

## AGENDA

### BOARD OF RECREATION AND PARK COMMISSIONERS OF THE CITY OF LOS ANGELES

Wednesday, July 13, 2016 at 9:30 a.m.

Lake View Terrace Recreation Center  
11075 Foothill Boulevard  
Lake View Terrace, CA 91342

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SYLVIA PATSAOURAS, PRESIDENT  
LYNN ALVAREZ, VICE PRESIDENT  
MELBA CULPEPPER, COMMISSIONER  
MISTY M. SANFORD, COMMISSIONER  
IRIS ZUÑIGA, COMMISSIONER

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EVERY PERSON WISHING TO ADDRESS THE COMMISSION MUST COMPLETE A SPEAKER'S REQUEST FORM AT THE MEETING AND SUBMIT IT TO THE COMMISSION EXECUTIVE ASSISTANT PRIOR TO THE BOARD'S CONSIDERATION OF THE ITEM.

PURSUANT TO COMMISSION POLICY, COMMENTS BY THE PUBLIC ON AGENDA ITEMS WILL BE HEARD ONLY AT THE TIME THE RESPECTIVE ITEM IS CONSIDERED, FOR A CUMULATIVE TOTAL OF UP TO FIFTEEN (15) MINUTES FOR EACH ITEM. ALL REQUESTS TO ADDRESS THE BOARD ON PUBLIC HEARING ITEMS MUST BE SUBMITTED PRIOR TO THE BOARD'S CONSIDERATION OF THE ITEM. COMMENTS BY THE PUBLIC ON ALL OTHER MATTERS WITHIN THE SUBJECT MATTER JURISDICTION OF THE BOARD WILL BE HEARD DURING THE "PUBLIC COMMENTS" PERIOD OF THE MEETING. EACH SPEAKER WILL BE GRANTED TWO MINUTES, WITH FIFTEEN (15) MINUTES TOTAL ALLOWED FOR PUBLIC PRESENTATION.

1. CALL TO ORDER AND ELECTION OF BOARD OFFICERS FOR FISCAL YEAR 2016-17
2. SPECIAL PRESENTATIONS
  - Special Introduction and Opening Remarks by Mr. Gibson Nyambura from Councilmember Felipe Fuentes' Office, Seventh Council District
  - Introduction of Lake View Terrace Recreation Center Staff
3. APPROVAL OF THE MINUTES
  - Approval of Minutes for the Special Meeting of June 15, 2016
  - Approval of Minutes for the Special Meeting of June 24, 2016
4. NEIGHBORHOOD COUNCIL COMMENTS
  - Possible Discussion with Neighborhood Council Representatives on Neighborhood Council Resolutions or Community Impact Statements Filed with the City Clerk Relative to Any Item Listed or Being Considered on this Board of Recreation and Park Commissioners Meeting Agenda (Los Angeles Administrative Code 22.819; Ordinance 184243)

July 13, 2016

5. BOARD REPORTS

- 16-147 Griffith Park Pony Ride Concession – Award of Contract to Los Angeles Pony Rides, Inc. (CON-M16-001)
- 16-148 Bellevue Recreation Center – Release of Request for Proposals for the Management and Operation of a Recreational Child Development and Childcare Center
- 16-149 Joy Picus Child Care Center – Tuition Rate and Fee Increase
- 16-150 Elysian Park Recreation Center – Amendment to Agreement No. 3482 with Los Angeles Theatre Academy to Extend the Term of Agreement
- 16-151 Partnership Division – Donation from the Natasha Watley Foundation in Support of a Department Operated Girls Softball League at Nine Park Sites
- 16-152 Griffith Observatory Café – Amendment to Agreement No. 248 with Wolfgang Puck Catering and Events, LLC; – Exercise Agreement Renewal Option and Approve Capital Investment
- 16-153 50 Parks Initiative – Los Angeles River and Aliso Creek Confluence Park Project – Final Acceptance
- 16-154 Pershing Square Park and Garage – Establishment of a Special Fund and Transfer of Appropriations
- 16-155 Summer Night Lights Program and Other Various Programs – Artist/Instructor Services; Appropriations within Fund 302 in the Department of Recreation and Parks
- 16-156 Encumbrance of Funds and Payments to Knorr Systems, Inc. and Waterline Technologies, Inc. for Summer Pool Maintenance Services
- 16-157 Athletic Surface Inspection, Testing and Related Professional Services – Award of Contract
- 16-158 As-Needed General Park Building Construction – Supplemental Agreements to Various Contracts
- 16-159 As-Needed Park Facility Construction – Supplemental Agreements to Various Contracts
- 16-160 Gaffey Street Pool – Pool and New Bathhouse Restoration (PRJ20726) (W.O. #E1907453F) Project – Acceptance of Stop Payment Notices and Release of Stop Payment Notices on Construction Contract No. 3514
- 16-161 Daniels Field Sports Center – Renovate Restrooms (PRJ20534) (W.O. #E170104F) Project – Amendment to Memorandum of Understanding

July 13, 2016

Between the Department of Recreation and Parks, the Department of Public Works, Bureau of Engineering, and the Department of General Services, Construction Forces

- 16-162 Chatsworth Park South – Rehabilitation Project (PRJ20361) (W.O. #E170331F) – Authority to Negotiate and Issue Change Orders to Contract No. 3528
- 16-163 West Wilshire (Pan Pacific) Park – Improvements to Athletic Fields (Soccer and Baseball Fields) (PRJ20579) (W.O. #E170496F) Project – Approval of Final Plans and Call for Bids; Exemption from the California Environmental Quality Act (CEQA) Pursuant to Article III, Section 1, Class 1 (1,4) and Class 3(6) of the City CEQA Guidelines
- 16-164 Citywide Public Art Initiative – Proposal by the Los Angeles Department of Cultural Affairs for the Installation of Temporary Public Art at Park Locations; Addition of Two Locations; Issuance of Right-of-Entry Permits; Exemption from the California Environmental Quality Act (CEQA) Pursuant to Article III, Section 1, Class 4(6) of the City CEQA Guidelines
- 16-165 Elysian Park – Memorandum of Understanding between the Department of Recreation and Parks and the Los Angeles Department of Water and Power for the Elysian Reservoir Water Quality Improvement Project; Acceptance of Transfer of Funds to the Community Parks Enhancement Fund

6. COMMISSION TASK FORCE UPDATES

- Commission Task Force on Concessions Report – Commissioners Zuñiga and Culpepper
- Commission Task Force on Facility Repair and Maintenance Report – Commissioners Sanford and Alvarez

7. GENERAL MANAGER'S DEPARTMENT REPORT AND UPDATES

- Various Communications Report
- Informational Report on Department Activities and Facilities
- Informational Update on the Greek Theatre
- Informational Update on Recreation and Parks Strategic Plan
- Informational Report – Overview of the Adopted Fiscal Year 2016-17 Department of Recreation and Parks Budget

8. PUBLIC COMMENTS

Comments by the Public on All Other Matters within the Board's Subject Matter Jurisdiction

July 13, 2016

9. FUTURE AGENDA ITEMS

Requests by Commissioners to Schedule Specific Future Agenda Items

10. NEXT MEETING

The next scheduled Regular Meeting of the Board of Recreation and Park Commissioners will be held on Wednesday, August 10, 2016, 9:30 a.m., at Baldwin Hills Recreation Center, 5401 Highlight Place, Los Angeles, CA 90016.

11. ADJOURNMENT

Under the California State Ralph M. Brown Act, those wishing to make audio recordings of the Commission Meetings are allowed to bring tape recorders or camcorders in the Meeting.

Sign language interpreters, assistive listening devices, or any auxiliary aides and/or services may be provided upon request. To ensure availability, you are advised to make your request at least 72 hours prior to the meeting you wish to attend. For additional information, please contact the Commission Office at (213) 202-2640.

Finalization of Commission Actions: In accordance with City Charter, actions that are subject to Section 245 are not final until the expiration of the next five meeting days of the Los Angeles City Council during which the Council has convened in regular session and if Council asserts jurisdiction during this five meeting day period the Council has 21 calendar days thereafter in which to act on the matter.

Commission Meetings can be heard live over the telephone through the Council Phone system. To listen to a meeting, please call one of the following numbers:

from Downtown Los Angeles	(213) 621-CITY (2489)
from West Los Angeles	(310) 471-CITY (2489)
from San Pedro	(310) 547-CITY (2489)
from Van Nuys	(818) 904-9450

For information, please go to the City's website: <http://ita.lacity.org/ForResidents/CouncilPhone/index.htm>

Information on agenda items may be obtained by calling the Commission Office at (213) 202-2640. Copies of the agenda and reports may be downloaded from the Department's website at [www.laparks.org](http://www.laparks.org).

## SPECIAL MEETING MINUTES

### BOARD OF RECREATION AND PARK COMMISSIONERS OF THE CITY OF LOS ANGELES

Wednesday, June 15, 2016

The Board of Recreation and Park Commissioners of the City of Los Angeles convened the Special Meeting at Encino Community Center at 9:30 a.m. Present were President Sylvia Patsouras, Vice President Lynn Alvarez, and Commissioner Iris Zuñiga. Also present were Michael A. Shull, General Manager, and Deputy City Attorney III Strefan Fauble.

The following Department staff members were present:

Anthony-Paul Diaz, Executive Officer and Chief of Staff  
Vicki Israel, Assistant General Manager, Partnership and Revenue Branch  
Kevin Regan, Assistant General Manager, Operations Branch  
Ramon Barajas, Assistant General Manager, Planning, Construction and Maintenance Branch  
Alex Yee, Director of Systems, Finance Division

#### CALL TO ORDER AND SPECIAL PRESENTATIONS

Charles Singer, Superintendent of Valley Region, introduced Department staff and provided background and programming information regarding the Encino Community Center.

#### FIRST AND BROADWAY CIVIC CENTER PARK – DESIGN COMPETITION – SELECTION OF DESIGN FIRM – TAKEN OUT OF ORDER

Cathie Santo Domingo, Superintendent of Planning, Construction, and Maintenance Branch, and Chief Deputy City Engineer Deborah Weintraub of the Department of Public Works, Bureau of Engineering (BOE) reported on the design competition process for the First and Broadway Civic Center Park Project (Project), the selection of Mia Lehrer + Associates as the Project's design team with the Office of Metropolitan Architecture (OMA) and IDEO as sub-consultants, and the Project's projected timeline. The Board and BOE staff also discussed the installation of project signage and community outreach to publicize the Project.

#### APPROVAL OF THE MINUTES

Commissioner Zuñiga moved that the Board approve the Minutes of the June 1, 2016 Regular Meeting, which was seconded by Commissioner Alvarez. There being no objections, the Motion was unanimously approved.

#### BOARD REPORTS

16-143

EL SERENO CLUBHOUSE DEMOLITION PROJECT –  
AUTHORIZATION TO DEMOLISH, APPROVAL OF DEMOLITION  
PLANS; CERTIFICATION OF THE ENVIRONMENTAL IMPACT  
REPORT

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June 15, 2016

Paul Davis, Environmental Supervisor II of Planning, Construction, and Maintenance Branch, presented Board Report No. 16-143 for certification of the Final Environmental Impact Report (EIR) for the proposed El Sereno Clubhouse Demolition Project (Project) with the finding that all potentially significant environmental effects of the Project have been properly disclosed and evaluated in compliance with the California Environmental Quality Act (CEQA) and the State and City CEQA Guidelines, and that the Final EIR reflects the Department's independent judgment and analysis; adoption of the Findings of Fact and Statement of Overriding Consideration set forth in Exhibit A of the Report; adoption of the Mitigation Monitoring Plan and Reporting Plan set forth in the Final EIR; direction to Department staff to file a Notice of Determination with the Los Angeles City Clerk and County Clerk within five business days of the certification of the Final EIR; and approval of the demolition plans for the Project. The Board discussed the community's support for the Project conveyed during the June 1, 2016 Facility Repair and Maintenance Task Force Meeting.

16-144

ROSE HILL PARK – NEW PEDESTRIAN PATHWAYS AND WALKWAYS (A.K.A. AMERICANS WITH DISABILITIES ACT WALKING PATH) (PRJ20930) (W.O. #E170383F) PROJECT – FINAL ACCEPTANCE

Cathie Santo Domingo, Superintendent of Planning, Construction, and Maintenance Branch, presented Board Report No. 16-144 for acceptance of the work performed for the Rose Hill Park – New Pedestrian Pathways and Walkway Project (Project) constructed by the Department's as-needed pre-qualified on-call vendors; and authorization for the Board Secretary to furnish the contractors with a Letter of Completion for the Project.

16-145

CITYWIDE PUBLIC ART INITIATIVE – PROPOSAL BY THE LOS ANGELES DEPARTMENT OF CULTURAL AFFAIRS FOR THE INSTALLATION OF TEMPORARY PUBLIC ART AT ELEVEN PARK LOCATIONS; ISSUANCE OF RIGHT OF ENTRY PERMIT(S); EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO ARTICLE III, SECTION 1, CLASS 4(6) OF THE CITY CEQA GUIDELINES

Matthew Rudnick, Chief Sustainability Officer, presented Board Report No. 16-145 for approval of the Los Angeles Department of Cultural Affairs' proposal for the installation of temporary public art at eleven Department-owned properties as part of a Citywide Public Art Initiative; authorization for the General Manager or Designee to issue Right-of-Entry Permits to the Department of Cultural Affairs (DCA) for each of the eleven park sites, subject to the approval of the United States Army Corps of Engineers where applicable; and approval of the finding that the proposed projects are categorically exempt from the California Environmental Quality Act with direction to Department staff to file a Notice of Exemption. The Board and Department staff discussed the installation of public art on functional water fountains at the eleven park sites, and the participation of Department staff in disseminating information regarding the Citywide Public Art Initiative in collaboration with DCA staff.

June 15, 2016

16-146

GRIFFITH PARK – GRIFFITH OBSERVATORY – AWARD  
RECOMMENDATION FOR A BOOKSTORE AND A GIFT SHOP  
CONCESSION AGREEMENT WITH EVENT NETWORK, INC.  
(CON-M15-005)

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Matthew Rudnick, Chief Sustainability Officer, presented Board Report No. 16-146 for approval of the proposed Agreement (Agreement) with Event Network, Inc. for the operation and maintenance of the Griffith Observatory Bookstore and Gift Shop Concession for a five-year term with two five-year extension options exercisable at the sole discretion of the Department and with the Board's approval; approval of the finding in accordance with Charter Section 1022 that it is necessary, feasible, and economical to secure the services by contract as the Department lacks sufficient and necessary personnel to undertake the specialized professional services; approval of the finding pursuant to Charter Section 371(e)(10) and Los Angeles Administrative Code Section 10.15(a)(10) that the use of competitive bidding would be undesirable, impractical, or otherwise excused by common law and the City Charter as there is no single criterion that will determine which proposer can best provide the services required by RAP for the provision of bookstore and gift shop services. The Board and Department staff discussed the proposed revenue-sharing percentages, and planned utilization of the mobile cart/kiosk as a supplemental retail service to the concession.

Public comments were invited for the Board Reports. Three requests for public comment were submitted for Board Report No. 16-143, and such comments were made to the Board.

President Patsouras requested a Motion to approve the Board Reports as presented. Commissioner Alvarez moved that the Board Reports be approved, and that the Resolutions recommended in the Reports be thereby approved. Commissioner Zuñiga seconded the Motion. There being no objections, the Motion was unanimously approved.

COMMISSION TASK FORCES

- Commission Task Force on Concessions Report (Commissioners Zuñiga and Culpepper)

Commissioner Zuñiga reported on the Concessions Task Force Meeting held on June 15, 2016 prior to the Board Meeting, in which the Task Force discussed the status of the Concession Request for Proposals for the Griffith Park Pony Ride, Griffith Observatory Bookstore and Gift Shop, and the Echo Park Boathouse Café; the golf food service concession agreements and reservation system, and healthy options for vending machine concessions. Rachel Ramos, Senior Management I of the Concessions Unit, was introduced during the Task Force Meeting.

- Commission Task Force on Facility Repair and Maintenance (Commissioners Sanford and Alvarez)

Commissioner Alvarez reported on the Facility Repair and Maintenance Task Force Meeting held on June 15, 2016 prior to the Board Meeting, in which the Task Force discussed the results of the design competition and selection of Agence Ter and Team for the design of the Pershing Square Park renovation project, the concept design of Wilmington Square Park, and the concept plan for the Hollenbeck Park Lake rehabilitation project.

June 15, 2016

## GENERAL MANAGER'S DEPARTMENT REPORT AND UPDATES

- The Various Communications Report was noted and filed.
- General Manager Michael Shull reported on Department activities, facilities, and upcoming events. The Hawaiian Festival of the Arts at Northridge Park was held on June 3 – 5, 2016; the Central Pool Re-Opening Ceremony and the Launch of Operation Splash Program was held on June 10, 2016; and the Vermont Square Park Ribbon Cutting Ceremony was held on June 9, 2016. Upcoming events include the 1<sup>st</sup> Annual Safe Summer Kick-Off and Resource Fair at Lemon Grove Park on June 18, 2016; the Westwood Gardens Park Ribbon Cutting Ceremony on June 25, 2016; the Penmar Water Quality Improvement Project (Phase II) Groundbreaking Ceremony at Penmar Recreation Center on June 30, 2016; the 109<sup>th</sup> Street Pool and Bathhouse Grand Re-Opening Ceremony on July 2, 2016; the Old Fort MacArthur Days event at Fort MacArthur Military Museum on July 9-10, 2016; and the Lotus Festival at Echo Park Lake on July 9-10, 2016.
- General Manager Michael Shull reported on events held at the Greek Theatre during the month of June, and upcoming performances and events scheduled in July. The Los Angeles City College graduation ceremony was held on June 7, 2016 with approximately 2,500 attendees, and the John Marshall High School graduation ceremony was held on June 10, 2016 with approximately 3,300 attendees. The Movie By Moonlight community event sponsored by Fandango was held on June 11, 2016.
- Chief Sustainability Officer Matthew Rudnick reported on the Department's strategic planning process. Stakeholder interviews have been conducted with labor union representatives, several Councilmembers, and representatives from the National Recreation and Park Association. A kick-off meeting has been scheduled with the graphic designer to assist with the visual layout of the Strategic Plan. A Special Board Meeting will be scheduled for a follow-up strategic planning discussion prior to the release of the Strategic Plan.
- Kevin Regan, Assistant General Manager of Operations, and Jimmy Kim, Emergency Management Coordinator, reported on the Department's involvement in the City's Comprehensive Homeless Strategy (CHS), and presented the Department's CHS Implementation Roadmap to be submitted to the Mayor's Office pursuant to Mayoral Executive Directive No. 16. The Department has been identified as the co-lead department with the Los Angeles Homeless Services Authority for one of the implementation strategies to expand access to public restrooms, and is a collaborating Department to assist the Homeless Strategy Committee and other participating agencies with nine other implementation strategies. Emergency Management Coordinator Kim has been designated as the Department's Homelessness Liaison. The Department will be responsible for providing 24-hour public access to restrooms throughout the City with certain amenities such as drinking fountains, trash receptacles, storage lockers, sinks, and other washing facilities. Capital expenses and staffing costs associated with the operation of 24-hour public restrooms will be determined by the Department, as well as any security and maintenance needs. The Department will also determine the need for any potential legislative actions such as amendments to the Los Angeles Municipal Code to expand the operating hours for applicable facilities. The Board and Department staff discussed the City's source of funding and potential budgetary requests to cover the costs associated with operating and maintaining public restrooms on a 24-hour basis.



June 15, 2016

PUBLIC COMMENTS

Public comments on matters within the Board's jurisdiction were invited. Six requests for public comment were submitted, and such comments were made to the Board.

FUTURE AGENDA ITEMS

There were no requests for future Agenda Items.

NEXT MEETING

The next Regular Meeting of the Board of Recreation and Park Commissioners was scheduled to be held on Wednesday, July 13, 2016, 9:30 a.m., at Lake View Terrace Recreation Center, 11075 Foothill Boulevard, Los Angeles, CA 91342.

ADJOURNMENT

There being no further business to come before the Board, President Patsouras adjourned the Meeting at 10:45 a.m.

ATTEST

\_\_\_\_\_  
PRESIDENT

\_\_\_\_\_  
BOARD SECRETARY

## SPECIAL MEETING MINUTES

### BOARD OF RECREATION AND PARK COMMISSIONERS OF THE CITY OF LOS ANGELES

Friday, June 24, 2016

The Board of Recreation and Park Commissioners of the City of Los Angeles convened the Special Meeting in the Figueroa Plaza Conference Room 300A at 10:00 a.m. Present were President Sylvia Patsaouras, Commissioner Melba Culpepper, and Commissioner Misty M. Sanford. Also present were General Manager Michael A. Shull and Deputy City Attorney III Catrina Archuleta.

The following Department staff members were present:

Anthony-Paul Diaz, Executive Officer and Chief of Staff  
Matthew Rudnick, Chief Sustainability Officer  
Vicki Israel, Assistant General Manager, Partnership and Revenue Branch  
Kevin Regan, Assistant General Manager, Operations Branch  
Cathie Santo Domingo, Superintendent, Planning, Construction and Maintenance Branch  
Javier Solis, Superintendent, Planning, Construction and Maintenance Branch  
Alex Yee, Director of Systems, Finance Division  
Harold Fujita, Personnel Director, Human Resources Division

#### DISCUSSION AND POSSIBLE BOARD ACTIONS REGARDING THE DEPARTMENT'S PROPOSED FIVE-YEAR STRATEGIC PLAN

Chief Sustainability Officer Matthew Rudnick presented a preliminary draft of the Department's proposed Five-Year Strategic Plan (Strategic Plan), and reported on the stakeholder interview process and focus groups conducted to gather input from Department staff, Councilmembers, labor union representatives, representatives from the National Recreation and Park Association (NRPA), RAND Corporation, and the Los Angeles Parks Foundation. The Board and Department staff discussed making revisions to the Strategic Planning Process section of the draft Strategic Plan, as well as revisions to the Department's Core Values and the Strategic Outcomes. The Board and Department staff also discussed the goals associated with each respective Strategic Outcome, and incorporating community engagement into the Strategic Outcomes. The proposed performance metrics and targets to track the implementation and progress for each Strategic Outcome and associated goals will be brought back to the Board for further input at a later date.

Public comments on matters within the Board's jurisdiction were invited. One request for public comment was submitted, and such comments were made to the Board.

#### NEXT MEETING

The next Regular Meeting of the Board of Recreation and Park Commissioners was scheduled to be held on Wednesday, July 13, 2016, 9:30 a.m., at Lake View Terrace Recreation Center, 11075 Foothill Boulevard, Lake View Terrace, CA 91342.

June 24, 2016

ADJOURNMENT

There being no further business to come before the Board, President Patsouras adjourned the Meeting at 11:30 a.m.

ATTEST

\_\_\_\_\_  
PRESIDENT

\_\_\_\_\_  
BOARD SECRETARY

**BOARD REPORT**

**NO. 16-147**

DATE July 13, 2016

C.D. 4

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: GRIFFITH PARK PONY RIDE CONCESSION – AWARD OF CONTRACT TO LOS ANGELES PONY RIDES, INC. (CON-M16-001)

AP Diaz \_\_\_\_\_  
R. Barajas \_\_\_\_\_  
H. Fujita \_\_\_\_\_

\*V. Israel \_\_\_\_\_  
K. Regan \_\_\_\_\_  
N. Williams \_\_\_\_\_



General Manager

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Approve the proposed Agreement with Los Angeles Pony Rides, Inc., herein included as Attachment 1, for the operation and maintenance of the Griffith Park Pony Ride Concession for a period of five years with three one-year renewal options exercisable at the General Manager's sole discretion, subject to review and approval by the Mayor, and the City Attorney as to form;
2. Approve the proposed Price List for the Griffith Park Pony Ride Concession, herein included as Exhibit J;
3. Direct the Board Secretary to transmit the proposed Agreement to the Mayor, in accordance with Executive Directive No. 3, and concurrently to, the City Attorney for review as to form;
4. Find, in accordance with Charter Section 1022, that it is necessary, feasible and economical to secure these services by contract as the Department of Recreation and Parks (RAP) lacks sufficient and necessary personnel to undertake these specialized professional services;
5. Find, pursuant to Charter Section 371(e)(10), and Los Angeles Administrative Code Section 10.15(a)(10), that the use of competitive bidding would be undesirable, impractical or otherwise excused by the common law and the Charter because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by RAP for the improvement, operation and maintenance of the Griffith Park Pony Ride Concession; and
6. Authorize the General Manager or Designee to execute the proposed Agreement (Attachment 1), and to make any necessary technical changes consistent with the Board's intent in approving the proposed Agreement.

## BOARD REPORT

PG. 2 NO. 16-147

### SUMMARY

On May 4, 2016, the Board of Recreation and Park Commissioners approved Board Report 16-108, which awarded the Griffith Park Pony Ride Concession (Concession) to Los Angeles Pony Rides, Inc., and authorized RAP staff to develop the Concession Agreement. Shortly thereafter, RAP staff met with Los Angeles Pony Rides, Inc., to review all contractual terms and discuss a transition plan between the incumbent operator and Los Angeles Pony Rides, Inc. RAP staff expects a smooth transition with minimal interruption to operations.

The Concession is located at 4400 Crystal Springs Drive, within the Griffith Park area that includes recreational amenities such as hiking trails, horseback riding trails, picnic areas, train rides, and a refreshment stand. The Concession consists of a pergola structure, ticket booth, pony sweep structure, wooden guide rails, corrals, and a metal hay barn. The Concession offers pony rides for children with the appropriate saddlery and tack necessary for the safety of the riders and ponies, a mule or pony-drawn stagecoach ride and a pony sweep ride.

The Concession is currently operated under the terms of Concession Agreement No. 191 which began on June 28, 1979 for a single ten-year term and ended on June 28, 1989, between the City of Los Angeles and Hank William Bronk, (Concessionaire) whose family has operated the Concession since 1980. The Agreement has been operated on a month-to-month basis since its expiration in 1989.

### BACKGROUND

**Transitional and Operational Plan:** Los Angeles Pony Rides, Inc. will begin operation of the Concession with sixty-five (65) experienced ponies and other needed equipment acquired through an asset purchase agreement, which was included in the proposal, signed by the current operator of the pony ride concession. This will assist in a smooth transition between the incumbent operator and new operator. The incumbent operator has approved the new operator's general managers to be on site thirty to forty-five (30-45) days prior to insure a smooth transition. In addition to providing pony rides six days a week (closed Mondays for clean-up, care and rest of the animals, with the exception of holidays or private events), as is currently offered, Los Angeles Pony Rides, Inc.'s business plan includes several additional services and/or amenities that include: educational classes where children learn how to groom and relate to a pony; pony-assisted non-riding therapy for special needs children and adults; and a program to help veterans find assistance through bonding with a pony. A small themed product sales kiosk for purchase of pony related products, a free petting zoo, and private birthday parties will also be offered.

**Capital Improvements:** Los Angeles Pony Rides, Inc. has committed to perform the required concession improvements (deferred maintenance) as listed in the Request for Proposal (RFP) within six months upon execution of the Agreement. In addition to the required improvements, Los Angeles Pony Rides, Inc. included an optional concession improvement plan in its proposal, which includes remodeling the ticket office, adding a petting zoo, pony coral and pony sales kiosk; constructing a birthday party pavilion, landscaping and improvements to the surface of the main pony ring, and installing a state-of-the-art video security system all to be completed within first one hundred twenty (120) days of operations. Both improvement categories, required and optional, are estimated to cost

## BOARD REPORT

PG. 3 NO. 16-147

Eighty-Three Thousand Dollars (\$83,000.00).

**Financial Return to the City:** Los Angeles Pony Rides, Inc.'s proposal includes a twenty-five percent (25%) revenue sharing plan with projected gross revenue of One Million, Twenty-Six Thousand, One Hundred Forty-Four Dollars (\$1,026,144.00) the first year of operation and growing to One Million, Ninety-Five Thousand, Eight Hundred Forty-Two Dollars (\$1,095,842.00) by Year Eight of operation. This would provide the City with approximately Two Hundred Fifty Thousand Dollars (\$250,000.00) in rental income per year, or Two Million (\$2,000,000.00) in rental income for this Concession over the eight-year term of the Agreement. This expected increase in revenue is premised on an increase to the pony ride ticket price from the current \$3 per ticket to \$5 per ticket. Staff has conducted comparative research of pony ride ticket prices, and this price increase is consistent with similar pony ride operations in the region.

### CONCLUSION

Los Angeles Pony Rides, Inc. has met and in some cases exceeded the requirements, as provided in the RFP, to operate the Concession. Los Angeles Pony Rides, Inc. has demonstrated the necessary qualifications, and has proposed a business plan, operation plan, transition plan, and capital improvement plan that will enhance the experience offered to the public. In addition, the financial return to the city is expected to increase, allowing for ongoing and future resources to be available for upkeep, maintenance and repairs. After a thorough evaluation of the Los Angeles Pony Rides, Inc.'s proposal, and following further clarifying discussions, RAP staff recommends approval of the proposed Agreement.

### ENVIRONMENTAL IMPACT STATEMENT

Staff has not yet performed an environmental review as it relates to the capital improvements that have been proposed in concept as part of the proposal submitted by Los Angeles Pony Rides, Inc. Staff will perform an environmental review, and provide a CEQA determination upon concessionaire providing final construction plans.

### FISCAL IMPACT STATEMENT

The Board's approval of the Recommendations, and the execution of a new Agreement for the operation of the Griffith Park pony rides, will have a positive impact on the RAP's General Fund, due to an increase in concessions revenue.

This Report was prepared by LaTricia Jones, Management Analyst II, Partnership and Revenue Branch, Concessions Division.

### LIST OF ATTACHMENTS

- 1) Proposed Agreement for Operation and Maintenance of the Griffith Park Pony Ride Concession  
Exhibit A – Standard Provisions  
Exhibit B – Premise Map

BOARD REPORT

PG. 4 NO. 16-147

- Exhibit C – Insurance Requirements
- Exhibit D – Remittance Advice
- Exhibit E – Non-Employee Accident Illness Report
- Exhibit F – Special Occurrence and Loss Report
- Exhibit G – Schedule A
- Exhibit H – Schedule B
- Exhibit I – Schedule C\_Final Subcontracting Report
- Exhibit J – Price List
- Exhibit K – Asset Purchase Agreement

AGREEMENT  
FOR THE OPERATION AND MAINTENANCE OF  
THE GRIFFITH PARK PONY RIDE CONCESSION

BETWEEN

THE CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS

AND

LOS ANGELES PONY RIDES, INC.



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**AGREEMENT FOR OPERATION AND MAINTENANCE OF THE  
GRIFFITH PARK PONY RIDE CONCESSION**

THIS Agreement (hereinafter "AGREEMENT") is made and entered in this \_\_\_\_\_ day of \_\_\_\_\_, 201\_, by and between the CITY OF LOS ANGELES, a municipal corporation acting by and through its Department of Recreation and Parks (hereinafter referred to as "CITY"), and *LOS ANGELES PONY RIDES, INC.* (hereinafter referred to as "CONCESSIONAIRE").

**WHEREAS**, the Department of Recreation and Parks (hereinafter referred to as "Department") seeks to serve the public by providing pony rides and related services exclusively at the Griffith Park Pony Ride Concession (hereinafter "CONCESSION"); and

**WHEREAS**, the CITY finds, in accordance with Charter Section 1022, that it is necessary, feasible and economical to secure these services by contract as it lacks available personnel in its employ with sufficient expertise to undertake these specialized services; and

**WHEREAS**, the CITY finds, pursuant to Charter Section 371(e)(10), and Los Angeles Administrative Code Section 10.15(a)(10), that the use of competitive bidding would be undesirable, impractical or otherwise excused by the common law and the Charter because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by the DEPARTMENT for the improvement, operation and maintenance of the DEPARTMENT'S CONCESSION; and

**WHEREAS**, the DEPARTMENT finds it is necessary to utilize a standard request for proposals process and to evaluate proposals received based upon the criteria included in a Request for Proposals (RFP); and

**WHEREAS**, the DEPARTMENT advertised for proposals for the operation and maintenance of the CONCESSION, to include providing pony rides and related services to the public; and

**WHEREAS**, the DEPARTMENT received and evaluated two (2) proposals which were received on March 15, 2016; and

**WHEREAS**, Los Angeles Pony Rides, Inc. was the only responsive proposer, and selected to provide pony rides and related services at the CONCESSION in accordance with the terms and conditions of this AGREEMENT; and

**WHEREAS**, the CONCESSIONAIRE desires to enter into such AGREEMENT to provide services of the type and character required therein by CITY to meet the needs of the public at Griffith Park.

**NOW THEREFORE**, in consideration of the terms, covenants and conditions hereinafter to be kept and performed by the respective parties, it is agreed as follows:

## **SECTION 1. DEFINITIONS**

For the purpose of this AGREEMENT, the following words and phrases are defined and shall be construed as hereinafter set for:

AGREEMENT:	This Concession Agreement consisting of thirty-four (34) pages and eleven (11) exhibits (A-K) attached hereto
BOARD:	Board of Recreation and Park Commissioners
CITY:	The City of Los Angeles, acting by and through its Department of Recreation and Parks
CONCESSION:	Griffith Park Pony Ride Concession
CONCESSIONAIRE:	<i>Los Angeles Pony Rides, Inc.</i>
DEPARTMENT:	The Department of Recreation and Parks
FACILITY:	The Griffith Park Pony Ride Concession located at 4400 Crystal Springs Drive, Los Angeles, CA 90027.
LAAC:	The Los Angeles Administrative Code
LAMC:	The Los Angeles Municipal Code
PREMISES:	The geographical area, as defined in Section 3 of this AGREEMENT, in which the concession may be operated.

## **SECTION 2. PERMISSION GRANTED**

For and in consideration of the payment of the fees and charges as hereinafter provided, and subject to all of the terms, covenants, and conditions of this AGREEMENT, CITY hereby grants to CONCESSIONAIRE, subject to all of the terms and conditions of this AGREEMENT, the right and obligation within the CONCESSION to: equip, operate and maintain the Griffith Park Pony Ride at Griffith Park, Los Angeles, CA.

The CONCESSION rights herein granted shall be carried on at the FACILITY solely within the limits and confines of said areas designated as PREMISES (Section 3) in this AGREEMENT. CONCESSIONAIRE, by accepting the AGREEMENT, agrees for itself, and its successors and assigns, that it will not make use of the PREMISES in any manner which might interfere with the recreational uses of the FACILITY.

In the event of a conflict between CONCESSIONAIRE and any other concessionaire or any lessee at the FACILITY regarding the services to be offered or products to be sold by respective concessionaires or lessees, DEPARTMENT shall meet and confer with all necessary parties to determine the services to be offered or products to be sold by each, and CONCESSIONAIRE hereunder agrees thereafter to be bound by said determination.

CITY reserves the right to further develop or improve the PREMISES as it sees fit, without interference or hindrance; however the CITY shall consider the desire, views, and financial investment of CONCESSIONAIRE.

### **SECTION 3. PREMISES**

The PREMISES (Exhibit B) subject to this AGREEMENT are located at: 4400 Crystal Springs Drive, Los Angeles, CA 90027. The PREMISES shall include the ticket booth, pergola, wooden guide rails, corrals and metal hay barn. Location of PREMISES as set forth in Exhibit B, attached hereto and incorporated herein. Any discrepancy in the definition or boundaries of PREMISES shall be resolved solely by the DEPARTMENT.

CONCESSIONAIRE shall not use or allow the PREMISES to be used, in whole or in part, during the term of the AGREEMENT, for any use in violation of any present or future laws, ordinances, rules, and regulations at any time applicable thereto of any public or governmental authority or agencies, departments or officers thereof, including CITY, including relating to sanitation or the public health, safety or welfare or operations at and use of the PREMISES.

### **SECTION 4. TERM OF AGREEMENT**

The term of the AGREEMENT shall be five (5) years with three (3) one (1) year extension options exercisable at the sole discretion of the Department's General Manager, effective seven (7) days after the date of execution. Neither CITY, nor any BOARD member, officer, or employee thereof shall be liable in any manner to CONCESSIONAIRE because of any action taken to revoke the AGREEMENT.

### **SECTION 5. OPERATING RESPONSIBILITIES**

CONCESSIONAIRE shall, at all times during the term of the AGREEMENT, comply with the following conditions:

A. **Cleanliness**

CONCESSIONAIRE shall, at its own expense, keep the PREMISES and the surrounding area [at least twenty-five (25) feet] clean and sanitary at all times. No

offensive or refuse matter, nor any substance constituting an unnecessary, unreasonable, or unlawful fire hazard, nor any material detrimental to the public health, shall be permitted to remain thereon, and CONCESSIONAIRE shall prevent any such matter or material from being or accumulating upon said PREMISES.

CONCESSIONAIRE, at its own expense, shall see that all garbage, refuse, abandoned personal items or personal items left longer than twenty-four (24) hours is collected and disposed of as often as necessary and in no case less than once a day. CONCESSIONAIRE shall furnish all equipment and materials necessary therefore, including trash receptacles of a size, type, and number approved by DEPARTMENT. If no trash storage area is made available, CONCESSIONAIRE shall provide at its own expense and with the DEPARTMENT'S prior written approval, an enclosed area concealing the trash storage from public view. The department will incur the cost of all garbage pick-up from the main dumpster for the PREMISES during the term of the AGREEMENT.

In addition to the requirements set forth above, CONCESSIONAIRE shall clean all manure from the premises on a daily basis. CONCESSIONAIRE will also clean the metal hay barn and corrals on a daily basis, removing all manure and replacing wet sawdust or straw. Manure will be kept in a manure compound, dumpster trash container or similar device which shall be located so as to prevent offensive odors and insects from bothering patrons. CONCESSIONAIRE shall remove the manure from the premises a minimum of two times each week.

**B. Conduct**

CONCESSIONAIRE and its representatives, agents, servants, and employees shall at all times conduct its business in a quiet and orderly manner to the satisfaction of the DEPARTMENT.

**C. Disorderly Persons**

CONCESSIONAIRE shall use its best efforts to permit no intoxicated person or persons or boisterous or loud conduct in or about the PREMISES and will call upon peace officers to assist in maintaining peaceful conditions. CONCESSIONAIRE shall not knowingly allow the use or possession of illegal drugs, narcotics, or controlled substances on the PREMISES.

**D. Non-Discrimination/ Equal Employment Practices/Affirmative Action**

1. CONCESSIONAIRE, in its CONCESSION operations at the FACILITY, for itself, its personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree that: (1) no person on the grounds of race, color, national origin, religion, ancestry, sex, age, physical disability, sexual orientation or sexual identity shall be excluded from participation, denied the benefits of or be otherwise

subjected to unjust discrimination in access to or in the use of the facilities covered by the AGREEMENT; (2) that in the construction of any improvements on, over or under the PREMISES authorized to be utilized herein and the furnishing of services thereon, no person on the grounds of race, color, national origin, religion, ancestry, sex, age, physical disability, sexual orientation or sexual identity shall be excluded from participation in, denied the benefits of or otherwise be subjected to unjust discrimination.

2. CONCESSIONAIRE agrees that in the event of breach of any of the above nondiscrimination covenants, with proper notification as per Section 18, CITY shall issue a written notice of breach or default to CONCESSIONAIRE, and if CONCESSIONAIRE does not cure said breach or default within thirty (30) calendar days of receipt of said notice, CITY may, by delivering a second written notice to CONCESSIONAIRE, terminate this AGREEMENT without further delay, whereupon CONCESSIONAIRE shall vacate the PREMISES within fourteen (14) calendar days and CITY shall have the right to reenter and repossess said land and the facilities thereon and hold the same as if said AGREEMENT had never been executed.
3. In addition, CONCESSIONAIRE, during the term of the AGREEMENT, agrees not to unjustly discriminate in its employment practices against any employee or applicant for employment because of the employee's or applicant's race, color, religion, national origin, ancestry, sex, age, physical disability, sexual orientation or sexual identity. All subcontracts entered into by CONCESSIONAIRE shall be approved in advance by CITY and shall contain a like provision.

#### **E. Personnel**

1. **Freedom from Tuberculosis**  
For employees preparing food, and others as required by statute (reference Section 5163 of the California Public Resources Code) or directive of the DEPARTMENT, CONCESSIONAIRE shall provide the DEPARTMENT with certificates on applicable employees indicating freedom from communicable tuberculosis.
2. **Qualified Personnel**  
CONCESSIONAIRE will, in the operation of the CONCESSION, employ or permit the employment of only such personnel as will assure a high standard of service to the public and cooperation with the CITY. All such personnel, while on or about the PREMISES, shall be neat in appearance and courteous at all times and shall be appropriately attired, with badges or other suitable means of identification. No person employed by CONCESSIONAIRE, while on or about the PREMISES, shall be under the influence of illegal drugs, narcotics, other controlled substances or alcohol, or use inappropriate language, or engage in otherwise inappropriate

conduct for a work environment. In the event an employee is not satisfactory, the DEPARTMENT may direct CONCESSIONAIRE to remove that person from the PREMISES.

3. **Concession Manager**

CONCESSIONAIRE shall appoint, subject to written approval by DEPARTMENT, a Concession Manager of CONCESSIONAIRE'S operations at the FACILITY.

Such person must be a qualified and experienced manager or supervisor of operations, vested with full power and authority to accept service of all notices provided for herein and regarding operation of the CONCESSION, including the quality and prices of CONCESSION goods and services, and the appearance, conduct, and demeanor of CONCESSIONAIRE'S agents, servants, and employees. The Concession Manager shall be available during regular business hours and, at all times during that person's absence, a responsible subordinate shall be in charge and available.

The Concession Manager shall devote the greater part of his or her working time and attention to the operation of the CONCESSION and shall promote, increase and develop the business. During the days and hours established for the operation of the subject concession, the Concession Manager's personal attention shall not be directed toward the operation of any other business activity.

If, for reasons of ill health, incapacitation, or death, the Concession Manager becomes incapable of performing each and all terms and provisions of the AGREEMENT, the CONCESSIONAIRE shall appoint, subject to written approval by the DEPARTMENT, a new qualified and experienced Concession Manager within 60 days. CONCESSIONAIRE shall act in the capacity of the General Manager until a new General Manager has been appointed. The DEPARTMENT may, in its sole discretion, suspend the AGREEMENT and all terms and conditions contained therein if no appointment has been made within the 60 day time period.

4. **Approval of Employees, Volunteers and Subcontractors**

The DEPARTMENT shall have the right to approve or disapprove all employees, volunteers and subcontractors (including all employees and volunteers for any subcontractor) of CONCESSIONAIRE. Failure of CONCESSIONAIRE to obtain DEPARTMENT'S written approval of all persons operating under the authority of this AGREEMENT on the PREMISES shall be a material breach of this AGREEMENT. CONCESSIONAIRE shall submit a list of all persons employed by, or volunteering or subcontracting for, CONCESSIONAIRE at the PREMISES to the DEPARTMENT prior to commencing operations pursuant to this AGREEMENT. All changes to the approved list of employees, volunteers

and subcontractors shall be submitted to the DEPARTMENT for written approval prior to any employee, volunteer or subcontractor commencing work at the PREMISES. CONCESSIONAIRE shall not hire as an employee or volunteer, or subcontract with, any person whom the DEPARTMENT would be prohibited from hiring as an employee or volunteer pursuant to California Public Resources Code Section 5164 to perform work at the PREMISES. Each employee, volunteer or subcontractor (including all employees or volunteers of any subcontractor) shall be required to fill out a form requesting the information required by Section 5164, and the DEPARTMENT reserves the right to fingerprint and conduct a Department of Justice criminal background check on any such person prior to approving their employment, volunteer service or subcontract. Failure to comply with this hiring standard shall be a material breach of this AGREEMENT and CONCESSIONAIRE shall immediately remove any employee, volunteer or subcontractor from the PREMISES at DEPARTMENT's instruction.

#### **F. Price Schedules**

1. Upon execution of this AGREEMENT, the fees for pony rides, equine classes and birthday parties, as shown in Exhibit J, shall be effective. All future modifications to CONCESSIONAIRE'S fees for pony rides, classes and birthday parties are subject to approval by the GENERAL MANAGER and cannot be changed without prior written approval by the GENERAL MANAGER. Such determination by the GENERAL MANAGER shall not be unreasonable and shall take into account the business considerations presented by CONCESSIONAIRE. The City seeks to promote both high standards of quality as well as provide services at an affordable rate. All prices shall be prominently posted and shall not exceed prevailing market prices for the same services at similar venues in the surrounding community.

CITY agrees that CONCESSIONAIRE'S sale of merchandise, including its price for same, shall be within CONCESSIONAIRE'S discretion; subject, however, to disapproval by GENERAL MANAGER if the selection of items offered is inadequate, of inferior quality, or if any of said prices are excessively high or low in the sole opinion of GENERAL MANAGER. Such determination shall not be unreasonable and shall take into account the business considerations presented by CONCESSIONAIRE. All merchandise prices shall be comparable to prices charged in similar establishments in the City of Los Angeles. A merchandise price list must be submitted within 30 days of execution of this AGREEMENT.

2. All services offered for sale and/or sold by CONCESSIONAIRE in said PREMISES, must be related to the ordinary business of the CONCESSION.



DEPARTMENT may order the improvement of the quality of any services offered for sale.

**G. Diversion of Business**

CONCESSIONAIRE shall not divert, cause, allow, or permit to be diverted any business from the PREMISES and shall take all reasonable measures, in every proper manner, to develop, maintain, and increase the business conducted by it under the AGREEMENT.

**H. Equipment, Furnishings, and Expendables**

1. All equipment, furnishings, and expendables required for said CONCESSION shall be purchased and installed by CONCESSIONAIRE at its sole expense and shall remain its personal property, including, but not limited to:
  - a. A minimum of fifty (50) well-trained ponies suitable for children to ride safely;
  - b. Appropriate saddlery and tack necessary for the proper operation of the pony ride;
  - c. Supplies and feed for the ponies;
  - d. Stagecoach and harness;
2. Upon termination of the AGREEMENT, CONCESSIONAIRE shall have the right to remove its own equipment, ponies, furnishings, and expendables, but not improvements, from the PREMISES and shall be allowed a period of thirty (30) calendar days to complete such removal. If not removed within that period, said equipment, furnishings and expendables shall become the property of CITY.

**I. Maintenance of Equipment**

CONCESSIONAIRE shall, at all times and at its expense, keep and maintain all equipment, whether owned and/or installed by CONCESSIONAIRE or CITY, such as, but not limited to, heat exchangers, fans, controls and electric panels, installed by CITY, together with all of the fixtures, plate and mirror glass, equipment and personal property therein, in good repair and in a clean, sanitary, and orderly condition and appearance. CITY will be responsible for utility lines and repairs, including telephone, exterior to the PREMISES.

All maintenance, repairs and replacements of all equipment shall be performed at the sole expense of the CONCESSIONAIRE. CONCESSIONAIRE may elect to not use City-owned equipment, with prior written consent of DEPARTMENT.

No equipment provided by CITY shall be removed or replaced by CONCESSIONAIRE without the prior written consent of the DEPARTMENT, and

if consent is secured, such removal and/or replacement shall be at the expense of CONCESSIONAIRE.

**J. Claims for Labor and Materials**

The CONCESSIONAIRE shall promptly pay when due all amounts payable for labor and materials furnished in the performance of the AGREEMENT so as to prevent any lien or other claim under any provision of law from arising against any CITY property (including reports, documents, and other tangible matter produced by the CONCESSIONAIRE hereunder), against the CONCESSIONAIRE's rights hereunder, or against the CITY, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**K. Signs and Advertisements**

CONCESSIONAIRE shall not erect, construct, or place any signs, banners, ads, or displays of any kind whatsoever upon any portion of CITY property without the prior written approval from the DEPARTMENT, who may require the removal or refurbishment of any sign previously approved. Certain signs and advertisements may also require the prior written approval of the Griffith Park Advisory Board and the Cultural Heritage Commission or other appropriate agencies.

The CONCESSIONAIRE shall place a public notice that the CONCESSIONAIRE operates the pony ride. The address and phone number of CONCESSIONAIRE will be shown along with the notation that all complaints should be referred directly to the CONCESSIONAIRE.

At FACILITY, CONCESSIONAIRE shall provide the following credit or as proportions of signage allow similar credit as approved by RAP in writing:

"In Collaboration with the City of Los Angeles Department of Recreation and Parks."

Upon the expiration or termination of the AGREEMENT, CONCESSIONAIRE shall, at its own expense, remove or paint out, as DEPARTMENT may direct, any and all of its signs and displays on the PREMISES and in connection therewith, and shall restore said PREMISES and improvements thereto to the same condition as prior to the placement of any such signs or displays.

**L. Utilities**

CONCESSIONAIRE shall be responsible for utility charges associated with the CONCESSION. Charges may include, but are not limited to, deposits, installation costs, meter deposits, and all service charges for gas, electricity, heat, air-conditioning, and other utility services to PREMISES, and shall be paid by CONCESSIONAIRE regardless of whether such utility services are furnished by CITY or by other utility service providers. CONCESSIONAIRE will pay directly for telephone services, which will be in the name of the CONCESSIONAIRE.

CONCESSIONAIRE hereby expressly waives all claims for compensation, or for any diminution or abatement of the rental payment provided for herein, for any and all loss or damage sustained by reason of any defect, deficiency, or impairment of the water, heating, or air conditioning systems, electrical apparatus, or wires furnished to the PREMISES which may occur from time to time and from any cause, and from any loss resulting from water, earthquake, wind, civil commotion, or riot; and CONCESSIONAIRE hereby expressly releases and discharges CITY and its officers, employees, and agents from any and all demands, claims, actions, and causes of action arising from any of the aforesaid causes.

In all instances where damage to any utility service line is caused by CONCESSIONAIRE, its employees, contractors, sub-contractors, suppliers, agents, or invitees, CONCESSIONAIRE shall be responsible for the cost of repairs and any and all damages occasioned thereby.

Water and electricity shall be utilized by CONCESSIONAIRE in the most efficient manner possible, and CONCESSIONAIRE expressly agrees to comply with all CITY water conservation programs.

In the event that individual utility meters are not available, CONCESSIONAIRE shall remit, on a monthly basis in conjunction with revenue-sharing payments to DEPARTMENT, the amount of Two Hundred Fifty Dollars (\$250.00) as payment for utilities. Payment of utilities will be subject to increase annually to cover increasing utility costs.

The CONCESSIONAIRE shall reimburse the DEPARTMENT if any utility charges are paid by the DEPARTMENT.

**M. Vending Machines**

CONCESSIONAIRE shall not install, or allow to be installed, any vending machines, electronic games, or other coin-operated machines.

**N. Safety**

CONCESSIONAIRE shall correct safety deficiencies, and violations of safety practices, immediately after the condition becomes known or DEPARTMENT notifies CONCESSIONAIRE of said condition. CONCESSIONAIRE shall cooperate fully with CITY in the investigation of accidents occurring on the PREMISES. In the event of injury to a patron or customer, CONCESSIONAIRE shall reasonably ensure that the injured person receives prompt and qualified medical attention, and as soon as possible thereafter, CONCESSIONAIRE shall submit a CITY Form General No. 87 "Non-Employee Accident or Illness Report" (see SECTION 26, "NOTICES," for mailing address) (Exhibit F). If CONCESSIONAIRE fails to correct hazardous conditions specified by the DEPARTMENT in a written notice, which have led, or in the opinion of CITY could lead, to injury, the DEPARTMENT may, in addition to all other remedies which may be available to CITY, repair, replace, rebuild, redecorate, or paint any such

PREMISES to correct the specified hazardous conditions, with the cost thereof, plus fifteen percent (15%) for administrative overhead, to be paid by CONCESSIONAIRE to CITY on demand.

O. **Environmental Sensitivity**

The CONCESSIONAIRE must operate the CONCESSION in an environmentally sensitive manner and all operations must comply with CITY policies regarding protection of the environment. CONCESSIONAIRE shall not use or allow the use on the PREMISES of environmentally unsafe products.

P. **Fund Raising Activities**

CONCESSIONAIRE will be expected to cooperate with Department personnel on all matters relative to the conduct of fund-raising and/or special events at the discretion of DEPARTMENT.

Q. **Community Outreach**

CONCESSIONAIRE shall coordinate and cooperate with DEPARTMENT to develop strategies to outreach to all members of the community, particularly those living in low-to-moderate income areas, fixed-income households, youth, the disabled, etc., to provide its services to these members of the community who may not otherwise have the opportunity to partake in the services provided by CONCESSIONAIRE.

R. **Care of Livestock**

CONCESSIONAIRE shall strictly observe all requirements and directives of the Department of Animal Services of the City of Los Angeles. If CONCESSIONAIRE or his employees appear to have mistreated or endangered any livestock, after a review by a licensed equine veterinarian, the DEPARTMENT may immediately exercise default provisions.

S. **Amplified Sound**

No excessive amplified sound, as determined by the DEPARTMENT, is permitted by CONCESSIONAIRE in its operations on PREMISES.

T. **Security**

CONCESSIONAIRE shall be responsible for security of the interior PREMISES. CONCESSIONAIRE may install equipment, approved by the DEPARTMENT, which will assist in protecting the PREMISES from theft, burglary, or vandalism. Any such equipment must be purchased, installed, and maintained by CONCESSIONAIRE.

U. **Quiet Enjoyment**

CITY agrees that CONCESSIONAIRE, upon payment of the fees and charges specified herein, and all other charges and payments to be paid by CONCESSIONAIRE under the terms of this AGREEMENT, and upon observing and keeping the required terms, conditions and covenants of this AGREEMENT,

shall lawfully and quietly hold, use and enjoy the concession PREMISES during the term of this AGREEMENT. In the case of disputes, during the life of the AGREEMENT, over any conditions which may impede upon the CONCESSIONAIRE's quiet enjoyment of the concession PREMISES, the DEPARTMENT shall have final determination of any solution to such dispute; the DEPARTMENT's final determination shall be binding upon all parties in such dispute.

#### **V. Receipts**

1. CONCESSIONAIRE shall offer receipts to customers for every transaction.
2. CONCESSIONAIRE shall at all times place a sign within twelve (12) inches of any cash register, in clear view to the public, and in minimum one-inch lettering, which states: "If a receipt is not provided for this transaction, please contact the Department of Recreation and Parks - Concessions Unit (213) 202-3280."

#### **SECTION 6. IMPROVEMENTS**

CITY shall hold CONCESSIONAIRE responsible for guaranteeing the completion of all improvements, according to approved plans, regardless of cost. CONCESSIONAIRE shall bear all costs for all necessary permits, insurance, and taxes required for compliance of such improvements. Any breach of this condition for CONCESSION improvements shall be a material breach of this AGREEMENT. CITY reserves the right to recover damages from CONCESSIONAIRE if the improvements are not completed, completed as stipulated, or completed to the satisfaction of DEPARTMENT. Such damages may include, but are not limited to, recovering up to the entire cost of the improvements from the CONCESSIONAIRE's performance deposit. The performance deposit must be recompensed as stipulated in Section 12, "Performance Deposit," herein. Failure to complete the required improvements within the time frame specified in the written approval, or as prescribed by DEPARTMENT, are subject to a penalty of One Hundred Dollars (\$100.00) per day for each calendar day over the appropriate time limit. At the conclusion of each improvement, the CONCESSIONAIRE shall submit proof of project completion, including invoices and receipts, to the DEPARTMENT. At that point, the DEPARTMENT will inspect the submitted improvement to confirm completion. All improvements shall become the property of the CITY. Additionally, if the value of all completed required and optional improvements is less than the AGREEMENT value, the CONCESSIONAIRE will be responsible for paying the DEPARTMENT the difference within sixty (60) days of written notification or investing the difference in additional concession improvements within twenty-four (24) months, subject to the approval of the GENERAL MANAGER.

CITY reserves the right to further develop or improve the FACILITY and the PREMISES as it sees fit, and without interference or hindrance by CONCESSIONAIRE. Such

development or improvement may require the suspension or termination of the AGREEMENT. CITY shall not be liable for loss of business which results from the construction of any development or improvements made by the CONCESSIONAIRE to the FACILITY or the PREMISES.

**A. Required Concession Improvements**

CONCESSIONAIRE agrees to make, to the satisfaction of the CITY, the following required improvements to the CONCESSION PREMISES within twelve (12) months of the execution of this AGREEMENT or pay the CITY an amount equal to the value of the specific improvement not completed within sixty (60) days of written notification by the City that said improvement was not completed:

1. Repair/replace water troughs for the ponies.
2. Repair concrete flooring under the pergola.
3. Repair pergola footings.
4. Replace gutters on the barn.
5. Repair roof on barn.
6. Paint the exterior of the ticket office.
7. Paint the pergola structure over the waiting area.
8. Paint the fence around the pony ride track area.
9. Paint the exterior of the metal barn.
10. Landscape pony corrals to provide suitable habitation for the ponies.

The total estimated value of all required CONCESSION improvements is Forty-Four Thousand Dollars (\$44,000.00).

Should the City exercise an option to renew the AGREEMENT, CONCESSIONAIRE agrees to repaint the FACILITY as stated above (Items# 6 – 9), within the first six (6) months of the first option term. CONCESSIONAIRE agrees that maintenance of the landscaping improvement of the pony corrals will be ongoing.

**B. Optional Concession Improvements**

CONCESSIONAIRE agrees to make, to the satisfaction of the CITY, optional improvements to the CONCESSION PREMISES specified below within twenty-

four (24) months of the execution of this CONCESSION AGREEMENT or pay the CITY an amount equal to the value of the specific optional improvements not completed within sixty (60) days of written notification by the City that said improvement was not completed:

1. Remodel Ticket Office.
2. Addition of a Petting Zoo.
3. Addition of a Pony Related Sales Kiosk.
4. Addition of a 12' x 24' Birthday Party Pavilion and a 12' x 24' Pony Corral on northeast side of service road next to barn gate.
5. Resurface and improve the Main Pony Ring.
6. State Of The Art Video Security System.

The total estimated value of all optional CONCESSION improvements is Thirty-Nine Thousand Dollars (\$39,000.00). CONCESSIONAIRE is required to submit construction plans for optional items within 30 days of execution of the AGREEMENT. Optional concession improvements must be approved by the GENERAL MANAGER, which will not be unreasonably withheld or delayed.

**C. Compliance with Applicable Rules and Regulations**

All structural or other improvements, equipment and interior design and decor constructed or installed by CONCESSIONAIRE in the FACILITY areas, including the plans and specifications therefore, shall in all respects conform to and comply with the applicable statutes (including the California Environmental Quality Act), ordinances, building codes, rules and regulations of CITY and such other authorities that may have jurisdiction over the facility areas or CONCESSIONAIRE'S operations therein. The written approval by DEPARTMENT of any improvements as provided above shall not constitute a representation or warranty as to such conformity or compliance, but responsibility therefore shall at all times remain in CONCESSIONAIRE.

**D. Procurement of Permits and Approvals**

CONCESSIONAIRE shall, at its sole expense, and prior to construction of any Improvements, procure all building, fire, safety, aesthetic, environmental, and other permits and approvals necessary for the construction of the structural and other improvements, installation of the equipment, and the interior design and decor. Copies of all said permits and approvals shall thereafter be submitted to the DEPARTMENT. No permission to begin said Improvements shall be granted by DEPARTMENT prior to CONCESSIONAIRE's obtaining of said permits and approvals.

**E. Subcontractors**

CONCESSIONAIRE shall require by any contract that it awards in connection with the structural or other improvements, the installation of any and all equipment, and the interior designing and decor, that the contractor doing, performing or furnishing the same shall comply with all applicable statutes, ordinances, codes, rules and regulations, and submit to CITY evidence of required insurance coverage.

