcing their restitution orders as civil/money judgments; and/or, assisting victims with the preparation of evidence to obtain a restitution order.
- u. The Specialist shall provide monthly timesheets and quarterly activity reports in a format provided by the VCGCB. Timesheets are due on the 15th of every month. Quarterly reports are due on the 15th of the month after the end of each quarter.
- v. The Specialist must spend a minimum of 75% of his/her time performing the work described in Exhibit A – 1a through 1u, excluding 1t. The other 25% of the Specialist's time shall be dedicated to activities described in Exhibit A – 1t. The Specialist shall document his or her activities by using regular time and attendance records approved by the VCGCB. These records shall be forwarded to the VCGCB on a monthly basis as attachments to the monthly invoices. This documentation is necessary for the VCGCB to be reimbursed for restitution activities from the administrative cost portion of the VCGCB's federal VOCA grant. Failure to keep and maintain the records required by this section may result in the City Attorney's Office not being compensated under this Contract for those activities.

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EXHIBIT B

BUDGET DETAIL AND PROVISIONS

1. INVOICING AND PAYMENT

- a. For services satisfactorily rendered, and upon receipt and approval of the invoices, the VCGCB agrees to compensate the City Attorney's Office for actual expenditures permitted by the terms of this agreement.
- b. Invoices shall include the agreement number, employee name, position/classification, and time base. Invoices and timesheets/attendance records shall be submitted no later than the 15th of the month to:

Victim Compensation and Government Claims Board
Attn: Fiscal Services Division
400 "R" Street, 5th Floor
Sacramento, CA 95814

2. BUDGET CONTINGENCY CLAUSE

- a. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this agreement does not appropriate sufficient funds for the program, this agreement shall be of no further force and effect. In this event, the VCGCB shall have no liability to pay any funds whatsoever to the City Attorney's Office or to furnish any other considerations under this agreement and the City Attorney's Office shall not be obligated to perform any provisions of this agreement.
- b. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the VCGCB shall have the option to either cancel this agreement with no liability occurring to the VCGCB, or offer an amendment to the agreement to the City Attorney's Office to reflect the reduced amount.
- c. The City Attorney's Office shall be paid by the VCGCB from the Restitution Fund. Any payments shall be contingent upon the availability of monies in the Restitution Fund. Any funds paid shall not be a charge upon any federal monies or state General Fund monies. Funds provided under this agreement are not to be used for other activities and shall not be used to supplant those activities currently provided by city funds, or grants administered by the Criminal Justice Programs Division, Office of Emergency Services.

3. PROMPT PAYMENT CLAUSE

The VCGCB shall pay all properly submitted, undisputed invoices within 45 days of receipt, in accordance with Chapter 4.5 of the Government Code commencing with Section 927.

4. COST LIMITATION

The total amount of this agreement shall not exceed \$68,862.50 for fiscal year 2007/08 and \$68,862.50 for fiscal year 2008/09. Funding shall be contingent upon availability of funds and shall be at the sole discretion of the VCGCB. The funding of this contract may be changed by written amendment to the contract.

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EXHIBIT C

GENERAL TERMS AND CONDITIONS

GENERAL TERMS AND CONDITIONS

PLEASE NOTE: The General Terms and Conditions will be included in the contract by reference to Internet site www.ols.dgs.ca.gov/Standard+Language.

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EXHIBIT D

SPECIAL TERMS AND CONDITIONS

1. JOB-RELATED TRAVEL:

- a. The VCGCB anticipates that only the primary contract representative (not supervisors) will travel to Sacramento on three (3) occasions per year during the contract term. All expenses shall be reimbursed in accordance with the allocation reflected in the travel line-item of the contract budget so long as the reimbursement is consistent with Attachment IV.
- b. Prior written authorization must be obtained from the VCGCB to attend training, conferences or to travel for other purposes not directly related to the performance of this agreement. Absent such prior approval, the VCGCB reserves the option of not reimbursing the expenses.

2. MOVING:

- a. The VCGCB shall not reimburse any costs associated with the relocation of the City Attorney's Office staff performing under this contract.
- b. The City Attorney's Office shall obtain written authorization from the VCGCB to relocate computer terminals sixty (60) calendar days before any planned relocation. Written notification should be e-mailed or addressed to the attention of the Restitution Manager, Fiscal Services Division, California Victim Compensation and Government Claims Board, P. O. Box 1348, Sacramento, CA 95812-1348.

Notification of relocation shall include the new address, including room number and the name, title, address, and phone number of a contact person who is responsible for telephone line and computer/electrical cable installation.

- c. Failure of the City Attorney's Office to obtain prior authorization may result in the City Attorney's inability to perform functions of the contract for a period of time. The VCGCB will not reimburse the City Attorney's Office for lost production time.