**SECTION 7. HOURS / DAYS OF OPERATION**

The CONCESSION must be open, weather permitting, to the public six (6) days per week, closed Mondays except for holidays or for private events, and a minimum of six (6) hours per day as required by the DEPARTMENT to adequately serve public demand. Hours of operation are dependent upon Griffith Park's operating days and hours, as well as the discretion of the DEPARTMENT.

CONCESSIONAIRE must post the hours of operation in a location visible to the public, and must be open for business during the hours posted. Hours of operation may not be changed without prior written approval of DEPARTMENT. Any deviation from such days and hours shall be subject to the prior written approval of the DEPARTMENT.

**SECTION 8. REVENUE-SHARING FEE PAYMENT**

- A. As part of the consideration for CITY'S granting the CONCESSION rights herein above set forth, CONCESSIONAIRE shall pay to CITY a monthly revenue-sharing fee of:

The greater of:

The Annual Minimum Revenue-Sharing Guarantee, as follows:

- Two Hundred Fifty-Three Thousand, Five Hundred Thirty-Six Dollars (\$253,536) for year one (1) of the AGREEMENT;
- Two Hundred Fifty-Six Thousand, Three Hundred Eighty-Three Dollars (\$256,383) for year two (2) of the AGREEMENT;
- Two Hundred Fifty-Seven Thousand, Five Hundred Fifty-Four Dollars (\$257,554) for year three (3) of the AGREEMENT;
- Two Hundred Sixty Thousand Dollars (\$260,000) for year four (4) of the AGREEMENT;
- Two Hundred Sixty-Two Thousand, Seven Hundred Two Dollars (\$262,702) for year five (5) of the AGREEMENT;
- Two Hundred Sixty-Five Thousand, One Hundred Seventy-Nine Dollars (\$265,179) for year six (6) of the AGREEMENT;
- Two Hundred Sixty-Seven Thousand, Six Hundred Eighty-One Dollars (\$267,681) for year seven (7) of the AGREEMENT;



- Two Hundred Seventy-Three Thousand, Nine Hundred Sixty Dollars (\$273,960) for year eight (8) of the AGREEMENT; **OR**

25% of gross receipts of all sales, whichever is higher.

Refer to SECTION 8.C for the definition of "Gross Receipts."

If the minimum annual revenue-sharing payment is not met by December 31 of each calendar year, the difference between the actual revenue-sharing payment received by the City of Los Angeles and the minimum annual revenue-sharing payment will be due to the City of Los Angeles by January 15<sup>th</sup> of the subsequent year, pro-rated as necessary for the first year of operation or fractional part thereof, and pro-rated as necessary for the final year of operation or fractional part thereof.

**B. Revenue-Sharing Payment Due**

Said payment shall be due and payable (postmarked) by the fifteenth (15<sup>th</sup>) day of each calendar month based on the gross receipts received in each previous month. The payment and Monthly Remittance Advice Form (Exhibit D) shall be addressed to:

CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
ATTENTION: Partnership and Revenue Branch/Concessions Unit  
P. O. Box 86610  
Los Angeles, CA 90086-0610

**C. Gross Receipts Defined**

The term "gross receipts" is defined as the total amount charged for the sale of any goods or services (whether or not such services are performed as a part of or in connection with the sale of goods) provided in connection with this CONCESSION, but not including any of the following:

1. Cash discounts allowed or taken on sales;
2. Any sales taxes, use taxes, or excise taxes required by law to be included in or added to the purchase price and collected from the consumer or purchaser and paid by CONCESSIONAIRE;
3. California Redemption Value (CRV);
4. Receipts from the sale of waste or scrap materials resulting from the CONCESSION operation;

5. Receipts from the sale of or the trade-in value of any furniture, fixtures, or equipment used in connection with the CONCESSION, and owned by CONCESSIONAIRE;
6. The value of any merchandise, supplies, or equipment exchanged or transferred from or to other business locations of CONCESSIONAIRE where such exchanges or transfers are not made for the purpose of avoiding a sale by CONCESSIONAIRE which would otherwise be made from or at the PREMISES;
7. Refunds from, or the value of, merchandise, supplies, or equipment returned to shippers, suppliers, or manufacturers;
8. Receipts from the sale at cost of uniforms, clothing, or supplies to CONCESSIONAIRE'S employees where such uniforms, clothing, or supplies are required to be worn or used by said employees;
9. Receipts from any sale where the subject of such sale, or some part thereof, is thereafter returned by the purchaser to and accepted by CONCESSIONAIRE, to the extent of any refund actually granted or adjustment actually made, either in the form of cash or credit;
10. Fair market trade-in allowance, in the event merchandise is taken in trade;
11. The amount of any cash or quantity discounts received from sellers, suppliers, or manufacturers;
12. Discounts or surcharges applied to receipts for services or merchandise, with the concurrence of both CONCESSIONAIRE and DEPARTMENT, including discounts to employees, if concurred by DEPARTMENT.

CONCESSIONAIRE shall not reduce or increase the amount of gross receipts, as herein defined, as a result of any of the following:

13. Any error in cash handling by CONCESSIONAIRE or CONCESSIONAIRE'S employees or agents;
14. Any losses resulting from bad checks received from the consumers or purchasers; or from dishonored credit, charge, or debit card payments; or any other dishonored payment to CONCESSIONAIRE by customer or purchaser; CONCESSIONAIRE must reflect on monthly remittance form.
15. Any arrangement for a rebate, kickback, or hidden credit given or allowed to customer.

**D. Monthly Revenue-Sharing Reports**

CONCESSIONAIRE shall transmit with each revenue-sharing payment a Monthly Gross Receipts and Revenue-Sharing Report, also referred to as a Monthly Remittance Advice Form (Exhibit D), for the month for which a payment is submitted.

**E. Late Payment Fee**

Failure of CONCESSIONAIRE to pay any of the revenue-sharing payments or any other fees, changes, or payments required herein on time is a breach of the AGREEMENT for which CITY may terminate same or take such other legal action as it deems necessary.

Without waiving any rights available at law, in equity or under the AGREEMENT, in the event of late or delinquent payments by CONCESSIONAIRE, the latter recognizes that CITY will incur certain expenses as a result thereof, the amount of which is difficult to ascertain. Therefore, in addition to monies owing, CONCESSIONAIRE agrees to pay the CITY a late fee set forth below to compensate CITY for all expenses and/or damages and loss resulting from said late or delinquent payments.

The charges for late or delinquent payments shall be One Hundred Fifty Dollars (\$150.00) for each month late plus interest calculated at the rate of eighteen percent (18%) per annum, assessed monthly, on the balance of the unpaid amount. Payments shall be considered past due if postmarked after the fifteenth (15th) day of the month in which payment is due.

The acceptance of late revenue-sharing payments by CITY shall not be deemed as a waiver of any other breach by CONCESSIONAIRE of any term or condition of this AGREEMENT other than the failure of CONCESSIONAIRE to timely make the particular revenue-sharing payment so accepted.

**SECTION 9. ADDITIONAL FEES AND CHARGES**

- A. If CITY pays any sum or incurs any obligations or expense which CONCESSIONAIRE has agreed to pay or reimburse CITY for, or if CITY is required or elects to pay any sum or to incur any obligations or expense by reason of the failure, neglect, or refusal of CONCESSIONAIRE to perform or fulfill any one or more of the conditions, covenants, or agreements contained in the AGREEMENT, or as a result of an act or omission of CONCESSIONAIRE contrary to said conditions, covenants, and agreements, CONCESSIONAIRE agrees to pay to CITY the sum so paid or the expense so incurred, including all interest, costs, (including CITY'S fifteen percent (15%) administrative overhead cost), damages, and penalties. This amount shall be added to the rental payment thereafter due hereunder, and each and every part of the same shall be and become additional

rental payment, recoverable by CITY in the same manner and with like remedies as if it were originally a part of the basic rental payment set forth in Section 5 hereof.

- B. For all purposes under this Section, and in any suit, action, or proceeding of any kind between the parties hereto, any receipt showing the payment of any sum by CITY for any work done or material furnished shall be prima facie evidence against CONCESSIONAIRE that the amount of such payment was necessary and reasonable. Should CITY elect to use its own personnel in making any repairs, replacements, and/or alterations, and to charge CONCESSIONAIRE with the cost of same, receipts and timesheets will be used to establish the charges, which shall be presumed to be reasonable in absence of contrary proof submitted by CONCESSIONAIRE.
- C. Use of the PREMISES for purposes not expressly permitted herein, may result in additional charges; however, any such use without the prior written approval of the DEPARTMENT shall also constitute a material breach of AGREEMENT and is prohibited.

## **SECTION 10. MAINTENANCE OF PREMISES**

During all periods that the PREMISES are used or are under the control of the CONCESSIONAIRE for the uses, purposes, and occupancy aforesaid, CONCESSIONAIRE shall be responsible for all necessary janitorial duties and damage/maintenance repairs, to the satisfaction of the DEPARTMENT. The cause of said maintenance, cleaning and repairs may result from normal wear and tear, as well as vandalism.

### **A. Interior of Premises**

- 1. Areas to be Maintained by CONCESSIONAIRE:  
CONCESSIONAIRE shall, at its own expense, keep and maintain all the interior walls and surfaces of PREMISES and all improvements, fixtures, and utility systems which may now or hereafter exist thereon, whether installed by CITY or CONCESSIONAIRE. Improvements shall include all buildings and appurtenances recessed into or attached by any method to the ground or to another object which is recessed or attached to the ground or to other CITY-owned facilities (such as buildings, fences, posts, signs, electrical hook-ups, plumbing, tracks, tanks, etc.).

CONCESSIONAIRE shall provide all maintenance, repair, and service required on all interior areas, surfaces, and equipment used in the PREMISES and keep such equipment in good repair and in a clean and orderly condition and appearance. CONCESSIONAIRE shall also be responsible for electrical, mechanical, and plumbing maintenance in the

interior of the PREMISES, such as lighting fixtures, sinks, and faucets; however, CITY shall be responsible for maintenance of utility lines and drains within the walls and floors of the concession PREMISES. Insofar as sanitation and appearance of the PREMISES is concerned, the DEPARTMENT may direct CONCESSIONAIRE to perform necessary repairs and maintenance to the interior of the structure or to the equipment, whether the equipment is CONCESSIONAIRE or CITY property.

**2. Duties**

CONCESSIONAIRE'S maintenance duties shall include all sweeping, washing, servicing, repairing, replacing, cleaning, and interior painting that may be required to properly maintain the premises in a safe, clean, operable, and attractive condition. CONCESSIONAIRE shall provide for such repairs, replacements, rebuilding, and restoration as may be required by or given prior written approval by the DEPARTMENT to comply with the requirements hereof. Those duties shall also include electrical, mechanical, and plumbing maintenance in the interior of the premises, such as light fixtures, toilets, and faucets.

**B. Exterior of Premises and Common Passageways**

CITY shall maintain the exterior of all buildings and will endeavor to perform all exterior repairs occasioned by normal wear and tear, and the elements, unless otherwise provided for in the AGREEMENT. Common passageways leading to other CONCESSION facilities or offices maintained by CITY which also lead to the PREMISES shall not be considered under the control of CONCESSIONAIRE for purposes of this Section. In addition, CITY shall be responsible for maintenance of the lawn area within the perimeter of the PREMISES, including mowing and watering, and shall maintain all existing landscaping, trees, and bushes on the PREMISES. CITY shall also maintain the existing water, drain and sewer systems, provided, however, that CONCESSIONAIRE shall make every effort not to clog such systems with manure or other debris from all operations.

**C. Correction of Conditions Leading to Damage**

If CONCESSIONAIRE fails, after written notice, to correct such conditions which have led or, in the opinion of CITY, could lead to significant damage to CITY property, the DEPARTMENT may at its option, and in addition to all other remedies which may be available to it, repair, replace, rebuild, redecorate or paint any such PREMISES included in said notice, with the cost thereof, plus fifteen percent (15%) for administrative overhead, to be paid by CONCESSIONAIRE to CITY on demand. If, for any reasons, payment of such fees becomes delinquent, DEPARTMENT may, in its sole discretion, suspend the AGREEMENT and all terms and conditions contained therein.

**D. Property Damage and Theft Reporting**

CONCESSIONAIRE shall complete and submit to the DEPARTMENT a "Special Occurrence and Loss Report," in the event that the PREMISES and/or CITY-

owned property is damaged or destroyed, in whole or in part, from any cause whatsoever, and in the event of theft, burglary, or other crime committed on the PREMISES. Blank forms for this purpose shall be provided by the DEPARTMENT.

**E. Damage or Destruction to Premises**

**1. Partial Damage**

If all or a portion of the PREMISES are partially damaged by fire, explosion, flooding inundation, floods, the elements, public enemy, or other casualty, but not rendered uninhabitable, the same will be repaired with due diligence by CITY at its own cost and expense, subject to the limitations as hereinafter provided; if said damage is caused by the negligent acts or omissions of CONCESSIONAIRE, its agents, officers, or employees, CONCESSIONAIRE shall be responsible for reimbursing CITY for the cost and expense incurred in making such repairs.

**2. Extensive Damage**

If the damages as described above in "Partial Damage" are so extensive as to render the PREMISES or a portion thereof uninhabitable, but are capable of being repaired within a reasonable time not to exceed sixty (60) days, the same shall be repaired with due diligence by CITY at its own cost and expense and a negotiated portion of the fees and charges payable hereunder shall abate from the time of such damage until such time as the PREMISES are fully restored and certified by DEPARTMENT as again ready for use; provided, however, that if such damage is caused by the negligent acts or omissions of CONCESSIONAIRE, its agents, officers, or employees, said fees and charges will not abate and CONCESSIONAIRE shall be responsible for the cost and expenses incurred in making such repairs.

**3. Complete Destruction**

In the event all or a substantial portion of the PREMISES are completely destroyed by fire, explosion, the elements, public enemy, or other casualty, or are so damaged that they are uninhabitable and cannot be replaced except after more than sixty (60) days, CITY shall be under no obligation to repair, replace or reconstruct said PREMISES, and an appropriate portion of the fees and charges payable hereunder shall abate as of the time of such damage or destruction and shall henceforth cease until such time as the said PREMISES are fully restored. If within four (4) months after the time of such damage or destruction said PREMISES have not been repaired or reconstructed, CONCESSIONAIRE may terminate this AGREEMENT in its entirety as of the date of such damage or destruction. Notwithstanding the foregoing, if the said PREMISES, or a substantial portion thereof, are completely destroyed as a result of the negligent acts or omissions of CONCESSIONAIRE, its agents, officers, or employees, said fees and charges shall not abate and CITY may, in its discretion, require

CONCESSIONAIRE to repair and reconstruct the same within twelve (12) months of such destruction and CONCESSIONAIRE shall be responsible for reimbursing CITY for the cost and expenses incurred in making such repairs. CONCESSIONAIRE shall continue paying CITY rent as determined above during the rebuilding of the facility.

4. **Limits of CITY'S Obligation Defined**

In the application of the foregoing provisions, CITY may, but shall not be obligated to, repair or reconstruct the PREMISES. If CITY chooses to do so, CITY'S obligation shall also be limited to repair or reconstruction of the PREMISES to the same extent and of equal quality as obtained by CONCESSIONAIRE at the commencement of its operations hereunder. Redecoration and replacement of furniture, equipment and supplies shall be the responsibility of CONCESSIONAIRE and any such redecoration and refurbishing/reequipping shall be equivalent in quality to that originally installed.

F. **Pest Control**

Unless otherwise specified in the AGREEMENT, CONCESSIONAIRE shall be responsible for pest control in and around the PREMISES, including but not limited to, abatement of insects (including roaches, bees, etc.), spiders, rodents, vermin, and other nuisance pests, if the pests are found in or on structures or areas used and maintained by CONCESSIONAIRE, such as any of the following portions of the PREMISES:

1. Any portion of a building or enclosed structure with walls, roof, and doors, such as pro shops, gift shops, golf car storage facilities, restaurants, food stands, ticket and sales booths, kiosks, theater stage buildings, offices and storage facilities, storage containers owned and/or used by CONCESSIONAIRE, equine housing, etc.

CITY shall be responsible for pest control if pests are found in or on structures or areas maintained by CITY, such as:

1. Open, unfenced areas such as those locations permitted for mobile food vending, bike rentals, coin-operated telescopes, etc.
2. Recreation centers, rental halls, and other facilities occupied in part by CONCESSIONAIRE but maintained by CITY.
3. Other areas, structures, or facilities adjacent to the PREMISES, but not used by or under the control of CONCESSIONAIRE; or areas, structures, or facilities shared by CONCESSIONAIRE and CITY.

Pest control for pests which may cause permanent structural damage to DEPARTMENT property (for example, termite infestation) shall be the

responsibility of CITY. CONCESSIONAIRE shall take all reasonable measures to reduce the proliferation of pests, including maintaining the PREMISES clean and orderly in accordance with this Section, and keeping wood components painted. DEPARTMENT may direct CONCESSIONAIRE to take additional measures to abate pests which are an immediate threat to public health or safety.

## **SECTION 11. PROHIBITED ACTS**

CONCESSIONAIRE shall not:

1. Use the PREMISES to conduct any other business operations of CONCESSIONAIRE not related to the CONCESSION.
2. Do or allow to be done anything which may interfere with the effectiveness or accessibility of utility, heating, ventilating, or air conditioning systems or portions thereof on the PREMISES or elsewhere on the FACILITY, nor do or permit to be done anything which may interfere with free access and passage in the PREMISES or the public areas adjacent thereto, or in the streets or sidewalks adjoining the PREMISES, or hinder police, fire fighting or other emergency personnel in the discharge of their duties;
3. Interfere with the public's enjoyment and use of the FACILITY or use the PREMISES for any purpose which is not essential to the CONCESSION operations;
4. Rent, sell, lease or offer any space for storing of any articles whatsoever within or on the PREMISES other than specified herein, without the prior written approval of the DEPARTMENT;
5. Overload any floor in the PREMISES;
6. Place any additional lock of any kind upon any window or interior or exterior door in the PREMISES, or make any change in any existing door or window lock or the mechanism thereof, unless a key therefore is maintained on the PREMISES, nor refuse, upon the expiration or sooner termination of the AGREEMENT, to surrender to DEPARTMENT any and all keys to the interior or exterior doors on the PREMISES, whether said keys were furnished to or otherwise procured by CONCESSIONAIRE, and in the event of the loss of any keys furnished by DEPARTMENT, CONCESSIONAIRE shall pay CITY, on demand, the cost for replacement thereof;
7. Do or permit to be done any act or thing upon the PREMISES which will invalidate, suspend or increase the rate of any insurance policy required under the AGREEMENT, or carried by CITY, covering the PREMISES, or the buildings in which the same are located or which, in the opinion of DEPARTMENT, may constitute a hazardous condition that will increase the



risks normally attendant upon the operations contemplated under the AGREEMENT, provided, however, that nothing contained herein shall preclude CONCESSIONAIRE from bringing, keeping or using on or about the PREMISES such materials, supplies, equipment and machinery, including belted safety saddles, as are appropriate or customary in carrying on its business, or from carrying on said business in all respects as is customary;

8. Use, create, store or allow any hazardous materials as defined in Title 26, Division 19.1, Section 19-2510 of the California Code of Regulations, or those which meet the criteria of the above Code, as well as any other substance which poses a hazard to health and environment, provided, however, that nothing contained herein shall preclude CONCESSIONAIRE from bringing, keeping or using on or about the PREMISES such materials, supplies, equipment and machinery as are appropriate or customary in carrying on its business, or from carrying on said business in all respects as is customary except that all hazardous materials must be stored and used in compliance with all City, State and Federal rules, regulations, ordinances and laws;
9. Allow any sale by auction upon the PREMISES;
10. Permit undue loitering on or about the PREMISES;
11. Use the PREMISES in any manner that will constitute waste;
12. Use or allow the PREMISES to be used for, in the opinion of DEPARTMENT, any improper, immoral, or unlawful purposes.

## **SECTION 12. RATIFICATION LANGUAGE**

At the request of the DEPARTMENT, and because of the need therefore, CONCESSIONAIRE may have begun performance of the responsibilities herein required prior to the execution hereof. By its execution hereof, the DEPARTMENT hereby accepts such service subject to all the terms, covenants, and condition of this AGREEMENT, and ratifies its AGREEMENT with CONCESSIONAIRE for such services.

## **SECTION 13. PERFORMANCE DEPOSIT**

CONCESSIONAIRE shall provide the DEPARTMENT a sum equal to Forty Thousand Dollars (\$40,000.00) to guarantee payment of fees and as a damage deposit to be used in accordance with the default provisions of this AGREEMENT.

Form of Deposit

CONCESSIONAIRE'S Deposit shall be in the following form:

1. A cashier's check payable to the order of the City of Los Angeles.
- A. **Agreement of Deposit and Indemnity**  
CONCESSIONAIRE unconditionally agrees that in the event of any default, CITY shall have full power and authority to use the deposit in whole or in part to indemnify CITY. All deposits of checks must be immediately so deposited by the DEPARTMENT.
  - B. **Maintenance of Deposit**  
Said deposit shall be held by CITY during the entire term of the AGREEMENT.
  - C. **Return of Deposit to CONCESSIONAIRE**  
Said Deposit shall be returned to CONCESSIONAIRE and any rights assigned to the Deposit shall be surrendered by CITY in writing, after the expiration or earlier termination of the AGREEMENT and any exit audits performed in conjunction with the AGREEMENT. The CITY reserves the right to deduct from the Performance Deposit, any amounts up to and including the full amount of the Deposit as stated herein, owed to the CITY by CONCESSIONAIRE as shown by any exit audits performed by CITY, or as compensation to CITY for failure to adhere to material terms and conditions of the AGREEMENT.

#### **SECTION 14. TAXES, PERMITS, AND LICENSES**

- A. CONCESSIONAIRE shall obtain and maintain at its sole expense any and all approvals, permits, or licenses that may be required in connection with the operation of the CONCESSION including, but not limited to, tax permits, business licenses, health permits, animal regulation, building permits, police and fire permits, etc.
- B. CONCESSIONAIRE shall pay all taxes of whatever character that may be levied or charged upon the rights of CONCESSIONAIRE to use the PREMISES, or upon CONCESSIONAIRE'S improvements, fixtures, equipment, or other property thereon or upon CONCESSIONAIRE'S operations hereunder. In addition, by executing the AGREEMENT and accepting the benefits thereof, a property interest may be created known as "Possessory Interest" and such property interest will be subject to taxation. CONCESSIONAIRE, as the party to whom the Possessory Interest is vested, may be subject to the payment of the possessory taxes levied by the State and County upon such interest.
- C. During the entire term of the AGREEMENT, the CONCESSIONAIRE must hold a current Los Angeles Business Tax Registration Certificate (BTRC) as required by

the CITY'S Business Tax Ordinance (LAMC Article 1, Chapter 2, Sections 21.00 et. seq.).

- D. Pursuant to Section 21.3.3 of Article 1.3 of the LAMC Commercial Tenants Occupancy Tax, CONCESSIONAIRE must pay to the City of Los Angeles for the privilege of occupancy, a tax at the rate of One Dollar and Forty-Eight Cents (\$1.48) per calendar quarter or fractional part thereof for the first One Thousand Dollars (\$1,000.00) or less of charges (rent) attributable to said calendar quarter, plus One Dollar and Forty-Eight Cents (\$1.48) per calendar quarter for each additional One Thousand Dollars (\$1,000.00) of charges or fractional part thereof in excess of One Thousand Dollars (\$1,000.00). Said tax shall be paid quarterly to the DEPARTMENT, on or before the fifteenth (15<sup>th</sup>) of April, July, October, January of each calendar year, for the preceding three (3) months. Should the rate of the Occupancy Tax rise at any time during the term of the AGREEMENT, the CONCESSIONAIRE shall be responsible to pay the updated, higher rate.

The charges for late or delinquent payments shall be One Hundred Fifty Dollars (\$150.00) for each month late plus interest calculated at the rate of eighteen percent (18%) per annum, assessed monthly, on the balance of the unpaid amount.

#### **SECTION 15. ASSIGNMENT, SUBLEASE, BANKRUPTCY**

CONCESSIONAIRE shall not under-let or sub-let the subject PREMISES or any part thereof or allow the same to be used or occupied by any other person or for other use than that herein specified, nor purport or attempt to assign the AGREEMENT nor transfer or in any manner convey any of the rights or privileges herein granted without the explicit, prior written consent of CITY. Neither the AGREEMENT nor the rights herein granted shall be assignable or transferable by any process or proceedings in any court, or by attachment, execution, proceeding in insolvency or bankruptcy either voluntary or involuntary, or receivership proceedings. Any purported or attempted assignment, mortgaging, hypothecation, or encumbering of the CONCESSION rights or other violation of the provisions of this Section shall be void and shall confer no right, title or interest in or to the AGREEMENT or right of use of the whole or any portion of the PREMISES upon any such purported assignee, mortgagee, encumbrancer, pledgee or other lien holder, successor or purchaser. Any such purported or attempted assignment, transfer, mortgaging, hypothecation or encumbering without the explicit, prior, written consent of the DEPARTMENT shall be a material breach of this AGREEMENT, and the DEPARTMENT at its discretion may terminate the AGREEMENT.

#### **SECTION 16. BUSINESS RECORDS**

CONCESSIONAIRE shall maintain during the term of the AGREEMENT and for three (3) years thereafter, all of its books, ledgers, journals, and accounts wherein are kept all entries reflecting the gross receipts received or billed by it from the business transacted

pursuant to the AGREEMENT. Such books, ledgers, journals, accounts, and records shall be available for inspection and examination by DEPARTMENT, or a duly authorized representative, during ordinary business hours at any time during the term of this agreement and for at least three (3) years thereafter.

**A. Employee Fidelity Bonds**

At the DEPARTMENT'S discretion, adequate employee fidelity bonds may be required to be maintained by CONCESSIONAIRE covering all its employees who handle money.

**B. Cash And Record Handling Requirements**

If requested by DEPARTMENT, CONCESSIONAIRE shall prepare a description of its cash handling and sales recording systems and equipment to be used for operation of the CONCESSION which shall be submitted to DEPARTMENT for approval.

CONCESSIONAIRE shall be required to maintain a method of accounting of the CONCESSION which shall correctly and accurately reflect the gross receipts and disbursements received or made by CONCESSIONAIRE from the operation of the CONCESSION. The method of accounting, including bank accounts, established for the CONCESSION shall be separate from the accounting systems used for any other business operated by CONCESSIONAIRE or for recording CONCESSIONAIRE'S personal financial affairs. Such method shall include the keeping of the following documents:

1. Regular books of accounting such as general ledgers.
2. Journals including supporting and underlying documents such as vouchers, checks, tickets, bank statements, etc.
3. State and Federal income tax returns and sales tax returns and checks and other documents proving payment of sums shown.
4. Cash register tapes shall be retained so that day to day sales can be identified. A cash register must be used in public view which prints a dated double tape, indicating each sale and the daily total.
5. Any other accounting records that CITY, in its sole discretion, deems necessary for proper reporting of receipts.

**C. Method of Recording Gross Receipts**

Unless otherwise specified in the AGREEMENT, CONCESSIONAIRE shall obtain and install a cash register(s) on which it shall record all gross sales. The cash register shall be non-resettable and sufficient to supply an accurate recording of all sales on tape. CONCESSIONAIRE shall not purchase or install the cash register before obtaining the DEPARTMENT'S written approval of the specific

register to be purchased. All cash registers shall have a price display which is and shall remain at all times visible to the public.

In lieu of a cash register as described directly above, the CONCESSIONAIRE may install a computerized Point-of-Sale system, including hardware and software, to record transactions and receipts. Such computerized Point-of-Sale system must be capable of providing paper receipts to patrons, have a price display which is and shall remain at all times visible to the public, and have controls in place to make it equivalent to a non-resettable cash register. CONCESSIONAIRE shall not purchase or install the computerized Point-of-Sale system, including hardware and software, before obtaining DEPARTMENT's written approval of the specific hardware and software to be purchased.

**D. Annual Statement of Gross Receipts and Expenses**

CONCESSIONAIRE shall transmit a Statement of Gross Receipts and Expenses (Profit and Loss Statement) for the CONCESSION operations as specified in the AGREEMENT, in a form acceptable to the DEPARTMENT, on or before March 15th of each calendar year during the term of the AGREEMENT. Such Statement must be prepared by a Certified Public Accountant (CPA) and shall not include statements of omission or non-disclosure. An extension may be granted in writing, prior to the April 30th due date, by the DEPARTMENT or his designee, provided sufficient verification of the need for the extension is provided, as accepted by the DEPARTMENT or his designee. The charge for late or delinquent Statements shall be One Hundred Dollars (\$100.00) per month or part thereof late.

In addition, CITY may from time to time conduct an audit and re-audit of the books and businesses conducted by CONCESSIONAIRE and observe the operation of the business so that accuracy of the above records can be confirmed. If the report of gross sales made by CONCESSIONAIRE to CITY shall be found to be less than the amount of gross sales disclosed by such audit and observation, CONCESSIONAIRE shall pay CITY within thirty (30) days after billing any additional rentals disclosed by such audit. If discrepancy exceeds two percent (2%) and no reasonable explanation is given for such discrepancy, CONCESSIONAIRE shall also pay the cost of the audit.

**SECTION 17. REGULATIONS, INSPECTION, AND DIRECTIVES**

**A. Constitutional and Other Limits on CONCESSIONAIRE'S Rights to Exclusivity**

Notwithstanding exclusivity granted to Concessionaire by the terms of this Agreement, the City in its discretion may require Concessionaire, without any reduction in rent or other valuable consideration to Concessionaire, to accommodate the rights of persons to access and engage in expressive activities, as guaranteed by the first amendment to the United States constitution, the California constitution, and other laws, as these laws are interpreted by the City.

Expressive activities include, but are not limited to, protesting, picketing, proselytizing, soliciting, begging, and vending of certain expressive, message-bearing items.

**B. Conformance with Laws**

1. Any and all applicable rules, regulations, orders, and restrictions which are now in force or which may be hereafter adopted by CITY with respect to the operation of the CONCESSION;
2. Any and all orders, directions or conditions issued, given, or imposed by DEPARTMENT with respect to the use of the roadways, driveways, curbs, sidewalks, parking areas, or public areas adjacent to the PREMISES;
3. Any and all applicable laws, ordinances, statutes, rules, regulations or orders, including the LAMC, LAAC, the Charter of the City of Los Angeles, and of any governmental authority, federal, state or municipal, lawfully exercising authority over the CONCESSIONAIRE'S operations; and,
4. Any and all applicable local, state and federal laws and regulations relative to the design and installation of facilities to accommodate disabled persons.

**C. Permissions**

Any permission required by the AGREEMENT shall be secured in writing by CONCESSIONAIRE from CITY or the DEPARTMENT and any errors or omissions therefrom shall not relieve CONCESSIONAIRE of its obligations to faithfully perform the conditions therein. CONCESSIONAIRE shall immediately comply with any written request or order submitted to it by CITY or the DEPARTMENT.

**D. Right of Inspection and Access to Venue**

CITY and the DEPARTMENT, their authorized representatives, agents and employees shall have the right to enter upon the PREMISES at any and all reasonable times for the purpose of inspection, evaluation, and observation of CONCESSIONAIRE'S operation. Park Rangers are specifically designated as CITY agents and are empowered by CITY to conduct inspections of the PREMISES, evaluate CONCESSIONAIRE and inform the DEPARTMENT fully as to CONCESSIONAIRE's conduct of the CONCESSION. During these inspections, they all shall have the right to photograph, film, or otherwise record conditions and events taking place upon the PREMISES. The inspections may be made by persons identified to CONCESSIONAIRE as CITY Employees, or may be made by independent contractors engaged by CITY. Inspections may be made for the purposes set forth below, and for any other lawful purpose for which the CITY or another governmental entity with jurisdiction is authorized to perform inspections of the PREMISES:

1. To determine if the terms and conditions of the AGREEMENT are being complied with.
2. To observe transactions between the CONCESSIONAIRE and patrons in order to evaluate the quality of services provided or quality and quantities of items sold or dispensed.

**E. Control of Premises**

CITY shall have absolute and full access to the PREMISES and all its appurtenances during the term of the AGREEMENT and may make such changes and alterations therein, and in the grounds surrounding same, as may be determined by said CITY. Such determination shall not be unreasonable and shall take into account the business considerations presented by CONCESSIONAIRE.

**F. Business Inclusion Program**

CONCESSIONAIRE agrees and obligates itself to utilize the services of Minority, Women, Small, Emerging, Disabled Veteran and Other Business Enterprise firms on a level so designated in its proposal, Schedule A (Exhibit G). CONCESSIONAIRE certifies that it has complied with Executive Directive No. 14 regarding the Outreach Program. CONCESSIONAIRE shall not change any of these designated sub consultants and subcontractors, nor shall CONCESSIONAIRE reduce their level of effort, without prior written approval of the CITY, provided that such approval shall not be unreasonably withheld.

During the term of the AGREEMENT, CONCESSIONAIRE must submit the MBE/WBE/SBE/EBE/DVBE/OBE Utilization Profile, Schedule B (Exhibit H) when submitting the Monthly Remittance Advice. Upon completion of the project, a summary of these records shall be prepared on the "Final Subcontracting Report" form, Schedule C (Exhibit I) and certified correct by CONCESSIONAIRE or its authorized representative. The completed Schedule C shall be furnished to the DEPARTMENT within fifteen (15) working days after completion of the AGREEMENT.

**G. First Source Hiring Ordinance**

Unless otherwise exempt in accordance with the provisions of this Ordinance, this AGREEMENT is subject to the applicable provisions of the First Source Hiring Ordinance (FSHO), Section 10.44 et seq. of the LAAC, as amended from time to time.

1. CONCESSIONAIRE shall, prior to the execution of the contract, provide to the Designated Administrative Agency (DAA) a list of anticipated employment opportunities that CONCESSIONAIRE estimates it will need to fill in order to perform the services under the AGREEMENT. The Department of Public Works, Bureau of Contract Administration is the DAA.

2. CONCESSIONAIRE further pledges that it will, during the term of the AGREEMENT:
  - a. At least seven (7) business days prior to making an announcement of a specific employment opportunity, provide notifications of that employment opportunity to the Economic and Workforce Development Department (EWDD), which will refer individuals for interview;
  - b. Interview qualified individuals referred by EWDD; and
  - c. Prior to filling any employment opportunity, the CONCESSIONAIRE shall inform the DAA of the names of the Referral Resources used, the names of the individuals they referred, the names of the referred individuals who the CONCESSIONAIRE interviewed and the reasons why referred individuals were not hired.
3. Any Subcontract entered into by the CONCESSIONAIRE relating to this AGREEMENT, to the extent allowed hereunder, shall be subject to the provisions of FSHO, and shall incorporate the FSHO.
4. CONCESSIONAIRE shall comply with all rules, regulations and policies promulgated by the designated administrative agency, which may be amended from time to time.

Where under the provisions of Section 10.44.13 of the LAAC the DAA has determined that the CONCESSIONAIRE intentionally violated or used hiring practices for the purpose of avoiding the article, the determination must be documented in the Awarding Authority's Contractor Evaluation, required under LAAC Section 10.39 et seq., and must be documented in each of the CONCESSIONAIRE's subsequent Contractor Responsibility Questionnaires submitted under LAAC Section 10.40 et seq. This measure does not limit the City's authority to act under this article.

Under the provisions of Section 10.44.8 of the LAAC, the Awarding Authority shall, under appropriate circumstances, terminate this AGREEMENT and otherwise pursue legal remedies that may be available if the DAA determines that the subject CONCESSIONAIRE has violated provisions of the FSHO.

## **SECTION 18. SURRENDER OF POSSESSION**

CONCESSIONAIRE agrees to yield and deliver possession of the PREMISES to CITY on the date of the expiration or earlier termination of the AGREEMENT promptly, peaceably, quietly, and in as good order and condition as the same now are or may be hereafter improved by CONCESSIONAIRE or CITY, normal use and wear and tear thereof excepted.



No agreement of surrender or to accept a surrender shall be valid unless and until the same is in writing and signed by the duly authorized representatives of CITY and CONCESSIONAIRE. Neither the doing nor omission of any act or thing by any of the officers, agents or employees of CITY shall be deemed an acceptance of a surrender of the PREMISES utilized by CONCESSIONAIRE under the AGREEMENT.

Upon termination of this AGREEMENT other than by forfeiture, CONCESSIONAIRE shall quit and surrender possession of the PREMISES to CITY and shall, without cost to CITY, remove any and all works, structures, or other improvements owned by CONCESSIONAIRE and restore the premises to the same or as good condition, ordinary wear and tear excepted, as the same were in it at the time of the first occupancy, thereof by CONCESSIONAIRE under this or any prior agreement or lease. CONCESSIONAIRE will have thirty (30) days to effect removal and restoration. DEPARTMENT may at his option accept all or a portion of the works, structures, or other improvements on behalf of CITY in lieu of all or a portion of the removal or restoration required herein.

#### **SECTION 19. NOTICES**

A. To CITY:

Unless otherwise stated in the AGREEMENT, written notices to CITY hereunder shall be addressed to:

Department of Recreation and Parks  
Attention: Partnerships and Revenue Branch/Concession Unit  
P.O. Box 86610  
Los Angeles, CA 90086-0610

All such notices may either be delivered personally or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid for delivery by registered or certified mail. Service in such manner by registered or certified mail shall be effective upon receipt.

CITY shall provide CONCESSIONAIRE with written notice of any address change within thirty (30) days of the occurrence of said change.

B. To CONCESSIONAIRE:

The execution of any notice to CONCESSIONAIRE by DEPARTMENT shall be as effective for CONCESSIONAIRE as if it were executed by BOARD, or by Resolution or Order of said BOARD.

All such notices may either be delivered personally to the CONCESSIONAIRE or to any officer or responsible employee of CONCESSIONAIRE or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid for delivery by registered or certified mail. Service in such manner by registered or certified mail shall be effective upon receipt.

Written notices to CONCESSIONAIRE shall be addressed to CONCESSIONAIRE as follows:

*Los Angeles Pony Rides, Inc.  
Attn: Mr. Stephen Weeks  
145 South Van Ness Ave.  
Los Angeles, CA 90004*

CONCESSIONAIRE shall provide CITY with written notice of any address change within thirty (30) days of the occurrence of said address change.

## **SECTION 20. INCORPORATION OF DOCUMENTS**

This AGREEMENT and incorporated documents represent the entire integrated agreement of the parties and supersedes all prior written or oral representations, discussions, and agreements. The following Exhibits are to be attached to and made part of this AGREEMENT by reference:

- A. Standard Provision for City Contracts (Rev. 3/09)
- B. Griffith Park Pony Ride Premises Map
- C. Required Insurance and Minimum Limits; Instructions and Information on Complying with City Insurance Requirements
- D. Remittance Advice Form
- E. Form General No. 87 "Non-Employee Accident or Illness Report"
- F. Special Occurrence and Loss Report
- G. Schedule A, MBE/WBE/SBE/EBE/DVBE/OBE Subcontractors Information Form
- H. Schedule B, MBE/WBE/SBE/EVE/DVBE/OBE Utilization Profile
- I. Final Subcontracting Report Form, Schedule C
- J. Price List
- K. Asset Purchase Agreement

In the event of any inconsistency between any of the provisions of this Agreement and/or exhibits attached hereto, the inconsistency shall be resolved by giving precedence in the following order: 1) This Agreement exclusive of attachments, 2) Exhibit A, 3) Exhibit B, 4) Exhibit C, 5) Exhibit D, 6) Exhibit E, and, 7) Exhibit F, etc.

*(Signature Page to Follow)*

**IN WITNESS WHEREOF, THE CITY OF LOS ANGELES** has caused this **AGREEMENT** to be executed on its behalf by its duly authorized General Manager of the Department of Recreation and Parks, and **CONCESSIONAIRE** has executed the same as of the day and year herein below written.

**THE CITY OF LOS ANGELES**, a municipal corporation, acting by and through the Department of Recreation and Parks

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
MICHAEL A. SHULL  
General Manager

CONCESSIONAIRE

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM:  
MICHAEL N. FEUER, City Attorney

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
STREFAN FAUBLE  
Deputy City Attorney

Business Tax Registration Certificate Number: \_\_\_\_\_

Internal Revenue Service Taxpayer Identification Number: 81-1465375

AGREEMENT Number: \_\_\_\_\_

## STANDARD PROVISIONS FOR CITY CONTRACTS

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## STANDARD PROVISIONS FOR CITY CONTRACTS

### **PSC-1. CONSTRUCTION OF PROVISIONS AND TITLES HEREIN**

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" herein in this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one **CONTRACTOR** herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

### **PSC-2. NUMBER OF ORIGINALS**

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the **CITY'S** option, one or more additional original texts of this Contract may also be retained by the City.

### **PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT**

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Contract.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of the Contract shall not be affected thereby.

**PSC-4. TIME OF EFFECTIVENESS**

Unless otherwise provided, this Contract shall take effect when all of the following events have occurred:

- A. This Contract has been signed on behalf of **CONTRACTOR** by the person or persons authorized to bind **CONTRACTOR** hereto;
- B. This Contract has been approved by the City Council or by the board, officer or employee authorized to give such approval;
- C. The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and
- D. This Contract has been signed on behalf of the **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

**PSC-5. INTEGRATED CONTRACT**

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in paragraph PSC-6 hereof.

**PSC-6. AMENDMENT**

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-4.

**PSC-7. EXCUSABLE DELAYS**

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

**PSC-8. BREACH**

Except for excusable delays as described in PSC-7, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights

and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

**PSC-9. WAIVER**

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

**PSC-10. TERMINATION**

**A. TERMINATION FOR CONVENIENCE**

The **CITY** may terminate this Contract for the **CITY'S** convenience at any time by giving **CONTRACTOR** thirty days written notice thereof. Upon receipt of said notice, **CONTRACTOR** shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The **CITY** shall pay **CONTRACTOR** its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by **CONTRACTOR** to affect such termination. Thereafter, **CONTRACTOR** shall have no further claims against the **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon the date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

**B. TERMINATION FOR BREACH OF CONTRACT**

1. Except for excusable delays as provided in PSC-7, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, the **CITY** may give **CONTRACTOR** written notice of such default. If **CONTRACTOR** does not cure such default or provide a plan to cure such default which is acceptable to the **CITY** within the time permitted by the **CITY**, then the **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then the **CITY** may immediately terminate this Contract.
3. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates the



**CITY'S** lobbying policies, then the **CITY** may immediately terminate this Contract.

4. In the event the **CITY** terminates this Contract as provided in this section, the **CITY** may procure, upon such terms and in such manner as the **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to the **CITY** for all of its costs and damages, including, but not limited, any excess costs for such services.
5. All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.
6. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-10(A) Termination for Convenience.
7. The rights and remedies of the **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

#### **PSC-11. INDEPENDENT CONTRACTOR**

**CONTRACTOR** is acting hereunder as an independent contractor and not as an agent or employee of the **CITY**. **CONTRACTOR** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the **CITY**.

#### **PSC-12. CONTRACTOR'S PERSONNEL**

Unless otherwise provided or approved by the **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. The **CITY** shall have the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** agrees to remove personnel from performing work under this Contract if requested to do so by the **CITY**.

**CONTRACTOR** shall not use subcontractors to assist in performance of this Contract without the prior written approval of the **CITY**. If the **CITY** permits the use of subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of

this Contract. The **CITY** has the right to approve **CONTRACTOR'S** subcontractors, and the **CITY** reserves the right to request replacement of subcontractors. The **CITY** does not have any obligation to pay **CONTRACTOR'S** subcontractors, and nothing herein creates any privity between the **CITY** and the subcontractors.

**PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION**

**CONTRACTOR** may not, unless it has first obtained the written permission of the **CITY**:

- A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

**PSC-14. PERMITS**

**CONTRACTOR** and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance hereunder and shall pay any fees required therefor. **CONTRACTOR** certifies to immediately notify the **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

**PSC-15. CLAIMS FOR LABOR AND MATERIALS**

**CONTRACTOR** shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any **CITY** property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), against **CONTRACTOR'S** rights to payments hereunder, or against the **CITY**, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**PSC-16. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED**

If applicable, **CONTRACTOR** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this Contract, **CONTRACTOR** shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

**PSC-17. RETENTION OF RECORDS, AUDIT AND REPORTS**

**CONTRACTOR** shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form, in accordance with

requirements prescribed by the **CITY**. These records shall be retained for a period of no less than three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. Said records shall be subject to examination and audit by authorized **CITY** personnel or by the **CITY'S** representative at any time during the term of this Contract or within the three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. **CONTRACTOR** shall provide any reports requested by the **CITY** regarding performance of this Contract. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

**PSC-18. FALSE CLAIMS ACT**

**CONTRACTOR** acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the **CITY** under the False Claims Act (Cal. Gov. Code §§ 12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

**PSC-19. BONDS**

All bonds which may be required hereunder shall conform to **CITY** requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

**PSC-20. INDEMNIFICATION**

Except for the active negligence or willful misconduct of the **CITY**, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, **CONTRACTOR** undertakes and agrees to defend, indemnify and hold harmless the **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by **CONTRACTOR** or its subcontractors of any tier. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-20 shall survive expiration or termination of this Contract.

**PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION**

**CONTRACTOR**, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the **CITY**, and any of its Boards, Officers, Agents, Employees, Assigns,

and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information right (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its subcontractors of any tier, in performing the work under this Contract; or (2) as a result of the **CITY'S** actual or intended use of any Work Product furnished by **CONTRACTOR**, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-21 shall survive expiration or termination of this Contract.

#### **PSC-22. INTELLECTUAL PROPERTY WARRANTY**

**CONTRACTOR** represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

#### **PSC-23. OWNERSHIP AND LICENSE**

Unless otherwise provided for herein, all Work Products originated and prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract shall be and remain the exclusive property of the **CITY** for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas matters and combinations thereof, and all forms of intellectual property. **CONTRACTOR** hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by **CONTRACTOR** under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

For all Work Products delivered to the **CITY** that are not originated or prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract, **CONTRACTOR** hereby grants a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

**CONTRACTOR** shall not provide or disclose any Work Product to any third party without prior written consent of the **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subcontractors performing work under this Contract such that the **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

**PSC-24. INSURANCE**

During the term of this Contract and without limiting **CONTRACTOR'S** indemnification of the **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by **CONTRACTOR**, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form General 146 in Exhibit 1 hereto), covering its operations hereunder. Such insurance shall conform to **CITY** requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto) and shall otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

**PSC-25. DISCOUNT TERMS**

**CONTRACTOR** agrees to offer the **CITY** any discount terms that are offered to its best customers for the goods and services to be provided hereunder and apply such discount to payments made under this Contract which meet the discount terms.

**PSC-26. WARRANTY AND RESPONSIBILITY OF CONTRACTOR**

**CONTRACTOR** warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within **CONTRACTOR'S** profession, doing the same or similar work under the same or similar circumstances.

**PSC-27. NON-DISCRIMINATION**

Unless otherwise exempt, this Contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the **CITY**. In performing this Contract, **CONTRACTOR** shall not

discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

#### **PSC-28. EQUAL EMPLOYMENT PRACTICES**

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **CONTRACTOR** and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of **CITY** contracts. On their or either of their request **CONTRACTOR** shall provide evidence that he or she has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of **CITY** contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has failed to comply with the Equal Employment Practices provisions of a **CITY** contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until **CONTRACTOR** shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the **CITY**, or when an individual bid or proposal is submitted, **CONTRACTOR** shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of **CITY** Contracts.

- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Hiring practices;
  2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  3. Training and promotional opportunities; and
  4. Reasonable accommodations for persons with disabilities.
- L. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR'S** Contract with the **CITY**.

**PSC-29. AFFIRMATIVE ACTION PROGRAM**

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
  2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  3. **CONTRACTOR** shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to



their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, **CONTRACTOR** shall certify on an electronic or hard copy form to be supplied, that **CONTRACTOR** has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of **CITY** contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Affirmative Action Program provisions of **CITY** contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has breached the Affirmative Action Program provisions of a **CITY** contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that **CONTRACTOR** has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a **CITY** contract, there may be deducted from the amount payable to **CONTRACTOR** by the **CITY** under the contract, a penalty of ten dollars

(\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a **CITY** contract.

- H. Notwithstanding any other provisions of a **CITY** contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in **CITY** contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. **CONTRACTOR** shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the **CITY**. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, **CONTRACTOR** may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, **CONTRACTOR** must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
  - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
  - 2. **CONTRACTOR** may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the **CITY** with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and **CONTRACTOR**.

- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  2. Classroom preparation for the job when not apprenticeable;
  3. Pre-apprenticeship education and preparation;
  4. Upgrading training and opportunities;
  5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
  6. The entry of qualified women, minority and all other journeymen into the industry; and
  7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the **CITY'S** Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the **CITY** and may be used at the discretion of the **CITY** in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.

- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the **CITY** and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the **CITY**.

### **PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS**

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, **CONTRACTOR** will fully comply with all applicable State and Federal employment reporting requirements for **CONTRACTOR'S** employees. **CONTRACTOR** shall also certify (1) that the Principal Owner(s) of **CONTRACTOR** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that **CONTRACTOR** will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, *et seq.* of the California Family Code; and (3) that **CONTRACTOR** will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to obtain compliance of its subcontractors shall constitute a default by **CONTRACTOR** under this Contract, subjecting this Contract to termination where such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

**CONTRACTOR** certifies that, to the best of its knowledge, it 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 Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

**PSC-31. LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE**

- A. Unless otherwise exempt, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:
1. **CONTRACTOR** assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.
  2. **CONTRACTOR** further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. **CONTRACTOR** shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. **CONTRACTOR** shall deliver the executed pledges from each such subcontractor to the **CITY** within ninety (90) days of the execution of the subcontract. **CONTRACTOR'S** delivery of executed pledges from each such subcontractor shall fully discharge the obligation of **CONTRACTOR** with respect to such pledges and fully discharge the obligation of **CONTRACTOR** to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
  3. **CONTRACTOR**, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the **CITY** with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. **CONTRACTOR** shall post the Notice of Prohibition Against Retaliation provided by the **CITY**.
  4. Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of PSC-31 and shall incorporate the provisions of the LWO and the SCWRO.

5. **CONTRACTOR** shall comply with all rules, regulations and policies promulgated by the **CITY'S** Designated Administrative Agency which may be amended from time to time.
- B. Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR** has violated provisions of either the LWO or the SCWRO, or both.
- C. Where under the LWO Section 10.37.6(d), the **CITY'S** Designated Administrative Agency has determined (a) that **CONTRACTOR** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the **CITY** in such circumstances may impound monies otherwise due **CONTRACTOR** in accordance with the following procedures. Impoundment shall mean that from monies due **CONTRACTOR**, **CITY** may deduct the amount determined to be due and owing by **CONTRACTOR** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether **CONTRACTOR** is to continue work following an impoundment shall remain in the sole discretion of the **CITY**. **CONTRACTOR** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.
- D. **CONTRACTOR** shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). **CONTRACTOR** shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from **CONTRACTOR**.

**PSC-32. AMERICANS WITH DISABILITIES ACT**

**CONTRACTOR** hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations. **CONTRACTOR** will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. **CONTRACTOR** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by **CONTRACTOR**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

**PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time, which requires **CONTRACTOR** to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect **CONTRACTOR'S** fitness and ability to continue performing this Contract.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this Contract, **CONTRACTOR** pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. **CONTRACTOR** further agrees to: (1) notify the **CITY** within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that **CONTRACTOR** is not in compliance with all applicable federal, state and local laws in performance of this Contract; (2) notify the **CITY** within thirty calendar days of all findings by a government agency or court of competent jurisdiction that **CONTRACTOR** has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance; (3) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the **CITY**; and (4) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the **CITY** within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

**PSC-34. MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM**

**CONTRACTOR** agrees and obligates itself to utilize the services of Minority, Women and Other Business Enterprise firms on a level so designated in its proposal, if any. **CONTRACTOR** certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Personal Services Contracts Greater than \$100,000, if applicable. **CONTRACTOR** shall not change any of these designated subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of the **CITY**, provided that such approval shall not be unreasonably withheld.

**PSC-35. EQUAL BENEFITS ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of the Contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** will comply with the EBO.
- B. The failure of **CONTRACTOR** to comply with the EBO will be deemed to be a material breach of this Contract by the **CITY**.
- C. If **CONTRACTOR** fails to comply with the EBO the **CITY** may cancel, terminate or suspend this Contract, in whole or in part, and all monies due or to become due under this Contract may be retained by the **CITY**. The **CITY** may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.
- E. If the **CITY'S** Designated Administrative Agency determines that a **CONTRACTOR** has set up or used its contracting entity for the purpose of evading the intent of the EBO, the **CITY** may terminate the Contract. Violation of this provision may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

**CONTRACTOR** shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

“During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles’ Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922.”

**PSC-36. SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this Contract.



**EXHIBIT 1****INSURANCE CONTRACTUAL REQUIREMENTS**

**CONTACT** For additional information about compliance with City Insurance and Bond requirements, contact the Office of the City Administrative Officer, Risk Management at (213) 978-RISK (7475) or go online at [www.lacity.org/cao/risk](http://www.lacity.org/cao/risk). The City approved Bond Assistance Program is available for those contractors who are unable to obtain the City-required performance bonds. A City approved insurance program may be available as a low cost alternative for contractors who are unable to obtain City-required insurance.

**CONTRACTUAL REQUIREMENTS****CONTRACTOR AGREES THAT:**

**1. Additional Insured/Loss Payee.** The CITY must be included as an Additional Insured in applicable liability policies to cover the CITY'S liability arising out of the acts or omissions of the named insured. The CITY is to be named as an Additional Named Insured and a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.

**2. Notice of Cancellation.** All required insurance will be maintained in full force for the duration of its business with the CITY. By ordinance, all required insurance must provide at least thirty (30) days' prior written notice (ten (10) days for non-payment of premium) directly to the CITY if your insurance company elects to cancel or materially reduce coverage or limits prior to the policy expiration date, for any reason except impairment of an aggregate limit due to prior claims.

**3. Primary Coverage.** CONTRACTOR will provide coverage that is primary with respect to any insurance or self-insurance of the CITY. The CITY'S program shall be excess of this insurance and non-contributing.

**4. Modification of Coverage.** The CITY reserves the right at any time during the term of this Contract to change the amounts and types of insurance required hereunder by giving CONTRACTOR ninety (90) days' advance written notice of such change. If such change should result in substantial additional cost to CONTRACTOR, the CITY agrees to negotiate additional compensation proportional to the increased benefit to the CITY.

**5. Failure to Procure Insurance.** All required insurance must be submitted and approved by the Office of the City Administrative Officer, Risk Management prior to the inception of any operations by CONTRACTOR.

CONTRACTOR'S failure to procure or maintain required insurance or a self-insurance program during the entire term of this Contract shall constitute a material breach of this Contract under which the CITY may immediately suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect the CITY'S interests and pay any and all premiums in connection therewith and recover all monies so paid from CONTRACTOR.

**6. Workers' Compensation.** By signing this Contract, CONTRACTOR hereby certifies that it is aware of the provisions of Section 3700 *et seq.*, of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake

self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all time during the performance of the work pursuant to this Contract.

**7. California Licensee.** All insurance must be provided by an insurer admitted to do business in California or written through a California-licensed surplus lines broker or through an insurer otherwise acceptable to the CITY. Non-admitted coverage must contain a **Service of Suit** clause in which the underwriters agree to submit as necessary to the jurisdiction of a California court in the event of a coverage dispute. Service of process for this purpose must be allowed upon an agent in California designated by the insurer or upon the California Insurance Commissioner.

**8. Aggregate Limits/Impairment.** If any of the required insurance coverages contain annual aggregate limits, CONTRACTOR must give the CITY written notice of any pending claim or lawsuit which will materially diminish the aggregate within thirty (30) days of knowledge of same. You must take appropriate steps to restore the impaired aggregates or provide replacement insurance protection within thirty (30) days of knowledge of same. The CITY has the option to specify the minimum acceptable aggregate limit for each line of coverage required. No substantial reductions in scope of coverage which may affect the CITY'S protection are allowed without the CITY'S prior written consent.

**9. Commencement of Work.** For purposes of insurance coverage only, this Contract will be deemed to have been executed immediately upon any party hereto taking any steps that can be considered to be in furtherance of or towards performance of this Contract. The requirements in this Section supersede all other sections and provisions of this Contract, including, but not limited to, PSC-4, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

## Exhibit 1 (Continued) Required Insurance and Minimum Limits

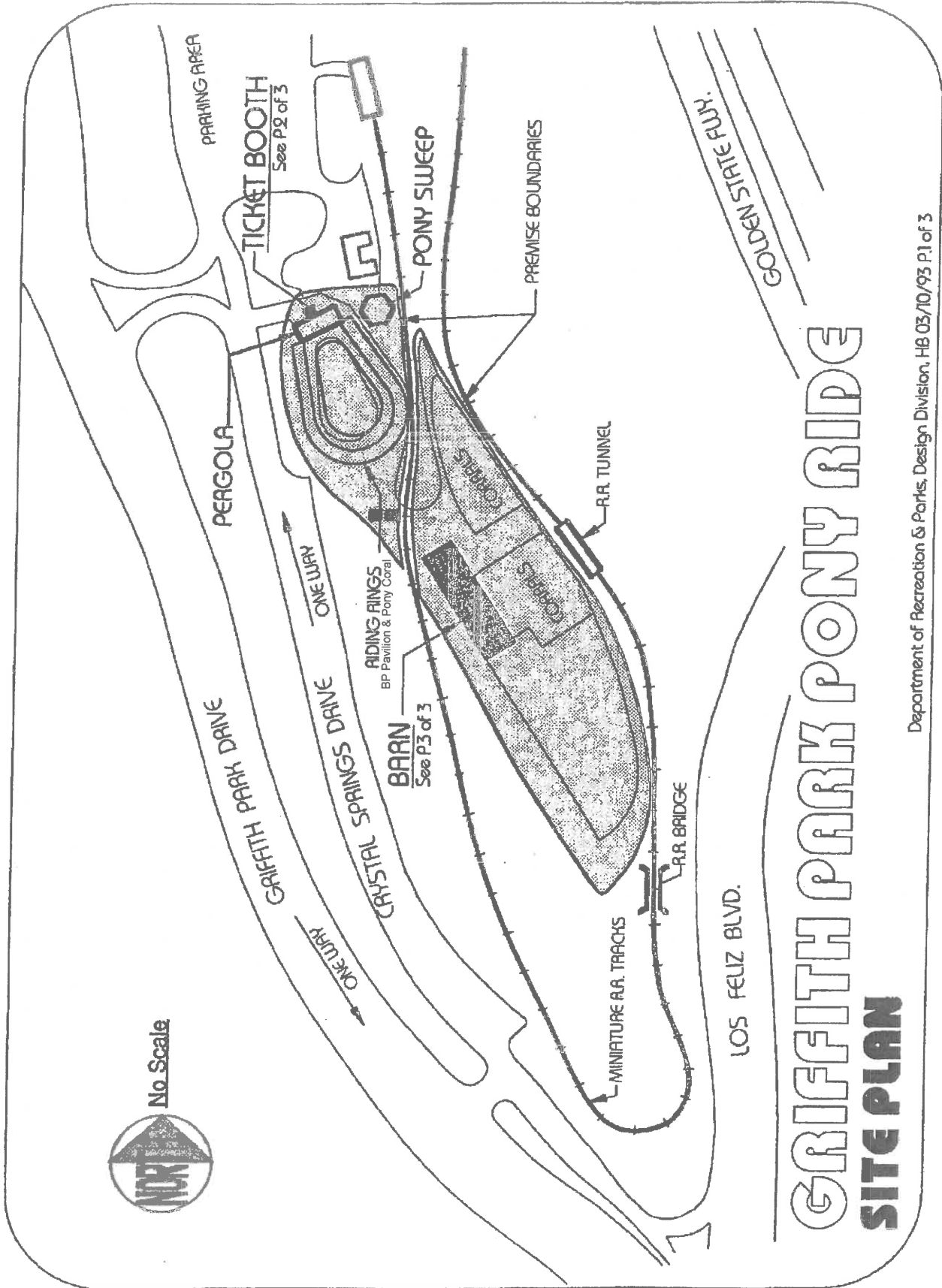
Name: \_\_\_\_\_ Date: \_\_\_\_\_

Agreement/Reference: \_\_\_\_\_

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits (“CSLs”). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

	Limits				
<b>Workers’ Compensation – Workers’ Compensation (WC) and Employer’s Liability (EL)</b>	<table style="width: 100%; border: none;"> <tr> <td style="width: 10%; text-align: center;"><b>WC</b></td> <td style="width: 10%; text-align: center;"><b>Statutory</b></td> </tr> <tr> <td style="text-align: center;"><b>EL</b></td> <td style="border-bottom: 1px solid black;"></td> </tr> </table>	<b>WC</b>	<b>Statutory</b>	<b>EL</b>	
<b>WC</b>	<b>Statutory</b>				
<b>EL</b>					
<input type="checkbox"/> Waiver of Subrogation in favor of City <span style="margin-left: 150px;"><input type="checkbox"/> Longshore &amp; Harbor Workers</span> <span style="margin-left: 150px;"><input type="checkbox"/> Jones Act</span>					
<b>General Liability</b>					
<input type="checkbox"/> Products/Completed Operations <span style="margin-left: 150px;"><input type="checkbox"/> Sexual Misconduct _____</span> <input type="checkbox"/> Fire Legal Liability _____ <input type="checkbox"/> _____					
<b>Automobile Liability</b> (for any and all vehicles used for this Contract, other than commuting to/from work)					
<b>Professional Liability</b> (Errors and Omissions)					
<b>Property Insurance</b> (to cover replacement cost of building – as determined by insurance company)					
<input type="checkbox"/> All Risk Coverage <span style="margin-left: 150px;"><input type="checkbox"/> Boiler and Machinery</span> <input type="checkbox"/> Flood _____ <span style="margin-left: 150px;"><input type="checkbox"/> Builder’s Risk</span> <input type="checkbox"/> Earthquake _____ <span style="margin-left: 150px;"><input type="checkbox"/> _____</span>					
<b>Pollution Liability</b>					
<input type="checkbox"/> _____					
<b>Surety Bonds – Performance and Payment (Labor and Materials) Bonds</b>	100 % of Contract Price				
<b>Crime Insurance</b>					

Other: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



# GRIFFITH PARK PONY RIDE

## SITE PLAN

Department of Recreation & Parks, Design Division, HB 03/10/93 P.1 of 3

### Required Insurance and Minimum Limits

Name: Griffith Park Pony Ride Concession

Date: 11/06/2015

Agreement/Reference: CON-M16-001

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

Limits

**Workers' Compensation - Workers' Compensation (WC) and Employer's Liability (EL)**

	WC <u>Statutory</u>
	EL <u>\$1,000,000</u>

Waiver of Subrogation in favor of City

Longshore & Harbor Workers  
 Jones Act

**General Liability** \$1,000,000

Products/Completed Operations

Fire Legal Liability

Sexual Misconduct

**Automobile Liability** (for any and all vehicles used for this contract, other than commuting to/from work) \$1,000,000

**Professional Liability** (Errors and Omissions)

Discovery Period 12 Months After Completion of Work or Date of Termination

**Property Insurance** (to cover replacement cost of building - as determined by insurance company)

All Risk Coverage

Flood

Earthquake

Boiler and Machinery

Builder's Risk

**Pollution Liability**

**Surety Bonds - Performance and Payment (Labor and Materials) Bonds** 100% of the contract price

**Crime Insurance**

Other: 1) If a contractor has no employees and decides to not cover herself/himself for workers' compensation, please complete the form entitled "Request for Waiver of Workers' Compensation Insurance Requirement" located at <http://cao.lacity.org/risk/InsuranceForms.htm>

**CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
Attn: Concessions Unit  
P.O. Box 86328  
Los Angeles, CA 90086**

**REMITTANCE ADVICE FORM  
GRIFFITH PARK PONY RIDE CONCESSION  
NAME OF CONCESSIONAIRE**

PERIOD COVERED: From: \_\_\_\_\_ To: \_\_\_\_\_

CATEGORY	GROSS SALES	SALES TAX	NET SALES	RENTAL RATE	AMOUNT DUE
Pony Ride Sales	_____	_____	\$ -	25%	\$ -
Equine Classes	_____	_____	_____	25%	\$ -
Birthday Parties	_____	_____	_____	25%	\$ -
Merchandise Kiosk	_____	_____	_____	25%	\$ -
OTHER:	_____	_____	_____	25%	\$ -
<b>SUB-TOTAL RENT DUE:</b>					<u>\$ -</u>

UTILITIES: water, use of trash dumpsters \$ 250.00

LATE RENT FEE: All payments are due by the 15th for the previous month. \$ -

OCCUPANCY TAX: Paid Quarterly (April / July / October / January) for preceding three months at \$1.48 per \$1,000 or fraction thereof of rent paid \$ -

LATE OCCUPANCY TAX FEE: Occupancy Tax payments are due quarterly by the 15th of April, July, October, January for the preceding three (3) months. \$ -

**SUB-TOTAL DUE:** \$ 250.00

ADJUSTMENTS\*: Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ \$ -

\*NOTE: All amortizations (allowance for rent reduction for any expenditure) must be approved in writing by the Department of Recreation and Parks. Invoices and proof of payment must be submitted with the Remittance Advice for any and all months amortization is realized.

**TOTAL AMOUNT DUE:** \$ 250.00

I hereby certify that this is a true and correct record of the period stated above:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Form Gen. 87 (R. 4/09)

City of Los Angeles

Orig. City Attorney m/s 140  
Dup. Risk Manager m/s 625-24  
Trip. Dept. Area Office or Division Head

NON-EMPLOYEE ACCIDENT OR ILLNESS REPORT

Department Reporting
Recreation and Parks

**INSTRUCTIONS:** All accidents, illnesses, or injuries, no matter how minor, involving non-employees while on City property, must be reported by the City employee or department in proximity. Be complete as possible. The information provided may be needed by the City Attorney in preparing the case if legal action is necessary. Use typewriter or print carefully.

**PART I - PERSONAL DATA**

1. NAME (OF PERSON INJURED) (LAST) (FIRST) (MIDDLE)		2a. HOME ADDRESS (STREET) (CITY) (ZIP)	3a. PHONE NUMBER
		2b. BUSINESS ADDRESS (STREET) (CITY) (ZIP)	3b. PHONE NUMBER
4. SEX <input type="checkbox"/> M <input type="checkbox"/> F	5. DATE OF BIRTH	6. IF MINOR, NAME OF PARENT OR GUARDIAN	7. PHONE NUMBER

**PART II - ACCIDENT/INJURY**

8. DATE	9. TIME	10. LOCATION OF PUBLIC PROPERTY INVOLVED	11. WAS FIRST AID GIVEN? <input type="checkbox"/> YES <input type="checkbox"/> NO
12. FIRST AID GIVEN BY (NAME)		(ADDRESS)	(PHONE NUMBER)
13. PHYSICIAN/HOSPITAL INJURED TAKEN TO		(ADDRESS)	(PHONE NUMBER)
14. NATURE OF INJURIES (BE SPECIFIC)			
15. DESCRIBE ACCIDENT (IN DETAIL)			
16. NAME AND POSITION OF PERSON IMMEDIATELY IN CHARGE OF FACILITY		17. WHERE WAS RESPONSIBLE PERSON AT TIME OF ACCIDENT?	

**PART III - WITNESSES**

18. NAME (LAST) (FIRST) (MIDDLE)	19. ADDRESS (STREET) (CITY) (ZIP)	20. PHONE NUMBER	CITY EMPLOYEE <input type="checkbox"/> YES <input type="checkbox"/> NO
a.			<input type="checkbox"/> YES <input type="checkbox"/> NO
b.			<input type="checkbox"/> YES <input type="checkbox"/> NO
c.			<input type="checkbox"/> YES <input type="checkbox"/> NO
d.			<input type="checkbox"/> YES <input type="checkbox"/> NO

**PART IV - STATEMENT OF INJURED PARTY OR WITNESS**

21.
-----

**PART V - EMPLOYEE FILING REPORT**

22. NAME AND POSITION	23. SIGNATURE	24. DATE
-----------------------	---------------	----------

Print Form

**SPECIAL OCCURRENCE AND LOSS REPORT**

REPORT NUMBER

SEE INSTRUCTIONS ON PAGE 2					
1. NAME OF FACILITY			DATE OF OCCURRENCE	TIME	A.M. <input type="checkbox"/> P.M. <input type="checkbox"/>
2. SUBJECT OF REPORT					
3. EXACT LOCATION OF OCCURRENCE					
4. DESCRIBE WHAT HAPPENED ESTIMATE PROPERTY DAMAGE, IF ANY					
5.					ESTIMATE OF DAMAGES
6. LIST STOLEN ITEMS, IF ANY, (EXCEPT CASH)					
QUANTITY	TYPE OF ITEM OR EQUIPMENT, DESCRIBE		DEPT NO	SERIAL NO	APPROX VALUE
7. TOTAL LOSSES (TOTAL OF LINES 5, 7 AND 8)					TOTAL \$0.00
8. IF MONEY WAS TAKEN INDICATE AMOUNT AND WHERE KEPT AT TIME OF THEFT CALL CHIEF FINANCIAL OFFICER AT (213) 202-4380 LOCATION					AMOUNT
9. TOTAL LOSSES (TOTAL OF LINES 5, 7 AND 8)					TOTAL \$0.00
10. WHO DISCOVERED LOSS? NAME		TITLE	DATE	TIME	A.M. <input type="checkbox"/> P.M. <input type="checkbox"/>
11. HOW WAS ENTRANCE GAINED?					
12. WHO SECURED BLDG. PRIOR TO OCCURENCE? NAME		TITLE	DATE	TIME	A.M. <input type="checkbox"/> P.M. <input type="checkbox"/>
13. WAS POLICE REPORT MADE? <input type="checkbox"/> YES <input type="checkbox"/> NO		D.R. NUMBER			
14. HAS A WORK ORDER BEEN INITIATED FOR REPAIRS? <input type="checkbox"/> YES <input type="checkbox"/> NO		WORK ORDER			
15. PERSONS INVOLVED <input type="checkbox"/> WITNESS <input type="checkbox"/> VICTIM <input type="checkbox"/> SUSPECT					
NAME	ADDRESS		AGE	SEX	PHONE NUMBER
16. IF VEHICLE INVOLVED YEAR MAKE		LICENSE NO	OWNERS NAME, ADDRESS AND INSURANCE CO		
17. GIVE ANY REMEDIAL MEASURES / CORRECTIVE ACTIONS THAT WERE TAKEN, IF ANY					
18. REPORT SUBMITTED BY		NAME	TITLE	DATE	



**INSTRUCTIONS:** This report must be made out in reporting any damage to, theft or loss of, private or public property or any other reportable incident occurring at any department facility and report to any member of the staff. This report to be filled out and distributed within 24 hours of incident. This form is NOT to be used for injury, accident or illness to City Employees or Non-City employees. Use general forms numbers 5020 or 87 for these purposes.

If cash is taken call Chief Financial Officer at (213) 202-4380 as soon as possible.

**FILL OUT FORM AS COMPLETE AS POSSIBLE USING THE**

1. Name of recreation center, park etc. date and time (if known) incident occurred.
2. Subject of report may be vandalism, theft, fire, defacing public property, indecent exposure, etc.
3. Exact location of incident at facility i.e. gym, boys restroom, merry-go-round, ball diamond, etc.
4. Describe incident, give details. Use other side of form if necessary.
5. Estimate property damage, if any, incurred as a result of the described incident.
6. List stolen or lost items. Give identifying numbers and approximate replacement cost.
7. Total cost of stolen or lost items.
8. If cash taken, state amount and location. i.e. \$10.00 from coke machine, \$50.00 from safe, etc.
9. Total losses. Add up the amounts from 5,7, and 8
10. Name and title of person discovering the loss. Give date and time discovered.
11. Describe how bldg. was entered, i.e. unauthorized key, kitchen window, forced open office door, etc.
12. Name and title of person locking up premises before incident occurred. Give date and time secured.
13. When reporting incident to police, request that reporting officer call his station and obtain a D.R. number. Enter this number on line no. 13
14. If repairs are needed, initiate job order through channels and record Work Order number on line no. 14.
15. Obtain requested information on any persons involved. Be as complete as possible.
16. Give requested information on any city or non-city-owned vehicle involved in the purpose of this report.
17. Give any recommendations for corrective actions that should be taken to avoid further incidents.
18. Name and title of person making this report. Date report made out.

**SCHEDULE A  
CITY OF LOS ANGELES  
MBE/WBE/SBE/EBE/DVBE/OBE SUBCONTRACTORS INFORMATION FORM**

(NOTE: COPY THIS PAGE AND ADD ADDITIONAL SHEETS AS NECESSARY, SIGN ALL SHEETS)

Project Title
---------------

Proposer	Address
Contact Person	Phone/Fax

LIST OF ALL SUBCONSULTANTS (SERVICE PROVIDERS/SUPPLIERS/ETC.)				
NAME, ADDRESS, TELEPHONE NO. OF SUBCONSULTANT	DESCRIPTION OF WORK OR SUPPLY	MBE/WBE/SBE/EBE/DVBE/OBE	CALTRANS/CITY/MTA CERT. NO.	DOLLAR VALUE OF SUBCONTRACT

PERCENTAGE OF MBE/WBE/SBE/EBE/DVBE/OBE PARTICIPATION			<div style="text-align: center; margin-bottom: 20px;"> <hr style="border: 0; border-top: 1px solid black; width: 80%; margin: 0 auto;"/>                     Signature of Person Completing this Form                 </div> <div style="text-align: center; margin-bottom: 20px;"> <hr style="border: 0; border-top: 1px solid black; width: 80%; margin: 0 auto;"/>                     Printed Name of Person Completing this Form                 </div> <div style="text-align: center;"> <hr style="border: 0; border-top: 1px solid black; width: 80%; margin: 0 auto;"/>                     Title <span style="margin-left: 100px;">Date</span> </div>
	DOLLARS	PERCENT	
TOTAL MBE AMOUNT	\$	%	
TOTAL WBE AMOUNT	\$	%	
TOTAL SBE AMOUNT	\$	%	
TOTAL EBE AMOUNT	\$	%	
TOTAL DVBE AMOUNT	\$	%	
TOTAL OBE AMOUNT	\$	%	
BASE BID AMOUNT	\$		

**MUST BE SUBMITTED WITH PROPOSAL**

**SCHEDULE B  
CITY OF LOS ANGELES  
MBE/WBE/SBE/EBE/DVBE/OBE UTILIZATION PROFILE**

Project Title	Contract No.
---------------	--------------

Consultant	Address
Contact Person	Phone/Fax

CONTRACT AMOUNT (INCLUDING AMENDMENTS)	THIS INVOICE AMOUNT	INVOICED TO DATE AMOUNT (INCLUDE THIS INVOICE)

MBE/WBE/SBE/EBE/DVBE/OBE SUBCONTRACTORS (LIST ALL SUBS)					
NAME OF SUBCONTRACTOR	MBE/WBE/SBE/EBE/DVBE/OBE	ORIGINAL SUBCONTRACT AMOUNT	THIS INVOICE (AMOUNT NOW DUE)	INVOICED TO DATE (INCLUDE THIS INVOICE)	SCHEDULED PARTICIPATION TO DATE

CURRENT PERCENTAGE OF MBE/WBE/SBE/EBE/DVBE/OBE PARTICIPATION TO DATE			Signature of Person Completing this Form:
	DOLLARS	PERCENT	
TOTAL MBE PARTICIPATION	\$	%	Printed Name of Person Completing this Form:      Title: _____ Date: _____
TOTAL WBE PARTICIPATION	\$	%	
TOTAL SBE PARTICIPATION	\$	%	
TOTAL EBE PARTICIPATION	\$	%	
TOTAL DVBE PARTICIPATION	\$	%	
TOTAL OBE PARTICIPATION	\$	%	

**SCHEDULE C  
CITY OF LOS ANGELES  
FINAL SUBCONTRACTING REPORT**

Project Title		Contract No.
Company Name	Address	
Contact Person	Phone	

Name, Address, Telephone No. of all Subconsultants Listed on Schedule B	Description of Work or Supply	MBE/WBE/SBE/EBE/DVBE/OBE	Original Dollar Value of Subcontract	Actual Dollar Value of Subcontract*

\* If the actual dollar value differs from the original dollar value, explain the differences and give details.

	Total Dollars	Achieved Levels	Pledged Levels		Total Dollars	Achieved Levels	Pledged Levels
MBE Participation				WBE Participation			
SBE Participation				EBE Participation			
DVBE Participation				OBE Participation			

Signature of Person Completing this Form \_\_\_\_\_ Printed Name \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

**SUBMIT WITHIN 15 DAYS OF PROJECT COMPLETION**

PRICE LIST  
Griffith Park Pony Ride Concession

Pony Ride = \$5

Pony Sweep Ride = \$5

Wagon Ride = \$5

Petting Zoo = Free

School class visits in Pavilion with staff presentation = Free

Birthday Party (2 hour use of Birthday Party Pavilion, pony rides, and train ride included for 10 children) = \$250

Pony Care Experience = \$20 for 1 hour class in Pavilion ring with pony.

Non-riding staffed educational program for children, adults, or veterans with special needs = \$20 per hour in Pavilion ring with pony.

## ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this "**Agreement**"), made this 3-11-16 day of March, 2016, is entered into by and between Griffith Park Pony Ride, Inc., a California corporation (the "**Seller**"), whose address is 4400 Crystal Springs Drive, Los Angeles, California 90027, and Los Angeles Pony Rides Inc., a California corporation (the "**Purchaser**"), whose address is 145 South Van Ness Avenue, Los Angeles, California 90004.

### RECITALS

- A. Seller is engaged in the business of operating a public pony ride concession known as Griffith Park Pony Rides (the "**Concession**") from the City of Los Angeles Department of Recreation and Parks (the "**City**").
- B. Purchaser is participating in a Request for Proposal with the City for the operation and maintenance of the Concession. Purchaser will place or file all paperwork required for the Request for Proposal with the City by March 15, 2016.
- C. If Purchaser is awarded the Concession by the City, then the Seller wishes to sell to the Purchaser, and the Purchaser desires to purchase, the rights of the Seller to the assets listed on Schedule A attached hereto (the "**Purchased Assets**"), subject to the terms and conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is agreed by and between the parties as follows:

1. Purchase and Sale of Assets. Subject to the terms and conditions set forth herein, at the Closing, Seller shall sell, assign, transfer and convey, and Purchaser shall purchase all of the Seller's right, title and interest in the Purchased Assets, free and clear of all liens and encumbrances other than (a) liens for taxes not yet due and payable or being contested in good faith by appropriate procedures and (b) mechanics', carriers', workmens', repairmen's or other similar liens arising or incurred in the ordinary course of business consistent with past practice and which are not material to the Purchased Assets ("**Permitted Encumbrances**"). Subject to the terms and conditions set forth herein, the Purchaser shall assume and agree to pay, perform and discharge the liabilities and obligations arising after the Closing under the Purchased Assets.
2. Purchase Price. The aggregate fair market value purchase price for the Purchased Assets shall be \$162,500.00 (the "**Purchase Price**"). The Purchase Price shall be payable by the Purchaser to the Seller in cashier's check form at the Closing.
3. Closing. The closing of the transactions contemplated by this Agreement (the "**Closing**") shall take place two days before the date Purchaser is approved by the City of Los Angeles, Department of Recreation and Parks to begin operations at the Griffith Park Pony Ride Concession. At the Closing, the Seller shall deliver to the Purchaser a bill of sale in the form of Attachment 1 hereto and duly executed by the Seller, transferring the Purchased Assets to the Purchaser. At the Closing, the Purchaser shall deliver to the Seller (i) the Purchase Price and (ii) such other customary instruments of transfer,

assumption, filings or documents, in form and substance reasonably satisfactory to the Seller, as may be required to give effect to this Agreement.

4. Representations and Warranties of Seller. Seller warrants and represents to the Purchaser as of the date hereof that:

- (a) The Seller is not, to its knowledge, presently involved in any activity or outstanding dispute with any taxing authority as to the amount of any taxes due, nor has the Seller received any notice of any deficiency, credit or other indication of deficiency from any taxing authority that may materially affect the Purchased Assets.
- (b) The Seller is the owner of and has good and marketable title to the Purchased Assets, free from all encumbrances except Permitted Encumbrances.
- (c) All equipment included in the Purchased Assets will be in working condition at the Closing. At the Closing, sixty-five (65) ponies included in the Purchased Assets will be in reasonably good health. Of the sixty-five (65) ponies included in the Purchased Assets, fifty (50) will be trained and able to participate in daily operations of Seller's business; fifteen (15) of which will need training to participate in day to day operations of Seller's business. Sellers will diligently train as many as possible until the Closing with no guarantees that fifteen (15) will be ready by that to participate in the daily operation of Seller's business.
- (d) Except for the representations and warranties contained in this Section 4, neither the Seller nor any other person has made or makes any other express or implied representation or warranty, either written or oral, on behalf of the Seller, including any representation or warranty as to the Concession and the Purchased Assets furnished or made available to the Purchaser and its representatives or as to the future revenue, profitability or success of the Concession, or any representation or warranty arising from statute or otherwise in law.

5. Representations and Warranties of the Purchaser.

- (a) Organization and Authority of the Purchaser. The Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the state of California.
- (b) Authority of the Purchaser. The Purchaser has all necessary corporate power and authority to enter into this Agreement, to carry out its obligations hereunder and to consummate the transactions contemplated hereby. The execution and delivery by the Purchaser of this Agreement, the performance by the Purchaser of its obligations hereunder and the consummation by the Purchaser of the transactions contemplated hereby have been duly authorized by all requisite corporate action on the part of the Purchaser. This Agreement has been duly executed and delivered by the Purchaser, and this Agreement constitutes a legal, valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms.

- (c) No Conflicts; Consents. The execution, delivery and performance by the Purchaser of this Agreement, and the consummation of the transactions contemplated hereby, do not and will not: (a) result in a violation or breach of any provision of the organizational documents of the Purchaser; (b) result in a violation or breach of any provision of any law or governmental order applicable to the Purchaser; or (c) require the consent, notice or other action by any person under, conflict with, result in a violation or breach of, constitute a default under or result in the acceleration of any agreement to which the Purchaser is a party. Except for the award of the Concession to the Purchaser and approval of Purchaser of the contract to operate Griffith Park Pony Rides by the City, no consent, approval, permit, governmental order, declaration or filing with, or notice to, any governmental authority is required by or with respect to the Purchaser in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.
- (d) Sufficiency of Funds; Solvency. The Purchaser has and will have at the Closing sufficient cash on hand or other sources of immediately available funds to enable it to make payment of the Purchase Price and consummate the transactions contemplated by this Agreement. Immediately after giving effect to the transactions contemplated hereby, the Purchaser shall be solvent and shall: (a) be able to pay its debts as they become due; (b) own property that has a fair saleable value greater than the amounts required to pay its debts (including a reasonable estimate of the amount of all contingent liabilities); and (c) have adequate capital to carry on its business. No transfer of property is being made and no obligation is being incurred in connection with the transactions contemplated hereby with the intent to hinder, delay or defraud either present or future creditors of the Purchaser. In connection with the transactions contemplated hereby, the Purchaser has not incurred, nor plans to incur, debts beyond its ability to pay as they become absolute and matured.
- (e) Legal Proceedings. There are no actions, suits, claims, investigations or other legal proceedings pending or, to the Purchaser's knowledge, threatened against or by the Purchaser or any affiliate of the Purchaser that challenge or seek to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement.
- (f) Independent Investigation. The Purchaser has conducted its own independent investigation, review and analysis of the Concession and the Purchased Assets, and acknowledges that it has been provided adequate access to the personnel, properties, assets, premises, books and records, and other documents and data of the Seller for such purpose. The Purchaser acknowledges and agrees that: (a) in making its decision to enter into this Agreement and to consummate the transactions contemplated hereby, the Purchaser has relied solely upon its own investigation and the express representations and warranties of the Seller set forth in Section 4 of this Agreement; and (b) neither the Seller nor any other person has made any representation or warranty as to the Seller, the Concession, the Purchased Assets or this Agreement, except as expressly set forth in Section 4 of



this Agreement. Purchaser agrees to accept the Purchased Assets "as is" without warranty as to their condition and operation after the Closing.

6. Concession Approval. The Purchaser shall place or file all paperwork required for its Request for Proposal to the City on or before March 15, 2016. The parties acknowledge and agree that (a) the Seller may be a bidder for the Concession, (b) this Agreement does not prohibit the Seller from participating in the bidding process, and (c) prior to the Closing, Seller may enter into any other agreement for the purchase and sale of the Purchased Assets with any other person. Purchaser acknowledges that it encourages all bidders for the Concession in an open process.
7. Termination. If (a) Purchaser is not awarded the Concession and Purchaser not approve the concession contract by the City, or (b) the Seller sells a substantial portion of the Purchased Assets to a person other than the Purchaser pursuant to an agreement entered into in accordance with Section 6 above, then this Agreement shall immediately terminate, and shall no longer be binding on Purchaser or Seller. Upon the termination of this Agreement, no money shall be due to Seller from Purchaser and no assets would transfer to Purchaser, with no recourse to either party. Upon such termination, this Agreement will be null and void.
8. Bulk Sales Laws; Transfer Taxes. The parties hereby waive compliance with the provisions of any bulk sales, bulk transfer or similar laws of any jurisdiction that may otherwise be applicable with respect to the sale of any or all of the Purchased Assets to the Purchaser. All transfer, documentary, sales, use, stamp, registration, value added and other such taxes and fees (including any penalties and interest) incurred in connection with this Agreement shall be borne and paid by the Purchaser when due. The Purchaser shall, at its own expense, timely file any tax return or other document with respect to such taxes or fees.
9. Survival. All covenants, warranties and representations herein shall not survive the Closing.
10. Entire Agreement. This Agreement and the documents to be delivered hereunder constitute the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement and the documents to be delivered hereunder, the statements in the body of this Agreement will control.
11. Successors and Assigns. This Agreement shall be binding upon the personal representatives, successors and permitted assignees of the parties. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. No assignment shall relieve the assigning party of any of its obligations hereunder.

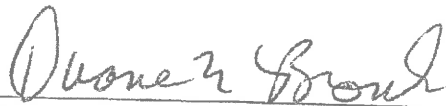
12. Waiver. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.
13. Governing Law; Jurisdiction. This Agreement shall, in all respects, be governed by the laws and judicial decisions of the State of California without giving effect to any choice or conflict of law provision or rule, and any enforcement actions shall be filed in federal or state courts located in the County of Los Angeles.
14. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.


*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

**SELLER:**


GRIFFITH PARK PONY RIDE, INC.

By:   
Name: Duane N. Bronk  
Title:

By:   
Name: Hank Bronk III  
Title:

**PURCHASER:**

LOS ANGELES PONY RIDES INC.

By:   
Name: Stephen Weeks  
Title:

## SCHEDULE A

TO ASSET PURCHASE AGREEMENT DATED 3-11-16*Purchased Assets*

1. Rights to the name "Griffith Park Pony Rides", as well as associated telephone numbers, website and domain names, and any social media accounts used by "Griffith Park Pony Rides".
2. Total of sixty-five (65) ponies in reasonably good health (of the sixty-five (65) ponies, fifty (50) will be trained and able to participate in daily operations of Seller's business; fifteen (15) of which will need training to participate in day to day operations of Seller's business. Included in the sixty-five (65) will exist two experienced and trained driving teams (one (1) pony team and one (1) mule team).
3. One (1) covered ride wagon in good working order.
4. Two (2) wagons used for parts.
5. Two (2) sets of wagon harnesses.
6. Two (2) sets of parts wagon harnesses.
7. Forty-four (44) pony saddles in working condition.
8. Three (3) pony sweeps.
9. One (1) sixteen (16) foot four horse trailer.
10. One (1) Ford skip loader tractor in working condition, with attachments.
11. One (1) cash register.
12. One (1) ticket machine.
13. All awnings on site at the Concession, including awnings over wagon team staging area.
14. Minimum of forty-four (44) bridles, halters, reins, and headstalls.
15. Two (2) outbuildings located next to the horse barn on property.
16. Refrigerator, table, and microwave in employee break area.
17. Tools, maintenance equipment, and other equipment necessary for the operation of the Concession as of the Closing.
18. All signs used on property and assorted water and feed buckets necessary for the up-keep of the ponies.
19. All medications and pony health equipment used in the Concession in the possession of the Seller as of the Closing.

*Or B HOB*

\_\_\_\_\_  
Seller Initials

*EW*

\_\_\_\_\_  
Purchaser Initials

**BOARD REPORT**

NO. 16-148

DATE: JULY 13, 2016

C.D. 13

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: BELLEVUE RECREATION CENTER – RELEASE OF REQUEST FOR PROPOSALS FOR THE MANAGEMENT AND OPERATION OF A RECREATIONAL CHILD DEVELOPMENT AND CHILDCARE CENTER

AP Diaz	_____	*V. Israel	_____
R. Barajas	_____	K. Regan	_____
H. Fujita	_____	N. Williams	_____

  
 \_\_\_\_\_  
 General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Approve the Request for Proposals (RFP) and associated attachments for the Management and Operation of a Recreational Child Development and Childcare Center at Bellevue Recreational Center, herein included as Attachment 1, for a five-year term with one five-year option to extend, exercisable at the sole discretion of the Department of Recreation and Parks, and subject to review and approval by the City Attorney as to form; and
2. Direct staff, subsequent to City Attorney review and approval, to advertise the RFP and conduct the RFP process.

SUMMARY

The Department of Recreation and Parks (RAP) seeks to conduct a Request for Proposals (RFP) process to identify a qualified, responsible business entity or nonprofit organization (collectively, "Contractor") for the management and operation of a Recreational Child Development and Childcare Center (Center) at Bellevue Recreation Center, which is located at 3625 Marathon Street, Los Angeles, 90026. The Center's programs and services outlined in the RFP shall be performed at the sole cost and expense of the selected Contractor.

The Center includes 7,200 square feet of fence-enclosed grounds containing two connecting octagonal shaped modular classroom structures and outdoor play area with play equipment and a storage shed. The indoor and outdoor areas have a California State licensed capacity of forty (40) children, ages two years through kindergarten entry. RAP proposes that Center operations serve children ages two through five years old. Parking at the Center is shared with Bellevue Recreation Center, and will be available to the public on a first-come, first-served basis.

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### Background

The Center's building(s) were purchased and installed in 1982 through Community Development Block Grant funds to provide licensed childcare and extended care services for the Silver Lake and Echo Park communities. Following the installation of the modular buildings, Hilltop Nursery School, Inc. (HNS) was authorized to occupy and use the Center under a lease agreement through the Community Development Department (CDD) and Department of General Services (GSD), which was terminated by CDD and GSD in 2012, when it was determined that it would be more appropriate for RAP to authorize HNS' operation of the Center given its location on park property.

HNS presently operates the Center on a month-to-month basis, through a Right-Of-Entry Permit (PD-ROE-058) that expired on December 31, 2014. Since then, RAP has evaluated a variety of appropriate uses to best meet the needs of the community while conforming to the City's Charter to provide recreational opportunities on park property. RAP has determined that a competitive process should be conducted to allow the opportunity for all interested service providers to submit a proposal for opportunities for recreational child development and childcare.

During the RFP process, HNS shall be allowed to continue its current operations under the existing Right-Of-Entry Permit. Upon the Board's award of a final contract, existing HNS enrolled children will be granted the right of first refusal to enroll into the Center under the selected contractor's operation.

### Request for Proposals (RFP)

Proposals will be evaluated under two Levels. Level I will be a check and review by RAP staff for required compliance and submittal documents; Level II will be an evaluation of the proposals by a panel comprised of qualified persons, which may include non-RAP employees.

For the purpose of evaluation under Level II, the proposals found responsive to Level I will be evaluated under the following criteria:

1. Background and Experience (30 Points)
2. Proposed Operating Budget (20 Points)
3. Proposed Participant Client Fee Schedule (20 Points)
4. Proposed Operations Plan (30 Points)

### Sample Contract

Attached to the proposed RFP as Exhibit E, is a sample contract (Sample Contract) which contains the general provisions under which the selected contractor (Contractor) will be required to operate and maintain the Center, and which will be used as a template for the final contract (Contract) to be awarded to the Contractor.

### Proposal and Contractual Provisions

The proposed RFP and associated Contract will generally include, but not be limited to the following provisions:

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1. **Contract Term:** The proposed Contract will have an initial term of five years, with one five-year option to extend exercisable at the sole discretion of RAP.
2. **Center Hours / Days of Operation:** The Contractor will ensure that the Center is open for operations from 7:00 a.m. to 6:00 p.m., Monday through Friday, excluding City observed holidays.
3. **Program Schedule:** The Center's operation shall consist of recreational child development and childcare programming, which shall be offered on a year-round basis with the exception of City observed holidays and predetermined vacation periods. Should the proposer choose to propose a traditional school-year calendar, the proposer must include a proposed summer program schedule.
4. **Admissions and Enrollment Policy:** Proposals must include and the Contractor will be required to abide by, admissions, enrollment, and wait list policies that adhere to State licensing regulations and RAP guidelines for recreation and childcare programs, as stated in the proposed RFP and Sample Contract. Admittance of eligible participants shall be processed on a first-come, first-served basis with priority given to applicants residing in the local community within a five-mile radius of the Center; with a majority of children enrolled residing within a five-mile radius of the Center; and low-income eligible scholarships must be offered regardless of their residence radius. In addition, existing HNS enrolled children must be granted the right of first refusal to enroll into the Center under the selected contractor's operation.
5. **Licensing:** The Contractor will be required to obtain and maintain a State of California Childcare License and remain in good standing with such licensing requirements.
6. **Insurance:** The Contractor will be required to obtain and keep in force an insurance policy acceptable to the City Risk Manager, which covers all operations at the Center throughout the term of the Contract.
7. **Reports:** The Contractor will be required to submit quarterly operational and financial reports to RAP, as stated in the Sample Contract. In addition to an annual performance evaluation, such reports shall include an estimated annual budget each year for the following fiscal year; an annual audited financial statement for the previous fiscal year; and bi-annual reports on budget-to-actual expenditures, enrollment, applicant waiting list, and staffing list.
8. **Comply with the City's Good Food Purchasing Guidelines for Food Service Institutions.**
9. **Maintenance:** The Contractor shall be responsible for the maintenance and repair of the Center, and shall reimburse RAP during the term of the Contract for any financial impacts on RAP resulting from Contractor's operation at the Center. If applicable, RAP shall be reimbursed for maintenance and/or repair through cost recovery reimbursement fees for Staff Impacts.

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10. Utilities and Solid Waste: The Contractor shall be responsible for the cost of all utility services and solid waste disposal, through either direct payment to applicable service providers or cost recovery reimbursement fees paid to RAP in accordance with RAP policies.

Additional provisions mutually acceptable to RAP and the selected Contractor may be inserted into the Contract as necessary to address any situations specific to the Contractor of Center operations not already addressed by the RFP or Sample Contract. However, any substantive deviation from the content or objective of the RFP shall not be allowed. A final contract shall be subject to review and approval by the Board prior to the execution of the Contract, and approved by the City Attorney as to form.

Upon the Board's approval the RFP documents, the RFP will be advertised in periodicals; made available on the RAP website; and posted on the City of Los Angeles Business Assistance Virtual Network (LABAVN). A pre-proposer's conference and Center tour will be held approximately one month following the release of the RFP. At this time, potential proposers will be provided with instructions on the RFP process, a review of required compliance and submittal documents, additional information as needed, and a tour of the Center. The anticipated time required for completion for the RFP process is estimated to be approximately seven to nine months from the date the RFP is released.

Staff recommends that the Board approve the release of this RFP in order to identify a responsible and capable entity to provide recreational child development and childcare programming at Bellevue Recreation Center.

### ENVIRONMENTAL IMPACT STATEMENT

An environmental impact statement is not required for releasing the RFP and conducting the RFP process.

### FISCAL IMPACT STATEMENT

Releasing and conducting the Request for Proposal process has no impact to RAP's General Fund.

This report was prepared by Vicki Israel, Assistant General Manager, Revenue and Partnership Branch, and Joel Alvarez, Senior Management Analyst II, Partnership Division.

### LIST OF ATTACHMENTS

- 1) Proposed RFP





# City of Los Angeles

Department of Recreation and Parks

## Request for Proposals

### FOR THE MANAGEMENT AND OPERATION OF A RECREATIONAL CHILD DEVELOPMENT AND CHILDCARE CENTER AT BELLEVUE RECREATION CENTER

3625 Marathon Street  
Los Angeles, CA 90026



**Release Date:** July 20, 2016  
**Pre-Proposal Conference:** August 3, 2016 (see Exhibit B)  
**Due Date:** August 30, 2016 (see Exhibit B)

**Deliver To:** City of Los Angeles  
Department of Recreation and Parks  
Board of Recreation and Park Commissioners  
221 N. Figueroa Street, 3<sup>rd</sup> Floor, Rm. 300  
Los Angeles, CA 90012

RFP Coordinator: Joel Alvarez, Sr. MA II  
Email: [joel.alvarez@lacity.org](mailto:joel.alvarez@lacity.org)  
Telephone: (818) 243-6488  
Fax: (818) 243-6447  
Web: [www.laparks.org/proposal.htm](http://www.laparks.org/proposal.htm)  
<http://www.labavn.org/>

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**REQUEST FOR PROPOSALS  
FOR MANAGEMENT AND OPERATION OF  
A RECREATIONAL CHILD DEVELOPMENT AND CHILDCARE CENTER  
AT BELLEVUE RECREATION CENTER**

**I. INTRODUCTION**

The City of Los Angeles (hereinafter “City”) Department of Recreation and Parks (hereinafter “RAP”) is pleased to offer an opportunity for a well-qualified and experienced, licensed childcare, business entity, or non-profit organization, to manage and operate a Recreational Child Development and Childcare Center (hereinafter “Center”), located at 3625 Marathon Street, Los Angeles, CA 90026, within park property commonly known as Bellevue Recreation Center, located at 826 Lucile Avenue, Los Angeles, CA 90026 (hereinafter “Park”).

The Center shall provide licensed childcare and recreational development services through recreational play activities for children ages two (2) through five (5), primarily from households located in the surrounding communities of Echo Park and Silver Lake. The Center’s program schedule shall be year-round, and normal days and hours of operation shall be 7:00 am to 6:00 pm; Monday through Friday (excluding City of Los Angeles observed holidays).

The proposing business entity or nonprofit organization (hereinafter “Proposer”) shall demonstrate the ability to perform the types of services described herein, at a level of high-quality, demonstrate financial sustainability, clearly articulate achievable plans for the Center’s management and operation, and document compliance with appropriate laws and regulations.

The selected proposer (hereinafter “Contractor”) shall demonstrate the ability to implement a Recreational Child Development and Childcare Center through recreational programming and licensed childcare services, to meet or exceed the City’s objectives while servicing the developmental needs of children from the surrounding community(ies), including the integration of children with special needs, and promoting the Center to maximize enrollment.

The City’s goals for the proposed contract resulting from this Request for Proposals (hereinafter “RFP”) are to ensure that the Contractor: (1) manages and operates a recreational development and childcare center that ensures a safe, caring, nurturing, and consistent environment for enrolled participants; and, 2) that the services offered are affordable and accessible to the surrounding community, including scholarship opportunities for low income families.

**II. OBJECTIVE OF THE REQUEST FOR PROPOSALS**

The objective of this RFP is to award a five (5) year contract with one (1) five-year renewal option exercisable at the sole discretion of the Board of Recreation and Park Commissioners (hereinafter “Board”), subject to the approval of the Mayor and City Council, to a responsible operator who will accomplish the following:

- Ensure that current enrollees have first right of refusal per the price and terms of the Selected Contractor to enroll into the Center under the proposed contract;

- Operate and maintain a high-quality recreational development and childcare center at Contractor's sole cost and expense, including utilities, maintenance and repair, and in accordance with RAP childcare criteria and practices, and RAP's philosophy on child development and childcare through recreation;
- Obtain and maintain all necessary certifications related to the operation of a licensed childcare center, including licenses, permits, background checks and finger printing for employees, volunteers, contractors and subcontractors engaging in Center operations;
- Provide a safe, caring, nurturing and consistent environment for enrolled participants;
- Provide services at reasonable prices comparable within the surrounding community, and offering scholarship opportunities to qualified low-income families;
- Promote the Center to maximize participant enrollment;
- Provide quarterly operational and financial report to RAP;
- Provide annual performance reports (annual budget and report of expenditures, data on participation and program results, copies of marketing, recruitment, and press materials, discussion of program changes and/or challenges);
- Display awareness and responsiveness to the demographics and special needs of the Center's enrolled participants;
- Comply with the City's Good Food Purchasing Guidelines for Food Service Institutions;
- Maintain good communication and a professional relationship with RAP staff;
- Reimburse City for operational impacts (Cost Recovery Reimbursement Fees for utilities, maintenance, and solid waste disposal) otherwise not paid directly to applicable service providers during the contract term(s);
- Maintain appropriate insurance coverage acceptable to City Risk Management, listing the City as an additional insured; and
- Create and maintain a Parent Advisory Board to provide parent perspectives and oversight of center operations.

### **III. DESCRIPTION OF THE RECREATIONAL CHILD DEVELOPMENT AND CHILDCARE CENTER**

The Center, with a street address of 3625 Marathon Street, Los Angeles, CA 90026, is located within the grounds of Bellevue Recreation Center ("Park"). The Center includes approximately 7,200 square feet of fence-enclosed area containing two connecting octagonal shaped modular classroom structures and outdoor area with play equipment and storage shed. Parking is shared with Park patrons and the public. A Site Map of the Center and Park is attached as Exhibit A.

The Center was purchased and installed in 1982 through Community Development Block Grant (CDBG) funds providing for licensed childcare and extended care services for the Silver Lake and Echo Park communities. Additionally, the purpose of the CDBG funds was to integrate families with "special needs" into the childcare program, serving "high need" areas in the surrounding community. In accordance with RAP recreational program and childcare practices and guidelines, Center operations shall include, but not be limited to the following minimum operating criteria:

- Children currently enrolled under the existing facility's operation as of the date of the Board's award of the proposed contract, shall have the right of first refusal under the

Selected Contractor's operation and price and terms for admittance to the Center through the proposed contract ;

- Center admission applications shall be processed on a first-come, first-served basis, in accordance with RAP recreation program and childcare admittance practices, and shall further adhere to the Enrollment Policy mandated by the California Department of Social Services, Community Care Licensing Division's Title 22 Regulations, under Division 12, Section #101218 (with current enrollees having first right of refusal per the price and terms of the Selected Contractor);
- It is recommended that a majority of children enrolled at the Center must reside within a five (5) mile radius of the Park;
- Low-income eligible scholarships must be provided, specifying the criteria and minimum number of scholarships per year, for each year throughout the term of the proposed contract;
- The Center shall not discriminate on the basis of sex, sexual orientation, sexual identity gender, ethnic group identification, race, ancestry, national origin, religion, color, and/or mental or physical disability in determining which children are served;
- Opportunities shall be provided to all children in compliance with the Americans with Disabilities Act (ADA), and reasonable accommodations shall be provided accordingly;
- The Center shall not advocate for any religion's beliefs or profess any type of religious training or prayer in its curriculum or recreational activities.

The Center shall be licensed for children ages two (2) through five (5), allowing for part-time and full-day sessions. The selected Contractor shall be responsible for obtaining a childcare license reflective of the operations at the Center under the State of California Department of Social Services, Community Care Licensing Division and maintaining licensing requirements throughout the term of the Contract.

#### **IV. RAP PHILOSOPHY ON RECREATIONAL CHILD DEVELOPMENT AND CHILDCARE**

Real property under the jurisdiction of RAP is dedicated parkland subject to City Charter and Administrative Code requirements. The City's philosophy regarding child development and childcare is to provide children with a safe, caring, nurturing, and consistent environment to develop through recreational activities that help them to grow in a positive unrestricted manner. Children should be treated with respect to their interests and allowed to grow and develop according to their own schedule and needs. The overall experience that the children receive at the Center should enrich their lives socially, physically, and emotionally.

The selected Contractor will manage and operate the Center in a manner consistent with the City's philosophy on child development and childcare through recreation, as set forth herein, so as to maintain a high-quality recreational development Center. In addition to the services set forth in the proposed contract resulting from this RFP, the Contractor will be responsible for maintaining the Center's operating income through the collection of all Center fees pre-approved by the Board, and must fully accept any and all risks of any operating losses associated with the operation of the Center. The selected Contractor may not use the facility for any other purpose than child development and childcare services through recreation.

## V. PROPOSAL ITEMS

In the written proposal, proposers should include explicit, detailed responses to each of the Proposal Items. The selected proposer must be willing and able to commit to the responses to the Proposal Items, the general content of the Sample Contract (Exhibit E), and the Standard Provisions for City Contracts (Rev. 03/09) (Exhibit H).

The following Proposal Items, in part, will comprise the fundamentals of the proposed Contract. Proposers must provide a written response to each of the following Proposal Items, which are explained in further detail here:

- Executive Summary - Section V.1
- Background and Experience (30 Points) - Section V.2
- Proposed Operating Budget (20 Points) - Section V.3
- Proposed Participant Client Fee Schedule (20 Points) - Section V.4
- Proposed Operations Plan (30 Points) - Section V.5

Keeping in mind the needs of the Center, the demographics of the consumer-parents and prospective children to be enrolled at the Center, the objectives and requirements of RAP set forth in this RFP, the Proposers are encouraged to offer sound, practical, and sustainable ideas to provide first-rate, high-quality, recreational child development programs.

Proposers must respond to each of the following items in their written proposal. Each response must correspond with each of the items contained herein.

### 1. **EXECUTIVE SUMMARY**

The Executive Summary must be limited to three (3) typed pages (single-space, Times Roman - 12 font, or similar) and must provide a comprehensive but concise summary of the Proposer's understanding of the requirements of this RFP, a description of the Proposer's approach to providing the services requested in this RFP, and clearly state why the Proposer is the best qualified entity to perform the programs and services outlined in this RFP. Also, include the name and address of the proposing business entity or nonprofit organizations, and the point of contact name, telephone number and e-mail address.

### 2. **BACKGROUND AND EXPERIENCE**

The Proposer must clearly demonstrate its background and experience in providing recreational child development programs and additionally, the ability to provide the licensed childcare services requested in this RFP. If this is a new company, partnership, joint venture, or nonprofit organization formed for the purpose of responding to this RFP, and if awarded, for the operation of Center under the proposed contract, describe the background and qualifications of each of the partners or principal members of the business entity or nonprofit organization, as they pertain to satisfying the requirements of this RFP.

#### 2.1 **Ownership Description**

Proposers must include a response to each proposal item listed below:

- Address of Administrative Offices.
- Time in Business (in years and months).
- Type: Sole Proprietorship, Partnership, Joint Venture, Corporation, or Limited Liability Company (LLC), etc.
- Size of Company (number of employees).
- Business Entity or Non-profit Organization Organizational Chart.
- List of other Operational Locations (if applicable)
- Names of Site Management Staff.
- Any Pending Mergers with other business entities (if none, so state in response to this section).

## **2.2 Experience**

Description of proposing entity's experience in and knowledge of operating a recreational child development and licensed childcare facility, specifically including experience with children ages 2 to 5 years old. Proposers must include a response to each item listed below (if none, so state in response to each item):

- Description of similar recreational child development operations or programs, and/or licensed childcare center operations with recreational activities, performed for a period up to three (3) consecutive years between 2010 and 2016. Description must include operations and enrollment levels for children ages 2 to 5 years of age.
- Provide a copy of the business entity's or non-profit organization's State of California Department of Social Services Childcare License.
- Additional information which demonstrates Proposer's experience and qualifications.

## **2.3 Contracts History**

Proposers must include a response to each proposal item listed below, and provide information for each contract. (If none, so state in response to each item):

- List of all similar contracts between 2012 through 2016.
- List of all similar contracts terminated between 2012 through 2016, with an explanation of reason(s) for termination.

## **2.4 References**

Proposers must include a minimum of three (3) business references with whom the business entity or nonprofit organization has conducted recreational child development and licensed childcare services involving recreational activities, which RAP may contact to verify relevant past performance. Include company names, contact names, addresses, telephone numbers, and the nature and scope of the business relationship.

# **3. PROPOSED OPERATING BUDGET**

Each proposer must demonstrate the financial means and resources to finance, operate, and sustain center operations as proposed, including all proposed improvements, start-up and pre-opening costs, inventory and sufficient working capital, and access to additional capital. To this end, each proposer must provide with the proposal, the following items which shall be subject to verification by RAP.

### **3.1 Amount of Investment Required**

State the amount of investment you estimate to be required to begin and sustain proposed operations. This amount must be itemized in accordance with the items listed below, and include Start-Up Costs (Proposers must include a response to each proposal item listed):

- Rent and/or other valuable consideration, such as services provided to the public, maintenance, repair, or other;
- Inventory;
- Equipment;
- Operating Supplies;
- Marketing & Advertising;
- Payroll;
- Insurance; and
- Others (list individually).

### **3.2 Source(s) of Funding for Operation**

Provide a list of existing and/or proposed funding sources. Proposers must include a response to each item listed below:

- Indicate whether the proposed source of funding in the above amount in Section 3.1 is cash reserves, financing from a commercial lender, other sources, or a combination thereof.
- Of the total amount required, indicate the amount that is to be funded through each source.

### **3.3 Financial Documentation**

Each proposer must provide the following written verification of its ability and commitment to provide adequate funding in the amount indicated above. Proposers must include a response to each proposal item listed:

- Bank Statements for the proposing entity for the past two years (2015 and 2016).
- Audited financial statements reviewed by a certified public accountant for the past two years (2015 and 2016).
- Copies of current credit rating.

### **3.4 Financial Pro-Forma**

Each proposer must provide a Financial Pro-Forma spreadsheet, which details the anticipated revenue and expenditures for Center operation over the term of the first



five (5) years of the contract. Such Financial Pro-Forma will be the basis for the initial Annual Operating Budget for the Center, and incorporated into the proposed contract should the submitted proposal be recommended for award.

**4. PROPOSED CLIENT FEE SCHEDULE**

Submit a proposed Client Fee Schedule for the initial start of the contract term, including tuition and all other proposed charges and fees. State when other charges and fees are applicable and provide all pertinent supporting information. Should the submitted proposal be selected for award of a contract, the proposed Client Fee Schedule will be the basis for the initial fees the Contractor will be authorized to charge, and will not be revised without the prior written approval of the Board

Proposed Charges and Fees (not limited to):

- Service Fee (tuition)
- Waiting List Application Fee
- Enrollment/Registration Fee
- Late Fee
- Other

**5. PROPOSED RECREATIONAL CHILD DEVELOPMENT AND CHILDCARE CENTER OPERATIONS PLAN**

This and the following sections pertain to the Proposer's PROPOSED operation for the Center, not the Proposer's PAST experience operating other facilities. It is highly recommended that Proposers prepare a response that reflects RAP's philosophy on recreational child development and childcare, as stated in Section IV of this RFP. The proposer's Operations Plan must include, but shall not be limited to, the following items (Proposers must include a response to each proposal item listed below):

**5.1 Staffing Plan:**

- Submit a proposed staffing plan for the Center, to include position descriptions, position titles and assignments for each position; a brief description of position duties, minimum qualifications and educational requirements, and salary ranges.
- Staffing should include a plan to address overlap at the Center for different shifts to ensure continuity of care and appropriate number of staff floaters for use as needed at the Center.
- Submit resumes for Key Personnel for positions, or equivalent positions, such as: Executive Director, Chief Operating Officer, Director, and Assistant Director.
- Include an organizational chart for the operation of the Center.

**5.2 Staffing Ratio:**

Describe the proposed staffing level, at minimum, for the following age ranges. The staffing ratio must meet or exceed State requirements:

- \_\_\_:1 - (Ages 2 to 3 years)
- \_\_\_:1 - (Ages 4 to 5 years)

### **5.3 Admissions Policy**

With the understanding that children currently enrolled under existing Center operations as of the date of the Board’s award of the proposed contract shall have right of first refusal per the Selected Contractor’s price and terms for admittance under the Selected Contractor’s operation of the Center, describe the proposed admission policy for the Center that will be implemented following the establishment of the initial child enrollment list at commencement of new operations at the Center under the proposed contract.

In order to adhere to RAP recreation program and childcare enrollment guidelines, and Operations Criteria listed in Section III of this RFP, the proposed Admission Policy must include the following as mandatory minimum requirements:

- First right of refusal exception for existing enrollees;
- Admittance of eligible applicants on a first-come, first-served basis;
- The Admission Policy must adhere to the enrollment policy mandated by the California Department of Social Services, Community Care Licensing Division’s Title 22 Regulations, under Division 12, Section #101218
- Must include qualified low-income scholarships;
- A majority of children admitted must reside in the local community, within a five (5) mile radius of the Center;
- Admission practices shall not discriminate on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, and/or mental or physical disability in determining which children are served;

Proposers are encouraged to include additional information as needed to best describe the proposed Admission Policy for the Center.

### **5.4 Program Schedule**

With the understanding that the objective of this RFP is to award a contract for the operation and management of a recreational child development and childcare center offering year-round programming and services to the community, excluding City of Los Angeles observed holidays, describe the proposed Program Schedule specifying programming days and closure days (holidays, staff training, or other). The current City-recognized holidays are: New Year’s Day; Martin Luther King Jr. Birthday; Washington’s Birthday; Cesar Chavez Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans Day; Thanksgiving; Friday after Thanksgiving; and, Christmas Day.

**5.5 Recreational Activities**

With RAP's philosophy on recreational child development in mind, describe the proposed programs and services to be provided to meet the recreational child development needs of the community, specifically including such activities to be incorporated into the daily/weekly program(s) to meet the goals and objectives of this RFP. The description of recreational programs, services, and related activities must be differentiated between the two (2) age groups stipulated in this RFP; Ages 2 to 3 and 4 to 5.

**5.6 Advertising / Promotion / Marketing**

Describe the proposed method to be used to promote maximum enrollment. The method should include appropriate marketing of the Center within a three (3) mile radius of the Center.

**5.7 Customer Satisfaction**

Describe the methods used to both gather information on customer satisfaction and methods used to implement changes and/or improvements to the Center in order to maximize participant satisfaction.

**5.8 Emergencies**

Describe your plan to ensure the safety of the children and employees during emergencies and other disruptive occurrences. Response should include contingencies to clothe, feed, and shelter children and employees for a period of forty-eight (48) hours.

**5.9 Maintenance**

Describe your plan on providing maintenance during daily operations in order to ensure that a sanitary and safe facility is maintained, and to ensure the grounds are well maintained, sanitary, and free of debris.

**5.10 Repair(s)**

Describe your plan on providing needed repairs to the Center during daily operations, in order to maintain a safe and functional facility. The response should include a plan for major and minor repairs of the Center.

**5.11 Proposed Equipment and Equipment Replacement Plan**

Include a list of equipment that will be used to successfully operate the Center and a plan to maintain the quality and/or replacement of each item throughout the life of the proposed contract.

**5.12 Additional Services and/or Amenities**

Proposers are encouraged to consider and propose additional amenities and activities to enhance the recreational experience.

## VI. COMPLIANCE DOCUMENTS

Previous compliance document submittals for other prior or current City contracts and/or waivers do not apply. The appropriate forms must be completed and processed.

As part of the RFP process, all proposers are to review, complete, and submit the compliance documents attached hereto as Exhibit D. Information, related forms, and instructions are located in Exhibit D of this RFP.

Additional information regarding some compliance documents may be available at the Pre-Proposal Conference, on the City's Bureau of Contract Administration (BCA) website (<http://bca.lacity.org/index.cfm>), and/or by phone with the administering City department or agency of a given ordinance or compliance document. Exemptions from certain ordinances may also apply. RAP reserves the right to request additional information and/or clarification regarding submitted compliance documents during the evaluation process.

## VII. CONTRACTUAL AND OPERATING RESPONSIBILITIES (No Written Response Required)

If awarded a contract, the Contractor will be contractually obligated to perform the responsibilities as described in:

- 1) This RFP;
- 2) The submitted proposal in response to this RFP;
- 3) The Sample Contract for the Management and Operation of the Childcare Center at Bellevue Recreation Center (Exhibit B). *Please note that the Sample Contract will be modified to include general and specific contractual and operating responsibilities based on the submitted proposal accepted by the City; and,*
- 4) Compliance documents as described in Section VI.
- 5) The Standard Provisions for City Contracts (Rev. 03/09 or latest version) (Exhibit E).
- 6). Insurance Coverage acceptable to the CAO Risk Manager listing the City as an additional insured. (Exhibit F)

## VIII. EVALUATION AND AWARD

### A. Evaluation Process and Scoring Criteria

The City reserves the right to request additional information to verify or clarify information included in a submitted proposal. The evaluation of proposals will consist of two levels. **Each proposer must pass Level I in order to advance to Level II.**

**Level I – Compliance with RFP Submission Requirements: (Section VI)**

The City will conduct a preliminary evaluation of all proposals submitted by the deadline to determine compliance with proposal requirements and mandatory document submissions.

In order to be found responsive to the RFP under Level I Evaluations, Proposals must include:

- Proposal Submission Letter (Exhibit G)
- Proposal Items - referenced Section V (Page 4) of this RFP
- Compliance Documents (Exhibit D) - referenced Section VI (Page 9) of this RFP
- Proof of Insurance (Exhibit F)

**Level II – Evaluation and Scoring Criteria of Proposal Items:**

For the purposes of Level II evaluation, the responsive proposals will be evaluated, ranked and scored based on the criteria below:

Background and Experience (30 points possible): RFP Section V.2.

Proposed Operating Budget (20 points possible): RFP Section V.3.

Proposed Participant Client Fee Schedule (20 points possible): RFP Section V.4.

Proposed Operations Plan (30 points possible): RFP Section V.5.

**B. Evaluation and Recommendation**

Responsive proposals will be scored in each of the criteria above and ranked according to scores by a panel comprised of qualified persons, which may include individuals outside RAP.

The City reserves the right to conduct such investigations as the City considers appropriate with respect to the qualifications of each Proposer and any information contained in its proposal.

All proposals will be evaluated on the basis of the criteria listed above and the ranking of any review panel will serve as a basis to formulate the RAP General Manager's written recommendation to the Board of Recreation and Park Commissioners (referred to herein as, "Board").

**C. Award**

The General Manager of RAP recommends contract and agreement awards to the Board. RAP shall notify all proposers of the RAP General Manager's recommendation.

The Board will consider the General Manager's recommendation during a public Board Meeting and may accept or reject the General Manager's recommendation in making their decision as to the selection.