3. REGULATIONS AND GUIDELINES

All parties agree to abide by all applicable federal and state laws and regulations and VCGCB guidelines, directives and memos as they pertain to the performance of this agreement.

4. UTILIZATION OF NEW COMPUTER SYSTEM

The City Attorney's Office agrees to cooperate with the VCGCB in all phases of the development and implementation of the VCGCB's new automated claims processing system, CaRES (Compensation and Restitution System).

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EXHIBIT D

SPECIAL TERMS AND CONDITIONS

5. EQUIPMENT:

a. Written Request and Approval Prior to Purchase

The City Attorney's Office shall obtain prior written authorization from the VCGCB in the acquisition of equipment (capitalized assets), including "modular furniture," even though funding may have been previously requested and made part of the budget for this agreement. The VCGCB reserves the option of not reimbursing the City Attorney's Office for equipment purchases that are not requested or approved in writing prior to purchase.

The City Attorney shall submit the request for equipment purchases on the Equipment Purchase Justification/Authorization Request Form (Attachment V) to the attention of the Restitution Analyst, Fiscal Services Division, California Victim Compensation and Government Claims Board, P. O. Box 1348, Sacramento, CA 95812-1348.

b. Purchase of Information Technology Equipment

The VCGCB will provide and/or reimburse, under this contract, costs for information technology equipment deemed necessary and approved by the VCGCB (as defined in the State Administrative Manual Section 4819.2). If the VCGCB purchases equipment for the City Attorney's Office, the VCGCB will ensure that the equipment is operational, configured and delivered to that office. The VCGCB will provide configuration support only on VCGCB purchased equipment. Configuration support will include restoring altered VCGCB equipment to its original configuration. If the City Attorney's Office purchases equipment, the City Attorney's Office is responsible for its own configuration, installation, and support of those purchases. Both VCGCB and City Attorney equipment purchases will require the purchase of a maintenance service agreement by the City Attorney's Office. The City Attorney's Office is responsible for budgeting dollars through this contract to cover those support and/or maintenance service agreement costs.

All equipment purchased or reimbursed under this contract, regardless of whether the VCGCB or the City Attorney's Office purchased it, shall be the property of the VCGCB and identified with a state identification number.

If computer software is purchased under this contract, vendors shall certify that it has appropriate systems and controls in place to ensure that State funds are not used to acquire, operate, or maintain computer software in a manner that does not comply with applicable copyrights.

The City Attorney's Office agrees to apply security patches and upgrades, and keep virus software up-to-date on any machine on which VCGCB data may be used.

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EXHIBIT D

SPECIAL TERMS AND CONDITIONS

6. OPERATING EXPENSES:

- a. The City Attorney's Office may charge expenses to various line-item allocations as part of their operating expenses, such as rent, utilities, postage, telephone, etc. Such expenses are generally identified as "direct costs." The City Attorney's Office must ensure that expenses that are classified as "direct cost" are not also included in the "indirect cost" or "overhead" category. Indirect costs are those costs that are incurred for a common or joint purpose or a cost that is not readily assignable to a specific operating expense line-item.
- b. The City Attorney's Office must submit, upon the VCGCB's request, a copy of the indirect cost allocation plan demonstrating how the indirect cost rate was established. All costs included in the plan must be supported by formal accounting records which substantiate the propriety of such charges.
- c. The City Attorney's Office must obtain written approval prior to modifications being made to the line items under the operating expense category, such as an increase to rent or offsetting savings from one line-item to another. Requests should be directed to the attention of the Restitution Manager.

7. TERM OF CONTRACT:

The period of performance for the contract will be July 1, 2007 through June 30, 2009.

8. INVENTORY:

Electronic Data Processing equipment, capitalized assets and non-capitalized assets, shall remain the property of the VCGCB and shall bear identification tags supplied by the VCGCB. The City Attorney's Office shall prepare an inventory listing as of June 30, 2007 and June 30, 2008 on forms provided by the VCGCB. The completed forms shall be submitted to the Business Services Section, Victim Compensation and Government Claims Board, P. O. Box 48, Sacramento, CA 95812.

In the event of termination of this agreement, the VCGCB shall take possession of those items. The City Attorney's Office must hold those items identified in the inventory list in storage until the VCGCB retrieves its property. Payment of storage and retrieval shall be the responsibility of the VCGCB.