Section 10.5 of the Los Angeles Administrative Code requires approval by the City Council of contracts and agreements for periods of longer than three (3) years. Contracts and agreements are deemed to be executed upon the date of signature by the selected Contractor, the Board President and Board Secretary, and the City Attorney.

Once the award of contract is approved, the selected Contractor will complete and submit the additional documents as required by this RFP, City Ordinance, State and/or Federal laws, within sixty (60) days of written notification by RAP. If Contractor does not execute the awarded contract and any other necessary documents, within sixty (60) calendar days of Board, Mayor, Council and City Attorney's approval of the awarded contract, RAP may unilaterally rescind the contract award at its sole discretion.

**D. Protest to RFP or RFP Provision:**

Should a proposer object on any ground to any provision or legal requirement set forth in this RFP, or any addendum to the RFP, the proposer must, not more than ten calendar days after the RFP is issued, provide written notice to RAP, setting forth with specificity the grounds for the objection. The failure of a proposer to object in the manner set forth in this paragraph shall constitute a complete and irrevocable waiver of any such objection.

**E. City's Right to Reject Proposals and to Waive Informalities**

Notwithstanding any other provisions of this RFP, the City reserves the right to withdraw this RFP at any time without prior notice. The City also reserves the right to reject any and all proposals submitted or to waive any minor administrative irregularities contained in any proposal, when to do so would be in the best interest of the City and pursuant to Los Angeles City Charter Section 371 (c): "The City shall reserve the right to reject any and all bids or proposal and to waive any informality in the bid or proposal when to do so would be to the advantage of the City."

**F. Constitutional and Other Limits on Contractor's Rights to Exclusivity**

Notwithstanding exclusivity granted to the Contractor by the terms of the awarded Contract, the City in its discretion may require Contractor, without any reduction in cost recovery reimbursement fees or other valuable consideration to Contractor, to accommodate the rights of persons to access and engage in expressive activities, as guaranteed by the first amendment to the United States constitution, the California constitution, and other laws, as these laws are interpreted by the City. Expressive activities include, but are not limited to, protesting, picketing, proselytizing, soliciting, begging, and vending of certain expressive, message-bearing items.

**IMPORTANT:**

**Charter Section 371(e)(10)**

**In approving this RFP, the Board, in its capacity as the contract awarding authority for the Department, finds, pursuant to Charter Section 371(e)(10), that the use of competitive bidding would be undesirable, impractical or otherwise excused by the common law and the Charter because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by the Department for the improvement, operation and maintenance of the Department's concession. To select the best proposer for this concession, the Board finds it is necessary to utilize a standard Request for Proposals process and to evaluate proposals received based upon the criteria included in this RFP. The Board specifically finds that the narrower and more specialized competitive sealed proposal process authorized but not required by Charter Section 371, subsection (b), would not meet the Department's needs and therefore opts to utilize the standard request for proposals process.**

**IX. EXHIBITS**

- A Center Site Map
- B Instructions to Proposers
- C Level I Requirements
- D Compliance Documents
- E Sample Contract for the Management and Operation of a Recreational Child Development and Childcare Center
- F Insurance Requirements
- G Proposal Submission Letter
- H Standard Provisions for City Contracts (Rev. 3/09 or latest version)
- I Good Food Purchasing Guidelines for Food Service Institutions

Site Map

Bellevue Recreation Center



Recreational Child Development and Child Care Center Area





## INSTRUCTIONS TO PROPOSERS

### A. Submitting a Written Proposal

To be considered for award of this proposed contract, proposing entities must submit a sealed, written proposal in response to the Proposal Items indicated in the RFP. Proposals must provide information regarding the proposer's background, current business practice, applicable experience, and plans to operate the Center. Proposals will be evaluated based on several evaluation criteria as indicated in this RFP.

Proposers may wish to consider the following guidelines in preparing their proposals:

- Make sure your proposal is well-organized and easy to read.
- Verify that your proposal is complete and that you have completely responded to all proposal items and compliance documents in the RFP.
- Formulate your responses precisely and with detail; avoiding vague, meaningless, or open-ended responses.
- Make sure your proposal demonstrates that your financial projections and cost estimates are realistic and sustainable.
- Clearly describe what your management team will bring to the operation.
- If there are significant risks in your business strategy, include plans to mitigate those risks, addressing any contingencies that may arise.

Your written submittal in this RFP process will be the primary basis on which the City will consider its award of the proposed contract; therefore, proposers should be as thorough and as detailed as possible when responding to each proposal item. In the written proposal, proposers must include responses to ALL proposal items. Proposers will not be able to add to, or modify their proposals after the proposal due date.

**THE CITY RETAINS THE RIGHT AND MAY DEEM A PROPOSER NON-RESPONSIVE IF THE PROPOSER FAILS TO PROVIDE ALL REQUIRED DOCUMENTATION.**

**B. Submitted Proposals**

The submitted proposal accepted by RAP in writing, in accordance with applicable statutes, constitutes a legally binding contract offer. It is requested that proposals be prepared simply and economically, avoiding the use of unnecessary promotional material, providing only necessary information which best describes the proposed operation of the Center.

**Proposals must contain ALL of the following:**

**1. Submission Letter and Proposal Items**

Proposers are to submit a Submission Letter (see Exhibit G of the RFP) and complete, detailed responses to all of the Proposal Items in Section V of the RFP.

- Executive Summary
- Background and Experience
- Proposed Operating Budget
- Proposed Client Fee Schedule
- Proposed Childcare Center Operations Plan

**2. Compliance Documents**

This is a new RFP for a new contract. Previous compliance document submittals and/or waivers do not apply. The appropriate forms must be completed and submitted. (See Section VI and Exhibit D of this RFP.)

**C. Proposal Submittal Information**

**Deadline for Submission**

To be considered, proposals must be received on or before **3:00 pm, August 30, 2016.**

**Where to Submit your Proposal**

The complete proposal package shall be placed in a sealed envelope(s) or box(es) labeled "Proposal for the Management and Operation of a Recreational Child Development and Childcare Center at Bellevue Recreation Center." Said envelope(s) or box(es) shall have the name and address of the Proposer on the outside and be delivered to:

**Los Angeles Department of Recreation and Parks  
Office of the Board of Commissioners  
Attention: Board Secretary  
221 North Figueroa Street, Suite 300  
Los Angeles, CA 90012**

**Number of Copies**

Please provide one (1) original and four (4) copies, and one (1) non-bound reproducible copy. An original is one in which a form requiring a signature must be signed in wet ink. A reproducible copy is one which can readily be reproduced through a photocopier.

**Important Notices**

Candidates who mail their proposals should allow adequate mail delivery time to ensure timely receipt of the proposals. Late proposals will not be considered for review. The City reserves the right to determine the timeliness of all proposals submitted. At the day and time appointed, all timely submitted proposals will be opened and the name of the proposer(s) announced. No other information regarding the proposals will be made public until such time as a recommendation concerning proposals is made to the Board.

The City reserves the right to extend the deadline for submission should such action be in the best interest of the City. In the event the deadline is extended, proposers will have the right to revise their proposal. Proposals may be withdrawn personally, by written request, prior to the scheduled closing time for receipt of proposals. Faxed withdrawals will be accepted by the Board at (213) 202-2610, Attn: Board Secretary. The phone number for the Board Office is (213) 202-2640. A written request, signed by an authorized representative of the proposing business entity, must be submitted to the Board Office. After withdrawing a previously submitted proposal, the proposer may submit another proposal at any time up to the specified due date and time.

Submission of a proposal pursuant to this RFP shall constitute acknowledgement and acceptance of the terms and conditions set forth herein. All or portions of this RFP, and the contents of the proposal submitted by the successful proposer, may become contractual obligations if a contract is awarded. Failure of the selected proposer to accept these obligations may result in cancellation of the award and forfeiture of the Proposal Deposit. The City reserves the right to withdraw this RFP at any time without prior notice.

All proposals submitted in response to this RFP become the property of the City of Los Angeles, Department of Recreation and Parks.

**Pre-Proposal Conference and Site Visit:**

Date: August 3, 2016  
Conference Time: 10:00 a.m.  
Location: Central Service Yard, Partnership Division Headquarters  
3900 Chevy Chase Drive, Los Angeles, CA 90039

The purpose of the conference is to clarify the contents of this RFP and to discuss the needs of the Childcare Center. **Attendance is mandatory.** It is highly recommended that prospective proposers read the complete RFP prior to the conference and begin preparation of their proposal in order to maximize the benefits of the conference. The site visit will take place shortly after the pre-proposal conference.

To maximize the effectiveness of the conference, the RFP Coordinator requests that, to the extent possible, proposers provide questions in writing prior to the conference. This will enable the RFP Coordinator to prepare responses in advance. Questions concerning the RFP should be e-mailed to the RFP Coordinator at [Joel.Alvarez@lacity.org](mailto:Joel.Alvarez@lacity.org) with "Bellevue RFP" in the e-mail subject line or mailed to:

Department of Recreation and Parks  
Partnership Division (Mail stop # 628-9)  
Attention: Joel Alvarez  
3900 Chevy Chase Drive  
Los Angeles, CA 90036

Additional questions may be accepted, in writing, at the conference. However, responses may be deferred and provided as addenda to the RFP at a later date. All questions, without identifying the submitting company, will be compiled with the appropriate answers and issued as an addendum to the RFP. When submitting questions, please specify the RFP section number, paragraph number, and page number, and quote the passage that prompted the question. This will ensure that the passage can be quickly found in the RFP. The City reserves the right to group similar questions when providing answers.

If the City requirements or the specifications prevent proposers from submitting a proposal that would be beneficial to the City, please address the concern to the RFP Coordinator listed above and below. Questions may address concerns that the application of minimum requirements, evaluation criteria and/or business requirements would unfairly disadvantage proposers or, due to unclear instructions, may result in the City not receiving the best possible responses from proposers.

Please direct all comments and questions to the RFP Coordinator. All contact regarding this RFP or any matter relating thereto must be in writing and may be mailed, e-mailed, or faxed as follows:

Name: Joel Alvarez, RFP Coordinator (Mail stop # 628-9)  
Address: 3900 Chevy Chase Drive, Los Angeles, CA 90039  
E-mail: [Joel.Alvarez@lacity.org](mailto:Joel.Alvarez@lacity.org)  
Telephone: 818-243-6488 Fax: 818-243-6447

**D. Document Check**

Please check the contents of your RFP package carefully to ensure that you have in your possession all the necessary documents as referenced within the RFP, including any addenda. If you are missing any items, you should contact the RFP Coordinator.

The complete RFP package and all forms and information in the Exhibit are also available at [www.laparks.org/proposal.htm](http://www.laparks.org/proposal.htm) and on the **Los Angeles Business Assistance Virtual Network (LABAVN)** at [www.labavn.org](http://www.labavn.org). Should you find a discrepancy in, or omissions from said documents, or have questions as to their meaning, notify the RFP Coordinator by e-mail no later than 24-hours prior to the deadline date for receiving proposals. The City of Los Angeles will not be bound by any oral statements or representations.

## LEVEL I REQUIREMENTS

In order to be found responsive under Level I requirements, each of the following must be addressed. Refer to the applicable RFP sections for additional detail.

### 1. Compliance Documents

As part of the RFP process, all proposers are to review, complete, and submit compliance documents. Information, related forms, and instructions are located in Exhibit D of the RFP (“Compliance Documents”).

Previous compliance document submittals and/or waivers do not apply. New forms must be completed and processed.

Additional information regarding some compliance documents may be available at the Pre-Proposal Conference, on a City website, and/or by phone with the administering City Department of a given ordinance or compliance document. Exemptions from certain ordinances may also apply. The Department reserves the right to request additional information and/or clarification regarding submitted compliance documents during the evaluation process.

The following compliance documents MUST be included with your proposal:

- a. Proposer’s Signature Declaration and Affidavit (Section I.A of Exhibit D)  
The document must be signed and notarized. Legal name(s) on all proposal documents and the resultant Concession Agreement must be consistent. Only the original notarized form is acceptable.
- b. Disposition of Proposals (Section I.B of Exhibit D)  
The document must be signed by an individual authorized to bind the proposer.
- c. Affirmative Action Plan (Section I.C of Exhibit D)  
Please read instructions in Exhibit D.
- d. Contractor Responsibility Ordinance Statement (Section I.D of Exhibit D)  
Pages 1 through 6 of the document must be completed and submitted with the proposal. Pages 1 and 6 must be signed by an individual authorized to bind the proposer.
- e. Equal Benefits Ordinance Statement (Section I.E of Exhibit D)  
Please read the instructions in Exhibit D.
- f. Living Wage Ordinance (LWO)/Service Contractor Worker Retention Ordinance (SCWRO) – *only if applying for an exemption* (Section I.F of Exhibit D). Submittal of documents only required if the proposer is applying for an exemption to the ordinance requirements.

g. Business Inclusion Program (BIP) Requirements (Section I.G of Exhibit D)

It is the policy of the City to provide Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Small Business Enterprise (SBE), Emerging Business Enterprise (EBE), Disabled Veteran Business Enterprise (DVBE), and all Other Business Enterprise (OBE) concerns an equal opportunity to participate in the performance of all City contracts.

Proposers will assist the City in implementing this policy by taking all reasonable steps to ensure that all available business enterprises, including MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs, have an equal opportunity to compete for, and participate in, City contracts. Equal opportunity will be determined by the proposer's BIP outreach documentation, as described in Business Inclusion Program (BIP) Requirements (Section I.G of Exhibit D), of this RFP. Participation by MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs may be in the form of subcontracting. Proposers must refer to Business Inclusion Program (BIP) Requirements (Section I.G of Exhibit D) of this RFP for additional information and instructions. BIP outreach must be performed using the Business Assistance Virtual Network ([www.labavn.org](http://www.labavn.org)). A proposer's failure to utilize and complete their BIP Outreach as described in Business Inclusion Program (BIP) Requirements (Section I.G of Exhibit D) may result in their proposal being deemed non-responsive.

The anticipated participation levels are as follows:

MBE Participation:	<b><u>18%</u></b>
WBE Participation:	<b><u>4%</u></b>
SBE Participation:	<b><u>25%</u></b>
EBE Participation:	<b><u>8%</u></b>
DVBE Participation:	<b><u>3%</u></b>

h. Bidder Certification – CEC Form 50 (Section I.H of Exhibit D)

Please read the instructions in Exhibit D.

i. Bidder Contributions – CEC Form 55

Compliance with Los Angeles City Charter Section 470(c)(12) (Measure H).

Please read the instructions in Exhibit D.

j. Iran Contracting Act of 2010 Compliance Affidavit

*Only the proposer selected for award of this agreement is required to submit the following additional required items prior to execution of the Agreement (within sixty [60] calendar days from the date the agreement is awarded by the Board to the selected proposer):*

- k. Americans with Disabilities Act Certification
- l. Business Tax Registration Certificate
- m. Certification of Compliance with Child Support Obligations
- n. Contractor Responsibility Ordinance – Pledge of Compliance
- o. City-approved Proof of Insurance
- p. First Source Hiring Ordinance – FSHO-1
- q. Los Angeles Residence Information (location of selected Contractor’s headquarters and percentage of workforce residing in Los Angeles)
- r. LWO/SCWRO – Additional related forms from item “f” above
- s. Slavery Disclosure Affidavit

Failure of the successful proposer to submit items “k” through “s” above, and submit a signed Contract within sixty (60) calendar days of award (as notified in writing by the RAP Board Office) shall cause the proposal to be deemed non-responsive and will result in cancellation of the award and forfeiture of the proposal deposit.

**PLEASE PROVIDE A RESPONSE TO THE FOLLOWING PROPOSAL ITEMS:**

**2. Background and Experience (RFP Section 2)**

Please describe your business entity’s background and experience in providing recreational child development programs and licensed childcare services.

**Note:** This section pertains to your business entity’s PAST experience and/or CURRENT operations, not your PROPOSED operation for this Concession.



### **2.1 Ownership Description**

Proposers must include a response to each proposal item listed below:

- Address of business
- Time in business (in years and months)
- Type: Non-profit organization, Partnership, Corporation or Limited liability company (LLC), etc.
- Size of company (includes total number of employees)
- Business Entity or Nonprofit Organizational Chart
- Names of site management staff
- List of other operational locations (if applicable)
- Any Pending Mergers (if none, so state in response to this section)

### **2.2 Experience.**

This section pertains to your business entity's PAST experience and CURRENT operations, specifically including experience with childcare for children 2 to 5 years old.

Proposers must include a response to each proposal item listed below (if none, so state in response to each item below):

- Description of similar recreational child development operations or programs.
- Copy of entity's State of California Department of Social Services Childcare License
- Additional information that demonstrates entity's qualifications.

### **2.3 Contracts History (include contact information for all contracts listed):**

Proposers must include a response to each proposal item listed below (if none, so state in response to each item below):

- List of similar contracts commenced between 2012 through 2016.
- List of similar contracts terminated between 2012 through 2016, along with an explanation of the reasons for the termination.

### **2.4 References**

Proposers must include a response to each proposal item listed below:

- Business References: Provide a minimum of three (3) references. Include names or company names, addresses, telephone numbers, and the scope of the business relationship.

## **3. Proposed Operating Budget (RFP Section 3)**

Each proposer must demonstrate the financial means and resources to finance, operate, and sustain Center operations as proposed. To this end, each proposer must provide, with the submitted proposal, the following items. All items submitted are subject to verification by the Department.

**3.1 Amount of Investment Required**

State the amount of investment you will require to begin operations as proposed. This amount must include start-up costs (Proposers must include a response to each proposal item listed below):

Amount of Investment to begin operations as proposed (to include):

- Rent and/or other valuable consideration
- Inventory
- Equipment
- Operating Supplies
- Marketing and advertising
- Payroll
- Insurance
- Others (list individually)

**3.2 Source(s) of Funding for Operation**

Proposers must include a response to each proposal item listed below:

- Indicate whether the proposed source of funding in Section 3.1 is cash reserves, financing from a commercial lender, other sources, or a combination thereof.
- Of the total amount required, indicate the amount that is to be funded through each source.

**3.3 Financial Documentation**

Each proposer must provide, with the proposal, the following written verification of its ability and commitment to provide adequate funding in the amount indicated. Proposers must include a response to each proposal item listed below:

- Bank statements for 2015 and 2016
- Audited financial statements for 2015 and 2016.
- Copies of current credit rating (if any).

**3.4 Financial Pro-Forma**

Each proposer must provide a Financial Pro-Forma spreadsheet, which details the anticipated revenue and expenditures for Center operations over the term of the first five (5) years of the contract. Such Financial Pro-Forma will be the basis for the initial Annual Operating Budget for the Center, and incorporated into the proposed contract should the submitted proposal be recommended for award.

**4. Proposed Client Fee Schedule**

Submit a proposed Client Fee Schedule for the initial start of the contract term, including tuition and all other proposed charges and fees.

Proposed Charges and Fees (not limited to):

- Service Fee (tuition)

- Waiting List Application Fee
- Enrollment/Registration Fee
- Late Fee
- Other

**5. Proposed Recreational Child Development and Childcare Center Operations Plan**

The following sections pertain to the Proposer’s PROPOSED operation of the Center, not the Proposer’s PAST experience operating other facilities. The proposer’s Operations Plan must include, but shall not be limited to, the following items (Proposers must include a response to each proposal item listed below):

**5.1 Staffing Plan:**

- Submit a proposed staffing plan for the Center, to include position descriptions, position titles and assignments for each position; a brief description of position duties, minimum qualifications and educational requirements, and salary ranges.
- Submit resumes for Key Personnel for positions, or equivalent positions, such as: Executive Director, Chief Operating Officer, Director, and Assistant Director.
- Include a tentative organizational chart for the operation of the Center.

**5.2 Staffing Ratio:**

Describe the proposed staffing level, at minimum, for the following age ranges. The staffing ratio must meet or exceed State requirements:

- \_\_\_\_\_:1 - (Ages 2 to 3 years)
- \_\_\_\_\_:1 - (Ages 4 to 5 years)

**5.3 Admissions Policy**

In order to adhere to RAP recreation program and childcare enrollment guidelines, the proposed Admission Policy must include the following as mandatory minimum requirements:

- First right of refusal exception for existing enrollees;
- Admittance of eligible applicants on a first-come, first-served basis;
- The Admission Policy must adhere to the enrollment policy mandated by the California Department of Social Services, Community Care Licensing Division’s Title 22 Regulations, under Division 12, Section #101218
- Must include qualified low-income scholarships;
- A majority of children admitted must reside in the local community, within a five (5) mile radius of the Center;
- Admission practices shall not discriminate on the basis of sex, sexual orientation, sexual identity, gender, ethnic group identification, race, ancestry, national origin, religion, color, and/or mental or physical disability in determining which children are served;

Proposers are encouraged to include additional information as needed to best describe the proposed Admission Policy for the Center.

#### **5.4 Program Schedule**

The objective of this RFP is to award a contract for the operation and management of a recreational child development and childcare center offering **year-round programming** and services to the community, excluding City of Los Angeles observed holidays. Describe the proposed Program Schedule specifying programming days and closure days (holidays, staff training, or other). The current City-recognized holidays are: New Year's Day; Martin Luther King Jr. Birthday; Washington's Birthday; Cesar Chavez Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans Day; Thanksgiving; Friday after Thanksgiving; and, Christmas Day. Should a traditional school-year calendar program be proposed, also include a summer program schedule.

#### **5.5 Recreational Activities**

Describe the programs and services to be provided to meet the recreational child development needs of the community, specifically including such activities to be incorporated into the daily/weekly program(s). The description of recreational programs, services, and related activities must be differentiated between the two (2) age groups; ages 2 to 3 and 4 to 5.

#### **5.6 Advertising / Promotion / Marketing**

Describe the method to be used to promote maximum enrollment.

#### **5.7 Customer Satisfaction**

Describe the methods used to both gather information on customer satisfaction and methods used to implement changes and/or improvements.

#### **5.8 Emergencies**

Describe your plan to ensure the safety of the children and employees during emergencies and other disruptive occurrences. Response should include contingencies to clothe, feed, and shelter children and employees for a period of forty-eight (48) hours.

#### **5.9 Maintenance**

Describe your plan on providing maintenance during daily operations in order to ensure that a sanitary and safe facility is maintained, and to ensure the grounds are well maintained, sanitary, and free of debris.

#### **5.10 Repair(s)**

Describe your plan on providing needed repairs to the Center during daily operations, in order to maintain a safe and functional facility. The response should include a plan for major and minor repairs of the Center.

#### **5.11 Proposed Equipment and Equipment Replacement Plan**

List the equipment that will be used to successfully operate the Center and a plan to maintain the quality and/or replacement of the items throughout the life of the proposed contract.

#### **5.12 Additional Services and/or Amenities (Optional)**

Propose additional amenities and activities to enhance the recreational experience.



CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS

## **EXHIBIT D**

# **COMPLIANCE DOCUMENTS**

REQUEST FOR PROPOSALS



CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS

**COMPLIANCE DOCUMENTS – REQUEST FOR PROPOSALS**

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- J. Iran Contracting Act of 2010 Compliance Affidavit

**SECTION II – Compliance Documents to be submitted by Selected Proposer**

- K. Americans with Disabilities Act Certification
- L. Business Tax Registration Certificate
- M. Certification of Compliance with Child Support Obligations
- N. Contractor Responsibility Ordinance – Pledge of Compliance
- O. City-Approved Proof of Insurance (*See separate exhibit attached to RFP*)
- P. First Source Hiring Ordinance
- Q. Los Angeles Residence Information
- R. Living Wage Ordinance (LWO) / Service Contractor Worker Retention Ordinance (SCWRO) – Additional Forms
- S. Slavery Disclosure Affidavit



CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS

## SECTION I

**Compliance Documents to be submitted by Proposers with Proposals**

**A. PROPOSER'S SIGNATURE DECLARATION AND AFFIDAVIT**



## SECTION A

### PROPOSER'S SIGNATURE DECLARATION AND AFFIDAVIT

With each proposal, a statement shall be submitted and signed by the respondent under penalty of perjury that: The response is genuine, not a sham or collusive, the response is not made in the interest or on behalf of any person not named therein; the respondent has not directly or indirectly induced or solicited any person to submit a false or sham response or to refrain from responding; and, the respondent has not in any manner sought by collusion to secure an advantage over any other respondent.

#### **INSTRUCTIONS:**

- a. Sign and Notarize the Document
- b. Submit with the Bid/Proposal

#### **Signatures:**

Individual: (e.g., Individual dba [Name or Company], etc) – Individual must sign affidavit.

Partnership: At least ONE General Partner must sign the affidavit.

Corporation: It is preferred that the **PRESIDENT** and **SECRETARY** of the corporation sign the affidavit on behalf of the corporation, but a **VICE-PRESIDENT** may sign in the absence of the President and an Assistant Secretary or Treasurer may sign in the absence of the Secretary.

**Note:** An Authorized Agent may sign for a Corporation, provided the City is furnished a certified copy of the Board of Directors Resolution authorizing such person to execute the document on behalf of the corporation. An acknowledgement at the base of the Resolution must state it is unchanged, in force, and be signed by the Corporate Secretary with the current date.

**AFFIDAVIT TO ACCOMPANY PROPOSALS**

I/We, \_\_\_\_\_

being first duly sworn, deposes and states: That the undersigned

\_\_\_\_\_  
(Insert "Sole Owner", "General Partner", "President", "Secretary", or other proper title)

is of \_\_\_\_\_  
(Name of firm / business entity)

Who submits herewith to City of Los Angeles the attached proposal:

Affiant deposes and states: That said proposal is genuine; that the same is not sham or collusive; that all statements of fact therein are true; that such proposal was not made in the interest or behalf of any person, partnership, company, association, organization or corporation not therein named or disclosed.

Affiant deposes and states: That the proposer has not directly or indirectly by agreement, communication or conference with anyone attempted to induce action prejudicial to the interests of the public body which is to award the contract, or of any other proposer, or anyone else interested in the proposed contract: that the proposer has not in any manner sought by collusion to secure for itself an advantage over any other proposer.

Affiant further deposes and states that prior to the public opening and reading of proposals the said proposer:

- (a) Did not, directly or indirectly, induce or solicit anyone else to submit a false or sham proposal;
- (b) Did not, directly or indirectly, collude, conspire, connive or agree with anyone else that said proposer or anyone else or fix the proposal price of said proposer or of anyone else, or to raise or fix any overhead, profit or cost element of its price or of that of anyone else;
- (c) Did not, directly or indirectly, submit its proposal price or any breakdown thereof, or the contents thereof, or divulge information or data relative thereto, to any corporation, partnership, company, association, organization, proposal depository, or to any member or agent thereof, or to any individual or group of individuals, except to the awarding authority or to any person or persons who have a partnership or other financial interest with said proposer in its business.

I understand and agree that any falsification in the affidavit will be grounds for rejection of this proposal or cancellation of any concession contract awarded pursuant to this proposal.

I hereby certify or declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

STATE OF CALIFORNIA  
COUNTY OF \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Month / Year) (Title)

\_\_\_\_\_  
(Notary Public) (Date)

**PROPOSALS WILL NOT BE CONSIDERED UNLESS THE AFFIDAVIT HEREON IS FULLY EXECUTED, INCLUDING THE CERTIFICATE OF THE NOTARY AND THE NOTARIAL SEAL**

## **B. DISPOSITION OF PROPOSALS**

**SECTION B**

**DISPOSITION OF PROPOSALS**

All proposals submitted in response to the RFP shall become the property of the City of Los Angeles and a matter of public record. Proposers must identify all copyrighted material, trade secrets, or other proprietary information that they claim are exempt from disclosure under the Public Records Act, and indemnify and defend the City of Los Angeles for its refusal to disclose such material from person making a request therefore.

**INSTRUCTIONS:**

- a. Sign the Document
- b. Submit with the Bid/Proposal

**Signatures:**

The person signing must be authorized to bind the proposer.

## **Disposition of Proposals**

All proposals submitted in response to the RFP shall become the property of the City of Los Angeles and a matter of public record. Proposers must identify all copyrighted materials, trade secrets, or other proprietary information that they claim are exempt from disclosure under the Public Records Act (California Code, Section 6250 et seq.)

In the event such an exemption is claimed, the proposer must state in the proposal that the proposer will defend any action brought against the City for its refusal to disclose such material, trade secret, or other proprietary information to any party making such a request. The proposer is required to state in the proposal that:

“The proposer will indemnify the City or Agency and hold it harmless from any claim or liability and defend any action brought against the City of Los Angeles for its refusal to disclose copyrighted material, trade secrets, or other proprietary information to any persons making a request therefore.”

Proposer’s obligations herein include, but are not limited to, all attorney’s fees (both in house and outside counsel), costs of litigation incurred by the City or its attorneys (including all actual costs incurred by the City, not merely those costs recoverable by a prevailing party, and specifically including costs of experts and consultants) as well as all damages or liability or any nature whatsoever arising out of any such suits, claims, and causes of action brought against the City, through and including any appellate proceedings. Proposer’s obligations to the City under this indemnification provision shall be due and payable on a monthly, on-going basis within thirty (30) days after each submission to Proposer of the City’s invoices for all fees and costs incurred by the City, as well as all damages or liability of any nature.

\_\_\_\_\_

“I have read and understand the Disposition of Proposals and agree that the City of Los Angeles may release any materials and information contained in the proposal submitted by the undersigned’s firm in the event that the required hold harmless statement is not included in the Proposal.”

\_\_\_\_\_  
Signature of person authorized to bind proposer

\_\_\_\_\_  
Date

**C. NONDISCRIMINATION, EQUAL EMPLOYMENT  
PRACTICES, AND AFFIRMATIVE ACTION PLAN**

## **SECTION C**

### **NONDISCRIMINATION, EQUAL EMPLOYMENT PRACTICES, AND AFFIRMATIVE ACTION PLAN**

Los Angeles Administrative Code (LAAC), Division 10, Chapter 1, Section 10.8 establishes a Nondiscrimination, Equal Employment Practices, and Affirmative Action Program requirement for all vendors doing business with the City of Los Angeles.

Bidders/Proposers are advised that any contract awarded pursuant to this procurement process shall be subject to the applicable provisions of Los Angeles Administrative Code Section 10.8.2., Non-discrimination Clause.

All contracts (both construction and non-construction) for which the consideration is \$1,000 or more shall comply with the provisions of Los Angeles Administrative Code Sections 10.8.3., Equal Employment Practices Provisions. By affixing its signature on a contract that is subject to the Equal Employment Practices Provisions, the Contractor shall agree to adhere to the provisions in the Equal Employment Practices Provisions for the duration of the contract.

All contracts (both construction and non-construction) for which the consideration is \$25,000 or more shall comply with the provisions of Los Angeles Administrative Code Sections 10.8.4., Affirmative Action Program Provisions. By affixing its signature on a contract that is subject to the Affirmative Action Program Provisions, the Contractor shall agree to adhere to the provisions in the Affirmative Action Program Provisions for the duration of the contract.

Furthermore, contractors shall include similar provisions in all subcontracts awarded for work to be performed under the contract with the City and shall impose the same obligations. The contract with the subcontractor that contains similar language shall be made available to the Office of Contract Compliance upon request.

Bidders/Proposers seeking additional information regarding the requirements of the City's Non-Discrimination Clause, Equal Employment Practices and Affirmative Action Program may visit the Bureau of Contract Administration's web site at <http://bca.lacity.org>.

**D. CONTRACTOR RESPONSIBILITY ORDINANCE STATEMENT**



## **SECTION D**

### **CONTRACTOR RESPONSIBILITY ORDINANCE STATEMENT**

The Contractor Responsibility Ordinance (CRO) requires a determination, via the CRO questionnaire, that prospective contractors are responsible and capable of fully performing the work before a contract is awarded by the City of Los Angeles. Additional information may be found at the following website:

{ HYPERLINK "[http://bca.lacity.org/index.cfm?nxt=soo&nxt\\_body=content\\_cro.cfm](http://bca.lacity.org/index.cfm?nxt=soo&nxt_body=content_cro.cfm)" }

#### **INSTRUCTIONS:**

- a. The questionnaire must be completed, appropriately signed, and submitted with the proposal (Pages 1 through 9).

**CITY OF LOS ANGELES**  
**CONTRACTOR RESPONSIBILITY ORDINANCE**  
**(Los Angeles Administrative Code Section 10.40 et seq.)**

**1. What is the Contractor Responsibility Ordinance?**

The Contractor Responsibility Ordinance (CRO) requires that each department make a determination as to whether prospective contractors are responsible and capable of fully performing the work before being awarded a City contract. The Ordinance also requires prospective contractors to complete a Responsibility Questionnaire that will be posted on the internet for 14 calendar days for public review.

**2. When was the Ordinance adopted?**

The City Council adopted the CRO on November 21, 2000. Regulations implementing the Ordinance were adopted on June 19, 2001.

**3. Who is responsible for the administration and enforcement of the Ordinance?**

Three departments were named as administrative agencies responsible for the administration of the CRO. Each Designated Administrative Agency (DAA) administers the Ordinance for a specific type of agreement. The three DAA's, the type of agreement each DAA is responsible for, and contact information for each DAA is provided in the table below.

Administrative Agency	Agreement Type	Contact Information
Public Works, BCA	Service	Russ Strazella (213) 580-5012
Public Works, BCA	Construction	Russ Struzella (213) 580-5012
General Services	Procurement	Raymond Richards (213) 485-4591

**4. Are all service, procurement, and construction agreements subject to the CRO?**

Generally, an agreement, including one processed as an Authorization for Expenditure (AFE) with a Letter of Agreement, is covered by the CRO if it meets one of the definitions below.

Service agreements: Agreements covered under the general category of a "service agreement" include:

- An agreement for \$25,000.00 or more and for at least three months in which a contractor will provide services to or for the City.
- An agreement for a lease or license of City property if the service to be performed on the property is something that City employees could perform.
- An agreement for the lease or license of City property that is in a location where a substantial number of the general public might visit.
- An agreement for the grant of City financial assistance for \$100,000 or more if the agreement is for the purpose of economic development or job growth. City financial

assistance may also include loans if certain conditions are met. (Refer to Sec. 10.40.0(b) of the CRO.)

Purchase agreements: Purchase agreements are covered if they are for \$100,000 or more. Agreements to purchase garments are covered if they are for \$25,000 or more.

Construction agreements: All construction agreements are covered, regardless of amount or term.

## **5. When did the Ordinance become applicable?**

The Ordinance is being applied to Invitations for Bids (IFB) (including Requests for Proposals, Requests for Qualifications, “sole-sourced” contracts, and any other procurement process) released to the public **on or after September 4, 2001**. An agreement entered into as a result of an IFB released prior to that date is not subject to the CRO unless it is amended after September 4, 2001, and the amended agreement meets the definitions stated in the answer to Question #4 above.

## **6. If an IFB is subject to the CRO, what must a department do?**

The department must inform prospective bidders/proposers that the CRO is applicable to the IFB. The department must also include the appropriate Responsibility Questionnaire for bidders/proposers to fill out. Depending on the type of contract to be awarded, one of three Questionnaires may be included in the IFB: Service; Procurement; and Construction.

## **7. What is a Responsibility Questionnaire?**

The Responsibility Questionnaire asks for information about the bidder/proposer: business organization or structure; financial resources and responsibility; performance history; prior disputes; and history in complying with laws. Before a department awards a contract, the department will consider information contained in the Questionnaire as part of the review of a bidder/proposer’s responsibility, as well as any information contained in the Office of Contract Compliance’s Contractor Evaluation database [<http://caodocs.ci.la.ca.us/ContEval/>] regarding the proposer’s prior performance on City contracts.

## **8. What must a bidder/proposer do when responding to an IFB?**

If the IFB is subject to the CRO, the bidder/proposer must complete the Responsibility Questionnaire and return it to the City department with the bid/proposal. If a bidder/proposer does not submit a completed Questionnaire with the bid/proposal, the City department may consider the bidder/proposer to be non-responsive to the IFB and may disqualify the bidder/proposer from the rest of the IFB process.

## **9. Is a separate Questionnaire required for each IFB?**

Unless the IFB is exempt, a separate Questionnaire must be submitted for each IFB to which a bidder/proposer responds.

## **10. What will the City do with the Questionnaire?**

The department responsible for awarding the agreement will review the information contained in the submitted questionnaires, and if necessary, follow up with the bidder/proposer to clarify any information contained in the Questionnaire. The awarding authority will send the completed Questionnaires to the appropriate DAA. The DAA will post the Questionnaires on the City's Bidder/Contractor Responsibility website: [www.lacity.org/bidresp](http://www.lacity.org/bidresp). This posting also applies to "sole-sourced" contracts, so the completed Questionnaire from a proposed "sole-sourced" contractor must be forwarded to the appropriate DAA for posting.

## **11. How long will the Questionnaires be posted?**

The Questionnaires will be posted on the internet for 14 calendar days. Unless an exemption applies, a department cannot award an agreement until the posting requirement has been met.

## **12. What happens during the 14 calendar-day posting period?**

The general public will be able to review the Questionnaires posted. If, during the 14 calendar-day posting period, the DAA receives information that calls into question a bidder/proposer's responsibility, the DAA will investigate the matter. In that case, no agreement may be awarded until the DAA finishes its investigation. Information obtained during the investigation will be provided to the department to consider in its determination of a bidder/proposer's responsibility.

## **13. How does a department know that the posting requirement has been met?**

The awarding department should complete the top portion of the Posting Verification Form and forward it to the DAA along with the Questionnaires. The DAA will complete the bottom portion of the Posting Verification Form and return it to the department when the posting requirement has been met.

## **14. Are contract amendments subject to the CRO?**

If an agreement is amended after September 4, 2001, and the amended agreement meets the definitions stated in the answer to Question #4 above, it is subject to the CRO. Contractors do not have to submit a Questionnaire; however, the CRO Contract Language must be incorporated into the amended agreement.

## **15. After the agreement is awarded, or the agreement is amended, what does the CRO require the contractor to do?**

The CRO requires a contractor to:

- Comply with all federal, state, and local laws in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws, which affect employees.

- Notify the awarding authority within 30 calendar days after receiving notice that any governmental agency has started an investigation into violations of, or has found that the contractor has violated, any federal, state, or local law in the performance of the contract..
- When applicable, provide the awarding authority, within 30 calendar days, updated responses to the Questionnaire if a change occurs that would affect the contractor's responsibility and ability to continue the agreement.
- Ensure that subcontractors working on the City agreement comply with all federal, state, and local laws in the performance of the agreement.
- Ensure that subcontractors working on the City agreement submit a Pledge of Compliance to comply with the CRO.

#### **16. What happens if a contractor is found to be in violation of the Ordinance?**

The DAA will notify the contractor that a violation has been found and give the contractor 10 calendar days to correct the violation. If the contractor fails to do so, the City may terminate the agreement and pursue all available contractual remedies. The City may also hold a non-responsibility hearing and debar the contractor from doing business with the City for five (5) years.

#### **17. What about subcontractors?**

Subcontractors are subject to the CRO, and the contractor must ensure that each of its subcontractors complies with the CRO. Subcontractors do not need to complete a Questionnaire, but they must submit to the awarding department a Pledge of Compliance with the Ordinance before they can start work on a City agreement.

#### **18. What if a subcontractor is found to be in violation of the Ordinance?**

Because the prime contractor is responsible for ensuring that all its subcontractors comply with the CRO, the sanctions listed in the answer to Question #16 may be applied to the prime contractor if the subcontractor does not correct the violation(s).

#### **19. Are there any exemptions under the Ordinance?**

Generally, two categories of exemptions exist under the CRO:

(1) Agreements exempt from all the CRO requirements:

- Contracts with a governmental entity such as the United States of America, the State of California, a county, city or public agency of such entities, or a public or quasi-public corporation located therein and declared by law to have such status.
- Contracts for the investment of trust moneys or agreements relating to the management of trust assets.
- Banking contracts entered into by the Treasurer pursuant to California Government Code Section 53630 et seq.

(2) Agreements that are only exempt from the requirement that a bidder/proposer submit a Questionnaire. The contractor must still comply with all other CRO provisions.

- Agreements awarded on the basis of emergency circumstances when the awarding authority finds that the City would suffer a financial loss or that City operations would be adversely impacted. This exemption is subject to approval by the DAA.
- Agreements for goods or services that are proprietary or available from only one source. This exemption is subject to approval by the DAA.
- Agreements awarded under the authority of Charter Sections 371(e)(5), (6), (7) or (8). The awarding authority must certify in writing that the contract is entered into in compliance with the requirements of those Charter sections.

**20. Where can I obtain a copy of the Contractor Responsibility Ordinance and the Rules and Regulations?**

All CRO-related information and documents can be found on the CRO website:  
<http://www.lacity.org/bidresp>.

CITY OF LOS ANGELES
RESPONSIBILITY QUESTIONNAIRE

RESPONSES TO THE QUESTIONS CONTAINED IN THIS QUESTIONNAIRE MUST BE SUBMITTED ON THIS FORM. In responding to the Questionnaire, neither the City form, nor any of the questions contained therein, may be retyped, recreated, modified, altered, or changed in any way, in whole or in part. Bidders or Proposers that submit responses on a form that has been retyped, recreated, modified, altered, or changed in any way shall be deemed non-responsive.

The signatory of this Questionnaire guarantees the truth and accuracy of all statements and answers to the questions herein. Failure to complete and return this questionnaire, any false statements, or failure to answer (a) question(s) when required, may render the bid/proposal non-responsive. All responses must be typewritten or printed in ink. Where an explanation is required or where additional space is needed to explain an answer, use the Responsibility Questionnaire Attachments. Submit the completed form and all attachments to the awarding authority. Retain a copy of this completed form for future reference. Contractors must submit updated information to the awarding authority if changes have occurred that would render any of the responses inaccurate in any way. Updates must be submitted to the awarding authority within 30 days of the change(s).

A. CONTACT INFORMATION

CITY DEPARTMENT INFORMATION

City Department/Division Awarding Contract City Contact Person Phone

City Bid or Contract Number (if applicable) and Project Title

BIDDER/CONTRACTOR INFORMATION

Bidder/Proposer Business Name

Street Address City State Zip

Contact Person, Title Phone Fax

TYPE OF SUBMISSION:

The Questionnaire being submitted is:

- An initial submission of a completed Questionnaire.
An update of a prior Questionnaire dated \_\_\_\_/\_\_\_\_/\_\_\_\_.
No change. I certify under penalty of perjury under the laws of the State of California that there has been no change to any of the responses since the last Responsibility Questionnaire dated \_\_\_\_/\_\_\_\_/\_\_\_\_ was submitted by the firm. Attach a copy of that Questionnaire and sign below.

Print Name, Title Signature Date

TOTAL NUMBER OF PAGES SUBMITTED, INCLUDING ALL ATTACHMENTS: \_\_\_\_\_

**B. BUSINESS ORGANIZATION/STRUCTURE**

Indicate the organizational structure of your firm. "Firm" includes a sole proprietorship, corporation, joint venture, consortium, association, or any combination thereof.

**Corporation:** Date incorporated: \_\_\_\_/\_\_\_\_/\_\_\_\_ State of incorporation: \_\_\_\_\_

List the corporation's current officers.

President: \_\_\_\_\_

Vice President: \_\_\_\_\_

Secretary: \_\_\_\_\_

Treasurer: \_\_\_\_\_

Check the box only if your firm is a publicly traded corporation.

List those who own 5% or more of the corporation's stocks. Use Attachment A if more space is needed. Publicly traded corporations need not list the owners of 5% or more of the corporation's stocks.

\_\_\_\_\_  
\_\_\_\_\_

**Limited Liability Company:** Date of formation: \_\_\_\_/\_\_\_\_/\_\_\_\_ State of formation: \_\_\_\_\_

List members who own 5% or more of the company. Use Attachment A if more space is needed.

\_\_\_\_\_  
\_\_\_\_\_

**Partnership:** Date formed: \_\_\_\_/\_\_\_\_/\_\_\_\_ State of formation: \_\_\_\_\_

List all partners in your firm. Use Attachment A if more space is needed.

\_\_\_\_\_  
\_\_\_\_\_

**Sole Proprietorship:** Date started: \_\_\_\_/\_\_\_\_/\_\_\_\_

List any firm(s) that you have been associated with as an owner, partner, or officer for the last five years. Use Attachment A if more space is needed. Do not include ownership of stock in a publicly traded company in your response to this question.

\_\_\_\_\_  
\_\_\_\_\_

**Joint Venture:** Date formed: \_\_\_\_/\_\_\_\_/\_\_\_\_

List: (1) each firm that is a member of the joint venture and (2) the percentage of ownership the firm will have in the joint venture. Use Attachment A if more space is needed. **Each member of the Joint Venture must complete a separate Questionnaire for the Joint Venture's submission to be considered as responsive to the invitation.**

\_\_\_\_\_  
\_\_\_\_\_



**C. OWNERSHIP AND NAME CHANGES**

1. Is your firm a subsidiary, parent, holding company, or affiliate of another firm?

**Yes**     **No**

If **Yes**, explain on Attachment A the relationship between your firm and the associated firms. Include information about an affiliated firm only if one firm owns 50% or more of another firm, or if an owner, partner or officer of your firm holds a similar position in another firm.

2. Has any of the firm's owners, partners, or officers operated a similar business in the past five years?

**Yes**     **No**

If **Yes**, list on Attachment A the names and addresses of all such businesses, and the person who operated the business. Include information about a similar business only if an owner, partner or officer of your firm holds a similar position in another firm.

3. Has the firm changed names in the past five years?

**Yes**     **No**

If **Yes**, list on Attachment A all prior names, addresses, and the dates they were used. Explain the reason for each name change in the last five years.

4. Are any of your firm's licenses held in the name of a corporation or partnership?

**Yes**     **No**

If Yes, list on Attachment A the name of the corporation or partnership that actually holds the license.

**Bidders/Contractors must continue on to Section D and answer all remaining questions contained in this Questionnaire.**

**The responses to the remaining questions in this Questionnaire will not be posted on the internet but will be made available to the public for review upon request. Contact the appropriate Designated Administrative Agency.**

**D. FINANCIAL RESOURCES AND RESPONSIBILITY**

5. Is your firm now, or has it ever been at any time in the last five years, the debtor in a bankruptcy case?

**Yes**     **No**

If **Yes**, explain on Attachment B the circumstances surrounding each instance.

6. Is your company in the process of, or in negotiations toward, being sold?

**Yes**     **No**

If **Yes**, explain the circumstances on Attachment B.

**E. PERFORMANCE HISTORY**

7. How many years has your firm been in business? \_\_\_\_\_ Years.

8. Has your firm ever held any contracts with the City of Los Angeles or any of its departments?

**Yes**     **No**

If, **Yes**, list on an Attachment B all contracts your firm has had with the City of Los Angeles for the last 10 years. For each contract listed in response to this question, include: (a) entity name; (b) purpose of contract; (c) total cost; (d) starting date; and (e) ending date.

9. List on Attachment B all contracts your firm has had with any private or governmental entity (other than the City of Los Angeles) over the last five years that are similar to the work to be performed on the contract for which you are bidding or proposing. For each contract listed in response to this question, include: (a) entity name; (b) purpose of contract; (c) total cost; (d) starting date; and (e) ending date.

Check the box if you have not had any similar contracts in the last five years

10. In the past five years, has a governmental or private entity or individual terminated your firm's contract prior to completion of the contract?

**Yes**     **No**

If **Yes**, explain on Attachment B the circumstances surrounding each instance.

11. In the past five years, has your firm used any subcontractor to perform work on a government contract when you knew that the subcontractor had been debarred by a governmental entity?

**Yes**     **No**

If **Yes**, explain on Attachment B the circumstances surrounding each instance.

12. In the past five years, has your firm been debarred or determined to be a non-responsible bidder or contractor?

**Yes**     **No**

If **Yes**, explain on Attachment B the circumstances surrounding each instance.

**F. DISPUTES**

13. In the past five years, has your firm been the defendant in court on a matter related to any of the following issues? For parts (a) and (b) below, check **Yes** even if the matter proceeded to arbitration without court litigation. For part (c), check **Yes** only if the matter proceeded to court litigation. If you answer **Yes** to any of the questions below, explain the circumstances surrounding each instance on Attachment B. You must include the following in your response: the name of the plaintiffs in each court case, the specific causes of action in each case; the date each case was filed; and the disposition/current status of each case.

(a) Payment to subcontractors?

**Yes**     **No**

(b) Work performance on a contract?

**Yes**     **No**

(c) Employment-related litigation brought by an employee?

**Yes**     **No**

14. Does your firm have any outstanding judgements pending against it?

**Yes**     **No**

If **Yes**, explain on Attachment B the circumstances surrounding each instance.

15. In the past five years, has your firm been assessed liquidated damages on a contract?

**Yes**     **No**

If **Yes**, explain on Attachment B the circumstances surrounding each instance and identify all such projects, the amount assessed and paid, and the name and address of the project owner.

**G. COMPLIANCE**

16. In the past five years, has your firm or any of its owners, partners or officers, ever been investigated, cited, assessed any penalties, or been found to have violated any laws, rules, or regulations enforced or administered, by any of the governmental entities listed on Attachment C (Page 9)? For this question, the term "owner" does not include owners of stock in your firm if your firm is a publicly traded corporation.

**Yes**     **No**

If **Yes**, explain on Attachment B the circumstances surrounding each instance, including the entity that was involved, the dates of such instances, and the outcome.

17. If a license is required to perform any services provided by your firm, in the past five years, has your firm, or any person employed by your firm, been investigated, cited, assessed any penalties, subject to any disciplinary action by a licensing agency, or found to have violated any licensing laws?

**Yes**     **No**

If **Yes**, explain on Attachment B the circumstances surrounding each instance in the last five years.

**SERVICE**

18. In the past five years, has your firm, any of its owners, partners, or officers, ever been penalized or given a letter of warning by the City of Los Angeles for failing to obtain authorization from the City for the substitution of a Minority-owned (MBE), Women-owned (WBE), or Other (OBE) business enterprise?

**Yes**     **No**

If **Yes**, explain on Attachment B the circumstances surrounding each instance in the last five years.

**H. BUSINESS INTEGRITY**

19. For questions (a), (b), and (c) below, check **Yes** if the situation applies to your firm. For these questions, the term “firm” includes any owners, partners, or officers in the firm. The term “owner” does not include owners of stock in your firm if the firm is a publicly traded corporation. If you check **Yes** to any of the questions below, explain on Attachment B the circumstances surrounding each instance.

(a) Is a governmental entity or public utility currently investigating your firm for making (a) false claim(s) or material misrepresentation(s)?

**Yes**     **No**

(b) In the past five years, has a governmental entity or public utility alleged or determined that your firm made (a) false claim(s) or material misrepresentation(s)?

**Yes**     **No**

(c) In the past five years, has your firm been convicted or found liable in a civil suit for, making (a) false claim(s) or material misrepresentation(s) to any governmental entity or public utility?

**Yes**     **No**

20. In the past five years, has your firm or any of its owners or officers been convicted of a crime involving the bidding of a government contract, the awarding of a government contract, the performance of a government contract, or the crime of fraud, theft, embezzlement, perjury, bribery? For this question, the term “owner” does not include those who own stock in a publicly traded corporation.

**Yes**     **No**

If **Yes**, explain on Attachment B the circumstances surrounding each instance.

**CERTIFICATION UNDER PENALTY OF PERJURY**

I certify under penalty of perjury under the laws of the State of California that I have read and understand the questions contained in this questionnaire and the responses contained on all Attachments. I further certify that I have provided full and complete answers to each question, and that all information provided in response to this Questionnaire is true and accurate to the best of my knowledge and belief.

---

Print Name, Title

Signature

Date

**ATTACHMENT A FOR SECTIONS A THROUGH C**

Where additional information or an explanation is required, use the space below to provide the information or explanation. Information submitted on this sheet must be typewritten or printed in ink. Include the number of the question for which you are submitting additional information. Information submitted on this Attachment in response to Questions in Sections A through C will be posted on the internet for public review. Make copies of this Attachment if additional pages are needed.

Page \_\_\_\_\_

**ATTACHMENT B FOR SECTIONS D THROUGH H**

Where additional information or an explanation is required, use the space below to provide the information or explanation. Information submitted on this sheet must be typewritten or printed in ink. Include the number of the question for which you are submitting additional information. Information submitted on this Attachment in response to Questions in Sections D through H will not be posted on the internet but will be made available to the public for review upon request. Make copies of this Attachment if additional pages are needed.

Page \_\_\_\_\_

**ATTACHMENT C: GOVERNMENTAL ENTITIES FOR QUESTION NO. 16**

Check **Yes** in response to Question No. 16 if your firm or any of its owners, partners or officers, have ever been investigated, cited, assessed any penalties, or found to have violated any laws, rules, or regulations enforced or administered, by any of the governmental entities listed below (or any of its subdivisions), including but not limited to those examples specified below. The term “owner” does not include owners of stock in your firm if your firm is a publicly traded corporation. If you answered **Yes**, provide an explanation on Attachment B of the circumstances surrounding each instance, including the entity involved, the dates of such instances, and the outcome.

**FEDERAL ENTITIES****Federal Department of Labor**

- American with Disabilities Act
- Immigration Reform and Control Act
- Family Medical Leave Act
- Fair Labor Standards Act
- Davis-Bacon and laws covering wage requirements for federal government contract workers
- Migrant and Seasonal Agricultural Workers Protection Act
- Immigration and Naturalization Act
- Occupational Safety and Health Act
- anti-discrimination provisions applicable to government contractors and subcontractors
- whistleblower protection laws

**Federal Department of Justice**

- Civil Rights Act
- American with Disabilities Act
- Immigration Reform and Control Act of 1986
- bankruptcy fraud and abuse

**Federal Department of Housing and Urban Development (HUD)**

- anti-discrimination provisions in federally subsidized/assisted/sponsored housing programs
- prevailing wage requirements applicable to HUD related programs

**Federal Environmental Protection Agency**

- Environmental Protection Act

**National Labor Relations Board**

- National Labor Relations Act

**Federal Equal Employment Opportunity Commission**

- Civil Rights Act
- Equal Pay Act
- Age Discrimination in Employment Act
- Rehabilitation Act
- Americans with Disabilities Act

**STATE ENTITIES****California's Department of Industrial Relations**

- wage and labor standards, and licensing and registration
- occupational safety and health standards
- workers' compensation self insurance plans
- Workers' Compensation Act
- wage, hour, and working standards for apprentices
- any provision of the California Labor Code

**California's Department of Fair Employment and Housing**

- California Fair Employment and Housing Act
- Unruh Civil Rights Act
- Ralph Civil Rights Act

**California Department of Consumer Affairs**

- licensing, registration, and certification requirements
- occupational licensing requirements administered and/or enforced by any of the Department's boards, including the Contractors' State Licensing Board

**California's Department of Justice****LOCAL ENTITIES**

**City of Los Angeles** or any of its subdivisions for violations of any law, ordinance, code, rule, or regulation administered and/or enforced by the City, including any letters of warning or sanctions issued by the City of Los Angeles for an unauthorized substitution of subcontractors, or unauthorized reductions in dollar amounts subcontracted.

**OTHERS**

**Any other federal, state, local governmental entity** for violation of any other federal, state, or local law or regulation relating to wages, labor, or other terms and conditions of employment.

**E. EQUAL BENEFITS ORDINANCE STATEMENT AND  
FIRST SOURCE HIRING ORDINANCE STATEMENT**



## SECTION E

### **EQUAL BENEFITS ORDINANCE STATEMENT AND FIRST SOURCE HIRING ORDINANCE STATEMENT**

A contract awarded from this RFP is subject to the Equal Benefits Ordinance (EBO) and/or the First Source Hiring Ordinance (FSHO). Bidders/Proposers are required to complete a streamlined EBO/FSHO Compliance Affidavit web application form that is located on the City of Los Angeles' Business Assistance Virtual Network (BAVN) at [www.labavn.org](http://www.labavn.org). Bidders/Proposers are responsible for creating a BAVN profile and completing and submitting the affidavit. See below for additional details about the EBO and the FSHO.

#### **Equal Benefits Ordinance (EBO):**

Bidders/Proposers are advised that any contract awarded pursuant to this procurement process shall be subject to the applicable provisions of Los Angeles Administrative Code Section 10.8.2.1, Equal Benefits Ordinance (EBO).

All Bidders/Proposers shall complete and submit the Equal Benefits Ordinance Compliance Affidavit, available on the City of Los Angeles' Business Assistance Virtual Network (BAVN) residing at [www.labavn.org](http://www.labavn.org), prior to award of a City contract that exceeds \$25,000. The affidavit shall be valid for a period of three years from the date it is first uploaded onto the City's BAVN. Bidders/Proposers do not need to submit supporting documentation with their bids or proposals. However, the City may request supporting documentation to verify that the benefits are provided equally as specified on the EBO Affidavit.

Bidders/Proposers seeking additional information regarding the requirements of the Equal Benefits Ordinance may visit the Bureau of Contract Administration's web site at <http://bca.lacity.org>.

#### **First Source Hiring Ordinance (FSHO):**

Unless approved for an exemption, contractors under contracts primarily for the furnishing of services to or for the City, the value of which exceeds \$25,000 with a term of at least three (3) months, and certain recipients of City Loans or Grants, shall comply with the provisions of Los Angeles Administrative Code Sections 10.44 et seq., First Source Hiring Ordinance (FSHO).

All Bidders/Proposers shall complete and electronically sign the FSHO Compliance Affidavit available on the City of Los Angeles' Business Assistance Virtual Network (BAVN) residing at [www.labavn.org](http://www.labavn.org) prior to award of a City contract. The affidavit shall be valid for a period of three years from the date it is first uploaded on the City's BAVN.

Bidders/Proposers seeking additional information regarding the requirements of the First Source Hiring Ordinance may visit the Bureau of Contract Administration's web site at <http://bca.lacity.org>.

**F. LIVING WAGE ORDINANCE AND SERVICE  
CONTRACT WORKER RETENTION ORDINANCE**

**SECTION F**  
**LIVING WAGE ORDINANCE**  
**AND**  
**SERVICE CONTRACT WORKER RETENTION ORDINANCE**

Unless approved for an exemption, contractors under contracts primarily for the furnishing of services to or for the City and that involve an expenditure in excess of \$25,000 and a contract term of at least three (3) months, lessees and licensees of City property, and certain recipients of City financial assistance, shall comply with the provisions of Los Angeles Administrative Code Section 10.37 et seq., Living Wage Ordinance and 10.36 et seq. Service Contractor Worker Retention Ordinance. Additional information may be found at the following websites:

{ HYPERLINK "http://bca.lacity.org/index.cfm?nxt=lco&nxt\_body=content\_lwo.cfm" }

{ HYPERLINK "http://bca.lacity.org/index.cfm?nxt=soo&nxt\_body=content\_scwro.cfm" }

**INSTRUCTIONS:**

If applying for an exemption, complete and submit the appropriate exemption forms with the proposal; if no exemption is claimed, do not submit the forms with the proposal.

**CITY OF LOS ANGELES**  
**LIVING WAGE ORDINANCE**  
**(Los Angeles Administrative Code Section 10.37 et seq.)**

**1. What is the Living Wage Ordinance?**

The Living Wage Ordinance (LWO) requires employers who have agreements with the City to pay their employees at least a minimum “living wage” and to provide certain benefits. If the agreement is subject to the LWO, the employer must do the following:

- Pay employees working on the subject agreement a wage rate that is at least equal to the “living wage” rate. The “living wage” is adjusted annually and becomes effective July 1 of each year. Employers can obtain information about the living wage rate currently in effect by going to Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance (OCC) website at [www.lacity.org/bca/OCCmain.html](http://www.lacity.org/bca/OCCmain.html).
- Provide employees with at least 12 paid days off per year for sick leave, vacation, or personal necessity; and at least 10 unpaid sick days off per year.
- Tell employees who make less than \$12.00 per hour that they may qualify for the federal Earned Income Tax Credit and provide them with the forms required to apply for the credit.
- Cooperate with the City by providing access to the work site and to payroll and related documents so that the City can determine if the employer is complying with the LWO.
- Pledge to comply with federal laws prohibiting an employer from retaliating against employees for union organizing.
- Not retaliate against any employee who makes claims about non-compliance with the LWO.