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EXHIBIT D

SPECIAL TERMS AND CONDITIONS

9. CONFIDENTIALITY OF RECORDS:

All financial, statistical, personal, technical and other data and information relating to the State's operations, which are designated confidential by the State and made available to the contractor in order to carry out this agreement, or which become available to the contractor in carrying out this agreement, shall be protected by the contractor from unauthorized use and disclosure through observance of the same or more effective procedural requirements as applicable to the State. This includes the protection of any extractions of the VCGCB's confidential data for another purpose. Personally identifiable information shall be held in the strictest confidence, and shall not be disclosed except as required by law or specifically authorized by the VCGCB (refer to Data Classification and Security Procedure Memo 04-01-010, Attachment I).

The VCGCB's Custodian of Records in Sacramento shall be notified when a claimant or other person requests a copy of any document in or pertaining to the claimant's file. The City Attorney shall not disclose any document pursuant to any such request unless authorized to do so by the VCGCB's Custodian of Records, the Executive Officer, or the Legal office.

The VCGCB's Public Information Officer (PIO), Miles Bristow, in Sacramento is to be immediately notified of any request made under the Public Records Act (Gov. Code § 6250, et. seq.) for information received or generated in the performance of this contract. The PIO may be reached at (916) 491-3757 or miles.bristow@vcgcb.ca.gov. No record shall be disclosed pursuant to any such request unless authorized by the VCGCB's PIO. If the PIO is unavailable, contact the VCGCB's Legal Office at (916) 491-3523.

The City Attorney shall ensure that all staff is informed of the requirements of this provision and of direction given by the VCGCB. The City Attorney shall complete and submit a signed Confidentiality Statement (Attachment II) to:

Victim Compensation and Government Claims Board
Attn: Business Services Section
400 "R" Street, 4th Floor
Sacramento, CA 95814

10. SUBPOENAS

The City Attorney's Office is not the Custodian of Records for any of the materials it creates or receives pursuant to this contract. The City Attorney's Office shall post a notice in its receiving department or other appropriate place stating that all Victim Compensation Program subpoenas and document requests shall be served upon the California Victim Compensation and Government Claims Board.

The City Attorney's Office shall inform a server of a subpoena that the subpoena must be served on the California Victim Compensation and Government Claims Board, Attn: Legal Office at 400 "R" Street, 5th Floor, CA 95814. The City Attorney's Office may also contact the Legal Office at (916) 491-3523 for further assistance.

EXHIBIT D

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SPECIAL TERMS AND CONDITIONS

11. INCOMPATIBLE WORK ACTIVITIES

The City Attorney's staff assigned to perform services for the VCGCB must not:

- a. Engage in any conduct that is clearly inconsistent, incompatible, or in conflict with, his or her assigned duties under the contract.
- b. Use information obtained while doing work under the contract for personal gain or the advantage of another person.
- c. Provide confidential information to anyone not authorized to receive the information. Confidential information obtained during the performance of contract duties must be held in strict confidence;
- d. Provide or use the names of persons or records of the VCGCB for a mailing list which has not been authorized by the VCGCB.
- e. Represent himself or herself as a VCGCB employee.
- f. Take any action with regard to a VCP claim, or restitution matter with the intent to obtain private gain or advantage.
- g. Involve himself or herself in the handling of any claim or restitution matter when he or she has a relationship (business or personal) with a claimant or other interested party.
- h. Knowingly initiate any contact with a claimant, person for whom restitution may be sought, or person against whom restitution may be collected, unless the contact is for the purposes of carrying out the services under this agreement and is done in an appropriate manner.

It shall be the City Attorney's responsibility to ensure that every staff person assigned to provide contracted services to the VCGCB is made aware of and abides by this provision. If an assigned staff person is unwilling or unable to abide by this provision, the staff person should no longer be assigned to perform the services required by the contract. Any questions should be directed to the VCGCB's Legal Office at (916) 491-3523.

12. RETENTION OF RECORDS

The City Attorney's Office will retain claim files in the respective file rooms until at least two (2) years have elapsed since the claim's last activity date (hearing date). These claims will be considered inactive and will be forwarded to the VCGCB's Main File Room (MFR). The MFR will purge these claims and forward to the State Record Center (SRC) for an additional five (5) years. After seven (7) continuous years of inactivity, the MFR will have the claim file destroyed.

The City Attorney's Office shall not destroy any files without written authorization from the VCGCB.

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EXHIBIT D

SPECIAL TERMS AND CONDITIONS

13. TERMINATION FOR CONVENIENCE

The VCGCB or the City Attorney reserves the right to terminate this agreement upon thirty (30) days written notice to the other party. In such an event, the City Attorney's Office shall be compensated for actual costs incurred in accordance with the terms of this agreement up to the date of termination. Invoicing of the above mentioned costs must be submitted to the VCGCB within thirty (30) calendar days of the date of termination.

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
- * 5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

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8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

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15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1). "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2). "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: "For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a). The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department."

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17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.