**2. When was the Ordinance adopted?**

The LWO was adopted in May, 1997 and amended in January, 1999.

**3. What types of agreements are subject to the Ordinance?**

Generally, the LWO covers the following types of agreements:

- An agreement in an amount over \$25,000.00 and for at least three months in which an employer will provide services to or for the City.
- An agreement for the lease or license of City property if the service being performed on the property is something that City employees would otherwise do.
- An agreement for the lease or license of City property that is in a location where a substantial number of the general public might visit.
- An agreement in which the City gives financial assistance for the purpose of promoting economic development or job growth.
- An agreement in which the City determines that applying the LWO would be in the best interest of the City.

#### **4. Is an agreement subject to the LWO if it was entered into before May, 1997?**

Agreements executed after May, 1997 are subject to the LWO. An agreement entered into before May, 1997 may become subject to LWO if it is later amended or modified in order to add time or money to the original agreement.

#### **5. Are there any requirements that would apply to an employer who does not have an agreement with City that is subject to the LWO?**

All employers are required to comply with the LWO's prohibition against retaliation, even if the employer does not have an agreement with the City that is subject to the Ordinance.

#### **6. Are all employees covered by the Ordinance?**

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#### **7. Are an employer's subcontractors subject to the requirements of the Ordinance?**

A subcontractor may be covered by the Ordinance if the subcontractor performs work on the subject agreement. If so, the subcontractor must also comply with the requirements of the LWO, including all reporting requirements. The prime contractor is responsible for the making sure that the subcontractor complies with the LWO.

#### **8. What happens if an employer is found to be in violation of the Ordinance?**

Payments due may be withheld. Also, the employer may be deemed to be in material breach of the agreement. When that happens, the City may take the following steps:

- Terminate the agreement and pursue all available contractual remedies.
- Debar the employer from doing business with the City for three (3) years or until all penalties and restitution have been fully paid, whichever occurs last.
- Bring a lawsuit against the employer for all unpaid wages and health benefit premiums and/or seek a fine of up to one hundred dollars (\$100.00) for each day the violation remains uncorrected.

#### **9. What if a subcontractor is found to be in violation of the Ordinance?**

Because the prime contractor is responsible for making sure that all its subcontractors comply with the LWO, the sanctions listed in answer #8 may be applied to the prime contractor if the subcontractor does not correct the violation(s).

#### **10. What can an employee do if an employer is in violation of the Ordinance?**

The employee can submit a complaint to the Office Contract Compliance which will investigate the complaint. Also, the employee can bring his or her own lawsuit against the employer for:

- Back pay for failing to pay the correct wages or correct health benefit premiums.
- Reinstatement and back pay for retaliation.
- Triple the amount of the back pay that is owed if the violation was found by the court to be willful.

## **11. Are there any exemptions available under the Ordinance?**

An employer may apply for an exemption based on the following categories:

- Service agreements that are less than 3 months or \$25,000 or less.
- Agreements for the purchase of goods, property, or the leasing of property (with City as the lessee).
- Construction contracts that do not meet the definition of a service agreement.
- Employees who are required to have an occupational license in order to provide services to or for the City are exempt.
- Employers who are party to a collective bargaining agreement (CBA) that has language stating that the CBA shall supersede the LWO.
- Financial assistance recipients who meet the requirements stated in Section 10.37.1(c) of the LWO.
- Employers (contractors, subcontractors, financial assistance recipients) organized under IRS Code, Section 501(c)(3) whose chief executive officer's hourly wage rate is less than eight times the hourly wage rate of the lowest paid worker are be exempt. However, this exemption does not apply to child care workers.
- Lessees or licensees who have no more than a total of seven employees and who have annual gross revenue of less than \$454, 016 (effective July 1, 2009). The qualifying annual gross revenue is adjusted every July.
- One-person contractors, lessees, licensees or financial assistance recipients who employ no workers.
- Agreements that involve other governmental entities.

## **12. Who is responsible for the administration and enforcement of the Ordinance?**

The Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance, located at 1149 S. Broadway Street, Suite 300, Los Angeles, CA 90015. For additional information, please call (213) 847-2625, or go to the Office of Contract Compliance website at <http://bca.lacity.org>.

## LIVING WAGE ORDINANCE STATUTORY EXEMPTIONS

Living Wage Ordinance (LWO) statutory exemptions are now divided into the following three categories:

1. Exemptions that do not require approval from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance (OCC).
2. Exemptions that do not require OCC approval but require a Contractor Certification of Exemption.
3. Exemptions that require submission of an Application for Exemption and OCC approval of the Application.

1. **The following exemptions do not require OCC approval or any Contractor Certification**: Departments only need to indicate the exemption in the appropriate category on the LWO Departmental Determination of Coverage Form.

- a. **Less than three months OR less than \$25,000 (LAAC 10.37.1(j))**. Service contracts or Authority for Expenditures that do not meet these thresholds are not covered by the LWO.
- b. **Other governmental entities (LAAC 10.37.1(g))**. Agreements with other governmental entities such as Los Angeles County, the State of California, or the University of California, are not covered by the LWO. Subcontractors to these entities are also not covered by the LWO.
- c. **Purchase of goods, property, or the leasing of property, with the City as lessee (LAAC 10.37.1(j))**. Such contracts are categorically exempt from the LWO unless they include a service component that is more than just incidental (regular and recurring services is required). Examples of such categorically exempt contracts include contracts to purchase office supplies or to lease space to be occupied by City departments.
- d. **Construction contracts, not conforming to the definition of a service contract (LAAC 10.37.1(j))**. Such contracts are categorically exempt from the LWO. Examples include construction of buildings and infrastructure.
- e. **City financial assistance not meeting thresholds (LAAC 10.37.1(c))**. Agreements to provide a contractor with City financial assistance (which typically mean grants or loans provided at interest rates that are lower than the Applicable Federal Rate) are categorically exempt from the LWO if they meet both of the following:
  - (1) The assistance given in a 12-month period is below \$1,000,000 AND less than \$100,000 per year.
  - (2) The assistance is not for economic development or job growth.
- f. **Business Improvement Districts (BID) (LWO Regulation #11)**. Service agreements are categorically exempt from the LWO if the services are funded with the BID's assessment money collected by the City after the formation of the BID. Service contracts in which City money is used to hire firms to help in forming the BID remain subject to the LWO unless the contractor otherwise qualifies for an exemption.

2. **The following exemption categories do not require OCC approval, but the contractor must still submit a Contractor Certification of Exemption from Living Wage (OCC/LW-13)**. No OCC approval is required for the exemption to be valid. However, the department must include the Contractor Certification of Exemption with the contract.

- a. **501(c)(3) Non-profit organizations (LAAC 10.37.1(g))**: Employers (contractors, subcontractors, financial assistance recipients) organized under IRS Code Section 501(c)(3) are exempt from the LWO if the hourly wage rate of the corporation's highest paid employee is less than eight times the hourly wage rate of the corporation's lowest paid worker. However, the exemption does not extend to Child Care Workers as defined in the LWO Rules and Regulations (an employee "whose work on an agreement involves the care or supervision of children 12 years of age and under."). A copy of the IRS 501(c)(3) Exemption Letter will be required.
- b. **One-person contractors with no employees (LAAC 10.37.1(f))**: Contractors, lessees, licensees or financial assistance recipients who employ no workers are exempt from the LWO.

## LIVING WAGE ORDINANCE STATUTORY EXEMPTIONS (Continued)

### 3. The following exemption categories require submission of an application for exemption and OCC approval of the application to be valid.

- a. **Collective bargaining agreements (CBA) that supersede the LWO (LAAC 10.37.12):** Contractors whose employees are covered by a CBA that supersede the requirements of the LWO are not subject to the LWO. A copy of the CBA with the superseding language or a letter from the union indicating that the union has agreed to allow the CBA to supersede the LWO will be required to be submitted. Example: Labor agreement between parking contractor and a labor union with language that wages and benefits in the CBA shall supersede the LWO. Contractors must use the LWO Application for Non-Coverage or Exemption form (Form OCC/LW-10) and submit a copy of the CBA or a letter from the union.
- b. **Occupational license (LAAC 10.37.1(f)):** Employees required to possess an occupational license in order to provide the services under the City agreement are not subject to the LWO. However, only the individual employees who are required to possess an occupational license are exempt. Employees who work on the City contract and are not required to possess an occupational license remain subject to the LWO. Example: Under California Labor Code Sections 7375 – 7380, a person must be licensed by the State of California in order to inspect and certify cranes and derricks used in lifting services. Contractors must use the LWO Application for Non-Coverage or Exemption form (Form OCC/LW-10) and submit a listing of the employees who possess occupational licenses and a copy of the licenses.
- c. **Small business exemptions for Public Lessees/Licensees (LAAC 10.37.1(i)):** Small business that lease property from the City may apply for OCC approval for LWO exemption if the lessee or licensee: (1) employs no more than a total of seven employees; and (2) has annual gross revenues of less than \$454,016 (adjusted July 1, 2009). This applies only to lessees with lease agreements executed after February 24, 2001, and to amendments executed after February 24, 2001 that add monies or extend term. Use the Application for “Small Business” Exemption (Form OCC/LW-20) and submit the application with the documents requested on that form.
- d. **City financial assistance agreements that exceed the LWO monetary thresholds may apply for one of the exemptions below.** Applicants and departments should refer to Regulation #3(c) for the requirements and the documents that must be submitted with the LWO Application for Non-Coverage or Exemption (OCC/LW-10).
  - (1) The City financial assistance recipient (CFAR) is in its first year of operation (LAAC 10.37.1(c)).
  - (2) The CFAR employs fewer than five employees (LAAC 10.37.1(c)).
  - (3) The CFAR would face undue hardship because it employs the long-term unemployed or provides trainee positions to prepare employees for permanent positions (LAAC 10.37.1(c)). REQUIRES COUNCIL APPROVAL.



# LWO –DEPARTMENTAL EXEMPTION APPLICATION

## EXEMPTIONS THAT REQUIRE AWARDING DEPARTMENT APPROVAL

**This application for exemption must be submitted along with your bid or proposal to the AWARDING DEPARTMENT. INCOMPLETE SUBMISSIONS WILL BE RETURNED.**

Los Angeles Administrative Code 10.37, the Living Wage Ordinance (LWO), presumes all City contractors (including service contractors, subcontractors, financial assistance recipients, lessees, licensees, sublessees and sublicensees) are subject to the LWO unless an exemption applies.

### TO BE FILLED OUT BY THE CONTRACTOR:

1. Company Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_
2. Company Address: \_\_\_\_\_
3. Are you a Subcontractor?  Yes  No If YES, state the name of your Prime Contractor: \_\_\_\_\_
4. Type of Service Provided: \_\_\_\_\_

### EXEMPTION INFORMATION:

CHECK OFF ONE BOX BELOW THAT BEST DESCRIBES THE TYPE OF EXEMPTION YOU ARE APPLYING FOR AND ATTACH THE SUPPORTING DOCUMENTATION LISTED ON THE RIGHT:

EXEMPTION	SUPPORTING DOCUMENTATION REQUIRED
<input type="checkbox"/> <b>501(c)(3) Non-Profit Organizations:</b> <ul style="list-style-type: none"> <li>▪ A corporation organized under 501(c)(3) of the IRS Code qualifies for an exemption from the LWO if <b>the highest paid employee makes less than eight times the hourly wage of the lowest paid employee.</b></li> <li>▪ The exemption is valid for all employees <b>except Child Care Workers.</b></li> <li>▪ Therefore, even if a 501(c)(3) organization meets the salary test, <b>Child Care Workers performing work on the City agreement must still be provided with the LWO required wage and time off benefits.</b></li> <li>▪ Under the LWO's Rules and Regulations, a Child Care Worker is an employee "whose work on an agreement involves the care or supervision of children 12 years of age and under."</li> <li>▪ This is read broadly so that the term would include, for example, tutors working with children 12 or under.</li> </ul>	<ol style="list-style-type: none"> <li>1. <b>ATTACH</b> a copy of your 501(c)(3) letter from the IRS.</li> <li>2. <b>ANSWER</b> the following questions:               <ol style="list-style-type: none"> <li>A. <b>STATE</b> the hourly wage of HIGHEST paid employee in the organization: \$ _____</li> <li>B. <b>STATE</b> the hourly wage of LOWEST paid employee in the organization: \$ _____</li> <li>C. <b>MULTIPLY B by 8:</b> \$ _____</li> </ol> </li> <li>3. Based on Question 2 above, is <b>A</b> less than <b>C</b>?  <input type="checkbox"/> YES <input type="checkbox"/> NO                If NO, your company is <b>NOT eligible</b> for an exemption.                If YES, sign and submit this application for final approval.</li> <li>4. Will there be any Child Care Workers (as defined by the LWO Regulations) working on this Agreement?  <input type="checkbox"/> YES <input type="checkbox"/> NO</li> <li>5. Fill &amp; Submit LW-18 Subcontractor Information Form.</li> </ol>
<input type="checkbox"/> <b>One-Person Contractors:</b> Contractors that have no employees are exempt from the LWO. <b>If you have employees in the future, you must comply with the Ordinance.</b>	Fill and Submit the LW-18 Form.

**I declare under penalty of perjury under the laws of the State of California that: (1) I am authorized to bind the entity listed above; (2) the information provided on this form is true and correct to the best of my knowledge; and (3) the entity qualifies for exemption from the LWO on the basis indicated above.** By signing below, I further agree that **should the entity listed above cease to qualify** for an exemption because of a change in salary structure, non-profit status, the hiring of employees, or any other reason, **the entity will notify the Awarding Department and the OCC of such change and comply with the LWO's wage and time off requirements.**

Print Name of Person Completing This Form \_\_\_\_\_

Signature of Person Completing This Form \_\_\_\_\_

Title \_\_\_\_\_

Phone # \_\_\_\_\_

Date \_\_\_\_\_

**ANY APPROVAL OF THIS APPLICATION EXEMPTS ONLY THE LISTED CONTRACTOR FROM THE LWO DURING THE PERFORMANCE OF THIS CONTRACT. A SUBCONTRACTOR PERFORMING WORK ON THIS CONTRACT IS NOT EXEMPT UNLESS THE OFFICE OF CONTRACT COMPLIANCE HAS APPROVED A SEPARATE EXEMPTION FOR THE INDIVIDUAL SUBCONTRACTOR.**

### AWARDING DEPARTMENT USE ONLY:

Dept: \_\_\_\_\_ Dept Contact: \_\_\_\_\_ Contact Phone: \_\_\_\_\_ Contract #: \_\_\_\_\_

Approved / Not Approved – Reason: \_\_\_\_\_

By Analyst: \_\_\_\_\_ Date: \_\_\_\_\_

# LWO – OCC NON-COVERAGE/EXEMPTION APPLICATION

## OCC DETERMINATION/APPROVAL REQUIRED

**This application for non-coverage/exemption must be submitted by the Contractor along with its bid or proposal to the AWARDING DEPARTMENT. Awarding Departments may also apply for an exemption for OCC approval. **INCOMPLETE SUBMISSIONS WILL BE RETURNED.****

Los Angeles Administrative Code 10.37, the Living Wage Ordinance (LWO), presumes all City contractors (including service contractors, subcontractors, financial assistance recipients, lessees, licensees, sublessees and sublicensees) are subject to the LWO unless an exemption applies.

<b>CONTRACTOR INFORMATION:</b>	
1. Company Name: _____ Phone Number: _____	
2. Company Address: _____	
3. Are you a Subcontractor? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, state the name of your Prime Contractor: _____	
4. Type of Service Provided: _____	
<b>NON-COVERAGE INFORMATION: TO BE REQUESTED BY AWARDING DEPARTMENTS OR CONTRACTORS</b>	
REQUEST FOR NON-COVERAGE DETERMINATION	SUPPORTING DOCUMENTATION REQUIRED
<input type="checkbox"/> Per Section 10.37.13 of the LWO, contractors may request a determination of non-coverage on any basis allowed by this article, including, but not limited to: non-coverage, for failure to satisfy definition of "City financial assistance recipient", "public lease/license", or "service contract".	A <i>detailed</i> memorandum explaining the basis of the request, which may include, but is not limited to: the terms of a city financial assistance agreement, purpose of the contract, location, and work performed. OCC may request further information to issue a determination.
<b>EXEMPTION INFORMATION:</b>	
CHECK OFF ONE BOX BELOW THAT BEST DESCRIBES THE TYPE OF EXEMPTION YOU ARE APPLYING FOR AND ATTACH THE SUPPORTING DOCUMENTATION LISTED ON THE RIGHT:	
<b>TO BE REQUESTED BY AWARDING DEPARTMENTS ONLY</b>	
EXEMPTION	SUPPORTING DOCUMENTATION REQUIRED
<input type="checkbox"/> Grant Funded Services, provided that the grant funding agency indicates in writing that the provisions of the Ordinances should not apply.	Provide a copy of grant-funding agency's determination to the OCC.
<b>TO BE REQUESTED BY CONTRACTORS ONLY</b>	
EXEMPTION	SUPPORTING DOCUMENTATION REQUIRED
<input type="checkbox"/> Collective bargaining agreement with supersession language - (LAAC 10.37.12): Contractors who are party to a collective bargaining agreement (CBA) which contains specific language indicating that the CBA will supersede the LWO may receive an exemption as to the employees covered under the CBA.	A copy of the CBA with the superseding language clearly marked  OR A letter from the union stating that the union has agreed to allow the CBA to supersede the LWO.
<input type="checkbox"/> Occupational license required - (LAAC 10.37.1(f)): Only the individual employees who are required to possess an Occupational license to provide services to or for the City are exempt.	A listing of the employees required to possess occupational licenses to perform services to or for the City  AND Copies of each of these employees' occupational licenses.
By signing, the contractor certifies under penalty of perjury under the laws of the State of California that the information submitted in support of this application is true and correct to the best of the contractor's knowledge.	
_____	_____
Print Name of Person (Contractor) Completing This Form	Signature of Person (Contractor) Completing This Form
_____	_____
Title	Date
_____	_____
Phone #	
_____	
<b>ANY DETERMINATION/APPROVAL IS APPLICABLE ONLY TO THE LISTED CONTRACTOR FROM THE LWO DURING THE PERFORMANCE OF THIS CONTRACT. A SUBCONTRACTOR PERFORMING WORK ON THIS CONTRACT IS NOT EXEMPT UNLESS THE OFFICE OF CONTRACT COMPLIANCE HAS APPROVED A SEPARATE APPLICATION FOR THE INDIVIDUAL SUBCONTRACTOR.</b>	
<b>AWARDING DEPARTMENT USE ONLY:</b>	
Dept:	Dept Contact:
_____	_____
Contact Phone:	Contract #:
_____	_____
<b>OCC USE ONLY:</b>	
Approved / Not Approved – Reason: _____	
By OCC Analyst: _____	Date: _____

**CITY OF LOS ANGELES**  
**SERVICE CONTRACTOR WORKER RETENTION ORDINANCE**  
**(Los Angeles Administrative Code Section 10.36 et seq.)**

**1. What is the Service Contractor Worker Retention Ordinance?**

The Service Contractor Worker Retention Ordinance (SCWRO), effective May, 1996, requires a successor contractor and its subcontractors to retain for a 90-day period certain employees who worked for the terminated contractor or its subcontractors for at least 12 months. (See also Question #7 regarding which employees are covered.)

**2. What is a successor contractor?**

A successor contractor is one who has been awarded an agreement to provide services to or for the City that are similar to those that were provided under a recently terminated agreement.

**3. What types of agreements are covered by the Ordinance?**

The SCWRO covers the following types of agreements:

- For services in an amount over \$25,000.00 and for at least three months.
- In which the primary purpose is to provide services to or for the City (including leases and licenses).
- In which the City provides financial assistance for the purpose of promoting economic development or job growth.

**4. What does the Ordinance require a terminated contractor to do?**

The SCWRO requires the terminated contractor to provide the awarding authority with the names, addresses, dates of hire, hourly wage, and job classes of each employee who worked on the City agreement for that terminated contractor or its subcontractor. The awarding authority will provide the information to the successor contractor.

**5. What does the Ordinance require a successor contractor to do?**

The Ordinance requires the successor contractor to:

- Offer employment and retain for a 90-day period the employees who worked for at least 12 months for the terminated contractor or its subcontractors.
- Not discharge the employees retained under the SCWRO without cause during the 90-day period.
- Perform a written performance evaluation of each employee retained under the SCWRO at the end of the 90-day period.

**6. Do the employees retained under the Ordinance receive any additional protection?**

Employees retained under the SCWRO are employed under the terms and conditions of the successor contractor or as required by law. However, if the agreement the employees are working under is subject to Living Wage Ordinance (LWO), the employees must be paid the wage rate and be provided the benefits required by LWO.

**7. Does the successor contractor have to retain all the prior contractor's employees?**

The SCWRO covers only employees who meet all of the following requirements:

- Earn less than \$15.00 per hour.
- Primary job is in the City working on or under the City agreement.
- Worked for the terminated contractor or its subcontractor for the preceding 12 months or longer.
- Not a managerial, supervisory, or confidential employee; or an employee required to possess an occupational license.

**8. What if the successor contractor determines that fewer employees are required to provide the services than were required by the prior contractor?**

The names of the affected employees will be placed in order by seniority within each job classification. The successor contractor is required to retain employees based on seniority. The names of employees not retained will be placed on a preferential hiring list from which the successor contractor must use for subsequent hires.

**9. What happens if an employee is discharged in violation of the Ordinance?**

The employee may bring a lawsuit against the successor contractor. The employee can also submit a complaint to the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance which will investigate the complaint.

**10. What if a contractor is found to be in violation of the Ordinance?**

The City may terminate the agreement or pursue other legal remedies.

**11. Who is responsible for administering and enforcing the Ordinance?**

The Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance, located at 1149 S. Broadway St., Suite 300, Los Angeles, CA 90015. For additional information, please call (213) 847-2625, or go to the Office of Contract Compliance web site at <http://bca.lacity.org>.

## G. BUSINESS INCLUSION PROGRAM

## **SECTION G**

### **BUSINESS INCLUSION PROGRAM**

Established by Mayor's Executive Directive No. 14, this program requires all respondents to Requests for Bids (RFB), Requests for Proposals (RFPs), and Requests for Qualifications (RFQs) to perform subcontractor outreach to all available MBE/WBE/SBE/EBE/DVBE/OBE firms which could perform a portion of the scope of work required in the respective RFB, RFP, or RFQ. As proof of the respondent's outreach efforts, the respondent is required to perform the Business Inclusion Program Outreach on the Business Assistance Virtual Network (BAVN), [www.labavn.org](http://www.labavn.org)

#### **INSTRUCTIONS:**

- a. All proposers must perform and submit the Business Inclusion Program Outreach as described in the following instructions.

**CITY OF LOS ANGELES BUSINESS INCLUSION PROGRAM (BIP)  
FOR A REQUEST FOR PROPOSAL (RFP)**

Performance of a BIP outreach to Minority Business Enterprises (MBE), Women Business Enterprises (WBE), Small Business Enterprises (SBE), Emerging Business Enterprises (EBE), Disabled Veteran Business Enterprises (DVBE), and Other Business Enterprises (OBE) subconsultants must be completed on the Business Assistance Virtual Network (BAVN), [www.labavn.org](http://www.labavn.org).

All BIP outreach documentation must be submitted on the BAVN by 4:30 p.m. on the first calendar day following the day of the RFP response submittal deadline.

The Recreation and Parks anticipated levels of

MBE Participation:	<b><u>See RFP</u></b>
WBE Participation:	<b><u>See RFP</u></b>
SBE Participation:	<b><u>See RFP</u></b>
EBE Participation:	<b><u>See RFP</u></b>
DVBE Participation:	<b><u>See RFP</u></b>

NOTE: BIP outreach information and/or assistance may be obtained through the Contract Coordinator listed in the RFP.

**CITY OF LOS ANGELES' POLICY  
BUSINESS INCLUSION PROGRAM (BIP) FOR A REQUEST FOR PROPOSAL (RFP)**

**SUMMARY**

This policy sets forth the City of Los Angeles' rules and procedures to be followed by respondents on advertised personal services contracts in regards to the City's BIP outreach requirements. In general, this policy provides that respondents for contracts must demonstrate compliance with the indicators relating to an active outreach program to obtain participation by MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs. Failure to demonstrate an outreach on the BAVN to comply with the indicators will render the bid non-responsive.

**A. GENERAL**

This policy statement explains how the City's BIP will be administered within the Awarding Authority for personal services contracts. The Awarding Authority is committed to ensuring full and equitable participation by minority, women, small, emerging, disabled veteran, and other businesses in the provision of all goods and services to the Department on a contractual basis. The BIP is set forth in this policy Statement. Respondents to the Awarding Authority shall be fully informed concerning the requirements of this Program. **Failure to comply with the City's BIP outreach requirements will render the response non-responsive and result in its rejection.**

**B. DEFINITIONS**

1. Minority or Women Business Enterprise (MBE or WBE): For the purpose of this program, Minority or Women Business Enterprise shall mean a business enterprise that meets both of the following criteria:
  - a. A business that is at least 51 percent owned by one or more minority persons or women, in the case of any business whose stock is publicly held, at least 51 percent of the stock is owned by one or more minority persons or women; and
  - b. A business whose management and daily business operations are controlled by one or more minority persons or women.
2. Small Business Enterprise (SBE): For the purpose of this program, Small Business Enterprise shall mean a business enterprise that meets the following criteria:
  - a. A business (personal or professional services, manufacturer, supplier, vendor) whose three (3) year average annual gross revenues does not exceed \$7 million.
  - b. A business (construction contractors) whose three (3) year average annual gross revenues does not exceed \$14 million.
3. Emerging Business Enterprise (EBE): For the purpose of this program, Emerging Business Enterprise shall mean a business enterprise whose three (3) year average annual gross revenues does not exceed \$3.5 million.



4. Disabled Veteran Business Enterprise (DVBE): For the purpose of this program, Disabled Veteran Business Enterprise shall mean a business enterprise that meets the following criteria:
  - a. A business that is at least 51 percent owned by one or more disabled veterans.
  - b. A business whose daily business operations must be managed and controlled by one or more disabled veterans.
5. Other Business Enterprise (OBE): For the purpose of this program, Other Business Enterprise shall mean any business enterprise which either does not otherwise qualify or has not been certified as a Minority, Women, Small, Emerging, and/or Disabled Veteran Business Enterprise.
6. Minority person: For the purpose of this program, the term "Minority person" shall mean African Americans; Hispanic Americans; Native Americans (including American Indians, Eskimos, Aleuts, and Native Hawaiians); Asian-Pacific Americans (including persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the United States Trust Territories of the Pacific, Northern Marianas); and Subcontinent Asian Americans (including persons whose origins are from India, Pakistan and Bangladesh).
7. Disabled Veteran: For the purpose of this program, the term "Disabled Veteran" shall mean a veteran of the U.S. military, naval, or air service; the veteran must have a service-connected disability of at least 10% or more; and the veteran must reside in California.
8. Certification must be current **on the date the Awarding Authority awards a contract for the project** if credit is to be allowed towards the anticipated levels of MBE, WBE, SBE, EBE, and/or DVBE participation on this contract.
  - a. Certification as a Minority or Women Business Enterprise: an MBE/WBE must be certified by 1) City of Los Angeles, Bureau of Contract Administration; 2) State of California Department of Transportation (CalTrans); 3) Los Angeles County Metropolitan Transportation Authority (Metro); 4) Southern California Minority Business Development Council (SCMBDC) for MBE certifications only; or 5) any certifying agency that is a part of the State of California Unified Certification Program (CUCP) so long as the certification meets all of the City of Los Angeles' MBE/WBE certification requirements.

Applications for certification and directories of MBE/WBE certified firms are available at the following locations:

- 1) City of Los Angeles  
 Bureau of Contract Administration, Office of Contract Compliance  
 1149 S. Broadway, Suite 300, Los Angeles, CA 90015  
 Telephone: (213) 847-2684 FAX: (213) 847-2777  
 Internet address: <http://www.lacity.org/BCA>

- 2) CalTrans  
 Caltrans Division of Procurement and Contracts/Material and Distribution Branch/Publication Unit  
 1900 Royal Oaks Drive, Sacramento, CA 95815  
 To order a directory, call (916) 445-3520  
 Internet address: <http://www.dot.ca.gov/hq/bep/>
  
  - 3) Los Angeles County Metropolitan Transportation Authority  
 Equal Opportunity Department  
 1 Gateway Plaza, Los Angeles, CA 90012  
 Telephone: (213) 922-2600 FAX: (213) 922-7660  
 Internet address: <http://www.mta.net>
  
  - 4) Southern California Minority Business Development Council, Inc. (for a fee)  
 800 W. 6<sup>th</sup> Street, Suite 850, Los Angeles, CA 90017  
 Telephone: (213) 689-6960 Fax: (213) 689-1707  
 Internet address: <http://www.scmbdc.org>
- b. Certification as a Small or Emerging Business Enterprise: An SBE or EBE firm must be certified by either: 1) City of Los Angeles, Bureau of Contract Administration; or 2) State of California, Office of Small Business & Disabled Veterans Business Enterprise Services so long as the certification meets all of the City of Los Angeles' SBE or EBE certification criteria. Note: The State of California does not offer EBE certifications. For the purposes of this program, the State's Microbusiness certification will be considered synonymous with the City's EBE certification.
- c. Certification as a Disabled Veteran Business Enterprise: A DVBE must be certified by State of California, Office of Small Business & Disabled Veterans Business Enterprise Services.
9. Business Inclusion Program Outreach Documentation: The respondent must take affirmative steps prior to submission of their RFP response to ensure that a maximum effort is made to recruit subconsultants. Minority, women, small, emerging, disabled veteran owned and controlled businesses must be considered along with other business enterprises whenever possible as sources of subconsulting services. Affirmative steps for BIP Outreach Documentation are outlined in Paragraph C herein. The BIP Outreach Documentation must be submitted as described in Paragraph C herein. Failure to submit the BIP Outreach Documentation will render the response non-responsive.
  
  10. Subcontract: For the purpose of this program, the term "Subcontract" denotes an agreement between the prime Consultant and an individual, firm or corporation for the performance of a particular portion(s) of the work which the prime Consultant has obligated itself.
  
  11. Subconsultant: An individual, firm, or corporation having a direct contract with the consultant for the performance of a part of the work which is proposed to be constructed or done under the contract or permit, including the furnishing of all labor, materials, or

equipment. For the purposes of this Program, a subconsultant may also be referred to as a subcontractor.

12. Vendor and/or supplier: A firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. The firm must engage in, as its principal business, and its own name, the purchase and sale of the products in question. A vendor and/or supplier of bulk items such as steel, cement, stone and petroleum products need not keep such products in stock, if it owns or operates distribution equipment.
13. Manufacturer: A firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor.
14. Broker: A firm that charges for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, insurance or bonds, materials or supplies required for performance of the contract. The fee or commission is to be reasonable and not excessive as compared with fees customarily allowed for similar services.
15. Participation Recognition: This applies to recognition as an MBE, WBE, SBE, EBE, DVBE.
  - a. All listed MBE, WBE, SBE, EBE, and/or DVBE firms must be certified as defined under Paragraph B, Definitions, Item 4, on the date the Awarding Authority awards a contract for the project before credit may be allowed toward the respective MBE, WBE, SBE, EBE, and/or DVBE pledged participation level.
  - b. Work performed by a MBE, WBE, SBE, EBE, and/or DVBE prime consultant will not be a consideration when determining a prime consultant's BIP Outreach. The prime consultant will be required to make a BIP Outreach to obtain reasonable anticipated MBE, WBE, SBE, EBE, and/or DVBE participation levels through subconsulting or materials and supplies acquisition.
  - c. Recognition for materials and/or supplies is limited to 60 percent of the amount to be paid to the vendor for such materials/supplies in computing the pledged levels of MBE, WBE, SBE, EBE, and/or DVBE participation, unless the vendor manufactures or substantially alters the materials/supplies.
  - d. MBE, WBE, SBE, EBE, and/or DVBE credit for brokers required for performance of the contract is limited to the reasonable fee or commission charged, as not considered excessive, as compared with fees customarily allowed for similar services.
  - e. A firm which qualifies as both a MBE and a WBE will be credited as either MBE participation or as WBE participation, but will not be credited for both. However, a MBE and/or WBE firm may also receive SBE, EBE and/or DVBE credit if so qualified.

- f. A listed MBE, WBE, SBE, EBE, and/or DVBE firm must be potentially available to perform a commercially useful function, i.e., must be potentially responsible for the execution of a distinct element of the work and potentially available to carry out its responsibility by performing, managing and supervising the work.
- g. MBE/WBE credit shall not be given to a Joint Venture partner listed as a subconsultant by a Joint Venture respondent.
- h. A SBE, EBE, DVBE prime consultant shall receive pledged participation credit for the work performed by its own workforce.

**C. BIP OUTREACH DOCUMENTATION**

It is the policy of the City of Los Angeles to provide Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs), Small Business Enterprises (SBEs), Emerging Business Enterprises (EBEs), Disabled Veteran Business Enterprises (DVBEs), and all Other Business Enterprises (OBEs) an equal opportunity to participate in the performance of City contracts. In order to maximize this participation while minimizing the administrative impact on city staff and RFP respondents alike, the Mayor’s Office has developed a Business Inclusion Program (BIP). The BIP requires City departments to set anticipated participation levels based on the opportunities presented in their advertised contracts and department’s achievement of its annual goals. A respondent’s BIP Outreach to MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs shall be determined by their compliance with the following BIP Outreach process which will be performed on the City’s Business Assistance Virtual Network (BAVN). The BAVN can be accessed by going to the City’s Webpage (<http://www.lacity.org>) and linking onto “Bids, RFPs & Grants” or directly at [www.labavn.org](http://www.labavn.org). Failure to meet the anticipated MBE, WBE, SBE, EBE, and/or DVBE participation levels will not by itself be the basis for disqualification or determination of noncompliance with this policy. **However, failure to comply with the BIP Outreach documentation requirements as described in this section will render the RFP response non-responsive and will result in its rejection.** *Compliance with the BIP Outreach requirements is required even if the proposer has achieved the anticipated MBE, WBE, SBE, EBE, and DVBE participation levels.* Adequacy of a bidder’s BIP Outreach will be determined by the Awarding Authority after consideration of the indicators of BIP Outreach as set forth below.

Any technical difficulties while utilizing the BAVN should be reported immediately using the following steps:

1. Email BAVN Support at [support@labavn.org](mailto:support@labavn.org).
2. Email the Contract Coordinator listed in the RFP.
3. If you are not contacted within 15 minutes during normal City working hours (7:00 a.m. to 4:30 p.m. Monday-Friday), call the Contract Coordinator listed in the RFP.

If the above procedures are not followed as stipulated, incomplete outreach and/or incomplete documentation may not be accepted.

*Each indicator (2-6) is evaluated on a pass/fail basis. All indicators (2-6) must be passed to be deemed responsive. Only BIP Outreach documentation submitted under the bidders name will be evaluated. Therefore submission by a third party will result in the bidder being deemed non-responsive.*

1	<b>LEVEL OF ANTICIPATED MBE, WBE, SBE, EBE, and DVBE PARTICIPATION</b>
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The proposer has performed a BIP Outreach in an attempt to obtain potential subconsultant participation by MBEs, WBEs, SBEs, EBEs, DVBEs and OBEs which could be expected by the Board to produce a reasonable level of participation by interested business enterprises, including the MBE, WBE, SBE, EBE and DVBE anticipated percentages set forth in the RFP and to have the proposer meet the subconsulting expectations for the project.

2	<b>ATTENDED PRE-BID MEETING</b>
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The proposer attended the pre-proposal meeting scheduled by the Project Manager to inform all proposers of the requirements for the project for which the contract will be awarded. This requirement may be waived if the proposer certifies it is informed as to those project requirements and has participated in a City-sponsored or City-approved matchmaking event in the prior 12 months.

**Required Documentation:** An employee of the proposer's company must attend the pre-submittal meeting scheduled for this project. Credit may not be given if the employee arrives late or fails to sign the pre-submittal meeting attendance roster. This requirement will be waived if the proposer both certifies in writing that it is informed as to the BIP Outreach requirements for the project and has participated in a City-sponsored or City-approved matchmaking event in the prior 12 months as is evidenced by the event attendance documents.

**Note:** If the RFP states that the pre-submittal meeting is mandatory, then attendance at the pre-submittal meeting is the only way to pass this indicator.

3	<b>SUFFICIENT WORK IDENTIFIED FOR SUBCONSULTANTS</b>
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The proposer has identified the minimum number, as determined by the Awarding Authority, of specific items of work that will be performed by subconsultants. This will ensure an opportunity for subconsultant participation among MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs.

**Required Documentation:** Outreach via e-mail in the selected potential work items. This outreach must be performed using the BAVN's BIP Outreach system. The outreach must be to potential MBE, WBE, SBE, EBE, DVBE, and OBE subconsultants who are currently registered on the BAVN. Failure of the proposer to outreach in all of the potential work items selected by the City as potential subconsulting work items may result in the RFP response being deemed non-responsive.

**Note:** City staff will access the BAVN and verify compliance with this indicator after the RFP submission deadline.

4	<b>WRITTEN NOTICES TO SUBCONSULTANTS</b>
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All notifications must be provided utilizing BAVN, and made not less than **fifteen (15) calendar days** prior to the date the Prime Bid/Proposal is required to be submitted. In all instances, proposers must document that invitations for subcontracting bids were sent to available MBEs, WBEs, SBEs, EBEs, DVBEs and OBEs for each item of work to be performed.

**Required Documentation:** E-mail notification in each of the selected potential work items to potentially available MBEs, WBEs, SBEs, EBEs, DVBEs and OBEs for each anticipated work item to be performed. The notification must be performed using the BAVN’s BIP Outreach system. The notification must be to potential subcontractants currently registered on the BAVN. If the proposer is aware of a potential subcontractant that is not currently registered on the BAVN, it is the proposer’s responsibility to encourage the potential subcontractant to become registered so that the proposer can include them as part of their outreach. Letters must contain areas of work anticipated to be subconsulted, City of Los Angeles project name, name of the proposer, and contact person's name, address, and telephone number. Proposers are required to send notifications to a sufficient number of firms comprised of MBEs, WBEs, SBEs, EBEs, DVBEs and OBEs in each potential work item chosen, as determined by the City. What is considered sufficient will be determined by the total number of potential subcontractants in each specific work item.

The City will determine each work area by the North American Industry Classification System (NAICS) code. The following table shows the sufficient number of MBE, WBE, SBE, EBE, DVBE and OBE subcontractors that need to be notified for each work area.

# of Subcontractors in NAICS Code	% Prime Must Notify	Number Prime Must Notify
1-10	100%	1-10
11-20	80%	9-16
21-50	60%	13-30
51-100	40%	21-40
101-200	25%	26-50
>200	10%	20+

A proposer’s failure to utilize this notification function will result in their RFP response being deemed non-responsive.

**Note:** Proposers will not be able to utilize the BAVN’s BIP Outreach notification function if there are less than fifteen (15) calendar days prior to the RFP response submittal deadline. In utilizing the BAVN’s notification function, proposers will receive a message if they have failed to outreach to a sufficient number of firms when they go to view their summary sheet. Proposers will be given an opportunity to include their own customized statements when utilizing the notification function. However, the City will take into consideration the wording and may deem a proposer non-responsive if the wording is perceived to seriously limit potential subcontractant

responses. City staff will access the BAVN and verify compliance with this indicator after the RFP submission deadline. Proposers are encouraged to print their BIP Outreach summary sheet prior to logging out as documented proof of their progress.

5	<b>PLANS, SPECIFICATIONS AND REQUIREMENTS</b>
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The proposer provided interested potential subconsultants with information about the availability of plans, specifications, and requirements for the selected subconsulting work.

**Required Documentation:** Include in Indicator 4, information detailing how, where and when the proposer will make the required information available to interested potential subconsultants. The notification must be performed using the BAVN’s BIP Outreach system.

**Note:** For purposes of RFPs, making a copy of the RFP available to potential subconsultants will meet this requirement. At the time a proposer utilizes the BAVN’s BIP Outreach notification function, the required information will automatically be included in the notification. Proposers will not be able to utilize the BAVN’s BIP Outreach notification function if there are less than fifteen (15) calendar days prior to the RFP response submittal deadline. City staff will access the BAVN and verify compliance with this indicator after the RFP submission deadline.

6	<b>NEGOTIATED IN GOOD FAITH</b>
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The proposer has responded to every unsolicited offer sent by a Registered Subcontractor using BAVN and has evaluated in good faith bids or proposals submitted by interested MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs. Proposers must not unjustifiably reject as unsatisfactory a bid or proposal offered by a Registered Subcontractor, as determined by the Awarding Authority. The proposer must submit a list of all subcontractors for each item of work, including dollar amounts of potential work for MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs, and a copy of any and all bids or proposals received. This list must include an explanation of the evaluation that led to the bid or proposal being rejected and the explanation must have been communicated to the subcontractor using BAVN.

**Required Documentation:**

- a) Schedule A MBE/WBE/SBE/EBE/DVBE/OBE Subconsultants Information Form;
- b) An online Summary Sheet organized by work area, listing the following:
  - 1) The responses and/or bids received;
  - 2) The name of the subconsultant who submitted the bid/quote;
  - 3) A brief reason given for selection/non-selection as a subconsultant;
- c) Copies of all potential MBE/WBE/SBE/EBE/DVBE/OBE bids or quotes received must be submitted prior to award of a contract by the City;

The reasons for selection/non-selection should be included in the notes section of the online Summary Sheet. If the proposer elects to perform a listed work area with its own forces, they must include a bid/quote for comparison purposes and an explanation must be provided and included on the summary sheet. **All bids/quotes received, regardless of whether or not the proposer outreached to the subconsultant, must be submitted and included on the on-line Summary**

**Sheet.** To that extent, the City expects the proposer to submit a bid from each subconsultant listed on the online Summary Sheet, including those listed on the proposer’s Schedule A. **All potential subcontractors with whom the bidder has had contact outside of the BAVN must be documented on the online Summary Sheet.**

The summary sheet must be performed using the BAVN’s BIP Outreach system and must be submitted by 4:30 p.m. on the first calendar day following the day of the RFP response submittal deadline. If a bid/quote is submitted by a firm that is not registered with the BAVN, the proposer is required to add that firm to their summary sheet. A proposer’s failure to utilize the BAVN’s summary sheet function will result in their RFP response being deemed non-responsive.

**Note:** Staff will request copies of all of the bids/quotes received as part of the BIP Outreach evaluation process. Proposers must have a bid/quote from each potential subconsultant listed on their Schedule A prior to submission of the Schedule A. The submission of the Schedule A is outlined in G herein. Proposers are encouraged to submit all of their bids/quotes with their RFP response submittal. Proposers will not be able to edit their summary sheet on the BAVN’s BIP Outreach summary sheet function after 4:30 p.m. on the first calendar day following the day of the RFP response submittal deadline. City staff will access the BAVN and verify compliance with the summary sheet provision of this indicator after the RFP submission deadline. Proposers are required to have each of the subconsultants on their Schedule A registered on the BAVN prior to being awarded the contract.

7	BOND, LINES OF CREDIT, AND INSURANCE ASSISTANCE
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Each notification by the proposer shall also include an offer of assistance to interested potential MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs in obtaining bonds, lines of credit, and insurance required by the Awarding Authority or proposer.

**Required Documentation:** Include in Indicator 4, information about the proposer's efforts to assist with bonds, lines of credit and insurance. The notification must be performed using the BAVN’s BIP Outreach system.

**Note:** At the time a proposer utilizes the BAVN’s BIP Outreach notification function, the required information will automatically be included in the notification. Proposers will not be able to utilize the BAVN’s BIP Outreach notification function if there are less than fifteen (15) calendar days prior to the RFP response submittal deadline. Proposers will be given an opportunity to include their own customized statements when utilizing the notification function. However, the City will take into consideration the wording and may deem a proposer non-responsive if the wording seriously limits potential subconsultant responses or is deemed contrary to the intent of this indicator. City staff will access the BAVN and verify compliance with this indicator after the RFP submission deadline.

The proposer shall submit completed BIP Outreach documentation either via the BAVN’s BIP Outreach system or prior to award, as specified for each indicator. The Awarding Authority in its review of the BIP Outreach documentation may request additional information to validate and/or clarify that the BIP Outreach submission was adequate. Any additional information submitted after the response due date and time will be treated at a higher level of scrutiny and may require



third Party documentation in order to substantiate its authenticity. Such information shall be submitted promptly upon request by the Awarding Authority.

**D. AWARD OF CONTRACT**

The Awarding Authority reserves the right to reject any and all RFP responses. The award of a contract will be to the responsive, responsible proposer whose proposal complies with all requirements prescribed herein. This includes compliance with the required Business Inclusion Program Outreach. A positive and adequate demonstration to the satisfaction of the Awarding Authority that a BIP Outreach to include MBE/WBE/SBE/EBE/DVBE/OBE subconsultants' participation was made is a condition for eligibility for award of the contract.

In the event that the Awarding Authority considers awarding away from a proposer because of the proposer's failure to supply adequate BIP Outreach documentation, the Awarding Authority shall afford the proposer an opportunity to present further evidence to the Awarding Authority prior to a public hearing of the proposer's BIP Outreach evaluation.

**E. SUBCONSULTANT SUBSTITUTION**

In addition to the requirements set forth in the provisions pertaining to the listing of subconsultants, the following shall apply for the purpose of this program:

1. Substitution During Contract Duration: The contract award requires that the level of all subconsultant participation shall be maintained throughout the duration of the contract. To this extent, any unapproved reduction in the listed subcontract amount will be considered an unauthorized substitution.
  - a. The Consultant shall request approval of the Awarding Authority for all substitutions of bid-listed (Schedule A) subconsultants.
  - b. The request shall be in writing and submitted to the designated Project Manager for the Awarding Authority. The request shall give the reason for the substitution, the name of the subconsultant and the name of the replacement.
2. MBE/WBE/SBE/EBE/DVBE/OBE Subconsultant Substitution: The Awarding Authority requires that whenever the Consultant seeks to substitute a bid-listed (Schedule A) subconsultant, the Consultant must make a BIP Outreach to replace the subconsultant.
  - a. The Consultant shall contact some of each of the following: certified MBE, certified WBE, certified SBE, certified EBE, certified DVBE, and OBE sub-bid prospects from each trade for which sub-bid/subconsulting work is available and document the following for submittal:
    - 1) Name of company contacted; contact person and telephone number; date and time of contact.
    - 2) Response for each item of work which was solicited, including dollar amounts.

- 3) Reason for selection or rejection of sub-bid prospect.
  - 4) In the event that the Consultant is unable to find some certified MBE, certified WBE, certified SBE, certified EBE, certified DVBE, and OBE sub-bid prospects for each trade, the Consultant should contact the Office of Contract Compliance at (213) 847-2684 for assistance prior to certifying under penalty of perjury that it was unable to fully meet this requirement.
3. In the event that a subcontract is reduced due to a project change that will not be specified in a change order, the Consultant shall request approval for reducing the subcontract by documenting the following for submittal:
- a. The name of the company for which the subcontract reduction is requested and the dollar amount of the reduction.
  - b. The reason for the reduction. Specific details should be given in order for the Consultant's request to be processed promptly.
  - c. The Consultant shall submit all documentation to the Awarding Authority's Project Manager.

**F. SUB-AGREEMENT FALSIFICATION**

Falsification or misrepresentation of a sub-agreement as to company name, contract amount and/or actual work to be done by the sub-bidder/subconsultant will result in sanctions set forth in provisions pertaining to listing of subconsultants.

**G. SUBMITTAL DOCUMENTS**

1. MBE/WBE/SBE/EBE/DVBE/OBE Subcontractors Information Form (Schedule A)

Proposers shall submit with their proposal the MBE/WBE/SBE/EBE/DVBE/OBE Subcontractors Information Form, provided here in as Schedule A. The proposer shall list itself and the names and addresses of all firms to be used with a complete description of work or supplies to be provided by each, and the description of work to be performed.

2. MBE/WBE/SBE/EBE/DVBE/OBE Utilization Profile (Schedule B)

During the term of the contract, the consultant must submit the MBE/WBE/SBE/EBE/DVBE/OBE Utilization Profile (Schedule B) when submitting the Monthly Remittance Advice to the City.

3. Final Subcontracting Report (Schedule C)

Upon completion of the project, a summary of these records shall be prepared on the "Final Subcontracting Report" form (Schedule C) and certified correct by the

consultant or its authorized representative. The completed form shall be furnished to the Awarding Authority within 15 working days after completion of the contract.

**H. RESPONSIBILITY FOR IMPLEMENTATION AND MONITORING**

The Awarding Authority which acts as the City's Project Manager for the resulting contract will be the responsible entity for proper implementation and monitoring of the policy.

**I. AWARD OF CONTRACT**

Nothing herein restricts the discretion of the Awarding Authority to reject all proposals in accordance with Charter Section 371.

**SCHEDULE A  
CITY OF LOS ANGELES  
MBE/WBE/SBE/EBE/DVBE/OBE SUBCONTRACTORS INFORMATION FORM**

(NOTE: COPY THIS PAGE AND ADD ADDITIONAL SHEETS AS NECESSARY, SIGN ALL SHEETS)

<b>Project Title</b>
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<b>Proposer</b>	<b>Address</b>
<b>Contact Person</b>	<b>Phone/Fax</b>

LIST OF ALL SUBCONSULTANTS (SERVICE PROVIDERS/SUPPLIERS/ETC.)				
NAME, ADDRESS, TELEPHONE NO. OF SUBCONSULTANT	DESCRIPTION OF WORK OR SUPPLY	MBE/WBE/SBE/EBE/DVBE/OBE	CALTRANS/CITY/MTA CERT. NO.	DOLLAR VALUE OF SUBCONTRACT

PERCENTAGE OF MBE/WBE/SBE/EBE/DVBE/OBE PARTICIPATION		
	DOLLARS	PERCENT
TOTAL MBE AMOUNT	\$	%
TOTAL WBE AMOUNT	\$	%
TOTAL SBE AMOUNT	\$	%
TOTAL EBE AMOUNT	\$	%
TOTAL DVBE AMOUNT	\$	%
TOTAL OBE AMOUNT	\$	%
BASE BID AMOUNT	\$	

\_\_\_\_\_

Signature of Person Completing this Form

\_\_\_\_\_

Printed Name of Person Completing this Form

\_\_\_\_\_

Title Date

**MUST BE SUBMITTED WITH PROPOSAL**

**SCHEDULE B  
CITY OF LOS ANGELES  
MBE/WBE/SBE/EBE/DVBE/OBE UTILIZATION PROFILE**

<b>Project Title</b>	<b>Contract No.</b>
----------------------	---------------------

<b>Consultant</b>	<b>Address</b>
-------------------	----------------

<b>Contact Person</b>	<b>Phone/Fax</b>
-----------------------	------------------

<b>CONTRACT AMOUNT (INCLUDING AMENDMENTS)</b>	<b>THIS INVOICE AMOUNT</b>	<b>INVOICED TO DATE AMOUNT (INCLUDE THIS INVOICE)</b>

<b>MBE/WBE/SBE/EBE/DVBE/OBE SUBCONTRACTORS (LIST ALL SUBS)</b>					
<b>NAME OF SUBCONTRACTOR</b>	<b>MBE/WBE/ SBE/EBE/ DVBE/OBE</b>	<b>ORIGINAL SUBCONTRACT AMOUNT</b>	<b>THIS INVOICE (AMOUNT NOW DUE)</b>	<b>INVOICED TO DATE (INCLUDE THIS INVOICE)</b>	<b>SCHEDULED PARTICIPATION TO DATE</b>

<b>CURRENT PERCENTAGE OF MBE/WBE/SBE/EBE/DVBE/OBE PARTICIPATION TO DATE</b>			<b>Signature of Person Completing this Form:</b>
	<b>DOLLARS</b>	<b>PERCENT</b>	
<b>TOTAL MBE PARTICIPATION</b>	\$	%	_____ <b>Printed Name of Person Completing this Form:</b>  _____ <b>Title:</b> <span style="float: right;"><b>Date:</b></span>
<b>TOTAL WBE PARTICIPATION</b>	\$	%	
<b>TOTAL SBE PARTICIPATION</b>	\$	%	
<b>TOTAL EBE PARTICIPATION</b>	\$	%	
<b>TOTAL DVBE PARTICIPATION</b>	\$	%	
<b>TOTAL OBE PARTICIPATION</b>	\$	%	

**SCHEDULE C  
CITY OF LOS ANGELES  
FINAL SUBCONTRACTING REPORT**

<b>Project Title</b>		<b>Contract No.</b>
<b>Company Name</b>	<b>Address</b>	
<b>Contact Person</b>		<b>Phone</b>

Name, Address, Telephone No. of all Subconsultants Listed on Schedule B	Description of Work or Supply	MBE/WBE/SBE/EBE/DVBE/OBE	Original Dollar Value of Subcontract	Actual Dollar Value of Subcontract*

\* If the actual dollar value differs from the original dollar value, explain the differences and give details.

	Total Dollars	Achieved Levels	Pledged Levels		Total Dollars	Achieved Levels	Pledged Levels
MBE Participation				WBE Participation			
SBE Participation				EBE Participation			
DVBE Participation				OBE Participation			

\_\_\_\_\_  
Signature of Person Completing this Form                      Printed Name                      Title                      Date

**SUBMIT WITHIN 15 DAYS OF PROJECT COMPLETION**

## H. MUNICIPAL LOBBYING ORDINANCE (MLO)

## **SECTION H**

### **MUNICIPAL LOBBYING ORDINANCE (MLO)**

The City's Municipal Lobbying Ordinance (Ord No. 169916) requires certain individuals and entities to register with the City Ethics Commission and requires public disclosure of certain lobbying activities, including money received and spent. Additionally, for all construction contracts, public leases, or licenses of any value and duration; goods or service contracts with a value greater than \$25,000 and a term of at least three (3) months, each bidder/proposer must submit with its bid a certification, on a form (CEC Form 50) proscribed by the City Ethics Commission, that the bidder acknowledges and agrees to comply with the disclosure requirements and prohibitions established in the Los Angeles Municipal Lobbying Ordinance, if the bidder qualifies as a lobbying entity. A copy of the ordinance can be found at:

[http://ethics.lacity.org/pdf/laws/law\\_mlo.pdf](http://ethics.lacity.org/pdf/laws/law_mlo.pdf)

#### **INSTRUCTIONS:**

- a. All proposers must complete the enclosed Bidder Certification form (CEC Form 50) and submit with the proposal.





City Ethics Commission  
 200 N Spring Street  
 City Hall — 24th Floor  
 Los Angeles, CA 90012  
 Mail Stop 129  
 (213) 978-1960

# Bidder Certification

## CEC Form 50

<b>Bid/Contract Number:</b>	<b>Department:</b>
-----------------------------	--------------------

<b>Name of Bidder:</b>	<b>Phone:</b>
------------------------	---------------

**Address:**

**Email:**

### CERTIFICATION

I certify the following on my own behalf or on behalf of the entity named above, which I am authorized to represent:

- A. I am a person or entity that is applying for a contract with the City of Los Angeles.
- B. The contract for which I am applying is an agreement for one of the following:
  - 1. The performance of work or service to the City or the public;
  - 2. The provision of goods, equipment, materials, or supplies;
  - 3. Receipt of a grant of City financial assistance for economic development or job growth, as further described in Los Angeles Administrative Code § 10.40.1(h) [see reverse]; or
  - 4. A public lease or license of City property where both of the following apply, as further described in Los Angeles Administrative Code § 10.37.1(i) [see reverse]:
    - a. I provide services on the City property through employees, sublessees, sublicensees, contractors, or subcontractors, and those services:
      - i. Are provided on premises that are visited frequently by substantial numbers of the public; or
      - ii. Could be provided by City employees if the awarding authority had the resources; or
      - iii. Further the proprietary interests of the City, as determined in writing by the awarding authority.
    - b. I am not eligible for exemption from the City's living wage ordinance, as eligibility is described in Los Angeles Administrative Code § 10.37(i)(b).
- C. The value and duration of the contract for which I am applying is one of the following:
  - 1. For goods or services contracts—a value of more than \$25,000 and a term of at least three months;
  - 2. For financial assistance contracts—a value of at least \$100,000 and a term of any duration; or
  - 3. For construction contracts, public leases, or licenses—any value and duration.
- D. I acknowledge and agree to comply with the disclosure requirements and prohibitions established in the Los Angeles Municipal Lobbying Ordinance if I qualify as a lobbying entity under Los Angeles Municipal Code § 48.02.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*Under Los Angeles Municipal Code § 48.09(H), this form must be submitted to the awarding authority with your bid or proposal on the contract noted above.*

**I. BIDDER CONTRIBUTION - CEC FORM 55 (MEASURE H)**



Ethics Commission  
200 N Spring Street  
City Hall — 24th Floor  
Los Angeles, CA 90012  
(213) 978-1960  
ethics.lacity.org

# Prohibited Contributors (Bidders) Form 55

*This form must be completed in its entirety and submitted with your bid or proposal to the City department that is awarding the contract. Failure to submit a completed form may affect your bid or proposal. If you have questions about this form, please contact the Ethics Commission.*

Original filing  Amended filing (original signed on \_\_\_\_\_; last amendment signed on \_\_\_\_\_)

Reference Number (bid or contract number, if applicable):

Date Bid Submitted:

Description of Contract (title of RFP and services to be provided):

City Department Awarding the Contract:

## BIDDER INFORMATION

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

## SCHEDULE SUMMARY

*Please complete all three of the following:*

### 1. SCHEDULE A — Bidder's Principals (check one)

- The bidder is the individual listed above and has no other principals (Schedule A is not required).
- The bidder is the individual listed above or an entity and has other principals, who are listed on the attached Schedule A pages.

### 2. SCHEDULE B — Subcontractors and Their Principals (check one)

- The bidder has no subcontractors on this bid or proposal whose subcontracts are worth \$100,000 or more (Schedule B is not required).
- The bidder has one or more subcontractors on this bid or proposal with subcontracts worth \$100,000 or more, and those subcontractors and their principals are listed on the attached Schedule B pages.

3. TOTAL NUMBER OF PAGES SUBMITTED (including this cover page): \_\_\_\_\_

## BIDDER'S CERTIFICATION

*I certify that I understand, will comply with, and have notified my principals and subcontractors of the requirements and restrictions in Los Angeles City Charter section 470(c)(12) and any related ordinances. I certify under penalty of perjury under the laws of the City of Los Angeles and the state of California that the information provided on this form and the attached pages is true and complete to the best of my knowledge and belief.*

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



Ethics Commission  
200 N Spring Street  
City Hall — 24th Floor  
Los Angeles, CA 90012  
(213) 978-1960  
ethics.lacity.org

# Prohibited Contributors (Bidders) Form 55

## SCHEDULE A — BIDDER'S PRINCIPALS

Please identify the names and titles of all of the bidder's principals (attach additional sheets if necessary). Principals include a bidder's board chair, president, chief executive officer, chief operating officer, and individuals who serve in the functional equivalent of one or more of those positions. Principals also include individuals who hold an ownership interest in the bidder of at least 20 percent and employees of the bidder who are authorized by the bid or proposal to represent the bidder before the City.

Check this box if additional Schedule A pages are attached.

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_



Ethics Commission  
 200 N Spring Street  
 City Hall — 24th Floor  
 Los Angeles, CA 90012  
 (213) 978-1960  
 ethics.lacity.org

# Prohibited Contributors (Bidders) Form 55

## SCHEDULE B — SUBCONTRACTORS AND THEIR PRINCIPALS

Please identify all subcontractors whose subcontracts are worth \$100,000 or more. Separate Schedule B pages are required for each subcontractor who meets that threshold.

Subcontractor: \_\_\_\_\_

Address: \_\_\_\_\_

Check one of the following:

- The subcontractor listed above is an individual and has no other principals.
- The subcontractor listed above is an individual or an entity and has principals, and their names and titles are identified below (attach additional sheets if necessary). Principals include a subcontractor's board chair, president, chief executive officer, chief operating officer, and individuals who serve in the functional equivalent of one or more of those positions. Principals also include individuals who hold an ownership interest in the subcontractor of at least 20 percent and employees of the subcontractor who are authorized by the bid or proposal to represent the subcontractor before the City.

Check this box if additional Schedule B pages are attached.

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

**J. IRAN CONTRACTING ACT OF 2010 COMPLIANCE  
AFFADAVIT**

# IRAN CONTRACTING ACT OF 2010 COMPLIANCE AFFIDAVIT

(California Public Contract Code Sections 2200-2208)

The California Legislature adopted the Iran Contracting Act of 2010 to respond to policies of Iran in a uniform fashion (PCC § 2201(q)). The Iran Contracting Act prohibits bidders engaged in investment activities in Iran from bidding on, submitting proposals for, or entering into or renewing contracts with public entities for goods and services of one million dollars (\$1,000,000) or more (PCC § 2203(a)). A bidder who “engages in investment activities in Iran” is defined as either:

1. A bidder providing goods or services of twenty million dollars (\$20,000,000) or more in the energy sector of Iran, including provision of oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; **or**
2. A bidder that is a financial institution (as that term is defined in 50 U.S.C. § 1701) that extends twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created by the California Department of General Services (DGS) pursuant to PCC § 2203(b) as a person engaging in the investment activities in Iran.

The bidder shall certify that at the time of submitting a bid for new contract or renewal of an existing contract, the bidder is **not** identified on the DGS list of ineligible businesses or persons and that the bidder is **not** engaged in investment activities in Iran in violation of the Iran Contracting Act of 2010.

**California law establishes penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made; contract termination; and three-year ineligibility to bid on contracts (PCC § 2205).**

To comply with the Iran Contracting Act of 2010, the bidder shall provide its vendor or financial institution name, and City Business Tax Registration Certificate (BTRC) if available, in completing **ONE** of the options shown below.

## **OPTION #1: CERTIFICATION**

I, the official named below, certify that I am duly authorized to execute this certification on behalf of the bidder or financial institution identified below, and that the bidder or financial institution identified below is **not** on the current DGS list of persons engaged in investment activities in Iran and is **not** a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person or vendor, for 45 days or more, if that other person or vendor will use the credit to provide goods or services in the energy sector in Iran and is identified on the current DSG list of persons engaged in investment activities in Iran.

<i>Vendor Name/Financial Institution (printed)</i>		<i>BTRC (or n/a)</i>
<i>By (Authorized Signature)</i>		
<i>Print Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>City Approval (Signature)</i>	<i>(Print Name)</i>

## **OPTION #2: EXEMPTION**

Pursuant to PCC § 2203(c) and (d), a public entity may permit a bidder or financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enter into, or renew, a contract for goods and services. If the bidder or financial institution identified below has obtained an exemption from the certification requirement under the Iran Contracting Act of 2010, the bidder or financial institution shall complete and sign below and attach documentation demonstrating the exemption approval.

<i>Vendor Name/Financial Institution (printed)</i>		<i>BTRC (or n/a)</i>
<i>By (Authorized Signature)</i>		
<i>Print Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>City Approval (Signature)</i>	<i>(Print Name)</i>



CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS

## SECTION II

**Compliance Documents to be submitted by Selected Proposer**



## **K. AMERICAN WITH DISABILITIES ACT CERTIFICATION**

**CERTIFICATION REGARDING COMPLIANCE WITH THE  
AMERICANS WITH DISABILITIES ACT**

The undersigned certifies, that to the best of his/her knowledge and belief, that:

1. The Contractor/Borrower/Agency (hereafter Contractor) is in compliance with and will continue to comply with the Americans with Disabilities Act 42 U.S.C. 12101 et. seq. and its implementing regulations.
2. The Contractor will provide for reasonable accommodations to allow qualified individuals with disabilities to have access and participate in its programs, services and activities in accordance with the provisions of the Americans With Disabilities Act.
3. The Contractor will not discriminate against persons with disabilities nor against persons due to their relationship or association with a person with a disability.
4. The Contractor will require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
5. This Certification is a material representation of fact upon which the City relied when entering into this agreement.

AGREEMENT NUMBER: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

\_\_\_\_\_  
NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

**L. BUSINESS TAX REGISTRATION CERTIFICATE**

**BUSINESS TAX REGISTRATION CERTIFICATE NUMBER  
OR BUSINESS TAX EXEMPTION NUMBER FORM**

All persons who do business with or within the City of Los Angeles, must first file with the Department of Finance (Tax/Permit Division), and obtain from that office a Business Tax Registration Certificate account number (BTRC) or Vendor Registration Number (VRN). Registration is renewable annually. For further information, contact the Tax and Permit Division located at 200 N. Spring St., Rm 101, Los Angeles, CA 90012 (213) 473-5901.

(Authority: Article 1, Chapter 2, Section 21.00 et seq. – LAMC)

Company Name: \_\_\_\_\_

Enter your current Business Tax Registration or Vendor Registration Number:

**Old format:**

ACCOUNT NUMBER								FUND	CLASS				
						-							

**New format:**

ACCOUNT NUMBER													FUND	CLASS								
													-									

State effective dates here: \_\_\_\_\_ to \_\_\_\_\_

If you have an application pending in the Department of Finance, and have not as yet received your number, a copy of your application must be submitted with your bid, proposal or agreement.

If you have received an exemption from the Department of Finance, provide an explanation for the exemption and the exemption number.

Exemption Number:

								-		
--	--	--	--	--	--	--	--	---	--	--

Explanation:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**M. CHILD SUPPORT OBLIGATIONS CERTIFICATION**



**N. CRO PLEDGE OF COMPLIANCE**

**CITY OF LOS ANGELES**

**PLEDGE OF COMPLIANCE WITH CONTRACTOR RESPONSIBILITY ORDINANCE**

Los Angeles Administrative Code (LAAC) Section 10.40 et seq. (Contractor Responsibility Ordinance) provides that, unless specifically exempt, City contractors working under service contracts of at least \$25,000 and three months, contracts for the purchase of goods and products of at least \$100,000, contracts for the purchase of garments of at least \$25,000, and construction contracts of any amount; public lessees; public licensees; and certain recipients of City financial assistance or City grant funds, shall comply with all applicable provisions of the Ordinance. Upon award of a City contract, public lease, public license, financial assistance or grant, the contractor, public lessee, public licensee, City financial assistance recipient, or grant recipient, and any its subcontractor(s), shall submit this Pledge of Compliance to the awarding authority.

The contractor agrees to comply with the Contractor Responsibility Ordinance and the following provisions:

- (a) To comply with all federal, state, and local laws in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws, which affect employees.
- (b) To notify the awarding authority within 30 calendar days after receiving notification that any governmental agency has initiated an investigation which may result in a finding that the contractor did not comply with any federal, state, or local law in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws, which affect employees.
- (c) To notify the awarding authority within 30 calendar days of all findings by a governmental agency or court of competent jurisdiction that the contractor has violated any federal, state, or local law in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws which affect employees.
- (d) If applicable, to provide the awarding authority, within 30 calendar days, updated responses to the Responsibility Questionnaire if any change occurs which would change any response contained within the Responsibility Questionnaire and such change would affect the contractor's fitness and ability to continue the contract.
- (e) To ensure that subcontractors working on the City agreement (including contractors or subcontractors of a public lessee, licensee, sublessee, or sublicensee that perform or assist in performing services on the leased or licensed premises) shall comply with all federal, state, and local laws in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws, which affect employees.
- (f) To ensure that subcontractors working on the City agreement (including contractors or subcontractors of a public lessee, licensee, sublessee, sublicensee that perform or assist in performing services on the leased or licensed premises) submit a Pledge of Compliance.
- (g) To ensure that subcontractors working on the City agreement (including contractors or subcontractors of a public lessee, licensee, sublessee, or sublicensee that perform or assist in performing services on the leased or licensed premises) shall comply with paragraphs (b) and (c).

**Failure to complete and submit this form to the Awarding Authority may result in withholding of payments by the City Controller, or contract termination.**

---

Company Name, Address and Phone Number

---

Signature of Officer or Authorized Representative

Date

---

Print Name and Title of Officer or Authorized Representative

---

Awarding City Department

Contract Number



O. CITY-APPROVED PROOF OF INSURANCE

*See separate exhibit attached to RFP*

**P. FIRST SOURCE HIRING ORDINANCE**

**SECTION P**

**FIRST SOURCE HIRING ORDINANCE**

Unless approved for an exemption, contractors under contracts primarily for the furnishing of services to or for the City, the value of which is in excess of \$25,000 and a contract term of at least three (3) months, and certain recipients of City Loans or Grants, shall comply with the provisions of Los Angeles Administrative Code Sections 10.44 et seq., First Source Hiring Ordinance (FSHO). Proposers shall refer to the attached “First Source Hiring Ordinance” forms for further information regarding the requirements of the Ordinance.

The Anticipated Job Opportunities Form (FSHO-1) and Subcontractor Information Form (FSHO-2) shall only be required of the Proposer that is selected for award of a contract.

**INSTRUCTIONS:**

- a. All selected proposers must complete the enclosed Anticipated Job Opportunities Form (FSHO-1) and Subcontractor Information Form (FSHO-2).

**FIRST SOURCE HIRING ORDINANCE (FSHO)****FORM: FSHO-1  
CITY OF LOS ANGELES****Anticipated Employment Opportunities**

**SUBCONTRACTORS:** Please fill this form and your own FSHO-2 form. If you have your own Subcontractors (2<sup>nd</sup> tier, 3<sup>rd</sup> tier, etc.) that will work on this City contract, each of them must also fill an FSHO-1 and FSHO-2 form. Upon completion, submit all forms to your Prime Contractor.

**PRIME CONTRACTORS:** Please compile all of your subcontractor's forms. Fill out your own FSHO-1 and FSHO-2 form. If you have no subcontractors, you must still fill out an FSHO-2 form. **ALL completed FSHO-1 and FSHO-2 forms must be submitted to the Contact Person from the City Awarding Department that you are contracting with before the contract is executed.** Your Awarding Department will then submit these forms to BCA.

**SECTION I. CONTRACTOR INFORMATION**

Name of Contractor: \_\_\_\_\_ Contractor Phone#: \_\_\_\_\_  
 Designated Contractor Contact Person: \_\_\_\_\_ Email: \_\_\_\_\_  
 Street Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Federal ID (FEIN)#: \_\_\_\_\_

- |  |  |   |  |
|--|--|---|--|
| 1. I am completing this form as a:<br><input type="checkbox"/> Prime Contractor<br><input type="checkbox"/> Subcontractor<br>Go to Question 2. | 2. How many total employees currently work for your company?<br>_____<br>Go to Question 3. | 3. How many employees will be working directly for the City contract?<br>_____<br>Go to Question 4. | 4. Do you anticipate any job openings as a result of this City contract?<br><input type="checkbox"/> YES – Go to Question 5.<br><input type="checkbox"/> NO – Go to Section III. |
|--|--|---|--|

5. How many different job classifications do you anticipate as a result of this contract? \_\_\_\_\_ Go to Section II.

**SECTION II. ANTICIPATED EMPLOYMENT OPPORTUNITIES INFORMATION**

For every job classification counted in Section I, Question 5, please indicate the anticipated number of openings throughout the life of the contract, description, and qualifications. Attach additional sheets to add more classifications and detail.

<b>Job #1</b>	Job Classification: _____ Anticipated # of Job Openings: _____
---------------	--

<b>Job #2</b>	Job Classification: _____ Anticipated # of Job Openings: _____
---------------	--

<b>Job #3</b>	Job Classification: _____ Anticipated # of Job Openings: _____
---------------	--

**SECTION III. SIGNATURE AND SUBMIT**

I declare under penalty of perjury under the laws of the State of California that I am authorized to bind the entity listed on this form and that the information provided on this form is true and correct to the best of my knowledge.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_  
 (City) (State)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Please Print)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Federal Tax/Employer Identification Number

**SECTION IV. FILLED OUT BY AWARDING DEPARTMENT**

Dept: \_\_\_\_\_ Contact Person: \_\_\_\_\_ Phone#: \_\_\_\_\_ Email: \_\_\_\_\_  
 Project Title (as listed in bid): \_\_\_\_\_ ID# \_\_\_\_\_

**FIRST SOURCE HIRING ORDINANCE (FSHO)****FORM: FSHO-2  
CITY OF LOS ANGELES****Subcontractor Information Form**

**SUBCONTRACTORS:** Please fill this form and attach your FSHO-1 form. If you have your own Subcontractors (2<sup>nd</sup> tier, 3<sup>rd</sup> tier, etc.) that will work on this City contract, each of them must also fill an FSHO-1 and FSHO-2 form. Upon completion, submit all forms to your Prime Contractor.

**PRIME CONTRACTORS:** Please compile all of your subcontractor's forms. Fill out your own FSHO-1 and FSHO-2 form. If you have no subcontractors, you must still fill out an FSHO-2 form. **ALL completed FSHO-1 and FSHO-2 forms must be submitted to the Contact Person from the City Awarding Department that you are contracting with before the contract is executed.** Your Awarding Department will then submit these forms to BCA.

**SECTION I. CONTRACTOR INFORMATION**

Name of Contractor: \_\_\_\_\_ Contractor Phone#: \_\_\_\_\_  
 Designated Contractor Contact Person: \_\_\_\_\_ Email: \_\_\_\_\_  
 Street Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Federal ID (FEIN)#: \_\_\_\_\_

- |   |  |   |
|---|--|---|
| 1. I am completing this form as a:<br><input type="checkbox"/> Prime Contractor<br>Go to Question 3.<br><input type="checkbox"/> Subcontractor<br>Go to Question 2. | 2. Are you a 1 <sup>st</sup> Tier, 2 <sup>nd</sup> Tier, 3 <sup>rd</sup> Tier, or Other Tier Subcontractor?<br><input type="checkbox"/> 1 <sup>st</sup> <input type="checkbox"/> 2 <sup>nd</sup> <input type="checkbox"/> 3 <sup>rd</sup><br><input type="checkbox"/> Other _____<br>Go to Question 3. | 3. Do you have Subcontractors who will be working with you on the contract?<br><input type="checkbox"/> YES – Go to Question 4.<br><input type="checkbox"/> NO – Go to Section III. |
|---|--|---|

4. How many Subcontractors will be working with you on the contract? \_\_\_\_\_ Go to Section II.

**SECTION II. SUBCONTRACTOR INFORMATION**

*For every subcontractor counted in Section I, Question 4, please indicate the name and contact information for each.*

<b>Sub #1</b>	Subcontractor Name: _____ Subcontractor Phone#: _____ Contact Person: _____ Email: _____
<b>Sub #2</b>	Subcontractor Name: _____ Subcontractor Phone#: _____ Contact Person: _____ Email: _____
<b>Sub #3</b>	Subcontractor Name: _____ Subcontractor Phone#: _____ Contact Person: _____ Email: _____
<b>Sub #4</b>	Subcontractor Name: _____ Subcontractor Phone#: _____ Contact Person: _____ Email: _____
<b>Sub #5</b>	Subcontractor Name: _____ Subcontractor Phone#: _____ Contact Person: _____ Email: _____
<b>Sub #6</b>	Subcontractor Name: _____ Subcontractor Phone#: _____ Contact Person: _____ Email: _____
<b>Sub #7</b>	Subcontractor Name: _____ Subcontractor Phone#: _____ Contact Person: _____ Email: _____
<b>Sub #8</b>	Subcontractor Name: _____ Subcontractor Phone#: _____ Contact Person: _____ Email: _____

**SECTION III. SIGNATURE AND SUBMIT**

*I declare under penalty of perjury under the laws of the State of California that I am authorized to bind the entity listed on this form and that the information provided on this form is true and correct to the best of my knowledge.*

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_  
 (City) (State)

Signature \_\_\_\_\_

Name (Please Print) \_\_\_\_\_

Title \_\_\_\_\_

Federal Tax/Employer Identification Number \_\_\_\_\_

**SECTION IV. AWARDING DEPARTMENT INFORMATION**

Dept: \_\_\_\_\_ Contact Person: \_\_\_\_\_ Phone#: \_\_\_\_\_ Email: \_\_\_\_\_  
 Project Title (as listed in bid): \_\_\_\_\_ ID# \_\_\_\_\_

## Q. LOS ANGELES RESIDENCE INFORMATION

LOS ANGELES RESIDENCE INFORMATION

The City Council in consideration of the importance of preserving and enhancing the economic base and well-being of the City encourages businesses to locate or remain within the City of Los Angeles. This is important because of the jobs businesses generate and for the businesses taxes they remit. The City Council, January 7, 1992, adopted a motion that requires proposers to state their headquarter address as well as the percentage of their workforce residing in the City of Los Angeles.

Organization: \_\_\_\_\_

I. Corporate or Main Office Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

II. Total Number of Employees in the Organization: \_\_\_\_\_

III. Percentage of the Proposer's Total Workforce Employed within the City Of Los Angeles:

\_\_\_\_\_ ; Percentage Residing in the City: \_\_\_\_\_

IV. Address of any Branch Offices Located within the City of Los Angeles and Total Number Employed in each Los Angeles Branch:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

V. Percentage of the Workforce in each Los Angeles Branch Office that is Employed within the City: \_\_\_\_\_ ; Percentage Residing in the City: \_\_\_\_\_

**R. LIVING WAGE ORDINANCE AND SERVICE  
CONTRACT WORKER RETENTION ORDINANCE**



# LWO/SCWRO – SUBCONTRACTOR DECLARATION OF COMPLIANCE FORM

REQUIRED DOCUMENTATION FOR ALL SUBCONTRACTS SUBJECT TO LWO

This form must be signed within **90 DAYS** of the execution of the subcontract and **RETAINED** by the **PRIME CONTRACTOR**.

TO BE FILLED OUT BY THE PRIME CONTRACTOR:	
1. Company Name: _____	Company Phone Number: _____
2. Company Address: _____	
3. Awarding Department: _____	
4. Project Name: _____	
<p><b>IF A SUBCONTRACTOR FAILS TO COMPLETE AND SUBMIT THIS FORM TO PRIME CONTRACTOR ON THE CITY CONTRACT, THE PRIME CONTRACTOR MAY BE DEEMED TO BE IN VIOLATION OF THE LWO AND SCWRO FOR FAILING TO ENSURE ITS SUBCONTRACTOR'S COMPLIANCE WITH THE ORDINANCES. THIS MAY RESULT IN WITHHOLDING OF PAYMENTS DUE THE PRIME CONTRACTOR, OR TERMINATION OF THE PRIME CONTRACTOR'S AGREEMENT WITH THE CITY.</b></p>	

**THE PRIME CONTRACTOR MUST INFORM THEIR SUBCONTRACTORS OF THE FOLLOWING:**

**THE LIVING WAGE ORDINANCE (LWO) REQUIRES:**

That a subcontractor (including a sublessee, a sublicensee, or a service contractor to a City financial assistance recipient) that works on or under the authority of an agreement subject to the Service Contractor Worker Retention Ordinance (SCWRO) and Living Wage Ordinance (LWO) **must comply with all applicable provisions of the Ordinances unless specifically approved for an exemption.**

**THE SERVICE CONTRACT WORKER RETENTION ORDINANCE (SCWRO) REQUIRES:**

In case of a successor service contract, a successor prime contractor and its subcontractors shall retain for a 90-day transition employment period, certain employees who have been employed by the terminated prime contractor and its subcontractor, if any, for the preceding 12 months or longer. Refer to the SCWRO Rules and Regulations, available from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance (OCC) website - <http://bca.lacity.org>, for details regarding the wage and benefit requirements of the Ordinance.

**THE LIVING WAGE ORDINANCE (LWO) REQUIRES THAT SUBJECT EMPLOYERS PROVIDE TO EMPLOYEES:**

- As of July 1, 2008 a wage of at least **\$10.00 per hour with health benefits** of \$1.25 per hour, or **\$11.25 per hour without health benefits** (to be adjusted annually) (Regulation #4);
- At least **12 compensated days off per year** for sick leave, vacation or personal necessity at the employee's request (pro-rated for part-time employees) (Regulation #4);
- At least **10 additional days off per year of uncompensated time off** for sick leave (pro-rated for part-time employees) (Regulation #4); and
- Making **less than \$12.00 per hour** information of their possible **right to the federal Earned Income Tax Credit (EITC)** and make available the forms required to secure advance EITC payments from the employer (Regulation #4).

**THE LIVING WAGE ORDINANCE (LWO) ALSO REQUIRES EMPLOYERS:**

- To permit access to work sites for authorized City representatives to review the operation, payroll and related documents, and to provide certified copies of the relevant records upon request by the City.
- **Not to retaliate** against any employee claiming non-compliance with the provisions of these Ordinances and to **comply with federal law** prohibiting retaliation for union organizing (Regulation #4). Refer to the LWO Rules and Regulations, available from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance (OCC) website - <http://bca.lacity.org>, for details regarding the wage and benefit requirements of the Ordinance.

TO BE FILLED OUT BY THE SUBCONTRACTOR:		
1. Company Name: _____	Company Phone Number: _____	
2. Company Address: _____		
3. Type of Service Provided by Subcontractor to Prime: _____		
4. Amount of Subcontract: _____ Subcontract Start Date: ___/___/___ End Date: ___/___/___		
By signing this Declaration of Compliance, the subcontractor certifies that it will comply with all applicable provisions of the SCWRO, LWO, and their implementing Rules and Regulations, including any amendments or revisions to the Ordinances and Regulations.		
_____	_____	_____
Print Name of Person Completing This Form	Signature of Person Completing This Form	
_____	_____	_____
Title	Phone #	Date

# LWO – EMPLOYEE INFORMATION FORM

REQUIRED DOCUMENTATION FOR ALL CONTRACTS SUBJECT TO LWO

**This form must be submitted to the AWARDING DEPARTMENT within 30 DAYS of contract execution. **INCOMPLETE SUBMISSIONS WILL BE RETURNED.****

**THE LIVING WAGE ORDINANCE (LWO) REQUIRES THAT SUBJECT EMPLOYERS PROVIDE TO EMPLOYEES:**

- As of July 1, 2008 a wage of at least **\$10.00 per hour with health benefits** of \$1.25 per hour, or **\$11.25 per hour without health benefits** (to be adjusted annually) (Regulation #4);
- At least **12 compensated days off per year** for sick leave, vacation or personal necessity at the employee’s request (pro-rated for part-time employees) (Regulation #4); and
- At least **10 additional days off per year of uncompensated time off** for personal or immediate illness only (pro-rated for part-time employees) (Regulation #4). Refer to the LWO Rules and Regulations, available from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance (OCC) website, for details regarding the wage and benefit requirements of the Ordinance.
- Making **less than \$12.00 per hour** information of their possible **right to the federal Earned Income Tax Credit (EITC)** and make available the forms required to secure advance EITC payments from the employer (Regulation #4).

**THE LIVING WAGE ORDINANCE (LWO) ALSO REQUIRES EMPLOYERS:**

- **Not to retaliate** against any employee claiming non-compliance with the provisions of these Ordinances and to **comply with federal law** prohibiting retaliation for union organizing (Regulation #4).

**TO BE FILLED OUT BY THE CONTRACTOR:**

1. Company Name: \_\_\_\_\_
2. **STATE** the number of employees working ON THIS CITY CONTRACT: \_\_\_\_\_
3. **ATTACH** a copy of your company’s 1<sup>st</sup> PAYROLL under THIS CITY CONTRACT.
4. **INDICATE** (highlight, underline) on the payroll which employees are working ON THIS CITY CONTRACT.
5. Do you provide health benefits (such as medical, dental, vision, mental health, and disability insurance) to your employees?  Yes  No If YES:
  - 5a. **SUBMIT** a copy of the most recent health benefit premium statement(s) showing which employees receive health benefits.
  - 5b. **STATE** how much, if any, employees pay for co-premiums: \$ \_\_\_\_\_
6. **SUBMIT** a copy of your company’s current PAID time off policy for the employees working on the City contract.
7. **SUBMIT** a copy of your company’s current UNPAID time off policy for the employees working on the City contract.

**FAILURE TO COMPLY WITH THESE REQUIREMENTS WILL RESULT IN WITHHOLDING OF PAYMENTS BY THE CITY CONTROLLER, OR A RECOMMENDATION TO THE AWARDING AUTHORITY FOR CONTRACT TERMINATION. ALL INFORMATION SUBMITTED IS SUBJECT TO VERIFICATION, AND FALSE INFORMATION MAY RESULT IN CONTRACT TERMINATION.**

I understand that the employee information provided herein is confidential and will be used by the City of Los Angeles, Office of Contract Compliance for the purpose of monitoring the Living Wage Ordinance.

\_\_\_\_\_  
Print Name of Person Completing This Form

\_\_\_\_\_  
Signature of Person Completing This Form

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone #

\_\_\_\_\_  
Date

**AWARDING DEPARTMENT USE ONLY:**

**Dept:** \_\_\_\_\_ **Dept Contact:** \_\_\_\_\_ **Contact Phone:** \_\_\_\_\_ **Contract #:** \_\_\_\_\_

# LWO – SUBCONTRACTOR INFORMATION FORM

REQUIRED DOCUMENTATION FOR ALL CONTRACTS SUBJECT TO LWO

**This form must be submitted to the AWARDING DEPARTMENT within 30 DAYS of contract execution. **INCOMPLETE SUBMISSIONS WILL BE RETURNED.****

### SECTION I: CONTRACTOR INFORMATION

- 1) Company Name: \_\_\_\_\_ Contact Person: \_\_\_\_\_ Phone Number: \_\_\_\_\_
- 2) Do you have subcontractors working on this City contract?  Yes  No  
 If NO, **This form is now complete – SIGN THE BOTTOM OF PAGE 2 AND SUBMIT TO THE AWARDING DEPARTMENT.**  
 If YES, a) **STATE** the number of your subcontractors ON THIS CITY CONTRACT: \_\_\_\_\_  
 b) Fill in PART A for EACH subcontractor in Section II, continue to Section III & IV (if applicable), AND SIGN Section V.

### SECTION II: SUBCONTRACTOR INFORMATION

PART A	PART B					
	CHECK OFF ONLY ONE BOX (I-VI) FOR EACH SUBCONTRACTOR (IF APPLICABLE) THEN CONTINUE ONTO SECTION III:					
	I 501 (c)(3) <sup>1</sup>	II One- Person Contractor <sup>2</sup>	III CBA <sup>3</sup>	IV Occupational License <sup>4</sup>	V Small Business <sup>5</sup>	VI Gov. entity <sup>6</sup>
1. Subcontractor Name: _____ 2. Contact Person: _____ Phone #: _____ 3. Address: _____ 4. Purpose of Subcontract: _____ 5. Amount of Subcontract: \$ _____ 6. Term: Start Date ____/____/____ End Date ____/____/____ 7. Does the subcontract exceed \$25,000? <input type="checkbox"/> Yes <input type="checkbox"/> No 8. Is the length of the subcontract over three (3) months? <input type="checkbox"/> Yes <input type="checkbox"/> No  If you checked off YES for Questions 7 AND 8, this subcontract <b>IS SUBJECT TO THE LWO.</b> Continue onto <b>Part B.</b> If you checked off NO for any questions 7 OR 8, this subcontract <b>IS NOT SUBJECT TO THE LWO.</b> Continue to fill in <b>Part A</b> for additional subs below.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1. Subcontractor Name: _____ 2. Contact Person: _____ Phone #: _____ 3. Address: _____ 4. Purpose of Subcontract: _____ 5. Amount of Subcontract: \$ _____ 6. Term: Start Date ____/____/____ End Date ____/____/____ 7. Does the subcontract exceed \$25,000? <input type="checkbox"/> Yes <input type="checkbox"/> No 8. Is the length of the subcontract over three (3) months? <input type="checkbox"/> Yes <input type="checkbox"/> No  If you checked off YES for Questions 7 AND 8, this subcontract <b>IS SUBJECT TO THE LWO.</b> Continue onto <b>Part B.</b> If you checked off NO for any questions 7 OR 8, this subcontract is <b>NOT SUBJECT TO THE LWO.</b> Continue to fill in <b>Part A</b> for additional subs below.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1. Subcontractor Name: _____ 2. Contact Person: _____ Phone #: _____ 3. Address: _____ 4. Purpose of Subcontract: _____ 5. Amount of Subcontract: \$ _____ 6. Term: Start Date ____/____/____ End Date ____/____/____ 7. Does the subcontract exceed \$25,000? <input type="checkbox"/> Yes <input type="checkbox"/> No 8. Is the length of the subcontract over three (3) months? <input type="checkbox"/> Yes <input type="checkbox"/> No  If you checked off YES for Questions 7 AND 8, this subcontract <b>IS SUBJECT TO THE LWO.</b> Continue onto <b>Part B.</b> If you checked off NO for any questions 7 OR 8, this subcontract is <b>NOT SUBJECT TO THE LWO.</b> Continue to fill in <b>Part A</b> for additional subs below.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SECTION II: SUBCONTRACTOR INFORMATION (continued)									
PART A				PART B					
				CHECK OFF ONLY ONE BOX (I-VI) FOR EACH SUBCONTRACTOR (IF APPLICABLE) THEN CONTINUE ONTO SECTION III:					
				I 501(c)(3) <sup>1</sup>	II One-Person Contractor <sup>2</sup>	III CBA <sup>3</sup>	IV Occupational License <sup>4</sup>	V Small Business <sup>5</sup>	VI Gov. entity <sup>6</sup>
1. Subcontractor Name: _____ 2. Contact Person: _____ Phone #: _____ 3. Address: _____ 4. Purpose of Subcontract: _____ 5. Amount of Subcontract: \$ _____ 6. Term: Start Date ____/____/____ End Date ____/____/____ 7. Does the subcontract exceed \$25,000? <input type="checkbox"/> Yes <input type="checkbox"/> No 8. Is the length of the subcontract over three (3) months? <input type="checkbox"/> Yes <input type="checkbox"/> No  If you checked off YES for Questions 7 AND 8, this subcontract <b>IS SUBJECT TO THE LWO</b> . Continue onto <b>Part B</b> . If you checked off NO for any questions 7 OR 8, this subcontract is <b>NOT SUBJECT TO THE LWO</b> . Continue to fill in <b>Part A</b> for additional subs below.				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1. Subcontractor Name: _____ 2. Contact Person: _____ Phone #: _____ 3. Address: _____ 4. Purpose of Subcontract: _____ 5. Amount of Subcontract: \$ _____ 6. Term: Start Date ____/____/____ End Date ____/____/____ 7. Does the subcontract exceed \$25,000? <input type="checkbox"/> Yes <input type="checkbox"/> No 8. Is the length of the subcontract over three (3) months? <input type="checkbox"/> Yes <input type="checkbox"/> No  If you checked off YES for Questions 7 AND 8, this subcontract <b>IS SUBJECT TO THE LWO</b> . Continue onto <b>Part B</b> . If you checked off NO for any questions 7 OR 8, this subcontract is <b>NOT SUBJECT TO THE LWO</b> .				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SECTION III: SUBCONTRACTS SUBJECT TO THE LWO (AND MAY BE ELIGIBLE FOR EXEMPTIONS)									
1) If you checked off any boxes in Part B, your Subcontractor(s) is subject to the LWO, but may qualify for an LWO exemption. Review the exemptions below, and have your subcontractor fill out the form in the corresponding right-hand column. <b>Continue to Section V</b> , and submit this form and all supporting documentation to the Awarding Department for approval.									
2) If you did NOT check any boxes in Part B or your subs DO NOT qualify for an exemption, <b>Continue to Section IV</b> .									
EXEMPTION				SUPPORTING DOCUMENTATION REQUIRED					
One-person contractors, lessee, licensee 501(c)(3) non-profit organization				LW 13 – Departmental Exemption Form <a href="http://bca.lacity.org/index.cfm?nxt=ee&amp;nxt_body=div_occ_lwo_forms.cfm">http://bca.lacity.org/index.cfm?nxt=ee&amp;nxt_body=div_occ_lwo_forms.cfm</a>					
Occupational license required Collective bargaining agreement w/supersession language				LW 10 – OCC Exemption Form <a href="http://bca.lacity.org/index.cfm?nxt=ee&amp;nxt_body=div_occ_lwo_forms.cfm">http://bca.lacity.org/index.cfm?nxt=ee&amp;nxt_body=div_occ_lwo_forms.cfm</a>					
Small Business				LW 26 – Small Business Exemption Form (English & Spanish) <a href="http://bca.lacity.org/index.cfm?nxt=ee&amp;nxt_body=div_occ_lwo_forms.cfm">http://bca.lacity.org/index.cfm?nxt=ee&amp;nxt_body=div_occ_lwo_forms.cfm</a>					
Governmental Entity				NONE REQUIRED.					
SECTION IV: SUBCONTRACTS SUBJECT TO THE LWO (AND NOT ELIGIBLE FOR EXEMPTIONS)									
Please have EACH of your Subcontractors that ARE SUBJECT to the LWO fill out the three forms below. Submit LW-6 and LW-18 ONLY to the Awarding Department (and supporting documentation, where applicable) and RETAIN LW-5 in your office.									
1) Employee Information Form				LW 6 - <a href="http://bca.lacity.org/index.cfm?nxt=ee&amp;nxt_body=div_occ_lwo_forms.cfm">http://bca.lacity.org/index.cfm?nxt=ee&amp;nxt_body=div_occ_lwo_forms.cfm</a>					
2) Subcontractor Information Form				LW 18 - <a href="http://bca.lacity.org/index.cfm?nxt=ee&amp;nxt_body=div_occ_lwo_forms.cfm">http://bca.lacity.org/index.cfm?nxt=ee&amp;nxt_body=div_occ_lwo_forms.cfm</a>					
3) Subcontractor Declaration of Compliance Form (retain)				LW 5 - <a href="http://bca.lacity.org/index.cfm?nxt=ee&amp;nxt_body=div_occ_lwo_forms.cfm">http://bca.lacity.org/index.cfm?nxt=ee&amp;nxt_body=div_occ_lwo_forms.cfm</a>					
SECTION V: SIGNATURE									
I understand that the Subcontractor Information provided herein is confidential and will be used by the City of Los Angeles, Office of Contract Compliance for the purpose of monitoring the Living Wage Ordinance.									
_____ Print Name of Person Completing This Form				_____ Signature of Person Completing This Form					
_____ Title		_____ Phone #		_____ Date					
AWARDING DEPARTMENT USE ONLY:									
Dept: _____		Dept Contact: _____		Contact Phone: _____		Contract #: _____			

## ENDNOTES FOR LWO SUBCONTRACTOR INFORMATION FORM

<sup>1</sup> **Non-Profit 501(c)(3) Organizations:** A corporation claiming exemption under Section 10.37.1(g) of the LWO as a corporation organized under Section 501 (c)(3) of the United States Internal Revenue Code must provide the following additional documents in support of the application for exemption:

(A) A copy of the most recent IRS letter indicating that the contractor has been recognized as a non-profit corporation organized under section 501 (c)(3) of the United States Internal Revenue Code.

(B) An application for non-coverage or exemption, including the non-profit salary certification on the form referred to in Appendix A. The salary certification must list the salary of the corporation's chief executive officer (CEO), computed on an hourly basis, and the hourly wage rate of the lowest paid worker in the corporation. The salary of the CEO, when computed on an hourly basis, must be less than 8 times what the lowest paid worker is paid on an hourly basis. For purposes of this exemption, the "chief executive officer (CEO)" means the CEO of the 501(c)(3) corporation that entered into the agreement

<sup>2</sup> **One-Person Contractor:** A contractor may apply for exemption under Section 10.37.1(f) of the LWO if that contractor has no employees. The one-person contractor shall submit an application for non-coverage or exemption to the awarding authority on the form referred to in Appendix A with the appropriate one-person contractor certification. If, subsequent to the approval of the exemption application, the contractor hires any employees, the exemption is no longer valid. Any employee the contractor hires becomes covered by the LWO to the extent that the employee performs work on the City agreement. In such cases, the contractor shall notify the awarding authority of the change in circumstances and submit to the awarding authority all the necessary forms to comply with the LWO reporting requirements, including the employee and subcontractor information forms.

<sup>3</sup> **Exemption by Collective Bargaining Agreement – LAAC 10.37.12:** An employer subject to provisions of the LWO may, by collective bargaining agreement (CBA), provide that the CBA, during its term, shall supersede the requirements of the LWO for those employees covered by the CBA. The provisions of the LWO should not be interpreted to require an employer to reduce the wages and benefits required by a collective bargaining agreement. All parties to the CBA must specifically waive in full or in part the benefits required by the LWO. An employer applying for this exemption shall submit a copy of the CBA. If the CBA does not specifically indicate that the LWO has been superseded, the employer shall submit written confirmation from the union representing the employees working on the agreement that the union and the employer have agreed to let the CBA supersede the LWO.

(A) Provisional Exemption from LWO during negotiation of CBA: An employer subject to the LWO may apply for Provisional Exemption from the LWO if the employer can document that: (1) the union and the employer are currently engaged in negotiations regarding the terms of the CBA; and (2) the issue of allowing the CBA to supersede the LWO has been proposed as an issue to be addressed during the negotiations. If granted, Provisional Exemption status is valid until the end of the negotiation process, including, if applicable, impasse resolution proceedings. During the negotiation process, the employer shall provide, upon request from the OCC, status reports on the progress of negotiations. At the end of the negotiation process, the employer shall provide the OCC with a copy of the final CBA to verify whether the LWO has been superseded, and the effective dates of the CBA.

(i) If the final CBA signed by the employer and the union supersedes the LWO, the employer shall be considered to be exempt from the LWO's wage and benefits provisions for the time period covered by the effective dates of the superseding CBA. The employer remains subject to all applicable provisions of the LWO for the time period not covered by the superseding CBA. If the employer has not complied with the LWO requirements during the time period not covered by the superseding CBA, the employer shall be required to make retroactive corrections for any period of non-compliance, which may include making retroactive payments to affected employees for the relevant periods of non compliance.

(ii) If the final CBA signed by the employer and the union does not supersede the LWO, the employer shall be required to comply with all applicable LWO requirements, including the wage and benefits provisions. Compliance shall also be required retroactively to the date that the employer first became subject to the LWO. If necessary, the employer shall provide retroactive payments to affected employees for any time period during which the employer did not comply with the LWO.

<sup>4</sup> **Occupational license - LAAC 10.37.1(f): Exemptions for Employees Requiring Occupational Licenses:** If an employer claims that the LWO does not apply to an employee pursuant to section 10.37.1(f) because an occupational license is required of the employee to perform the work, the employer shall submit to the awarding authority, along with the application for non-coverage or exemption, a list of the employees required to possess an occupational license, the type of occupational license required, and a copy of the occupational license itself. An exemption granted under this provision exempts only the employee who must possess an occupational license to perform work on the City agreement. If an occupational license is not required of an employee to perform the work, the employee remains covered by the LWO.

<sup>5</sup> **Small Business Exemptions for Public Lessees and Licensees – LAAC 10.37.1(i):** A public lessee or licensee claiming exemption from the LWO under section 10.37.1(i) shall submit the small business application for exemption form referred to in Appendix A along with supporting documentation to verify that it meets both of the following requirements:

---

(A) The lessee's or licensee's gross revenues from all business(es) conducted on the City premises for the calendar year prior to the date of the application for exemption do not exceed the gross annual revenue amount set by the LWO in Section 10.37.1(i). That gross revenue amount shall be adjusted annually according to the requirements of the LWO. The gross revenue amount used in evaluating whether the lessee or licensee qualifies for this exemption shall be the gross revenue amount in effect at the time the OCC receives the application for exemption.

A public lessee or licensee beginning its first year of operation on a specific City property will have no records of gross annual revenue on the City property. Under such circumstances, the lessee or licensee may qualify for a small business exemption by submitting proof of its annual gross revenues for the last tax year prior to application no matter where the business was located, and by satisfying all other requirements pursuant to these regulations and the LWO.

A lessee or licensee beginning its first year of operation as a business will have no records of gross annual revenue. Under such circumstances, the lessee or licensee may qualify for a small business exemption by satisfying all other requirements pursuant to these regulations and the LWO.

(B) The lessee or licensee employs no more than seven (7) employees.

(i) For purposes of this exemption, a lessee or licensee shall be deemed to employ a worker if the worker is an employee of a company or entity that is owned or controlled by the lessee or licensee, regardless of where the company or entity is located; or if the worker is an employee of a company or entity that owns or controls the lessee or licensee, regardless of where the company or entity is located.

Whether the lessee or licensee meets the seven (7) employee limit provided for in Section 10.37.1(i) of the LWO shall be determined using the total number of workers employed by all companies or businesses which the lessee or licensee owns or controls, or which own or control the lessee or licensee. Control means that one company owns a controlling interest in another company.

(ii) If a business operated by the lessee or licensee is part of a chain of businesses, the total number of employees shall include all workers employed by the entire chain of businesses unless the business operated by the lessee or licensee is an independently owned and operated franchise.

(iii) A public lessee or licensee shall be deemed to employ no more than seven (7) employees if its entire workforce (inclusive of those employees falling within the guidelines stated in subsections (i) and (ii) immediately above) worked an average of no more than 1,214 hours per month for at least three-fourths of the time period that the revenue limitation provided for in section 10.37.1(i) is measured.

Until the OCC approves the application for exemption, the lessee or licensee shall be subject to the LWO and shall comply with its requirements. If the OCC approves the application, the lessee or licensee shall be exempt from the requirements of the LWO for a period of two years from the date of the approval. The exemption will expire two years from the date of approval, but may be renewable in two-year increments upon meeting the requirements.

<sup>6</sup> **Governmental Entities – LAAC 10.37.1(g):** Agreements with governmental entities are exempt from the requirements of the LWO. If an agreement is exempt from the LWO because the contractor is a governmental entity, subcontractors performing work for the governmental entity on the agreement are also exempt.

# LWO – OCC SMALL BUSINESS EXEMPTION APPLICATION

## EXEMPTION THAT REQUIRES OCC APPROVAL

**This application for exemption is for lessees and licensees only and must be submitted along with your bid or proposal to the AWARDDING DEPARTMENT. If approved, it will EXPIRE TWO (2) YEARS from the date of approval. This may be renewable in two (2) year increments upon meeting the requirements. INCOMPLETE SUBMISSIONS WILL BE RETURNED.**

Los Angeles Administrative Code 10.37, the Living Wage Ordinance (LWO), presumes all City contractors (including service contractors, subcontractors, financial assistance recipients, lessees, licensees, sublessees and sublicensees) are subject to the LWO unless an exemption applies.

**TO BE FILLED OUT BY THE CONTRACTOR:**

1. Company Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_
2. Company Address: \_\_\_\_\_
3. Are you a Subcontractor?  Yes  No If YES, state the name of your Prime Contractor: \_\_\_\_\_
4. STATE the total number of businesses you have (inside and outside the City of Los Angeles premises): \_\_\_\_\_
5. STATE the total number of businesses you have inside the City of Los Angeles premises only: \_\_\_\_\_

**SECTION I: BUSINESS INFORMATION**

CHECK OFF ONE BOX IN PART A THAT BEST DESCRIBES YOUR BUSINESS AND ATTACH DOCUMENTATION LISTED IN PART B:

PART A	PART B: SUPPORTING DOCUMENTATION REQUIRED
<input type="checkbox"/> I am a lessee or licensee beginning my first year of operation as a business.	None Required.
<input type="checkbox"/> I have other businesses, but this is my first year of operation on City premises. My gross annual revenues for all of my businesses are less than \$440,792 (as of July 1, 2008) for the 2007 calendar year.	ATTACH 2007 IRS Tax Returns listing gross revenues for ALL of your business(es).
<input type="checkbox"/> I have (a) business(es) on City premises, and my gross annual revenues from all my business(es) on City premises are less than \$440,792 (as of July 1, 2007) for the 2008 calendar year.	ATTACH 2007 IRS Tax Returns listing gross revenues for ALL of your business(es) ON CITY PREMISES.

If you **DID NOT** check off ANY boxes in PART A, your company IS **NOT ELIGIBLE FOR AN EXEMPTION.**  
If you checked off **ANY** boxes in PART A, continue to Section II.

**SECTION II: EMPLOYEE INFORMATION**

CHECK OFF ANY BOX(ES) IN PART C THAT BEST DESCRIBE YOUR BUSINESS AND ATTACH DOCUMENTATION LISTED IN PART D:

PART C	PART D: SUPPORTING DOCUMENTATION REQUIRED
<input type="checkbox"/> I have LESS than Seven (7) employees in the entire company (inside AND outside the City of Los Angeles premises). <input type="checkbox"/> My company's workforce worked an average of no more than 1,214 hours per month for at least three-fourths of the calendar year.	Submit a completed Employee Worksheet for Small Business Exemption (Form OCC/LW-26B). Information on the Employee Worksheet may subsequently require verification through payroll records.  OR Payrolls for the nine (9) months you would like to have reviewed.

If you **DID NOT** check off **ANY** boxes in PART C, your company IS **NOT ELIGIBLE FOR AN EXEMPTION.**  
If you checked off **ANY** box in PART C, **ATTACH** supporting documentation, **SIGN**, AND **SUBMIT EXEMPTION FORM.**

By signing, the contractor certifies under penalty of perjury under the laws of the State of California that the information submitted in support of this application is true and correct to the best of the contractor's knowledge.

Print Name of Person Completing This Form \_\_\_\_\_

Signature of Person Completing This Form \_\_\_\_\_

Title \_\_\_\_\_ Phone # \_\_\_\_\_

Date \_\_\_\_\_

**ANY APPROVAL OF THIS APPLICATION EXEMPTS ONLY THE LISTED CONTRACTOR FROM THE LWO DURING THE PERFORMANCE OF THIS CONTRACT. A SUBCONTRACTOR PERFORMING WORK ON THIS CONTRACT IS NOT EXEMPT UNLESS THE OFFICE OF CONTRACT COMPLIANCE HAS APPROVED A SEPARATE EXEMPTION FOR THE INDIVIDUAL SUBCONTRACTOR.**

**AWARDDING DEPARTMENT USE ONLY:**

Dept: \_\_\_\_\_ Dept Contact: \_\_\_\_\_ Contact Phone: \_\_\_\_\_ Contract #: \_\_\_\_\_

**OCC USE ONLY:**

Approved / Not Approved – Reason: \_\_\_\_\_

By OCC Analyst: \_\_\_\_\_ Date: \_\_\_\_\_





**S. SLAVERY DISCLOSURE AFFIDAVIT**

**SECTION S**

**SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt, in accordance with the provisions of the Slavery Disclosure Ordinance, any contract awarded pursuant to this RFB/RFP/RFQ will be subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code.

All Bidders/Proposers shall complete and upload the Slavery Disclosure Ordinance Affidavit (one (1) page) available on the City of Los Angeles' Business Assistance Virtual Network (BAVN) residing at [www.labavn.org](http://www.labavn.org) prior to award of a City contract.

Bidders/Proposers seeking additional information regarding the requirements of the Slavery Disclosure Ordinance may visit the Bureau of Contract Administration's web site at <http://bca.lacity.org>.

**REQUEST FOR PROPOSALS  
FOR THE MANAGEMENT AND OPERATION OF  
A RECREATIONAL CHILD DEVELOPMENT  
AND CHILDCARE CENTER  
AT BELLEVUE RECREATION CENTER**

**EXHIBIT E**

**SAMPLE CONTRACT FOR THE MANAGEMENT AND  
OPERATION OF A RECREATIONAL CHILD DEVELOPMENT  
AND CHILDCARE CENTER**

**NOTE: This Sample Contract will be revised to include items from the submitted proposal, approved by the City of Los Angeles as part of the proposal process and award of a contract.**

**SAMPLE CONTRACT  
BETWEEN  
THE DEPARTMENT OF RECREATION AND PARKS  
AND  
**NAME OF CONTRACTOR**  
FOR THE  
OPERATION AND OF A RECREATIONAL CHILD DEVELOPMENT  
AND CHILD CARE CENTER  
AT BELLEVUE RECREATION CENTER**

This operations and maintenance contract ("CONTRACT") is entered into as of \_\_\_\_\_, 20\_\_\_\_, by and between the City of Los Angeles ("CITY"), a municipal corporation acting by and through its Board of Recreation and Park Commissioners ("BOARD") and **NAME OF CONTRACTOR** for the operation and maintenance of a Recreational Child Development and Childcare Center at Bellevue Recreation Center. CITY and **NAME OF CONTRACTOR** may be referred to herein individually as "PARTY" or collectively as "PARTIES".

WHEREAS, CITY, through the Department of Recreation and Parks ("RAP"), owns and operates real property commonly known as Bellevue Recreation Center ("PARK"), located at 826 N. Lucille Avenue, Los Angeles, California 90026; and

WHEREAS, CITY has allocated a portion of the PARK, which includes a fenced enclosure with two (2) connected modular building and open areas ("CENTER"), with a street address of 3625 Marathon Street, Los Angeles, California 90026, for the operation and maintenance of a recreational child development and childcare center; and

WHEREAS, on **DATE** the BOARD approved a Request for Proposals process in order to identify a responsive and responsible operator to maintain the CENTER in a safe and sanitary condition, and provide recreational child development programs and licensed childcare services at the CENTER in accordance with RAP guidelines and policies (Board Report No. **XX-XXX**); and

WHEREAS, on **DATE, NAME OF CONTRACTOR**, submitted a proposal to operate and maintain the CENTER as requested in the RFP; and

WHEREAS, on **DATE**, the BOARD approved the proposal as submitted by **NAME OF CONTRACTOR** and contract ward to operate and maintain the CENTER in accordance with the terms and conditions of this CONTRACT (Board Report No. **XX-XXX**); and

WHEREAS, **NAME OF CONTRACTOR** agrees to fulfill the obligations and commitments described in the RFP, in accordance with the terms and conditions contained herein for the benefit of the needs of the community and patrons of the CENTER.

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set forth herein and the performance thereof, PARTIES hereby agree as follows:

**SECTION 1 – DEFINITIONS**

- CENTER: The portion of Bellevue Recreation Center designated for the operation of a child care and recreational child development center, located at 3625 Marathon Street, Los Angeles, California 90026.
- PARK: Bellevue Recreation Center, located at 826 N. Lucille Avenue, Los Angeles, California 90026.
- CITY: The City of Los Angeles, a municipal corporation.
- CONTRACTOR: ***The Selected Contractor***
- BOARD: The Board of Recreation and Park Commissioners of the City of Los Angeles.
- RAP: The Department of Recreation and Parks of the City of Los Angeles.
- GM: General Manager of the Department of Recreation and Parks, or his or her designee

**SECTION 2 - PARTIES TO CONTRACT AND REPRESENTATIVES**

2.1 The Parties to this CONTRACT are:

CITY: The City of Los Angeles, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners, GM or designee.

CONTRACTOR: ***TO BE SELECTED***

2.2 The representatives of the PARTIES who are authorized to administer this CONTRACT and to whom formal notices, demands, and written communications shall be given are as follows:

CITY

Name: Department of Recreation and Parks  
Title: General Manager or Designee  
Address: 221 N. Figueroa Street, Suite 350, Los Angeles, CA 90012  
Telephone: (213) 202-2633  
Fax Number: (213) 202-2614

CONTRACTOR

Name:  
Title:  
Address:  
Telephone Number:  
Fax Number:  
E-Mail:

2.3 Formal notices, demands and communications to be given hereunder by either party shall be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested or through electronic mail (E-Mail), facsimile, or hard copy and shall be deemed communicated as of the date of receipt.

2.4 If the name of the person(s) designated to receive the notices, demands or communications, or the address or other pertinent information of such person is changed, written notice shall be given to the other party within ten (10) working days of such change.

2.5 The RAP Partnership Division Staff identified below shall be the main contact for CONTRACTOR with regard to the administration of this CONTRACT:

CITY

Name: Partnership Division  
Attn: Joel Alvarez or Successor/Designee  
Title: Senior Management II  
Address: 3900 Chevy Chase Drive, Los Angeles, CA 90039  
Telephone Number: (818) 243-6488  
Fax Number: (818) 243-6447

CITY shall provide CONTRACTOR with the name and applicable information of the person(s) designated to act as their main contact, if there is a change in personnel identified above.

### **SECTION 3 - TERM OF CONTRACT**

The term of this CONTRACT ("TERM") shall be effective upon attestation by the City Clerk and shall become operational as of DATE. This CONTRACT shall expire following the completion of the initial Five (5) year TERM on DATE.

Upon mutual consent of both PARTIES, the TERM may be extended for one (1) additional Five (5) Year Option, subject to the sole discretion of the GM, which if exercised shall expire on DATE. Neither CITY, nor any BOARD member, officer, or CITY employee thereof shall be liable in any manner to CONTRACTOR because of any action taken to revoke, decline to exercise an option, or disapprove a renewal of the CONTRACT.

### **SECTION 4 - CENTER DESCRIPTION**

CENTER is located at 3625 Marathon Street, Los Angeles, California 90026, within the grounds of the PARK, adjacent to the parking lot and PARK entrance on Marathon Street. A Site Map of the CENTER and PARK is attached hereto and incorporated herein by reference as EXHIBIT A.

The CENTER consists of approximately 7,200 square feet of fence-enclosed area containing two connecting octagonal shaped modular classroom structures and an outdoor area with play equipment and a storage shed. The CENTER is capable of being licensed by the State of California for up to forty (40) children, and shall enroll a minimum of forty (40) children. The CENTER is furnished and equipped to serve children ages two (2) through five (5) years old, allowing for part-time and full-day recreational development and childcare sessions.

The equipment, hardware, furnishings, materials and supplies owned by CITY will remain with CENTER for use by the CONTRACTOR. Any equipment, hardware, furnishings, materials and supplies purchased by CONTRACTOR with CITY funds or with funds from parent fundraising activities generated at the CENTER shall be owned by CITY, and will remain with CENTER upon expiration or termination of this CONTRACT. Any equipment, hardware, furnishings, materials and supplies purchased by CONTRACTOR with its own funding (neither provided by CITY or from on-site fundraising activities) shall be owned by CONTRACTOR and not become a fixture of the CENTER.

EXHIBIT E - SAMPLE CONTRACT

Bellevue Recreation Center Childcare and Child Development Center

Parking is shared with Park patrons and the public on a first-come, first-served basis. There are no reserved or designated park spaces.

## **SECTION 5 - CITY'S PHILOSOPHY ON CHILD CARE**

CITY's philosophy on recreational child development and childcare is that the CENTER should provide children with a safe, caring, nurturing, and consistent environment to develop through recreational programs and activities in conjunction with licensed childcare services. Children should be treated with respect to their interest(s) and allowed to grow and develop according to their own schedule and needs.

The overall experience the children receive at the CENTER should enrich their lives socially, physically, and emotionally.

## **SECTION 6 - CONTRACTOR'S RESPONSIBILITIES**

The following are CONTRACTOR's responsibilities for managing and operating the CENTER:

### 6.1 General Operation

CONTRACTOR shall manage and operate a recreational child development program and provide childcare services at the CENTER year-round during days and hours specified in Section 6.2 below, for a licensed capacity of forty (40) children, ages 2 years to 5 years.

### 6.2 Hours and Days of Operation

The hours and days of operation of the CENTER for child care and recreational development services shall be from 7:00 a.m. to 6:00 p.m., Monday through Friday, excluding City-recognized holidays. (Current City-recognized holidays are: New Year's Day; Martin Luther King Jr. Birthday; Washington's Birthday; Cesar Chavez Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans Day; Thanksgiving; Friday after Thanksgiving; and, Christmas Day.)

### 6.3 Operating Responsibilities

CONTRACTOR shall manage and operate the CENTER in a manner consistent with CITY's philosophy on recreational child development and childcare, as set forth above. In addition to the recreational programs and childcare services set forth in this CONTRACT, CONTRACTOR is responsible for maintaining CENTER's operating income through the collection of CENTER fees pre-approved by the BOARD in writing, and must fully accept any and all risk of operating losses associated with the operation of the CENTER. CONTRACTOR may not use the facility for any other purpose besides recreational child development and licensed childcare services.



CONTRACTOR Shall:

- a) Establish a Center philosophy and program that promote the best practices in the field of early child development and are consistent with the CITY's Philosophy, as set forth in this CONTRACT.
- b) Establish and maintain recreational child development and childcare programs with effective procedures to ensure the health, safety, and security for all persons while they are involved in the CENTER's activities.
- c) Have primary responsibility to ensure that the CENTER is a safe and healthy environment that meets the regulations of Title 22 of the California Code of Regulations (CCR), including notifying the BOARD of any conditions at the CENTER that may put the CENTER at risk of regulatory violation.
- d) Maintain a State of California Childcare License for the CENTER in good-standing, and on an ongoing basis meet or exceed the licensing requirements of Title 22, Division 12 of the CCR, Community Care Licensing Division for the CENTER. CONTRACTOR shall ensure that a copy of the current, updated License is provided to RAP.
- e) Be responsible to obtain and maintain in good-standing all required business licenses, certifications, and permits as may be required for the management and operation of the CENTER, including fire clearance necessary for CONTRACTOR's performance hereunder; and pay any associated fees as required. CONTRACTOR will be solely responsible for the operation of the CENTER in compliance with the licensing and permit requirements set forth by Title 22, Division 12 of the CCR, Community Care Licensing Division.

6.4 CONTRACTOR Operational Policies, Procedures, and Requirements

- a) Develop, implement, and maintain an Admissions Policy which includes admission procedures in accordance with RAP guidelines for recreational programs and childcare, in compliance with Title 22, Division 12 of the CCR.
- b) Develop and maintain policies and procedures manual for the operation of the CENTER, including but not limited to, protocols for communication with the CITY and RAP, and oversee the implementation of said policies and procedures. CONTRACTOR shall update the manual as necessary and submit a copy of any revised manual(s) annually for review by CITY and/or RAP.
- c) Create and maintain a Parent Advisory Board to provide parent perspectives and oversight, and develop a strong, working relationship among the

CENTER personnel and consumer-parents, while protecting personal rights and respecting applicable confidentiality regulations.

- d) Establish and maintain program quality assessments and participate in Annual Performance Evaluations performed by RAP, beginning six (6) months after start-up of the CENTER's operation and not less than annually thereafter, to ensure the quality and compliance of the CENTER's program with this CONTRACT.
- e) Provide a procedure for receiving and releasing the children, which ensures their daily safety and security.
- f) Assess and collect fees from consumer-parents, subject to approval by the BOARD prior to implementation.
- g) Require that CENTER staff become certified in first aid and CPR; that both the CENTER Director and Assistant Director complete fifteen (15) hours of Health and Safety training; and, continually renew such certification and training as required under State licensing requirements.
- h) Develop procedures for identifying any and all required repair, servicing and replacement needs for the CENTER to ensure the safety and security of the children.
- i) Immediately provide RAP with copies of any reports submitted to the California State Department of Social Services or Licensing Agency.
- j) Assume responsibility for all CENTER operating expenses, including but not limited to, supplies and materials, equipment, utilities, telephone and data lines, and maintenance.
- k) Assume the cost of any applicable Possessory Interest tax, as determined by the County of Los Angeles Tax Assessor.
- l) CONTRACTOR or CENTER shall not advocate for any religion's beliefs, or profess any type of religious training or prayer in its curriculum or recreational activities.

#### 6.5 CONTRACTOR Emergency Policies and Procedures

In coordination with CITY and RAP, CONTRACTOR shall:

- a) Establish and maintain policies and procedures to be used during emergencies and other disruptive occurrences affecting the CENTER. These

policies and procedures shall supplement the Disaster and Mass Casualty Plan required by Title 22, of the CCR, Section 101174.

- b) Ensure Emergency Preparedness kits are available and maintained in each classroom. CONTRACTOR must maintain at the CENTER the level of emergency supplies needed for the care and feeding of children and employees for a minimum of forty-eight (48) hours.
- c) Maintain a parent/guardian emergency contact list of names and telephone numbers of each child enrolled at the CENTER. This list shall also include multiple contacts with the family or extended family of each child and all available medical or other emergency contact information.

#### 6.6 Staffing

- a) Ratios must be maintained at all times, except during designated naptime, and must be in accordance with Title 22, Division 12 of the CCR.
- b) Make provisions for overlap of staff at the CENTER for different shifts in order to ensure continuity of recreational programs and services.
- c) Maintain an appropriate number of staff floaters for use as needed at the CENTER.
- d) CONTRACTOR shall ensure that all Staff members and volunteers, before they commence working at the CENTER, have been fingerprinted and cleared through a certified Livescan system. CONTRACTOR's failure to do so shall constitute a material breach of this CONTRACT.

#### 6.7 Hiring, Training and Professional Development

- a) Establish and maintain a system for the selection, supervision, and training of qualified staff, including compliance with applicable Affirmative Action, Equal Employment Opportunity laws, American with Disabilities Act, and related guidelines and regulations.
- b) Implement a structured and systematic training and professional development program that is linked to clear goals and outcomes for the staff and children of the CENTER.

#### 6.8 Employee Manual

CONTRACTOR shall maintain and oversee adherence to a current and updated Employee Manual for the CENTER that covers employment policies, employee benefits and licensing compliance updates and requirements.

6.9 Removal of Key Personnel

CONTRACTOR shall provide RAP with a list of the names of Key Personnel for the CENTER, including the following or similar personnel:

- a) Executive Director;
- b) Chief Operating Officer;
- c) Director; and
- d) Assistant Director.

CONTRACTOR shall provide RAP with a written, notice of intent, ten (10) days prior to the reassignment or removal of Key Personnel at the CENTER. The notice of intent will include a detailed explanation of how CONTRACTOR will continue to perform its responsibilities and meet its obligations under CONTRACT.

CONTRACTOR may provide the written, notice of intent to RAP through electronic mail (E-mail), facsimile, or hard copy addressed to the RAP Primary Contact listed in Section 2.5 of this CONTRACT.

Reassignment or removal of Key Personnel without a prior written, notice of intent being provided to RAP, will be considered a material breach of CONTRACT and may be grounds for termination of this CONTRACT.

6.10 Tuition and Fees

- a) Upon commencement of this CONTRACT, the tuition and fees shall be set forth as EXHIBIT B, attached hereto and incorporated herein by reference. Such tuition and fees shall remain in effect until any change is approved in writing by the BOARD.
- b) CONTRACTOR may submit a written request to RAP to increase tuition and/or fees on an annual basis. The written request must include justification and documents to substantiate an increase. Any increase may not take effect until approved in writing by the BOARD.
- c) Tuition and fees may not be increased by more than a maximum of 3.5% per year.

6.11 Operating Budget

CONTRACTOR shall manage and operate the CENTER consistent with the annual operating budget, attached hereto as EXHIBIT C, which was approved by CITY in its selection of CONTRACTOR for award of this CONTRACT. CONTRACTOR may propose a revised annual operating budget as applicable,

whether or not associated with a request for increased tuition or fees. CONTRACTOR's annual operating budget shall be included in reporting documents listed in Section 6.17 of this CONTRACT.

6.12 Admission Policy Enrollment Process and Wait List Policy

In accordance with RAP recreational development program and childcare guidelines, CONTRACTOR shall administer the CENTER's enrollment process, including the orientation of prospective families, the collection of registration, tuition, and parent fees, and the management of an enrollment and wait list policy as follows:

- a) For the first year of this CONTRACT, children and their families enrolled and receiving services from the service provider operating the CENTER prior to the execution of this CONTRACT, shall receive the right of first refusal from CONTRACTOR, for enrollment at the CENTER, under the price and terms of CONTRACTOR;
- b) Admittance of eligible applicants shall be processed on a first-come, first-served basis, with the highest priority given to applicants residing within a three (3) mile radius of the CENTER;
- c) The CENTER's Admissions Policy enrollment process shall adhere to enrollment requirements mandated by the California Department of Social Services, Community Care Licensing Division's Title 22 Regulations, under Division 12, Section #101218;
- d) Added consideration by CONTRACTOR shall be given to siblings of existing enrolled children;
- e) A number of low-income eligible scholarships must be provided annually;
- f) A majority of children admitted must reside in the local community, within a five (5) mile radius of the CENTER;
- g) CENTER shall not discriminate on the basis of sex, sexual orientation, sexual identity, gender, ethnic group identification, race, ancestry, national origin, religion, color, and/or mental or physical disability in determining which children are enrolled/served;
- h) Equal opportunities shall be provided to all children in compliance with the Americans with Disabilities Act (ADA) and reasonable accommodations shall be provided, accordingly;
- i) Two Wait Lists shall be maintained by CONTRACTOR when vacancies do not exist; one for children 2 to 3 years old, and one for children 4 to 5 years

old, subject review by RAP annual reporting documents, as stipulated in Section 6.17 of this CONTRACT or upon RAP's request.

- j) Once there are no vacancies in any age group, the following Wait List priority system shall be utilized by CONTRACTOR:
  - 1. Siblings of enrolled children;
  - 2. Children of CENTER staff;
  - 3. City of Los Angeles resident children with no siblings enrolled at the CENTER;
  - 4. Non-City of Los Angeles residents.
- k) CONTRACTOR shall ensure that each applicant is placed on the wait list within their respective categories in the order of their application date.

#### 6.13 Recruitment and Program Promotion

- a) CONTRACTOR shall develop a plan to promote the CENTER within a five (5) mile radius of the CENTER, with the intent of achieving and maintaining full enrollment.
- b) CONTRACTOR shall primarily promote the recreational child development programming at the CENTER, in conjunction with licensed childcare services.

#### 6.14 Parent Engagement and Participation

CONTRACTOR shall develop and implement a plan for encouraging parent engagement and participation at the CENTER, including but not limited to:

- a) Establishing a regular parent meeting schedule;
- b) Creating and distributing a Parent Handbook;
- c) Providing CENTER with support through participation in the Parent Advisory Committee;
- d) Establishing a formal mechanism to track and address parent concerns; and,
- e) Provide clear written directions and establish parameters for involving parents in policy and decision-making processes.

#### 6.15 Subcontracting of Services

- a) The subcontracting of recreational child development and childcare services provided to the children of the CENTER shall be strictly prohibited. All

recreational programming and childcare services provided at the CENTER shall be provided by CONTRACTOR.

- b) CONTRACTOR may provide hot lunches and enrichment programs (e.g., music, art, and dance) through contracted vendors, who shall be subject to the terms and conditions of this CONTRACT while engaging in contracted activities at the CENTER.
- c) CONTRACTOR may provide supplemental services (e.g., nutritionist, nurse, or educational therapist) as CONTRACTOR deems appropriate for the children's benefit. Such service providers shall be subject to the terms and conditions of this CONTRACT.

6.16 Nutrition

CONTRACTOR may provide the following at the CENTER:

- a) Comply with the City's Good Food Purchasing guidelines for food service institutions (Exhibit H).
- b) A hot lunch program, should CONTRACTOR determine such program to be feasible.
- c) Nutritional supplements in the morning, afternoon, and/or late afternoon, with appropriate consideration given for ethnic and cultural preferences, and for special diets.

6.17 Required Reports from Contractor

CENTER benefits from the use of public parkland and as such, RAP has a fiduciary responsibility to ensure that use of such land is appropriate for park property pursuant to City Charter and Administrative Code requirements. Further, any and all information connected with the operation of the CENTER must remain open and subject to public information. Revenue and expenditures generated at the CENTER shall be subject to public disclosure, and shall not be commingled with other of CONTRACTOR's non-CENTER operations or obligations.

The following reports must be periodically provided by CONTRACTOR to RAP:

a. **Proposed Annual Budget**

By the first day of April of each year, CONTRACTOR must provide RAP with a proposed budget for the CENTER for the following fiscal year (July 1<sup>st</sup> – June 30<sup>th</sup>). The proposed budget will consist of anticipated revenue and expenditures; both with a description of budget assumptions and calculations.

**b. Annual Audited Statements**

By the first day of December each year, CONTRACTOR shall provide RAP with an audited financial statement for the previous fiscal year (July 1<sup>st</sup> through June 30<sup>th</sup>).

**c. Quarterly Reports**

Quarterly Reports shall be submitted to RAP pursuant to the following schedule and instructions:

1. First Quarter Report: Due January 1<sup>st</sup> (for October through December);
2. Second Quarter Report: Due April 1<sup>st</sup> (for January through March);
3. Third Quarter Report: Due July 1<sup>st</sup> (for April through June)
4. Fourth Quarter Report: Due October 1<sup>st</sup>: (for July through September)
5. The Quarterly Reports shall contain the following:
  - Budget to Actual Report of the actual revenues and expenses generated during the subject three (3) month period, with a narrative explanation of variances from the budgeted item;
  - An Enrollment List by classroom assignment that includes the child's name, parent's name, attendance status (e.g., full-time, part-time), and attendance for the month (number of days);
  - A Waiting List that includes the date that the child was added to the waiting list, the child's name, parent's name, and future classroom assignment; and
  - A Staffing List that includes each employee's name, title, classroom or work-assignment, and work schedule (e.g., full-time or part-time). The Staffing List should identify any major changes in work assignment, including reassignments, removals, and terminations.

- d. Incident Reports: Contractor must provide a written report within 24 hours of any and all injuries, notifications to parents, or child/children receiving medical attention within 24 hours of incident. The BOARD reserves the right to require CONTRACTOR to provide the reports in a manner acceptable to BOARD.

**6.18 Contractor Records**

- a) CONTRACTOR must maintain and preserve books of accounts and records of all financial transactions related to the operation of the CENTER, including



an accurate and detailed account of all monies received and expended. At any time during the term of this CONTRACT and/or within three (3) years following the termination or expiration of this CONTRACT, the books and records related to the operation and management of the CENTER shall be subject to examination and audit by CITY.

- b) CONTRACTOR must establish and maintain separate accounts and receipts of the following: 1) Tuition and parent fee revenues; 2) parent donation and fund-raising revenues; and, 3) any other fundraising revenue or other funds received for, or on behalf of, the CENTER.
- c) CONTRACTOR shall not commingle funds / accounts or expenditures with other CONTRACTOR operations at non-CENTER sites.

6.19 Notices from / by Contractor

CONTRACTOR is required to maintain communication and coordination with the Bellevue Recreation Center Director in Charge (DIC), including but not limited to providing the DIC with a list of upcoming monthly events and/or schedule of activities. Further, CONTRACTOR must provide timely and advanced notice to RAP of all important matters related to the operation of the CENTER, including but not limited to:

- a) Special CENTER activities and events for the upcoming month that are not already included in the calendar activities to be provided to the PARK DIC;
- b) Parent meetings and activities for the upcoming month that are not already included in the calendar activities to be provided to the PARK DIC;
- c) Notice of child or parent related issues and/or concerns, and the plans to address such matters;
- d) Licensing and regulatory activity, including notification of site visits and other related activities;
- e) Pending issues that may require RAP intervention or action.

Notices must be sent within ten (10) working days of CONTRACTOR being made aware of or receiving a matter requiring communication to RAP. For matters pertaining to items (d) and (e) above, CONTRACTOR must notify CITY Liaison immediately, within forty-eight (48) hours.

6.20 Contractor Supplies and Equipment

CONTRACTOR shall provide and maintain standard operating supplies and equipment not provided by CITY. During the term of this CONTRACT, operating

supplies and equipment purchased by CONTRACTOR with its own funds will remain as property and responsibility of CONTRACTOR.

### **SECTION 7 – PROGRAM AND COMPLIANCE EVALUATION**

CITY will conduct an annual program evaluation to determine ongoing compliance with the terms and conditions of this CONTRACT. This evaluation will address the Program operations, and will allow for the review and action on any proposed program modification, such as tuition fee changes and program services.

Should deficiencies or non-compliance items be identified by RAP, CONTRACTOR will be given sufficient time to take corrective action, as determined by RAP or the BOARD. Failure to correct deficiencies or non-compliance matters within an established time frame shall result in the termination of this CONTRACT, consistent with the default and termination provisions in Section 8 of this CONTRACT.

### **SECTION 8 – DEFAULT AND TERMINATION**

#### **8.1 City's Right to Terminate**

##### **a) Termination for Cause**

Pursuant to Section 6.17 and Section 7 above, CONTRACTOR shall submit periodic reports to RAP, and RAP shall conduct Annual Performance Reviews of CONTRACTOR operations at the CENTER and CONTRACTOR's adherence to the terms and conditions of this CONTRACT, including a review of the recreational child development activities and childcare services offered. Should deficiencies or non-compliance items be identified by RAP, CONTRACTOR shall be provided written notification of such deficiencies and CONTRACTOR shall be granted fifteen (15) calendar days to cure such default(s). RAP shall reserve the right to demand sooner correction of deficiencies for matters of health, safety, and childcare licensing.

If CONTRACTOR fails to cure any such default(s) within the prescribed time frame provided by RAP, CITY may terminate this CONTRACT for cause, by providing CONTRACTOR with a written notice of termination. In the event that CONTRACTOR commences to cure the subject default(s) after the RAP prescribed time frame, CITY, at its sole discretion, shall have the sole authority to determine if CONTRACTOR is acting diligently to pursue the cure of the subject deficiencies or non-compliance items, and whether to hold CONTRACTOR in default.

In the event of termination for cause, CONTRACTOR agrees to vacate the premises on or before the effective date of termination and must leave the CENTER in the same or better condition in which it was found at the

commencement of this CONTRACT, with the exception of normal wear and tear.

b) Termination for Serious Threat to Health or Safety

Notwithstanding the notice to cure default and termination provisions in Section 8.1.a, if CITY reasonably identifies a deficiency or non-compliance item and determines that such item poses a serious threat to the health and safety of CENTER activities and/or children, CENTER staff or the public, RAP shall immediately notify CONTRACTOR of such determination in writing and CITY, at the sole discretion and opinion of the RAP General Manager, may terminate this CONTRACT without any liability with two (2) calendar days advance written notice.

In the event of termination for serious threat to health or safety, CONTRACTOR must vacate the premises on or before the effective date of termination and must leave the CENTER in the same or better condition in which it was found at the beginning of the CONTRACT TERM, with the exception of normal wear and tear.

c) Termination for Convenience

CITY reserves the right to terminate this CONTRACT at its sole discretion for CITY's convenience due to circumstances beyond CITY's control and/or emergency.

8.2 Contractor's Right to Terminate

CONTRACTOR may terminate this CONTRACT for cause no sooner than sixty (60) calendar days following the date of delivering such written notice of termination to RAP. Such written notice must include explicit cause for termination.

In the event of termination for cause, CONTRACTOR must vacate the premises on or before the effective date of termination and must leave CENTER in the same or better condition in which it was found at commencement of the CONTRACT TERM, with the exception of normal wear and tear.

8.3 Bankruptcy, Credit Arrangements, Attachments, Tax Liens

The occurrence of any one or more of the following events shall constitute a material default and breach of CONTRACT by CONTRACTOR:

- a) The making by CONTRACTOR of any general assignment, or general arrangement for the benefit of creditors;

- b) The filing by or against CONTRACTOR of a petition to have CONTRACTOR adjudged a bankruptcy or a petition for reorganization or arrangement under any law relating to bankruptcy;
- c) The appointment of a trustee or receiver to take possession of substantially all of CONTRACTOR's assets, including CENTER operations or CONTRACTOR's interest in this CONTRACT;
- d) Any attachment where such seizure is not discharged within thirty (30) days; and/or,
- e) The filing of any tax lien against CONTRACTOR.

## **SECTION 9 – INDEMNIFICATION AND INSURANCE**

### 9.1 Indemnification:

Except for the active negligence or willful misconduct of CITY, CONTRACTOR undertakes and agrees to defend, indemnify and hold harmless CITY and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest, from and against all suits and causes of action, claims, losses, demands and expenses, including but not limited to, attorneys' fees (both in house and outside counsel) and costs of litigation (including all actual litigation costs incurred by CITY, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including CONTRACTOR's employees, volunteers, agents, Program participants, contractors, and visitors, or damage or destruction of any property of either PARTY hereto or third parties, arising in any manner by reason of negligent acts, errors, omissions or willful misconduct incident to the performance of this CONTRACT by CONTRACTOR or its subcontractors of any tier. Rights and remedies available to CITY under this provision are cumulative of those provided for elsewhere in this CONTRACT and those allowed under the law of the United States, the State of California, and County and City of Los Angeles. This provision shall survive the expiration or termination of this CONTRACT.

### 9.2 Insurance:

CONTRACTOR shall obtain and keep in force an insurance policy from insurance brokers or carriers authorized to transact insurance business in California, which covers all operations conducted pursuant to this CONTRACT and approved by the City of Los Angeles Office of Risk Management (Risk Manager) under the Office of the City Administrative Officer.

#### a. General Conditions:

Such insurance policy must also insure the City of Los Angeles and comply with the Risk Manager's insurance requirements and instructions for submitting insurance to the City of Los Angeles, attached hereto and

incorporated herein by reference as EXHIBIT D. Any breach of this condition for insurance requirements shall be a material breach of this CONTRACT. Without limiting CONTRACTOR's indemnification of CITY, CONTRACTOR shall provide and maintain at its own expense during the entire TERM of this CONTRACT, insurance having the limits customarily carried and actually arranged by CONTRACTOR but not less than the amounts and types listed in this CONTRACT (Exhibit D), covering its operations hereunder and subject to the following conditions:

1. Additional Insured:

CITY, its Boards, Officers, Agents and Employees shall be included as additional insureds in all liability insurance policies except: Workers' Compensation, Employer's Liability, Professional Errors and Omissions, and second-party Legal Liability coverages (such as Fire Legal). CITY shall be named Loss Payee as its interest may appear in all required property, fidelity, or surety coverages.

2. Insurance Requirements:

All insurance required hereunder shall conform to Risk Manager's requirements established by Charter, ordinance or policy, and shall be filed with the Risk Manager for review and approval.

3. Primary Insurance:

Such insurance shall be primary with respect to any insurance maintained by CITY and shall not call on CITY's insurance program for contributions.

4. 30-Day Notice:

With respect to the interest of CITY, such insurance shall not be canceled, materially reduced in coverage or limits or non-renewed except after thirty (30) days written notice by receipted delivery (e-g. certified mail-return receipt, courier, etc.) has been given to the Risk Manager.

5. Prior Approval:

Evidence of insurance shall be submitted to and approved by the Risk Manager prior to commencement of any work or tenancy under this CONTRACT, in accordance with Exhibit-1 of the Standard Provisions for City Contracts (Rev. 3/09 or latest version), attached hereto and incorporated hereby reference as EXHIBIT E.

6. Severability of Interest:

Except with respect to the insurance company's limits of liability, each liability insurance policy shall apply separately to each insured against whom claim or suit is brought. The inclusion of any person or organization

as an insured shall not affect any right which such person or organization would have as a claimant if not so included.

7. Renewal:

Once insurance has been approved by the Risk Manager, evidence of renewal of an expiring policy may be submitted on a signed renewal endorsement form. If the policy or the carrier has changed, new evidence as specified in paragraphs a. through e. of Section 9.2 of this CONTRACT must be submitted.

8. Aggregate Limits/Blanket Coverage:

If any of the required insurance coverage(s) contain aggregate limits, or apply to other operations or tenancy of CONTRACTOR separate from this CONTRACT, CONTRACTOR shall give CITY prompt, written notice of any incident, occurrence, claim, settlement or judgment against such insurance which in CONTRACTOR's best judgment will diminish the protection such insurance affords CITY. Further, CONTRACTOR shall immediately take all reasonable and available steps to restore such aggregate limits or shall provide other insurance protection for such aggregate limits.

b. Self-Insurance and Self-Insured Retentions:

Self-insurance programs and self-insured retentions in insurance policies are subject to separate approval by the Risk Manager upon review of evidence of CONTRACTOR'S financial capacity to respond. Additionally, such programs or retentions must provide CITY with at least the same protections from liability and defense of suits as would be afforded by first-dollar insurance.

c. Modification of Coverage:

The RAP General Manager, based upon advice from the Risk Manager, may increase or decrease the amounts of insurance coverage required herein by giving CONTRACTOR ninety (90) days advance written notice. CITY reserves the right at its sole discretion, any time during the TERM of this CONTRACT, to require such changes.

d. CONTRACTOR's Failure to Procure Insurance:

The required coverages and limits are subject to availability on the open market at reasonable cost, as determined by CITY. The non-availability or non-affordability for CONTRACTOR to procure insurance must be documented by written notification from CONTRACTOR'S insurance broker or agent, indicating good faith efforts to procure insurance and showing at minimum, the names of insurance carriers and the respective declinations or quotations received from each.

Within the foregoing constraints, CONTRACTOR's failure to procure or maintain required insurance or a self-insurance program shall constitute a material breach of this CONTRACT under which the RAP General Manager may immediately terminate or suspend this CONTRACT or, at its discretion, procure or renew such insurance to protect CITY'S interests and pay any and all premiums in connection therewith, and recover all monies so paid from CONTRACTOR.

e. Workers' Compensation:

CONTRACTOR hereby certifies that it is aware of the provisions of Section 3700 et seq., of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all such times as they may apply during the performance of the work under this CONTRACT.

**SECTION 10 – STANDARD PROVISIONS FOR CITY CONTRACTS**

CONTRACTOR shall comply with the Standard Provisions for City Contracts (Rev. 03/09 or latest version), attached hereto and incorporated herein by reference as EXHIBIT E.

**SECTION 11 – WAIVER OF CLAIMS**

PARTIES hereby waive any claim against the other PARTY and its Boards, Officers, Agents or Employees for damages or loss caused by any suit or proceedings directly or indirectly challenging the validity of this CONTRACT, or any part thereof, or by any judgment or award in any suit or proceeding declaring this CONTRACT null, void, or voidable, or delaying the same or any part thereof from being carried out.

**SECTION 12 – ENTIRE CONTRACT**

This CONTRACT, including exhibits incorporated hereinto, contains the full and complete agreement between PARTIES. No verbal agreement or conversation between CONTRACTOR and any Officer or Employee of CITY shall affect or modify any of the terms and/or conditions of this CONTRACT. No modifications of this CONTRACT shall be valid or effective unless approved by CITY and evidenced by a written agreement executed by all PARTIES.

**SECTION 13 – NO JOINT VENTURE OR AGENCY RELATIONSHIP**

Nothing herein contained shall be construed to place the PARTIES to this AGREEMENT in the relationship of a joint venture, association, partnership, or other form of a business organization or agency relationship. CONTRACTOR shall have no power to obligate or bind CITY in any manner whatsoever. Further, under no circumstances will CONTRACTOR represent itself to be an agent of the CITY or any of its departments. Nothing in this CONTRACT may be construed to have authorized or

vested in CONTRACTOR the power to be an agent of the CITY or an actor under the color of law, be it civilly or criminally.

#### **SECTION 14 – EXHIBITS**

This CONTRACT and incorporated documents represent the entire integrated agreement of the PARTIES and supersedes all prior written or oral representations, discussions, and agreements related to the CENTER. The following Exhibits are attached to and made part of this CONTRACT by reference:

- A. CENTER and PARK Site Map
- B. Initial Tuition Rate and Schedule
- C. Initial Operating Budget
- D. Insurance Requirements and Instructions
- E. Standard Provisions for City Contracts (Rev. 03/09 or latest version)
- F. Request for Proposals for the Operation and Management of the CENTER
- G. Proposal submitted by CONTRACTOR in response to Exhibit F
- H. Good Food Purchasing Guidelines for Food Service Institutions

In the event of any inconsistency between any of the provisions of this CONTRACT and/or Exhibits attached hereto, the inconsistency shall be resolved by giving precedence in the following order: 1) This CONTRACT exclusive of attachments; 2) Exhibit G; 3) Exhibit E; 4) Exhibit D; 5) Exhibit B; and, then 5) Exhibit C.

***THIS SAMPLE CONTRACT DOES NOT CONTAIN FINAL EXHIBITS OR A SIGNATURE PAGE REQUIRED FOR EXECUTION OF CONTRACT***



### Required Insurance and Minimum Limits

Name: \_\_\_\_\_ Date: \_\_\_\_\_

**Agreement/Reference:** Management and Operation of a Recreational Child Development and Childcare Center at Bellevue Recreation Center  
 Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

Limits

**Workers' Compensation - Workers' Compensation (WC) and Employer's Liability (EL)** WC Statutory  
EL \$1,000,000

Waiver of Subrogation in favor of City  Longshore & Harbor Workers  
 Jones Act

**General Liability** \_\_\_\_\_

Products/Completed Operations  Sexual Misconduct \$1,000,000  
 Fire Legal Liability \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_ **Automobile Liability** (for any and all vehicles used for this contract, other than commuting to/from work) \_\_\_\_\_

\_\_\_\_ **Professional Liability** (Errors and Omissions) \_\_\_\_\_

Discovery Period 12 Months After Completion of Work or Date of Termination

**Property Insurance** (to cover replacement cost of building - as determined by insurance company) \_\_\_\_\_

All Risk Coverage  Boiler and Machinery  
 Flood \_\_\_\_\_  Builder's Risk  
 Earthquake \_\_\_\_\_  \_\_\_\_\_

\_\_\_\_ **Pollution Liability** \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_ **Surety Bonds - Performance and Payment (Labor and Materials) Bonds** 100% of the contract price

\_\_\_\_ **Crime Insurance** \_\_\_\_\_

**Other:** General Notes: 1) If a contractor has no employees and decides to not cover herself/himself for workers' compensation, please complete the form entitled 'Request for Waiver of Workers' Compensation Insurance Requirement' located at <http://c.a.c.lacity.org/risk/InsuranceForms.htm>  
2) In the absence of imposed auto liability requirements, all contractors using vehicles during the course of their contract must adhere to the financial responsibility laws of the State of California.

DEPARTMENT OF RECREATION AND PARKS  
REQUEST FOR PROPOSALS  
FOR THE MANAGEMENT AND OPERATION OF A  
RECREATIONAL CHILD DEVELOPMENT AND CHILD CARE CENTER  
AT BELLEVUE RECREATION CENTER

PROPOSAL SUBMISSION LETTER

Proposing Entity: \_\_\_\_\_  
(Complete legal name/include DBA if applicable)

Entity Address: \_\_\_\_\_

Organization Type: \_\_\_\_\_  
(Corporation, partnership, sole proprietor, etc.)

Contact Name: \_\_\_\_\_

Contact Telephone: \_\_\_\_\_

Contact Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

By signing, the proposer confirms and acknowledges acceptance of the terms and conditions set forth in this Request for Proposals for the Management and Operations of a recreational child development and child care center at Bellevue Recreation Center and the resulting contract, without exception.

Instructions: 1.) Complete the above; 2.) Provide the appropriate signature of an authorized person/officer authorized to bind the proposer; 3.) Submit one original wet signature with one copy of the original submitted proposal and copies of this letter with the remaining copies of the submitted proposal.

# EXHIBIT "H"

## STANDARD PROVISIONS FOR CITY CONTRACTS

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## STANDARD PROVISIONS FOR CITY CONTRACTS

### **PSC-1. CONSTRUCTION OF PROVISIONS AND TITLES HEREIN**

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" herein in this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one **CONTRACTOR** herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

### **PSC-2. NUMBER OF ORIGINALS**

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the **CITY'S** option, one or more additional original texts of this Contract may also be retained by the City.

### **PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT**

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Contract.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of the Contract shall not be affected thereby.

**PSC-4. TIME OF EFFECTIVENESS**

Unless otherwise provided, this Contract shall take effect when all of the following events have occurred:

- A. This Contract has been signed on behalf of **CONTRACTOR** by the person or persons authorized to bind **CONTRACTOR** hereto;
- B. This Contract has been approved by the City Council or by the board, officer or employee authorized to give such approval;
- C. The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and
- D. This Contract has been signed on behalf of the **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

**PSC-5. INTEGRATED CONTRACT**

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in paragraph PSC-6 hereof.

**PSC-6. AMENDMENT**

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-4.

**PSC-7. EXCUSABLE DELAYS**

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

**PSC-8. BREACH**

Except for excusable delays as described in PSC-7, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights

and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

**PSC-9. WAIVER**

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

**PSC-10. TERMINATION**

**A. TERMINATION FOR CONVENIENCE**

The CITY may terminate this Contract for the CITY'S convenience at any time by giving CONTRACTOR thirty days written notice thereof. Upon receipt of said notice, CONTRACTOR shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The CITY shall pay CONTRACTOR its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by CONTRACTOR to affect such termination. Thereafter, CONTRACTOR shall have no further claims against the CITY under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become CITY property upon the date of such termination. CONTRACTOR agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY'S ownership of rights provided herein.

**B. TERMINATION FOR BREACH OF CONTRACT**

1. Except for excusable delays as provided in PSC-7, if CONTRACTOR fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, the CITY may give CONTRACTOR written notice of such default. If CONTRACTOR does not cure such default or provide a plan to cure such default which is acceptable to the CITY within the time permitted by the CITY, then the CITY may terminate this Contract due to CONTRACTOR'S breach of this Contract.
2. If a federal or state proceeding for relief of debtors is undertaken by or against CONTRACTOR, or if CONTRACTOR makes an assignment for the benefit of creditors, then the CITY may immediately terminate this Contract.
3. If CONTRACTOR engages in any dishonest conduct related to the performance or administration of this Contract or violates the

**CITY'S** lobbying policies, then the **CITY** may immediately terminate this Contract.

4. In the event the **CITY** terminates this Contract as provided in this section, the **CITY** may procure, upon such terms and in such manner as the **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to the **CITY** for all of its costs and damages, including, but not limited, any excess costs for such services.
5. All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.
6. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-10(A) Termination for Convenience.
7. The rights and remedies of the **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

#### **PSC-11. INDEPENDENT CONTRACTOR**

**CONTRACTOR** is acting hereunder as an independent contractor and not as an agent or employee of the **CITY**. **CONTRACTOR** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the **CITY**.

#### **PSC-12. CONTRACTOR'S PERSONNEL**

Unless otherwise provided or approved by the **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. The **CITY** shall have the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** agrees to remove personnel from performing work under this Contract if requested to do so by the **CITY**.

**CONTRACTOR** shall not use subcontractors to assist in performance of this Contract without the prior written approval of the **CITY**. If the **CITY** permits the use of subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of



this Contract. The **CITY** has the right to approve **CONTRACTOR'S** subcontractors, and the **CITY** reserves the right to request replacement of subcontractors. The **CITY** does not have any obligation to pay **CONTRACTOR'S** subcontractors, and nothing herein creates any privity between the **CITY** and the subcontractors.

**PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION**

**CONTRACTOR** may not, unless it has first obtained the written permission of the **CITY**:

- A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

**PSC-14. PERMITS**

**CONTRACTOR** and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance hereunder and shall pay any fees required therefor. **CONTRACTOR** certifies to immediately notify the **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

**PSC-15. CLAIMS FOR LABOR AND MATERIALS**

**CONTRACTOR** shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any **CITY** property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), against **CONTRACTOR'S** rights to payments hereunder, or against the **CITY**, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**PSC-16. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED**

If applicable, **CONTRACTOR** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this Contract, **CONTRACTOR** shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

**PSC-17. RETENTION OF RECORDS, AUDIT AND REPORTS**

**CONTRACTOR** shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form, in accordance with

requirements prescribed by the **CITY**. These records shall be retained for a period of no less than three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. Said records shall be subject to examination and audit by authorized **CITY** personnel or by the **CITY'S** representative at any time during the term of this Contract or within the three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. **CONTRACTOR** shall provide any reports requested by the **CITY** regarding performance of this Contract. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

**PSC-18. FALSE CLAIMS ACT**

**CONTRACTOR** acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the **CITY** under the False Claims Act (Cal. Gov. Code §§ 12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

**PSC-19. BONDS**

All bonds which may be required hereunder shall conform to **CITY** requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

**PSC-20. INDEMNIFICATION**

Except for the active negligence or willful misconduct of the **CITY**, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, **CONTRACTOR** undertakes and agrees to defend, indemnify and hold harmless the **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by **CONTRACTOR** or its subcontractors of any tier. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-20 shall survive expiration or termination of this Contract.

**PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION**

**CONTRACTOR**, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the **CITY**, and any of its Boards, Officers, Agents, Employees, Assigns,

and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the CITY, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information right (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by CONTRACTOR, or its subcontractors of any tier, in performing the work under this Contract; or (2) as a result of the CITY'S actual or intended use of any Work Product furnished by CONTRACTOR, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the CITY under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the CITY. The provisions of PSC-21 shall survive expiration or termination of this Contract.

#### **PSC-22. INTELLECTUAL PROPERTY WARRANTY**

CONTRACTOR represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

#### **PSC-23. OWNERSHIP AND LICENSE**

Unless otherwise provided for herein, all Work Products originated and prepared by CONTRACTOR or its subcontractors of any tier under this Contract shall be and remain the exclusive property of the CITY for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas matters and combinations thereof, and all forms of intellectual property. CONTRACTOR hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by CONTRACTOR under this Contract. CONTRACTOR further agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY'S ownership of rights provided herein.

For all Work Products delivered to the CITY that are not originated or prepared by CONTRACTOR or its subcontractors of any tier under this Contract, CONTRACTOR hereby grants a non-exclusive perpetual license to use such Work Products for any CITY purposes.

**CONTRACTOR** shall not provide or disclose any Work Product to any third party without prior written consent of the **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subcontractors performing work under this Contract such that the **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

**PSC-24. INSURANCE**

During the term of this Contract and without limiting **CONTRACTOR'S** indemnification of the **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by **CONTRACTOR**, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form General 146 in Exhibit 1 hereto), covering its operations hereunder. Such insurance shall conform to **CITY** requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto) and shall otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

**PSC-25. DISCOUNT TERMS**

**CONTRACTOR** agrees to offer the **CITY** any discount terms that are offered to its best customers for the goods and services to be provided hereunder and apply such discount to payments made under this Contract which meet the discount terms.

**PSC-26. WARRANTY AND RESPONSIBILITY OF CONTRACTOR**

**CONTRACTOR** warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within **CONTRACTOR'S** profession, doing the same or similar work under the same or similar circumstances.

**PSC-27. NON-DISCRIMINATION**

Unless otherwise exempt, this Contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the **CITY**. In performing this Contract, **CONTRACTOR** shall not

discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

### **PSC-28. EQUAL EMPLOYMENT PRACTICES**

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **CONTRACTOR** and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of **CITY** contracts. On their or either of their request **CONTRACTOR** shall provide evidence that he or she has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of **CITY** contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has failed to comply with the Equal Employment Practices provisions of a **CITY** contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until **CONTRACTOR** shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the **CITY**, or when an individual bid or proposal is submitted, **CONTRACTOR** shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of **CITY** Contracts.

- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Hiring practices;
  2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  3. Training and promotional opportunities; and
  4. Reasonable accommodations for persons with disabilities.
- L. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR'S** Contract with the **CITY**.

#### **PSC-29. AFFIRMATIVE ACTION PROGRAM**

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
  2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  3. **CONTRACTOR** shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to

their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, **CONTRACTOR** shall certify on an electronic or hard copy form to be supplied, that **CONTRACTOR** has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of **CITY** contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Affirmative Action Program provisions of **CITY** contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has breached the Affirmative Action Program provisions of a **CITY** contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that **CONTRACTOR** has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a **CITY** contract, there may be deducted from the amount payable to **CONTRACTOR** by the **CITY** under the contract, a penalty of ten dollars



(\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a **CITY** contract.

- H. Notwithstanding any other provisions of a **CITY** contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in **CITY** contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. **CONTRACTOR** shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the **CITY**. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, **CONTRACTOR** may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, **CONTRACTOR** must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
  - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
  - 2. **CONTRACTOR** may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the **CITY** with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and **CONTRACTOR**.

- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  2. Classroom preparation for the job when not apprenticeable;
  3. Pre-apprenticeship education and preparation;
  4. Upgrading training and opportunities;
  5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
  6. The entry of qualified women, minority and all other journeymen into the industry; and
  7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the **CITY'S** Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the **CITY** and may be used at the discretion of the **CITY** in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.

- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the **CITY** and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the **CITY**.

### **PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS**

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, **CONTRACTOR** will fully comply with all applicable State and Federal employment reporting requirements for **CONTRACTOR'S** employees. **CONTRACTOR** shall also certify (1) that the Principal Owner(s) of **CONTRACTOR** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that **CONTRACTOR** will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, *et seq.* of the California Family Code; and (3) that **CONTRACTOR** will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to obtain compliance of its subcontractors shall constitute a default by **CONTRACTOR** under this Contract, subjecting this Contract to termination where such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

**CONTRACTOR** certifies that, to the best of its knowledge, it 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 Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

**PSC-31. LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE**

- A. Unless otherwise exempt, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:
1. **CONTRACTOR** assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.
  2. **CONTRACTOR** further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. **CONTRACTOR** shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. **CONTRACTOR** shall deliver the executed pledges from each such subcontractor to the **CITY** within ninety (90) days of the execution of the subcontract. **CONTRACTOR'S** delivery of executed pledges from each such subcontractor shall fully discharge the obligation of **CONTRACTOR** with respect to such pledges and fully discharge the obligation of **CONTRACTOR** to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
  3. **CONTRACTOR**, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the **CITY** with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. **CONTRACTOR** shall post the Notice of Prohibition Against Retaliation provided by the **CITY**.
  4. Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of PSC-31 and shall incorporate the provisions of the LWO and the SCWRO.

5. **CONTRACTOR** shall comply with all rules, regulations and policies promulgated by the **CITY'S** Designated Administrative Agency which may be amended from time to time.
- B. Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR** has violated provisions of either the LWO or the SCWRO, or both.
- C. Where under the LWO Section 10.37.6(d), the **CITY'S** Designated Administrative Agency has determined (a) that **CONTRACTOR** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the **CITY** in such circumstances may impound monies otherwise due **CONTRACTOR** in accordance with the following procedures. Impoundment shall mean that from monies due **CONTRACTOR**, **CITY** may deduct the amount determined to be due and owing by **CONTRACTOR** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether **CONTRACTOR** is to continue work following an impoundment shall remain in the sole discretion of the **CITY**. **CONTRACTOR** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.
- D. **CONTRACTOR** shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). **CONTRACTOR** shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from **CONTRACTOR**.

**PSC-32. AMERICANS WITH DISABILITIES ACT**

**CONTRACTOR** hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations. **CONTRACTOR** will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. **CONTRACTOR** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by **CONTRACTOR**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

**PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time, which requires **CONTRACTOR** to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect **CONTRACTOR'S** fitness and ability to continue performing this Contract.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this Contract, **CONTRACTOR** pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. **CONTRACTOR** further agrees to: (1) notify the **CITY** within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that **CONTRACTOR** is not in compliance with all applicable federal, state and local laws in performance of this Contract; (2) notify the **CITY** within thirty calendar days of all findings by a government agency or court of competent jurisdiction that **CONTRACTOR** has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance; (3) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the **CITY**; and (4) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the **CITY** within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

**PSC-34. MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM**

**CONTRACTOR** agrees and obligates itself to utilize the services of Minority, Women and Other Business Enterprise firms on a level so designated in its proposal, if any. **CONTRACTOR** certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Personal Services Contracts Greater than \$100,000, if applicable. **CONTRACTOR** shall not change any of these designated subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of the **CITY**, provided that such approval shall not be unreasonably withheld.

**PSC-35. EQUAL BENEFITS ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of the Contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** will comply with the EBO.
- B. The failure of **CONTRACTOR** to comply with the EBO will be deemed to be a material breach of this Contract by the **CITY**.
- C. If **CONTRACTOR** fails to comply with the EBO the **CITY** may cancel, terminate or suspend this Contract, in whole or in part, and all monies due or to become due under this Contract may be retained by the **CITY**. The **CITY** may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.
- E. If the **CITY'S** Designated Administrative Agency determines that a **CONTRACTOR** has set up or used its contracting entity for the purpose of evading the intent of the EBO, the **CITY** may terminate the Contract. Violation of this provision may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

**CONTRACTOR** shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

“During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles’ Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922.”

**PSC-36. SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this Contract.

**EXHIBIT 1**

**INSURANCE CONTRACTUAL REQUIREMENTS**

**CONTACT** For additional information about compliance with City Insurance and Bond requirements, contact the Office of the City Administrative Officer, Risk Management at (213) 978-RISK (7475) or go online at [www.lacity.org/cao/risk](http://www.lacity.org/cao/risk). The City approved Bond Assistance Program is available for those contractors who are unable to obtain the City-required performance bonds. A City approved insurance program may be available as a low cost alternative for contractors who are unable to obtain City-required insurance.

**CONTRACTUAL REQUIREMENTS**

**CONTRACTOR AGREES THAT:**

**1. Additional Insured/Loss Payee.** The CITY must be included as an Additional Insured in applicable liability policies to cover the CITY'S liability arising out of the acts or omissions of the named insured. The CITY is to be named as an Additional Named Insured and a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.

**2. Notice of Cancellation.** All required insurance will be maintained in full force for the duration of its business with the CITY. By ordinance, all required insurance must provide at least thirty (30) days' prior written notice (ten (10) days for non-payment of premium) directly to the CITY if your insurance company elects to cancel or materially reduce coverage or limits prior to the policy expiration date, for any reason except impairment of an aggregate limit due to prior claims.

**3. Primary Coverage.** CONTRACTOR will provide coverage that is primary with respect to any insurance or self-insurance of the CITY. The CITY'S program shall be excess of this insurance and non-contributing.

**4. Modification of Coverage.** The CITY reserves the right at any time during the term of this Contract to change the amounts and types of insurance required hereunder by giving CONTRACTOR ninety (90) days' advance written notice of such change. If such change should result in substantial additional cost to CONTRACTOR, the CITY agrees to negotiate additional compensation proportional to the increased benefit to the CITY.

**5. Failure to Procure Insurance.** All required insurance must be submitted and approved by the Office of the City Administrative Officer, Risk Management prior to the inception of any operations by CONTRACTOR.

CONTRACTOR'S failure to procure or maintain required insurance or a self-insurance program during the entire term of this Contract shall constitute a material breach of this Contract under which the CITY may immediately suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect the CITY'S interests and pay any and all premiums in connection therewith and recover all monies so paid from CONTRACTOR.

**6. Workers' Compensation.** By signing this Contract, CONTRACTOR hereby certifies that it is aware of the provisions of Section 3700 *et seq.*, of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake



self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all time during the performance of the work pursuant to this Contract.

**7. California Licensee.** All insurance must be provided by an insurer admitted to do business in California or written through a California-licensed surplus lines broker or through an insurer otherwise acceptable to the CITY. Non-admitted coverage must contain a **Service of Suit** clause in which the underwriters agree to submit as necessary to the jurisdiction of a California court in the event of a coverage dispute. Service of process for this purpose must be allowed upon an agent in California designated by the insurer or upon the California Insurance Commissioner.

**8. Aggregate Limits/Impairment.** If any of the required insurance coverages contain annual aggregate limits, CONTRACTOR must give the CITY written notice of any pending claim or lawsuit which will materially diminish the aggregate within thirty (30) days of knowledge of same. You must take appropriate steps to restore the impaired aggregates or provide replacement insurance protection within thirty (30) days of knowledge of same. The CITY has the option to specify the minimum acceptable aggregate limit for each line of coverage required. No substantial reductions in scope of coverage which may affect the CITY'S protection are allowed without the CITY'S prior written consent.

**9. Commencement of Work.** For purposes of insurance coverage only, this Contract will be deemed to have been executed immediately upon any party hereto taking any steps that can be considered to be in furtherance of or towards performance of this Contract. The requirements in this Section supersede all other sections and provisions of this Contract, including, but not limited to, PSC-4, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

### Exhibit 1 (Continued) Required Insurance and Minimum Limits

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Agreement/Reference: \_\_\_\_\_

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

	<b>Limits</b>
<input type="checkbox"/> <b>Workers' Compensation – Workers' Compensation (WC) and Employer's Liability (EL)</b>	<b>WC</b> <u>Statutory</u> <b>EL</b> _____
<input type="checkbox"/> Waiver of Subrogation in favor of City	<input type="checkbox"/> Longshore & Harbor Workers <input type="checkbox"/> Jones Act

<input type="checkbox"/> <b>General Liability</b>	
<input type="checkbox"/> Products/Completed Operations	<input type="checkbox"/> Sexual Misconduct _____
<input type="checkbox"/> Fire Legal Liability _____	
<input type="checkbox"/> _____	

**Automobile Liability** (for any and all vehicles used for this Contract, other than commuting to/from work) \_\_\_\_\_

**Professional Liability** (Errors and Omissions) \_\_\_\_\_

**Property Insurance** (to cover replacement cost of building – as determined by insurance company) \_\_\_\_\_

- |  |   |
|--|---|
| <input type="checkbox"/> All Risk Coverage | <input type="checkbox"/> Boiler and Machinery |
| <input type="checkbox"/> Flood _____       | <input type="checkbox"/> Builder's Risk       |
| <input type="checkbox"/> Earthquake _____  | <input type="checkbox"/> _____                |

**Pollution Liability** \_\_\_\_\_

\_\_\_\_\_

**Surety Bonds – Performance and Payment (Labor and Materials) Bonds** 100 % of Contract Price

**Crime Insurance** \_\_\_\_\_

**Other:** \_\_\_\_\_

## **GOOD FOOD PURCHASING POLICY**

In accordance with Mayor's Executive Directive No. 24, "Good Food Purchasing Policy," proposers are required to comply with the City of Los Angeles' Good Food Purchasing Guidelines.

The purpose of the policy is to make Good Food (defined as "food that is healthy, affordable, fair, and sustainable") more widely available to all Angelenos in order to promote healthier eating habits, support our local business economy, and create more jobs along the food supply chain. The Good Food Purchasing Guidelines (Guidelines) emphasize five core values: Local Economies, Environmental Sustainability, Valued Workforce, Animal Welfare, and Nutrition. The complete Guidelines are included in this exhibit.

All Bidders/Proposers who are awarded contracts with the Department shall complete and submit the Good Food Purchasing Pledge (one [1] page) prior to execution of the contract.

### **INSTRUCTIONS:**

- a. Awarded proposer only: Complete, submit, and comply with the steps outlined in the Good Food Purchasing Pledge (Page 1 of attached informational package).

# The Good Food Purchasing Pledge



## IN PLEDGING OUR SUPPORT FOR GOOD FOOD,

we will use our purchasing power to encourage the production and consumption of food that is healthy, affordable, fair, and sustainable. We recognize that the adoption of food procurement policies has the power to reform the food system, create opportunities for smaller farmers to thrive, provide just compensation and fair treatment for workers, support sustainable farming practices, reward good environmental stewardship, and increase access to fresh and healthy foods.

We pledge to leverage our purchasing power to support the following values:

- **Local Economies:** support small and mid-sized agricultural and food processing operations within the local area or region.
- **Environmental Sustainability:** source from producers that employ sustainable production systems that reduce or eliminate synthetic pesticides and fertilizers; avoid the use of hormones, antibiotics, and genetic engineering; conserve soil and water; protect and enhance wildlife habitat and biodiversity; and reduce on-farm energy consumption and greenhouse gas emissions.
- **Valued Workforce:** provide safe and healthy working conditions and fair compensation to all food chain workers and producers, from production to consumption.
- **Animal Welfare:** provide healthy and humane care for livestock.
- **Nutrition:** promote health and well-being by offering generous portions of vegetables, fruit, and whole grains; reducing salt, added sugars, fats, and oils; and by eliminating artificial additives.

Signed by \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Name of Institution \_\_\_\_\_

Date \_\_\_\_\_

WE COMMIT OUR INSTITUTION TO TAKING THE FOLLOWING STEPS IN SUPPORT OF GOOD FOOD:

1

As outlined in the *Good Food Purchasing Guidelines for Food Service Institutions*, we commit to **annually increasing our procurement of Good Food** to meet multi-year benchmarks at the baseline level or beyond for five value categories – local economies, environmental sustainability, valued workforce, animal welfare, and nutrition.

2

**Establish** supply chain accountability and a traceability system with vendors/distributors to verify sourcing commitments, assess current food procurement practices, and compile assessment results in a progress report.

3

**Report** annually on implementation progress of the *Good Food Purchasing Guidelines*.

TO GUIDE IMPLEMENTATION, WE COMMIT TO THE FOLLOWING TIMELINE:

1

**Complete** a baseline *Good Food Purchasing* survey within one month of signing the *Good Food Purchasing Pledge*.

2

**Communicate** Good Food commitment to all suppliers, including distributors and food service companies within one month of the adoption of the *Good Food Purchasing Pledge*.

3

**Complete** an assessment of food purchasing practices within six months of the adoption of the *Good Food Purchasing Pledge*.

4

**Develop** and adopt a multi-year action plan with benchmarks to comply with the *Good Food Purchasing Guidelines* within the first year of the adoption to the *Good Food Purchasing Pledge* and share action plans with the Los Angeles Food Policy Council.

5

**Incorporate** the *Good Food Purchasing Guidelines for Food Service Institutions* into new RFPs and contracts, where applicable.

## PROGRAM COMPONENTS

- **Multi-Year Benchmarks:** Purchasers are asked to meet benchmarks in years one and five, recognizing that the shift towards Good Food purchasing will take time, and purchasers will need to make incremental changes.
- **Tiered-Value System:** A tiered-value system has been developed to evaluate the potential contribution of purchases to a Good Food Purchasing initiative. For each of the five values, foods are ranked from Level One (baseline) through Level Three (highest). Higher tiers of achievement are rewarded with more points accordingly.
- **Ranked Criteria:** For most value categories, third-party certifications and label claims allowed by USDA or FDA are used to determine the level of “Good” achieved by an institution’s purchases. These third-party certifications are used to rank Good Food purchases as Levels One (baseline), Two, or Three within each value category.
- **Baseline Requirements:** A baseline in each category is established that must be maintained throughout participation in the program.
- **Good Food Recognition:** Purchasers are scored and recognized at different levels to reward higher Good Food sourcing commitments within value categories. Purchasers that meet the baseline level for each category receive Good Food Purchaser recognition (one star). Additional levels (two to five stars) are awarded to purchasers to recognize the most dedicated supporters of the *Good Food Purchasing Guidelines*.
- **Traceability:** Purchasers are asked to work with suppliers to establish transparent reporting systems to verify product source.
- **Compliance Plan:** If vendor and/or suppliers do not have a current capacity to meet food purchasing targets, the vendor may submit a plan to achieve full compliance at a baseline level by the end of year one.
- **Annual Report:** Purchasers are asked to report annually on their progress.
- **Promotion:** The City of Los Angeles and the Los Angeles Food Policy Council will regularly promote and celebrate Good Food institutional commitments. Successful participants in the *Good Food Purchasing Pledge* program can also serve as an inspiration and positive role model for other institutions in our region.

## PROGRAM OVERVIEW: GOOD FOOD PURCHASING GUIDELINES

Los Angeles Food Policy Council (LAFPC), in collaboration with public, private, and non-profit partners, developed *Good Food Purchasing Guidelines*, model guidelines for food service establishments in assessing and purchasing Good Food — food that is healthy, affordable, fair, and sustainable.

Scaled similarly to LEED green building certification, the *Good Food Purchasing Guidelines* emphasize five key values:

- (1) Local Economies
- (2) Environmental Sustainability
- (3) Valued Workforce
- (4) Animal Welfare
- (5) Nutrition

### About the Los Angeles Food Policy Council

The Los Angeles Food Policy Council (LAFPC) is a collective impact initiative created by Mayor Antonio Villaraigosa in January of 2011. LAFPC’s mission is to build a Good Food system for all Los Angeles residents. Such a system ensures that food is healthy, affordable, fair, and sustainable in order to improve the health and well-being of our residents, particularly in low-income communities and communities of color; promotes a thriving Good Food economy for everyone; and strengthens agricultural and environmental stewardship throughout the region. LAFPC coordinates the expertise and leadership of public, private, nonprofit, and academic partners to strengthen connections across the food system. The Food Policy Council and its staff serve as the “backbone” organization for the initiative, which has an extended reach of approximately 300 individuals and over 150 organizations.

LAFPC leverages its unique structure and placement as an independent multi-stakeholder initiative within the Mayor’s Office to advance innovative food policies. LAFPC combines coalition-building, leadership development, and issue and policy advocacy to advance food policies and programmatic innovations. The council’s goal is to shift our regional food system to promote local growers, sustainable agriculture, and fair working conditions for all food workers, and to ensure access to healthy affordable food in underserved communities.

For more information, contact [info@goofoodla.org](mailto:info@goofoodla.org).

**Good Food  
Purchasing Guidelines  
*for*  
Food Service Institutions**

**Los Angeles  
Food Policy Council**



**LOS ANGELES  
FOOD POLICY  
COUNCIL**



**Good Food  
Purchasing Guidelines  
*for*  
Food Service Institutions**

**Los Angeles  
Food Policy Council**



**LOS ANGELES  
FOOD POLICY  
COUNCIL**

*October 2012*

**GOODFOODLA.ORG**



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## Acknowledgements

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# Good Food Purchasing Guidelines RFP EXHIBIT I for Food Service Institutions

Food system transformation depends on large-scale shifts in the demand for and the subsequent purchasing of Good Food. By practicing Good Food purchasing methods, institutions can support food systems that are healthy, ecologically sound, economically viable, socially responsible, and humane. Universities and schools, hospitals, local governments, restaurants, and other institutions with food service venues are beginning to explore the opportunities afforded by thoughtful and value-based purchasing. By exercising their buying power, the purchasing practices of food service institutions can make a major difference in heightening the demand for and availability of Good Food.



The *Good Food Purchasing Guidelines for Food Service Institutions* is designed for public and private food enterprises in Los Angeles County and beyond to assist with their development of Good Food purchasing strategies. The guidelines include suggested measures and practical steps to implementing Good Food measures. The guidelines emphasize the following values:

- **Local Economies:** Support small and mid-sized agricultural and food processing operations within the local area or region.
- **Environmental Sustainability:** Source from producers that employ sustainable production systems that reduce or eliminate synthetic pesticides and fertilizers; avoid the use of hormones, antibiotics, and genetic engineering; conserve soil and water; protect and enhance wildlife habitat and biodiversity; and reduce on-farm energy consumption and greenhouse gas emissions.
- **Valued Workforce:** Provide safe and healthy working conditions and fair compensation for all food chain workers and producers from production to consumption.
- **Animal Welfare:** Provide healthy and humane care for livestock.
- **Nutrition:** Promote health and well-being by offering generous portions of vegetables, fruit, and whole grains; reducing salt, added sugars, fats, and oils; and eliminating artificial additives.

GOOD FOOD IS DEFINED  
BY THE LOS ANGELES FOOD POLICY COUNCIL  
AS FOOD THAT IS:

## HEALTHY

Foods meet the Dietary Guidelines for Americans and provide freedom from chronic ailment.  
Food is delicious and safe.

## SUSTAINABLE

Food is produced, processed, distributed, and recycled locally using the principles of environmental stewardship (in terms of water, soil, and pesticide management).  
accessible to all.

## FAIR

All participants in the food supply chain receive fair compensation and fair treatment, free of exploitation.  
High quality food is equitable and physically and culturally accessible to all.

## AFFORDABLE

Foods that people of all income levels can purchase.

By suggesting opportunities to assess existing policies and methodologies within each establishment, this guide is intended to provide tools to help create a shift to a more diversified and resilient food system, with sustainable and ethical sourcing of food in all levels of food service operations. Good Food production, purchasing, and consumption will require coordinated multi-sector adoption and engagement with participants who are willing to adhere to an established minimum of Good Food procurement, outlined in this document. Included in this document is a tiered assessment of values to help procurement and purchasing offices determine the current state of their farmers and other vendors. This guide is a first step in creating a comprehensive Good Food program that will inform, encourage, support and promote food service establishments of all sizes to become Good Food leaders in their communities.

### WHAT IS GOOD FOOD PROCUREMENT?

The term procurement refers to the sourcing and purchasing of food to supply food service operations. This process is much more complex than it may appear on the surface or to one unfamiliar with commercial food service operations. Procurement involves identifying the food needs of the customer base for the food service operation, specifying product requirements, identifying suppliers, taking deliveries, inspecting and storing items, and, depending on the size of the operation, soliciting and evaluating bids and proposals, controlling inventory, and paying suppliers. These guidelines are designed to assist an individual tasked with implementing a Good Food program in their food service operation.

### THE IMPORTANCE OF GOOD FOOD PROCUREMENT

Institutions of all kinds, from K-12 schools, universities, and hospitals, to corporate cafeterias and local government agencies, are major purchasers and servers of food. They are therefore in a unique position to influence food supply chains. Due to the collective large purchasing volume, institutional demand for Good Food can encourage suppliers to shift their production practices in order to supply environmentally sustainable, socially responsible, and healthy food products.

**Good Food sourcing benefits may include:**

- **Economic:** Support of local and regional farmers and food businesses, returning to the local economy three times the purchase price of a food product purchased from out of state;
- **Environmental:** Reduction of food miles, greenhouse gases, carbon footprints, and pollution; promotion of soil fertility, human and animal health, and the conservation of water and biodiversity;
- **Nutritional:** Encouragement of increased purchasing of whole foods and local produce that is fresher and has a higher nutritional content, due to the shorter period of time between harvest and sale;
- **Social:** Transformation of the supply chain, rewarding farmers and food businesses for environmentally sustainable and socially responsible business practices.

Large-scale demand for Good Food is fundamental to building the market for Good Food. By increasing the demand, and thus the infrastructure to distribute Good Food, it will become easier for more institutions to participate. Strong and steady demand for Good Food will increase its affordability and availability in all communities.

Hospitals, universities, schools, and restaurants in Los Angeles have spearheaded the adoption of local and sustainable food procurement policies and these innovators should be looked to as local leaders in proving that, by changing the way one purchases, institutions can create opportunities for regional farmers to thrive, for workers to receive just compensation and fair treatment, for local economies to continue to rebuild, and for reducing our environmental footprint. These outcomes can be accomplished while also increasing access to and consumption of fresh and nutritious food, particularly in underserved communities. The goal of a Good Food procurement system is to bring multiple benefits to all communities by impacting health, social well-being, bottom-line business success, and the environment.

**Public institutions, in particular, play a critical role in increasing access to Good Food.**

Through their reach to some of the most vulnerable populations, including seniors and children, public programs help ensure that all Angelenos have access to the healthiest foods. These agencies purchase food to provide meals to people in public hospitals, child-care centers, schools, senior programs, jails, and juvenile facilities. Such programs and institutions provide a buffer against hunger, food insecurity

and also serve as a primary source of nutrition for millions of residents. Public and private institutions also purchase food to sell to employees and the public in retail outlets such as vending machines, cafeterias, and concession stands.

Various Los Angeles wholesale food companies have implemented local food lines and certify that their products fall within a variety of parameters. This practice has expanded into processing lines and local fruits and vegetables can now be purchased to create a line of value-added products that are verified as locally sourced (i.e. carrot sticks, bagged salads, crudités, etc.).

Los Angeles nutrition education programs such as the California Department of Public Health and Network for a Healthy California's *Harvest of the Month* program, administered by LAUSD in 250 Los Angeles schools, and some of the Los Angeles county WIC-Only stores are using guidelines that state that their Good Food is sourced from:

- Farms within 200 miles of the final service of the product
- Farms that are less than 200 acres
- Farms that provide more than five items annually (this excludes mono-cropping and allows for crop diversity and better soil management)

Over time, Good Food purchases, from both large and small institutions, can add up to significant investments in a sustainable regional food system.

## IMPLEMENTING A GOOD FOOD PROGRAM

Before implementing changes, operations should assess:

- What are the advantages to your institution and the community for purchasing Good Food?
- What percentage of currently purchased food is already local, sustainable, and fairly produced?
- What barriers will limit participation in the program?
- Are there extra transportation costs affiliated with purchasing an increased volume in local products?
- What are the additional processing costs affiliated with purchasing local? What methods exist for offsetting such costs?
- What types of local, sustainable, and fairly produced products do existing distributors or vendors offer?
- How will your institution communicate the changes to consumers and employees?

Prior to implementation, it is also critical to develop operational definitions for words that will be used in Good Food bids; words like: sustainable, fair, local, or humane need to have clear criteria and a means for measurement and compliance (see Appendix A for our glossary of terms). Compliance and/or meeting Good Food objectives will more often than not fall to producers, food distributors, and processors. Without a direct relationship to farmers, ensuring sustainability of foods and beverages requires access to information about the value chain and the farms that produced such foods. Outside of a personal relationship with producers, third-party labels (CCOF, AGA Grassfed, etc.) are useful tools for ensuring sustainability if they are grounded in verifiability.

Most distributors are willing to take on the task of providing origins of their product, particularly if there is a long-term sales opportunity. Often the simple act of asking distributors how they will meet Good Food requirements indicates to suppliers that sustainability and health are important for an institution. Distributors will work with the buyer to develop a qualified Good Food program with buyer-specified parameters.



## BUDGETING FOR GOOD FOOD

Sustainable foods are generally associated with higher prices than conventional foods, thus creating little incentive for increasing purchases. However, there are a variety of strategies food service venues can employ to offset increased costs associated with purchasing higher quality foods. In 2012, Los Angeles Unified School District was able to improve meal quality, increase the percent of produce purchased and source approximately 70 percent of that produce locally (within 200 miles), while their food budget remained constant, despite rising food prices nationally. A recent study prepared for UCLA Housing & Hospitality Services found that four UC campuses with sustainable food policies – Davis, Berkeley, San Diego, and Santa Cruz – showed little, if any, increase in per plate costs after sustainable spending. Retailers have found as they increase Good Food purchases, suppliers increase production and, subsequently, food prices fall.

Strategies for offsetting increased costs include:

- Re-designing menus to incorporate less meat and processed food;
- Buying produce in season;
- Creating direct relationships with suppliers;
- Partnering with other food purchasing departments or institutions to leverage purchasing volume;
- Increasing sustainable food purchases incrementally;
- Purchasing foods from produce aggregation hubs (Regional Food Hubs);
- Increasing water and energy efficiency (e.g. by eliminating trays); and
- Buying lower on the beauty chain (e.g., smaller and less aesthetically perfect produce) is less expensive and helps farmers sell more of what they grow.

The guidelines suggested in this document were identified with full acknowledgement of the very real constraints and tight budgets institutions face when trying to provide their customers the highest quality food. To establish varying degrees of Good Food compliance, these guidelines outline tiers of adoption for food service outlets based on procurement standards. Purchasers will need to identify their initial purchasing priorities and incorporate additional standards and levels of adoption in the next stages of the development of their program.

## METHODOLOGY FOR ASSESSING GOOD FOOD PROCUREMENT

A tiered value system has been developed to evaluate the potential contribution of purchases to a Good Food Purchasing Program. A baseline in each category is established that must be maintained throughout participation in the program with qualifications noted at both the one year and five year goal levels. By creating goals for a first year of completion through a five-year implementation plan, a great opportunity is created for thoughtful, strategic and progressive sourcing and menu development.

The tiered value system allows for purchasers to participate at varying levels and to scale up their Good Food purchasing over time. Within each value category, purchasers may choose to participate at Levels One, Two or Three. Level One criteria within each value category are assigned one point. Level Two criteria for each value category are more rigorous than Level One and are assigned two points. Level Three criteria within each value category are the premier levels of achievement in the program and are assigned three points.

Purchasers that meet the baseline level for each category are awarded with Good Food Purchaser recognition. A purchaser must score a minimum of five points to meet baseline requirements as a participant in the Good Food Purchasing Program and receive one star. Purchasers scoring 10-14 points receive two stars, purchasers scoring 15-19 points receive three stars, purchasers scoring 20-24 points receive four stars, and purchasers scoring 25 points or more receive five stars. Good Food Purchasers with five stars represent the most dedicated supporters of the Good Food Purchasing Guidelines. These Good Food Purchasing Guidelines are easily modified for any national food service company or government agency.

## GOOD FOOD PURCHASING PROGRAM GOALS

The following Good Food goals have been adapted from a variety of local and sustainable food purchasing policies including the City of New York, Kaiser Permanente, Emory University, Yale University, and University of California and are a suggested benchmark for purchasers developing or implementing a Good Food purchasing program. Food service facilities can adjust percentages as necessary with the goal of gradually increasing their Good Food purchases.

## GOOD FOOD PURCHASING COMMITMENT LEVELS



**BASELINE REQUIREMENT**  
All Good Food Purchasers must score at least one point in each value category.

**MIXING LEVELS AND VALUES**  
Points may be earned by mixing various commitment levels and value categories.  
— *Example*  
2 points from Level 2 of Nutrition + 1 point from Level 1 of Animal Welfare = 3 points total

**ACCUMULATION OF POINTS**  
Cumulative points may be earned if purchasers comply simultaneously with different commitment levels within a particular value category.  
— *Example*  
From the Environmental Sustainability category, participants can earn 6 points by fulfilling all the different requirements for Levels 1, 2 and 3.

**EXPECTATIONS FOR INCREASED COMMITMENT**  
After one year of participation in the program, purchasers will be expected to gradually increase the amount of Good Food that they purchase in order to maintain the same number of points. See Good Food Purchasing Guidelines for more details.

### SCORING SYSTEM EXAMPLES

These two hypothetical examples will help Good Food Purchasers understand how the Good Food Purchasing Pledge scoring system works. In both of the following examples, the institutions earn three-star ratings (requiring 15-19 points), but each organization takes a different approach.

	VALUE	1	2	3	4	5
LEVELS						
EXTRA POINTS		2				1
LEVEL 3				3		3
LEVEL 2		2		2		
LEVEL 1			1		1	

 =  Good Food Purchaser

	VALUE	1	2	3	4	5
LEVELS						
EXTRA POINTS		1	2	1		
LEVEL 3		3	3			
LEVEL 2			2		2	2
LEVEL 1		1		1		

 =  Good Food Purchaser

REP EXHIBIT

megranates  
\$3.00 a pound

Organic  
Delicious  
Apples  
\$3.00 a pound  
2 lb / \$5.00



Photo: Justin Sun Chiu

## An Overview of Good Food Values

Procurement suggestions will focus on sourcing products that align with these Good Food principles:

### LOCAL ECONOMIES (LOCAL FOOD)

- Use local, seasonally available ingredients from community supported, small and medium sized farms and food processing facilities, to maintain local economies, create jobs, prevent sprawl, preserve farmlands, provide fresher food, and minimize transport and storage. If local ingredients are not available, use regional or at a minimum, domestic, ingredients.

### ENVIRONMENTAL SUSTAINABILITY (ENVIRONMENTALLY SUSTAINABLE FOOD)

- Specify food from farming systems that minimize harm to the environment, such as certified organic farms, farms offering high bio-diversity of crop yield, farms actively reducing risk created through pesticide use, and soil enrichment and water conservation programs
- Avoid food products with supplemental growth hormones and non-therapeutic antibiotics and Genetic Modification (GMO) of crops, livestock, and livestock feed
- Minimize foods of animal origin (meat, dairy products, and eggs), as livestock farming is one of the most significant contributors to climate change
- Exclude fish species identified as most 'at risk' by the Marine Conservation Society and Monterey Bay Aquarium's Seafood Watch and give preference to fish derived from sustainable sources.
- Purchase lower-grade (less than retail quality) produce for use in prepared dishes to allow more complete use of farm produce, to reduce waste, and to reduce costs.
- Minimize bottled water sales and instead serve plain or filtered tap water in reusable jugs or bottles, to minimize transport and packaging waste.

### VALUED WORKFORCE (FAIR FOOD)

- Choose food products that ensure safe and healthy working conditions, fair compensation, and a voice at work for all food chain workers and producers from production to consumption
- Choose food and drink products that ensure a fair deal for producers and workers in developing nations and economies

### ANIMAL WELFARE (HUMANE FOOD)

- If animal products are a featured menu item, ensure that meat, dairy products, and eggs are produced using high verifiable animal welfare standards which consumers would consider to be significantly higher than standard industry practices

### NUTRITION (HEALTHY FOOD)

- Promote health and well-being by offering generous portions of vegetables, fruit, and whole grains while reducing salt, added sugars, fats, oils, and red meat consumption, and eliminating artificial additives.

Improving equity, affordability, accessibility, and consumption of high quality culturally relevant Good Food in all communities is central to our focus on advancing Good Food purchasing practices.

# Value 1: Local Economies Purchasing Goals

## LEVEL 1 — BASELINE

Local within 200 miles<sup>1</sup> (or 10 Southern California counties) AND large scale operations<sup>2</sup> (>500 acre farms);  
or  
Outside of the local 200 mile range but within California AND medium scale operations (180-499 acre farms);  
or  
Outside of California AND small scale operations (<180 acre farms)

## LEVEL 2

Local within 200 miles (or 10 Southern California counties) AND medium scale operations;  
or  
Outside of the local 200 mile range but within California AND small scale operations

## LEVEL 3

Local within 200 miles (or 10 Southern California counties) AND small scale operations

To be recognized as a Good Food purchaser, an institution scores one or higher in the Local Economies Category.

	TARGET	POINTS AWARDED
<b>LEVEL 1 — BASELINE</b>	Year 1: 15% annual average of total cost of food purchases, with a goal of increasing at least 2% per year will come from Level 1 local food sources (See glossary for definition of source). OR If vendor and/or suppliers do not have current capacity to meet local food purchasing goals, the vendor may submit a plan to achieve full compliance at least at the baseline level by end of year one.	1
	Year 5: 25% annual average of total cost of food purchases will come from Level 1 local food sources by fifth year of participation.	1
<b>LEVEL 2</b>	Year 1: 15% annual average of total cost of food purchases, with a goal of increasing at least 2% per year will come from Level 2 local food sources.	2
	Year 5: 25% annual average of total cost of food purchases will come from Level 2 local food sources by fifth year of participation.	1
<b>LEVEL 3</b>	Year 1: 15% annual average of total cost of food purchases, with a goal of increasing at least 2% per year will come from Level 3 local food sources.	3
	Year 5: 25% annual average of total cost of food purchases will come from Level 3 local food sources by fifth year of participation.	1
<b>EXTRA POINTS</b>  (Applies to annual food purchases)	Food is purchased from microenterprise farm of less than 100 acres and located within 200 miles.	1
	Food is grown/raised and processed in Los Angeles County.	1
	Food is purchased directly from farmer-owned businesses.	1
	Food is purchased from women, minority, disabled, or veteran-owned food businesses (farms/operations).	1
	50% of total cost of food purchases comes from small and mid-sized food operations within the local area or region.	1
	At least 25% of prepared seafood sourced from small and or local fleets.	1

**Steps to Implementation:**

- Source local agricultural and food products directly from farmers and ranchers at certified farmers' markets in City of Los Angeles and/or Los Angeles County (See Appendix B: Good Food Purchasing Resource Guide – Learn More About Good Food Sourcing: Local Food).
- Buy local agricultural and food products from distribution firms that verifiably buy from farmers' market certified producers at Los Angeles County certified farmers' markets.
- Buy local agricultural and food products from distribution firms that buy from other verified local farms and producers.
- Buy local agricultural and food products from distribution firms and processors that have a verifiable local food line (See Appendix C for listings).
- Work with distributors to source seasonal fruits and vegetables to ensure best taste, quality, and price.

<sup>1</sup>The Los Angeles Food Policy Council defines local as 200 miles, ten counties and touching over 22 million people. This ten county region includes: Kern, Ventura, San Diego, Imperial, Riverside, Santa Barbara, San Luis Obispo, San Bernardino, Orange and Los Angeles.

<sup>2</sup>To measure the size of other agricultural and food processing operations, see the glossary for full details.




# Value 2:





## Environmental Sustainability Purchasing Goals

### FRUITS & VEGETABLES

#### LEVEL 1 — BASELINE

Farms agree to participate in Stewardship Index for Specialty Crops;  or  
PRiME score has no high risk components for Integrated Pest Management Practices

#### LEVEL 2

PRiME score indicates low-risk for Integrated Pest Management Practices; or  
Protected Harvest certified;  or  
Farms participate in Stewardship Index for Specialty Crops with targets for annual improvement;  or  
Non-GMO Project Verified;  or  
Food Alliance Certified 

#### LEVEL 3



USDA Organic;  or  
Biodynamic 

### MILK & DAIRY

#### LEVEL 1 — BASELINE

No antibiotics; and  
rBGH/rBST free

#### LEVEL 2

Non-GMO Project Verified;  or  
Animal Welfare Approved 

#### LEVEL 3

Food Alliance Certified;  or  
USDA Organic 

### MEAT & POULTRY

#### LEVEL 1 — BASELINE

Cage-free eggs; or  
Pasture raised; or  
USDA Grassfed; or  
No antibiotics<sup>3</sup>

#### LEVEL 2

AGA Grassfed;  or  
Non-GMO Project Verified;  or  
Animal Welfare Approved 

#### LEVEL 3

Food Alliance Certified;  or  
USDA Organic 

**SEAFOOD**

**LEVEL 1 — BASELINE**

No seafood purchased listed as “Avoid” in the Monterey Bay Aquarium’s Seafood Watch Guide



**LEVEL 2**

Fish listed as “Good” and “Best” choices in Monterey Bay Aquarium’s Seafood Watch Guide



**LEVEL 3**

Marine Stewardship Council certified,  
or  
100% of fish listed as “Best Choice” in Monterey Bay Aquarium’s Seafood Watch Guide



**GRAINS**

**LEVEL 1 — BASELINE**

Pesticide-free

**LEVEL 2**

Food Alliance Certified,  
or  
Non-GMO Project Verified



**LEVEL 3**

USDA Organic



<sup>3</sup>“No antibiotics” refers to sub-therapeutic use in food production. It does not refer to residues on the meat itself.



To be recognized as a Good Food purchaser, an institution scores one or higher in the Environmental Sustainability Category.

RFP EXHIBIT I

	TARGET	POINTS AWARDED
<b>LEVEL 1 — BASELINE</b>	<b>YEAR 1</b> 1) 15% annual average of total cost of food purchases, with a goal of increasing at least 2% per year will come from Level 1 environmentally sustainable sources. 2) No seafood purchased should be listed as "Avoid" in the Monterey Bay Aquarium's most recent Seafood Watch Guide. OR If vendor and/or suppliers do not have current capacity to meet environmentally sustainable food purchasing goals, the vendor may submit a plan to achieve full compliance at least at the baseline level by end of year one.	1
	<b>YEAR 5</b> 1) 25% annual average of total cost of food purchases will come from Level 1 environmentally sustainable sources by fifth year of participation in the GFPP program. 2) No seafood purchased should be listed as "Avoid" in the Monterey Bay Aquarium's most recent Seafood Watch Guide.	1
<b>LEVEL 2</b>	<b>YEAR 1</b> 1) 15% annual average of total cost of food purchases, with a goal of increasing at least 2% per year will come from Level 2 environmentally sustainable sources. 2) No seafood purchased should be listed as "Avoid" in the Monterey Bay Aquarium's most recent Seafood Watch Guide.	2
	<b>YEAR 5</b> 1) 25% annual average of total cost of food purchases will come from Level 2 environmentally sustainable sources by fifth year of participation. 2) No seafood purchased should be listed as "Avoid" in the Monterey Bay Aquarium's most recent Seafood Watch Guide.	1
<b>LEVEL 3</b>	<b>YEAR 1</b> 1) 15% annual average of total cost of food purchases, with a goal of increasing at least 2% per year will come from Level 3 environmentally sustainable sources. 2) No seafood purchased should be listed as "Avoid" in the Monterey Bay Aquarium's most recent Seafood Watch Guide.	3
	<b>YEAR 5</b> 1) 25% annual average of total cost of food purchases will come from Level 3 environmentally sustainable sources by fifth year of participation. 2) No seafood purchased should be listed as "Avoid" in the Monterey Bay Aquarium's most recent Seafood Watch Guide.	1
<b>EXTRA POINTS (Applies to annual food purchases)</b>	Institution participates in "Meatless Mondays" campaign.	1
	A minimum of 75% percent of all seafood is noted as "Best Choices" in the Monterey Bay Aquarium Guide or is certified by the Marine Stewardship Council.	1
	50% annual average of total cost of food purchases comes from environmentally sustainable sources.	1



**Steps to Implementation:**


- Request that your distributor buy food and beverage products that are third-party certified (See Appendix B: Good Food Purchasing Resource Guide – Learn More About Good Food Sourcing: Environmentally Sustainable Food).
- Ask your distributor to encourage suppliers to participate in the Stewardship Index for Specialty Crops to begin measuring their baseline sustainability indicators and develop targets for continued progress (See Appendix B: Good Food Purchasing Resource Guide – Learn More About Good Food Sourcing: Environmentally Sustainable Food).
- Request that your distributors buy and sell seafood that is listed in the Monterey Bay Aquarium’s Seafood Watch Guide as “Best Choices” or is certified by the Marine Stewardship Council (See Appendix B: Good Food Purchasing Resource Guide – Learn More About Good Food Sourcing: Sustainable Seafood).




## Value 3:

## Valued Workforce Purchasing Goals





## LEVEL 1 — BASELINE

- Distributor has policy to respect the freedom of association of farmers, ranchers, and fisherfolk; and
- All vendors and suppliers\*: sign in writing that they comply with domestic labor law (including state and local) in countries where they produce goods and services, as well as the core standards of the International Labour Organization (ILO): 
  1. Freedom of association and the right to collective bargaining.
  2. Elimination of all forms of forced or compulsory labor.
  3. Abolition of child labor.
  4. Elimination of discrimination with respect to employment or occupation

## LEVEL 2

- Meets the Level 1 baseline requirements, and Vendor and Supplier\*
- Have a social responsibility policy, which includes:
  - (1) union or non-poverty wages;
  - (2) respect for freedom of association and collective bargaining;
  - (3) safe and healthy working conditions; and
  - (4) prohibition of child labor, except as allowed by domestic law and at least one additional employment benefit such as:
    - (5) health care benefits
    - (6) paid sick days;
    - (7) profit-sharing with all employees;
- Are Fair Trade Certified  (for international products)

## LEVEL 3

- Meets the Level 1 baseline requirements, and Vendor and Supplier\*
- Have a union contract with their employees; or
- Are a worker-owned Cooperative,  or
- Have signed the CIW Fair Food Supplier Code of Conduct;  or
- Are Food Justice-Certified by the Agricultural Justice Project,  or
- Are certified by the Equitable Food Initiative 

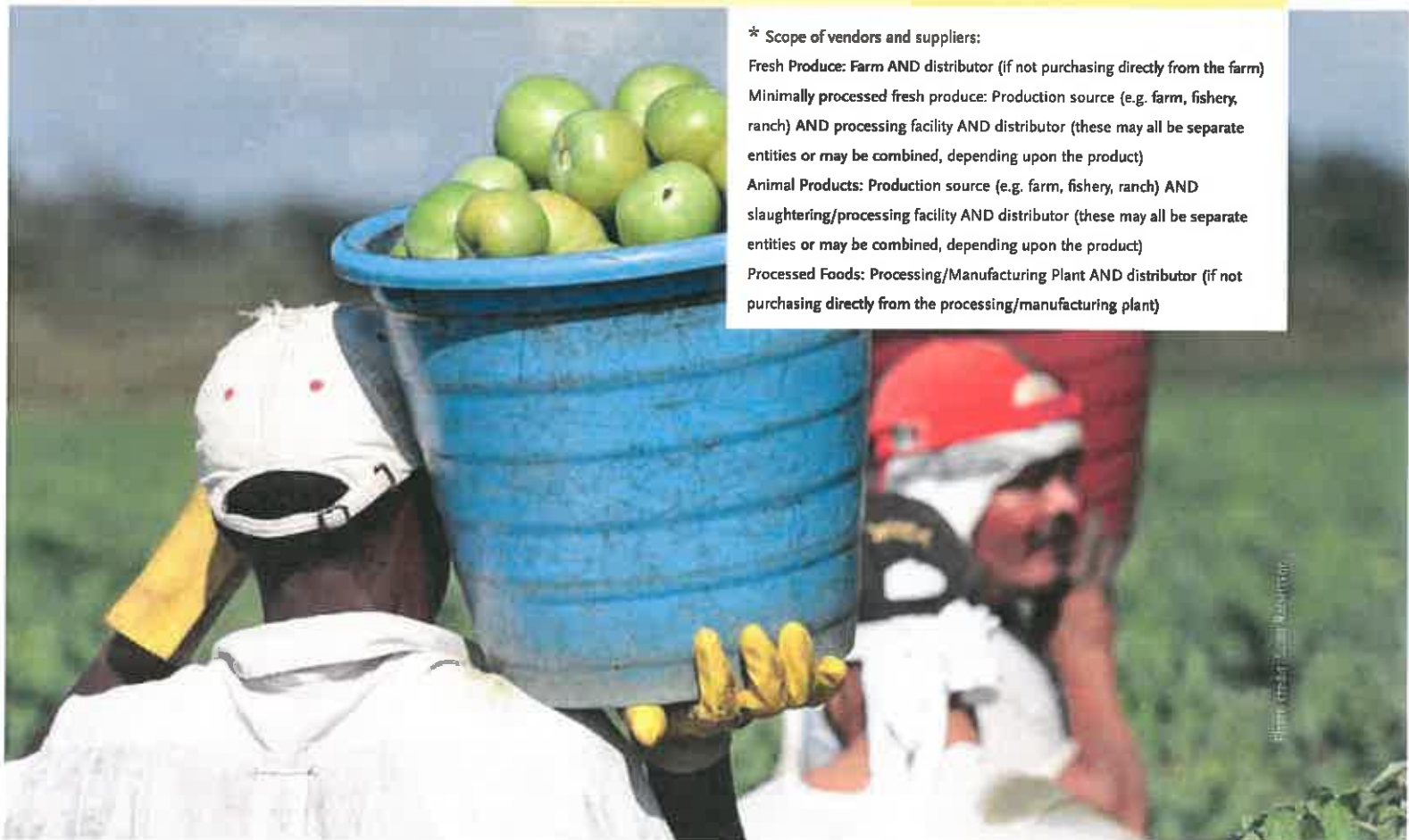
## \* Scope of vendors and suppliers:

Fresh Produce: Farm AND distributor (if not purchasing directly from the farm)

Minimally processed fresh produce: Production source (e.g. farm, fishery, ranch) AND processing facility AND distributor (these may all be separate entities or may be combined, depending upon the product)

Animal Products: Production source (e.g. farm, fishery, ranch) AND slaughtering/processing facility AND distributor (these may all be separate entities or may be combined, depending upon the product)

Processed Foods: Processing/Manufacturing Plant AND distributor (if not purchasing directly from the processing/manufacturing plant)



To be recognized as a Good Food purchaser, an institution scores one or higher in the Valued Workforce Category.

RFP EXHIBIT I

	TARGET	POINTS AWARDED
<b>LEVEL 1 — BASELINE</b>	Year 1: All vendors and suppliers sign in writing that they respect the freedom of association of farmers, ranchers, and fisherfolk and comply with domestic labor law (including state and local) in countries where they produce goods and services, as well as the core ILO standards. OR If vendor and/or suppliers do not have current capacity to meet fair food purchasing goals, the vendor may submit a plan to achieve full compliance at least at the baseline level by end of Year 1.	1
	Year 5: All vendors and suppliers sign in writing that they respect the freedom of association of farmers, ranchers, and fisherfolk and comply with domestic labor law (including state and local) in countries where they produce goods and services, as well as the core ILO standards.	1
<b>LEVEL 2</b>	Year 1: Institution complies with baseline Level 1 fair criteria AND 5% annual average of total cost of food purchases, with a goal of increasing at least 2% per year will come from Level 2 fair sources.	2
	Year 5: Institution complies with baseline Level 1 fair criteria AND 15% annual average of total cost of food purchases will come from Level 2 fair sources by fifth year of participation.	1
<b>LEVEL 3</b>	Year 1: Institution complies with baseline Level 1 fair criteria AND 5% annual average of total cost of food purchases, with a goal of increasing at least 2% per year will come from Level 3 fair sources.	3
	Year 5: Institution complies with baseline Level 1 fair criteria AND 15% annual average of total cost of food purchases will come from Level 3 fair sources by fifth year of participation.	1
<b>EXTRA POINTS (Applies to annual food purchases)</b>	Buying entity establishes a reporting system for workers to report violations with a protection for workers from retaliation.	1
	Institution complies with baseline Level 1 fair criteria AND 25% of annual average of total cost of food purchases comes from Level 2 or 3 fair sources.	1

**Steps to Implementation:**

- Ask that your distributor source agricultural products, which come from farms and food processors with union contracts or certified by one of the programs in the Level 3 Valued Workforce category (See Appendix B: Good Food Purchasing Resource Guide – Learn More About Good Food Sourcing: Valued Workforce).
- Ask your distributor to encourage suppliers to review the Agricultural Justice Project’s toolkit and a list of resources to help farmers and food businesses to adjust their labor policies, develop documentation, and learn how to develop a social responsibility policy.<sup>4</sup>

- Ask your distributor to develop long-term relationships with its suppliers and pay fair prices – review the Agricultural Justice Project’s standards section on Food Business Responsibilities to Farmers.<sup>5</sup>

<sup>4</sup>[http://www.agriculturaljusticeproject.org/full\\_farmer\\_toolkit.pdf](http://www.agriculturaljusticeproject.org/full_farmer_toolkit.pdf)


<sup>5</sup>[http://www.agriculturaljusticeproject.org/AJP\\_stnds\\_sect\\_1.pdf](http://www.agriculturaljusticeproject.org/AJP_stnds_sect_1.pdf)

# Value 4:

## Animal Welfare Purchasing Goals

### MILK & DAIRY

#### LEVEL 1 — BASELINE

Produced from Pastured Cows;  
or  
USDA Organic 

#### LEVEL 2

American Humane Certified 

#### LEVEL 3

Animal Welfare Approved,   
or  
Humane Farm Animal Care/Certified   
Humane Raised and Handled®

### MEAT & POULTRY

#### LEVEL 1 — BASELINE

Step 1 of Global Animal Partnership  
5-Step Animal Welfare Rating  
standards;   
or  
USDA Organic;   
or  
Cage-free eggs;  
or  
Pastured

#### LEVEL 2

Step 2 of Global Animal Partnership  
5-Step Animal Welfare Rating  
standards;   
or  
American Humane Certified 

#### LEVEL 3

Step 3 or higher of  
Global Animal Partnership  
5-Step Animal Welfare Rating  
standards;   
or  
Animal Welfare Approved,   
or  
Humane Farm Animal Care/Certified  
Humane Raised and Handled®



Photo credit: iStockphoto.com

	<b>YEAR 1 TARGET</b>	<b>POINTS AWARDED</b>
<b>LEVEL 1</b> <b>— BASELINE</b>	<b>Year 1:</b> 1) 15% annual average of total cost of milk and dairy products and animal protein product purchases, increasing at least 2% per year will come from Level 1 humane sources. 2) 100% of all eggs are cage-free. OR If vendor and/or suppliers do not have current capacity to meet animal welfare purchasing goals, the vendor may submit a plan to achieve full compliance at least at baseline level by end of year one.	<b>1</b>
	<b>Year 5:</b> 1) 25% annual average of total cost of milk and dairy products, and animal protein product purchases will come from Level 1 humane sources by fifth year of participation. 2) 100% of all eggs are cage-free.	<b>1</b>
<b>LEVEL 2</b>	<b>Year 1:</b> 1) 15% annual average of total cost of milk and dairy products and animal protein products, increasing at least 2% per year will come from Level 2 humane sources. 2) 100% of all eggs are cage-free.	<b>2</b>
	<b>Year 5:</b> 1) 25% annual average of total cost of milk and dairy products, and animal protein product purchases will come from Level 2 humane sources by fifth year of participation. 2) 100% of all eggs are cage-free.	<b>1</b>
<b>LEVEL 3</b>	<b>Year 1:</b> 1) 15% annual average of total cost of milk and dairy products, and animal protein product purchases, increasing at least 2% per year will come from Level 3 humane sources. 2) 100% of all eggs are cage-free.	<b>3</b>
	<b>Year 5:</b> 1) 25% annual average of total cost of milk and dairy products, and animal protein product purchases will come from Level 3 humane sources by fifth year of participation. 2) 100% of all eggs are cage-free.	<b>1</b>
<b>EXTRA POINTS</b> (Applies to annual food purchases)	Institution encourages plant based diets by offering 100% vegetarian and/or vegan options.	<b>1</b>
	50% annual average of total cost of milk and dairy products, and animal protein products purchases come from humane sources.	<b>1</b>

**Steps to Implementation:**

- Request that your distributor buy and sell animal protein products that carry a third-party certification such as, Global Animal Partnership, produced from AGA Grass-Fed cows, Humane Farm Animal Care/Certified Humane Raised and Handled®, and Animal Welfare Approved (See Appendix B: Good Food Purchasing Resource Guide – Learn More About Good Food Sourcing: Anima! Welfare).

<sup>6</sup> If only plant-based food options are offered and thus no milk and dairy products, eggs, and animal protein products are purchased, institution receives full (3) points.

## Value 5: Nutrition Goals

RFP EXHIBIT

To be recognized as a Good Food purchaser, an institution meets at least 13 out of 25 items in the Nutrition Category<sup>7</sup>

YEAR 1 TARGET	POINTS AWARDED
Fruits, vegetables, and whole grains account for at least 25% of total food purchases	1
Seasonal fruits and vegetables are sourced to ensure best taste, quality, and price	1
To the greatest extent possible, purchase whole fruits, without added sugar. When whole and unprocessed fruit cannot be purchased, due to cost or availability, purchase frozen fruit. If frozen products are unavailable, fruit should be canned in its own juice with no sugars added	1
To the greatest extent possible, purchase whole vegetables, without added sodium and fat. When whole and unprocessed vegetables cannot be purchased due to cost or availability, purchase frozen vegetables. If frozen products are unavailable, canned vegetables should be low sodium (per FDA definitions) <sup>8</sup> or have "no salt added"	1
Prioritize the purchase of whole-grain, high-fiber options <sup>9</sup>	1
Prioritize offering plant-based main dishes at each meal service <sup>10</sup>	1
If meat is offered, prioritize the purchase of "extra lean" (total fat ≤ 5%) and "lean" (total fat ≤ 10%) meat such as skinless chicken, turkey, ground beef, and pork	1
If meat is offered, minimize the purchase of processed meats <sup>11</sup>	1
If dairy products are offered, prioritize the purchase of Fat-Free or Low Fat dairy products (1% milk fat or less with no added sweeteners). If milk is offered, soy, rice, or other non-dairy milk alternatives without added sweeteners are available	1
Prioritize all juice purchased to be 100% fruit juice with no added sweeteners and vegetable juice that is Low Sodium as per FDA definitions <sup>12</sup>	1
At least 50% of available beverage choices (excluding 100% fruit and Low Sodium vegetable juices and Fat Free or Low Fat milk with no added sweeteners) must contain ≤ 25 calories per 8 ounces	1
Require drinking water (preferably cold tap water in at least 12 ounce cup sizes) to be offered	1
Eliminate the use of hydrogenated and partially hydrogenated oils for cooking and baking	1
Offer Low Fat and/or Low Calorie and/or Low Sodium condiments as per FDA definitions <sup>13</sup>	1
Commit to developing and implementing a gradual sodium reduction plan that meets current Dietary Guidelines for Americans (DGA) standards	1
All pre-packaged food has zero grams trans fat per serving (as labeled)	1
Eliminate the use of deep frying	1
Prioritize the preparation of all protein, including fish, poultry, meat, or meat alternatives in a low fat way (broiling, grilling, baking, poaching, roasting, or steaming)	1
Display water, diet drinks (do not exceed 25 cal. per 8oz), 100% fruit juice without added sweeteners, Low Sodium vegetable juices, Fat Free or Low Fat dairy products with no added sweeteners, and milk alternative products in eye level sections of beverage cases (if applicable)	1
Prioritize the location of fruit and/or non-fried vegetables at convenient, high-visibility locations (including at front of cafeteria lines) and within reach of checkout registers (if applicable)	1

Highlight fruit with no-added sweeteners and non-fried vegetable offerings with signage	1
Remove candy bars, cookies, chips and beverages with added sugars (such as soda, sports and energy drinks) from checkout register areas/point-of-purchase (if applicable)	1
Menu lists the nutritional information for each item using the federal menu labeling requirements under the Patient Protection and Affordable Care Act of 2010 as a guide	1
Prioritize portion control strategies, if applicable (e.g. utilizing 10" or smaller plates for all meals or make available reduced-size portions of at least 25% of menu items offered, and offer reduced-size portions at a lower price than regular-sized portions) <sup>14</sup>	1
Develop a worksite wellness program including nutrition education for employees and/or patrons	1

**LEVEL 1 HEALTHY – MEETS 13–15 OUT OF 25**

**LEVEL 2 HEALTHY – MEETS 16–20 OUT OF 25**

**LEVEL 3 HEALTHY – MEETS 21–25 OUT OF 25**

**EXTRA POINTS HEALTHY – MEETS ALL 25 POINTS (1 POINT)**

<sup>7</sup>All nutrition goals listed above may not apply to all types of food service institutions. Food service institutions must ensure the above nutrition goals comply with local, state and federal law that may govern individual food service programs such as youth detention facilities, school meal programs and other meals served to dependent community members. Each food service institution will be eligible for points towards the good food pledge based on the total potential applicable points for that type of food service venue. LAFFC will work with each institution individually on their institution's pledge criteria. These nutrition goals were developed from reputable sources including the United States Department of Agriculture, the Food and Drug Administration, as well as other leading health organizations. The above nutrition goals will be reviewed and revised periodically to ensure they meet current dietary recommendations and take into consideration program implementation.

<sup>8</sup>Low sodium is defined as 140 mg or less per Reference Amount Customarily Consumed (RACC)

<sup>9</sup>Whole grain is listed as the first or second ingredient; 2 grams or more of fiber/serving

<sup>10</sup>Recommend plant-based dishes to include fruits, vegetable, beans, and legumes

<sup>11</sup>If processed meats are offered, recommend using only products with no more than 480 mg per 2 oz.

<sup>12</sup>Low Sodium is 140 mg or less per RACC

<sup>13</sup>Low-Fat is 3 g or less per RACC (and per 50g if RACC is small); Low Sodium is 140 mg or less per RACC (and per 50g if RACC is small); Low Calorie is 40 calories or less per RACC (and per 50g if RACC is small).

<sup>14</sup>Reduced-sized portions are no more than 70% of the weight, measured in grams, of a regular-size portion of the same menu item.



### ACCOUNTABILITY AND TRACEABILITY

An institution's Good Food purchases are generally limited by their produce and distribution firms because of their access to products carrying food safety approval. Compliance and/or meeting procurement objectives also fall to the produce and food distributors. Therefore bids and contracts should have clauses for ascertaining product traceability, identification, record keeping, and reporting. These clauses may already be accommodated in current Hazard Analysis & Critical Control Points (HACCP) and other third-party action plans.

The Purchaser should develop a customized program in partnership with their distributor and/or produce house to accomplish all of the traceability necessary for each purchaser's specific needs around Good Food purchases.

Sound Good Food bids could include the following accountability and traceability requirements for any produce or distribution firm:

- The name and location of farms and processing facilities providing Good Food to an institution will be provided to the institution at the time of ordering, a week or two prior to ordering or on the product list of available food items. Typically, the produce lists of available products from distributors and produce houses are the way buyers are notified to select the food they want to purchase. Vendors should list how each Good Food supplier fulfills and verifies identified Good Food goals, including local, environmentally sustainable, fair, animal welfare and healthy.
- If an existing vendor is unable to comply with specific targets within the overall Good Food framework, the vendor will be asked to submit a plan outlining a strategy with benchmarks to achieve full compliance within one year and update the plan annually during term of contract. Vendors will verify their progress and compliance with the plan during specified benchmark periods.
- The vendor will provide the net price paid to farmers, ranchers, or fisherfolk to the Purchasing Institution on a per pound, per case, or other applicable case count prior to the distributor's or produce firm's mark up. Costs should be fair, reasonable and transparent. The Purchaser should develop this transparent program in partnership with their Distributor and/or Produce House.
- Paperwork that proves the origin of any processed food items will be provided to an institution upon request, but shall be kept on record by produce or distribution firms. We recommend the development and implementation of a transparent record keeping system between purchasers and fresh produce processors so that there are checks and balances in place in order to confirm that Good Food products remain intact throughout the processing chain



## EDUCATION AND MARKETING

Marketing and education of Good Food are critical to building buy-in and support from employees, consumers, and other customers.

Educate and engage – Suppliers and their employees along the supply chain from farm to cafeteria need to be informed, educated, and encouraged to be active participants in creating a successful Good Food Purchasing Program. Successful implementation of these programs in food service settings depends on empowered food service workers in the kitchens and knowledgeable employees, students, or customers visiting the food service venue.

Communicate good work, helping to encourage growth in both the demand for and the supply of Good Food. Be a willing educator of patrons and colleagues.

## FINAL THOUGHTS

Food is only one facet of creating a Good Food community. Advocacy for Good Food venues involve several other components:

- Educational outreach both to staff and the surrounding community;
- Use of reusable and environmentally preferred non-reusable food service ware items and minimizing waste by adopting the waste hierarchy of reduce, reuse, and recycle ;
- Reducing energy use by installing energy-efficient equipment and making sure it is properly maintained and up-to-date;
- Supporting local farms, farmers' markets, and community supported agriculture;
- Food donation and waste reduction;
- Alignment of food vendor options with the facility's healthy, sustainable food program; and
- Responsible employer policies related to wages, benefits, and promotions for food service employees.

While this document focused on Good Food purchasing, we are happy to provide additional resources on other aspects of Good Food business implementation.



# LIPSTICK PEPPERS



Sweet, Peppery  
Sweet Pepper

## APPENDIX A: Glossary of Terms

**Food Justice-Certified:** a domestic fair trade label by the Agricultural Justice Project that certifies fair prices and terms for farmers and at the same time fair working conditions for all employees in certified operations. The standards are rights-based, such as the right to freely negotiate the terms of employment and freedom of association, and a verification model that ensures a safe space is created in which workers can exercise those rights. Other key provisions of the program include strong health and safety protections, including a preference for organic production and strong restrictions on the use of occupational toxins when a farm is not organic; clear grievance and complaints procedures including the right to appeal; and standards covering living wages, housing conditions, and more.

Source: <http://www.foodfirst.org/en/node/3098>

Website: [www.agriculturaljusticeproject.org/standards.html](http://www.agriculturaljusticeproject.org/standards.html)

**American Humane Certified:** a voluntary, third-party animal welfare audit process based on five freedoms:

- Freedom from thirst and hunger – by ready access to fresh water and a diet to maintain full health and vigor
- Freedom from discomfort – by providing an appropriate environment including shelter and a comfortable resting area
- Freedom from pain, injury and disease – by prevention or rapid diagnosis and treatment
- Freedom to express normal behavior – by providing sufficient space, proper facilities and company of the animal's own kind
- Freedom from fear and distress – by ensuring conditions and treatment which avoid mental suffering

Source: [http://www.naturalnews.com/028552\\_humane\\_animals.html#ixzz27nxDdi1c](http://www.naturalnews.com/028552_humane_animals.html#ixzz27nxDdi1c)

Website: <http://www.humaneheartland.org/our-standards>

**Animal Welfare Approved:** A consumer certification and labeling program which indicates that egg, dairy, meat or poultry products have been produced with the welfare of the farm animal in mind. The animals have access to the outdoors and are able to engage in natural behavior. No cages or crates may be used to confine the animals, and growth hormones and subtherapeutic antibiotics are disallowed. Some surgical mutilations, such as beak-mutilation of egg-laying hens, are prohibited, while others, such as castration without painkiller, are permitted. Compliance is verified through third-party auditing.

**Biodynamic:** a farming method that encourages the use of preparations made from fermented manure, minerals and herbs are used to help restore and harmonize the vital life forces of the farm and to enhance the nutrition, quality and flavor of the food being raised. Biodynamic practitioners also recognize and strive to work in cooperation with the subtle influences of the wider cosmos on soil, plant and animal health. Source/Website: <https://www.biodynamics.com/biodynamics.html>

**Cage Free:** This label indicates that the flock was able to freely roam a building, room, or enclosed area with unlimited access to food and fresh water during their production cycle. Beak cutting is permitted. There is no third-party auditing. Source: Agricultural Marketing Service, USDA; Humane Society

**Certified Humane Raised & Handled:** A consumer certification and labeling program which indicates that egg, dairy, meat or poultry products have been produced with the welfare of the farm animal in mind. Farm animal treatment standards include: Allow animals to engage in their natural behaviors; Raise animals with sufficient space, shelter and gentle handling to limit stress; Make sure they have ample fresh water and a healthy diet without added antibiotics or hormones. Producers also must comply with local, state and federal environmental standards. Processors must comply with the American Meat Institute Standards, a higher standard for slaughtering farm animals than the Federal Humane Slaughter Act. [www.certifiedhumane.com](http://www.certifiedhumane.com)

**Certified Organic:** Products must meet the federal organic standards as determined by a USDA approved certifying agency. Organic foods cannot be grown using synthetic fertilizers, chemicals, or sewage sludge; cannot be genetically modified; and cannot be irradiated. Organic meat and poultry must be fed only organically grown feed (without any animal byproducts) and cannot be treated with hormones or antibiotics. In order to bear the USDA "Certified Organic" seal, a product must contain 95 to 100 percent organic ingredients. Products that contain more than 70 percent, but less than 94 percent organic ingredients can be labeled "Made with Organic Ingredients," but cannot use the USDA "Certified Organic" seal. Organic ingredients can be listed on the packaging of products that are not entirely organic. <http://www.ams.usda.gov/NOP/indexNet.htm>. While some small farmers grow their food using organic methods, they choose not to go through the certification process for economic or ideological reasons, so they cannot label their food "certified organic."

**CIW Fair Food Supplier Code of Conduct:** a set of labor standards developed by the Coalition for Immokalee Workers designed to improve working conditions and give workers the ability to voice their concerns over safety, working conditions, and Code violations without fear of retribution. Growers are required to keep a proper time registration system, hire farm workers as employees and pay them wages and benefits directly, provide protective equipment and training, ensure breaks and opportunities for advancement, and implement proper workplace safety systems.

Source: <http://fairfoodstandards.org/code.html>

**Cooperative:** An autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly owned and democratically controlled enterprise.

**Conventionally Grown:** Food grown using chemical fertilizers, pesticides, and herbicides. In most situations, default options are conventionally grown.

**Equitable Food Initiative Certified:** a program that certifies standards for working conditions, pesticide use and food safety. EFI's labor standards protect farm workers' health and safety; guarantee their freedom of association; provide fair compensation and conditions of employment; ensure non-discrimination and non-retaliation; create dispute settlement mechanisms; address housing conditions; establish a social premium; and cover workers on temporary visas. EFI's food safety standards address risks arising from land and water use, soil amendments, animal waste, and post-harvest packaging and transportation. Environmental standards focus on the safe management of pests, soil, water and habitat.

Website: <http://www.equitablefood.net>

**Family Farm:** A farm managed by a family or individual who owns the animals or land, receives a good portion of their livelihood from the farm, and participates in the daily labor to work and manage the farm. The USDA also defines a small family farm as having less than \$250,000 gross receipts annually.

Source: [http://www.nifa.usda.gov/nea/ag\\_systems/in\\_focus/familyfarm\\_if\\_overview.html](http://www.nifa.usda.gov/nea/ag_systems/in_focus/familyfarm_if_overview.html)

**Fair:** All participants in the food supply chain receive fair compensation and fair treatment, free of exploitation.

**Fair Trade:** A certified label that guarantees that farmers and their workers receive a living wage and a fair price for their labor and their product, and that the product is produced in an ecologically sound manner.

**Foodshed:** Like a watershed (where the idea of the foodshed takes its inspiration), a foodshed measures the reach of the local landscape in terms of its food production capacities. A foodshed's size is determined by its "structures of supply," the regional, economic, political, and transportation systems that determine how food gets from farm to table. The Los Angeles Urban Rural Roundtable, convened by the Roots of Change in 2010, defined the Los Angeles foodshed as the two hundred mile radius around the Los Angeles urban core, from which the region draws much of its food to feed the local population. This concept continues to evolve. As a starting point, we refer to the 200-mile threshold as the Los Angeles regional foodshed.

**Food Alliance Certified:** Organization that certifies producers based on healthy and humane animal treatment with no added growth promotants or sub-therapeutic antibiotics, soil and water conservation, integrated pest, disease and weed management, pesticide risk reduction, wildlife habitat and biodiversity conservation, safe and fair working conditions.

Website: <http://foodalliance.org/certification>

**Free Range:** A USDA-certified label that guarantees that animals (usually poultry) had room to move around and "access to the outdoors." These standards apply to poultry bred for eating only, not to hens that produce eggs. It does not guarantee that the animals ever went outside or that the outdoor space provided was good pasture.

**Good Food:** Good Food is defined by the Los Angeles Food Policy Council as food that is: 1) Healthy: a) Foods meet the Dietary Guidelines for Americans and provide freedom from chronic ailment; b) Food is delicious, safe, and aesthetically pleasing.; 2. Affordable: Foods that people of all income levels can purchase.; 3. Fair: a) All participants in the food supply chain receive fair compensation and fair treatment, free of exploitation.; b) High quality food is equitable and physically and culturally accessible to all; 4) Sustainable: Produced, processed, distributed, and recycled locally using the principles of environmental stewardship (in terms of water, soil, and pesticide management).

**Genetically Modified Organisms (GMOs):** In the context of food, GMOS are agricultural products (crops or animals) that have been genetically engineered to possess certain traits. Since there is minimal research on the long-term impacts that GMOs may have on the earth and human health, many organizations caution against use and consumption of GMOs. Organic products are, by definition, non-GMO.

**Global Animal Partnership 5-Step Animal Welfare Rating standards:** a tiered standards program that encourages higher welfare practices and systems to the benefit of farmers, consumers, retailers, and the animals. Step 1 prohibits cages and crates. Step 2 requires environmental enrichment for indoor production systems; Step 3, outdoor access; Step 4, pasture-based production; Step 5, an animal-centered approach with all physical alterations prohibited; and, finally, Step 5+, the entire life of the animal spent on an integrated farm.

Website: <http://www.globalanimalpartnership.org/the-5-step-program/>

**Grassfed (American Grassfed Association (AGA) Certified):** This label ensures that animals have continuous access to pasture during the growing season (as opposed to being confined or eating grass out of a trough) and cannot be fed grain or grain products, which can diminish the nutritive benefits of grass feeding.

**Grassfed (USDA Certified):** Meat products derived from ruminant animals, e.g. beef cattle, dairy cattle, and lamb, may be approved to carry the USDA "grass-fed" label claim if the animal was fed a diet of grass and/or forage throughout its lifetime, with the exception of milk consumed prior to weaning. Animals cannot be fed grain or grain by-products and must have continuous access to pasture during the growing season (last frost in spring to first frost in fall). Use of hormones or antibiotics is not addressed.

**Hazard Analysis & Critical Control Points (HACCP):** HACCP is a management system in which food safety is addressed through the analysis and control of biological, chemical, and physical hazards from raw material production, procurement and handling, to manufacturing, distribution and consumption of the finished product.

Source: <http://www.fda.gov/food/foodsafety/hazardanalysiscriticalcontrolpointshaccp/default.htm>

**Healthy:** Foods meet the Dietary Guidelines for Americans and provide freedom from chronic ailment. Food is delicious, safe, and aesthetically pleasing.

**Hormone Free:** Milk that comes from cows who have not been treated with rBST, also known as rBGH or bovine growth hormone.

**Integrated Pest Management (IPM):** IPM growers practice a variety of techniques: they apply natural substances like kelp, rock powders, and compost to keep crops disease resistant. They monitor trees and set traps to capture insects. Ideally, IPM growers use pesticides only as a last resort, when pest damage would keep them from bringing in a profitable crop.

**Large Scale Operation (LSO):** Large scale operations include all levels of the food supply chain. The size is defined by type of operation:

- LSO Farm — a farm larger than 499 acres (NOTE: LSO Farm, as defined by the Good Food Purchasing Guidelines, is based upon the classification of farms by acreage in the 2007 USDA Agricultural Census).
- LSO Food Business — A business (including food processors) whose three (3) year average annual gross revenues exceed \$7 million (NOTE: Size of non-farm food business definition is based on City of Los Angeles Business Inclusion Program).

**Living Wage:** A wage that allows workers to meet their and their families' basic needs, including housing, food, childcare, transportation, healthcare, clothing, and recreation costs for the area in which they live.

**Local:** The term "local" will vary depending on your location and what is available to you. The Los Angeles Food Policy Council has defined Los Angeles County's foodshed to span 200 miles, ten counties and touch over 22 million people. This ten county region includes: Kern, Ventura, San Diego, Imperial, Riverside, Santa Barbara, San Luis Obispo, San Bernardino, Orange, and Los Angeles. The term "local" will vary depending on your location and what is available to you.

**Los Angeles Business Inclusion Program Definitions:**

- Small Business Enterprise (SBE): For the purpose of The Business Inclusion Program, Small Business Enterprise shall mean a business enterprise that meets the following criteria:

- A business (personal or professional services, manufacturer, supplier, and vendor) whose three (3) year average annual gross revenues does not exceed \$7 million.
- A business (construction contractors) whose three (3) year average annual gross revenues does not exceed \$14 million.
- Emerging Business Enterprise (EBE): For the purpose of this program, Emerging Business Enterprise shall mean a business enterprise whose three (3) year average annual gross revenues do not exceed \$3.5 million.

Source: <http://gsd.lacity.org/sms/BIP%20OUTREACH%20DOCUMENTATION%20&%20PROCESS.pdf>)

**Marine Stewardship Council certified:** an independent, non-profit organization that sets standards for sustainable fishing based on three principles:

- The fishing activity must be at a level which is sustainable for the fish population. Any certified fishery must operate so that fishing can continue indefinitely and is not overexploiting the resources.
- Fishing operations should be managed to maintain the structure, productivity, function and diversity of the ecosystem on which the fishery depends.
- The fishery must meet all local, national and international laws and must have a management system in place to respond to changing circumstances and maintain sustainability.

Website: <http://www.msc.org/>

**Meatless Mondays campaign:** non-profit initiative of The Monday Campaigns, in association with the Johns Hopkins' Bloomberg School of Public Health that encourages people, groups and organizations to not eat meat on Mondays to improve their health and the health of the planet. The campaign provides information and vegetarian recipes ideas based on USDA nutritional guidelines on their website.

Website: <http://www.meatlessmonday.com/>

**Medium Scale Operation (MSO):** Medium scale operations include all levels of the food supply chain. The size is defined by type of operation:

- MSO Farm — a farm between 180 and 499 acres (NOTE: MSO Farm, as defined by the Good Food Purchasing Guidelines, is based upon the classification of farms by acreage in the 2007 USDA Agricultural Census).

- MSO Food Business — a business (including food processors) whose three (3) year average annual gross revenues fall between \$3.5 million and \$7 million. (NOTE: Size of non-farm food business definition is based on City of Los Angeles Business Inclusion Program).

**Non-GMO Project Verified:** is a verification program that seeks to assist farmers, processors and manufacturers in avoiding the contamination of GMO's by progressively reducing the risk of GMO contamination. The Project requires practices and processes for controlling GMO contamination by these at-risk inputs and ingredients. Methods such as segregation, traceability, risk assessment, sampling techniques, and quality control management are emphasized. Website: <http://www.nongmoproject.org/>

**Organic:** Food grown without the use of chemical pesticides, herbicides, or fertilizers. Animals must be fed organic feed and cannot be given antibiotics or growth hormones. Organic foods may not be genetically modified or irradiated or contain artificial preservatives or additives. Organic meats must come from animals that are "free range."

**PRIME (Pesticide Risk Mitigation Engine) score:** an online tool that ranks pesticide products for impacts on birds, earthworms, small mammals, aquatic ecosystems and worker/bystander health and safety. This tool applies best available science to permit producers, advisors and regulatory professionals to compare different pest management scenarios for any commodity and select options with the fewest potential environmental and health hazards. Risk is presented on a low/moderate/high scale. Risk index scores below a 10% chance of an undesirable effect to be in the low risk category, where no further risk mitigation is needed. Realistically, 10% is within the margin of error for our risk models. Risk index scores between 10% and 50% fall into the moderate risk category where risk mitigation is recommended. Risk index scores above a 50% chance of an undesirable effect fall into the high-risk category.

Website: <http://ipmprime.org>

**Procurement:** The sourcing and purchasing of food to supply foodservice operations. Procurement involves identifying the food needs of the customer base for the foodservice operation, specifying product requirements, identifying suppliers, taking deliveries, inspecting and storing items, and, depending on the size of the operation, soliciting and evaluating bids and proposals, controlling inventory, and paying suppliers.

**Protected Harvest certified:** a points-based certification program is designed to ensure that crops have been raised with integrated pest management. The point system is used that rewards growers for implementing ecologically based practices in nine different management categories: field scouting, information sources, pest management decisions, field management decisions, weed management, insect management, disease management, soil and water quality, and storage management. A minimum number of points must be achieved in each category to qualify for certification.  
Website: <http://www.protectedharvest.org/>

**“Raised without antibiotics” or “No antibiotics administered” (poultry and meat products):** These USDA approved label claims imply that no antibiotics were administered to the animal at any point during its life. If an animal becomes sick and requires treatment, it should be segregated from other animals and sold as a conventional meat product.  
Source: [http://www.fsis.usda.gov/Fact\\_Sheets/Meat\\_&Poultry\\_Labeling\\_Terms/index.asp](http://www.fsis.usda.gov/Fact_Sheets/Meat_&Poultry_Labeling_Terms/index.asp)

**Raised without added hormones or “No hormones added” (beef and lamb only):** This USDA approved label claim implies that no added hormones were given to the animal at any point during its life. Most meaningful when used on beef or lamb products since the use of added hormones is prohibited in poultry and pork production.  
[http://www.fsis.usda.gov/Fact\\_Sheets/Meat\\_&Poultry\\_Labeling\\_Terms/index.asp](http://www.fsis.usda.gov/Fact_Sheets/Meat_&Poultry_Labeling_Terms/index.asp)

**rBGH-free or rBST-free (dairy):** Recombinant Bovine Growth Hormone is a genetically engineered artificial hormone, which is injected into cows to increase milk production. Labeling is voluntary.  
<http://www.foodandwaterwatch.org/take-action/consumer-tools/the-milk-tip/>

**Small Scale Operation (SSO):** Small scale operations include all levels of the food supply chain. The size is defined by type of operation:

- SSO Farm — a farm smaller than 180 acres. (NOTE: SSO Farm, as defined by the Good Food Purchasing Guidelines, is based upon the classification of farms by acreage in the 2007 USDA Agricultural Census. This is in contrast to the USDA definition of “small farm,” which is classified by gross sales less than \$250,000.)

- SSO Food Business — a business enterprise (including food processors) whose three (3) year average annual gross revenues do not exceed \$3.5 million.

(NOTE: Size of non-farm food business definition is based on City of Los Angeles Business Inclusion Program).

**Source:** A source includes not only the food supplier that the purchaser does business with directly, but also all prior links in the supply, processing and production chain, starting with the farm. The supplier who is working directly with the purchaser will take good faith measures to ensure that, to the best of the supplier’s knowledge, the supplier’s sources also comply with the Good Food Purchasing Guidelines.

**Stewardship Index for Specialty Crops:** a multi-stakeholder initiative to develop a system for measuring sustainable performance throughout the specialty crop supply chain. The Index does not provide standards, but instead provides a yardstick for measuring sustainable outcomes by offering a suite of outcomes-based metrics to enable operators at any point along the supply chain to benchmark, compare, and communicate their own performance. The four key environmental indicators in the latest version are soil health and the use of nutrients, energy and water.  
Website: <http://www.stewardshipindex.org/>

**Sustainable:** Systems and practices that can be continued indefinitely into the foreseeable future without reliance upon ongoing depletion of non-renewable resources (e.g., soil, energy, biological diversity) or widening social inequities (within and across communities, countries, or generations). With respect to agriculture, the term can include, but is not limited to or synonymous with, certified organic production practices.

**Sustainable Seafood:** Seafood that comes from sources, either farmed or wild, that can maintain production indefinitely without affecting the integrity of the surrounding ecosystem.

**Transitional Organic:** This label has been used in the past to mean that a farmer is using organic methods but has not reached the three-year pesticide-free requirement and cannot yet use the Certified Organic label. The USDA does not currently allow or sanction the use of this label for official marketing purposes.



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**USDA Farm Classification System**

The USDA Economic Research Service (USDA-ERS) has developed a farm classification system to divide U.S. farms into eight mutually exclusive and more homogeneous groups. The farm typology focuses on “family farms,” or farms organized as proprietorships, partnerships, and family corporations that are not operated by a hired manager. To be complete, however, it also includes nonfamily farms. For more info, see <http://www.extension.org/pages/13823/usda-small-farm-definitions>

**Value Chain:** The Wallace Center differentiates food value chains from traditional supply food supply chains in the following way: New food value chains - 1) Operate as a series of win-win strategic partnerships rather than win-lose, interchangeable business deals; and 2) Differentiate products by attributes that traditional supply chains do not typically monitor or promote, such as the environmental and social benefits behind a particular producer’s practices.

Source: [http://www.wallacecenter.org/our-work/Resource-Library/Innovative-Models/NGFN%20Case%20Study\\_Syscos%20Journey%20From%20Supply%20Chain%20to%20Value%20Chain.pdf](http://www.wallacecenter.org/our-work/Resource-Library/Innovative-Models/NGFN%20Case%20Study_Syscos%20Journey%20From%20Supply%20Chain%20to%20Value%20Chain.pdf)

## APPENDIX B: Good Food Purchasing Resource Guide

### HEALTHY, LOCAL & SUSTAINABLE FOOD PURCHASING POLICIES & GUIDELINES

#### Restaurants

**Green Seal™: GS 46 Restaurants & Food Service**  
<http://www.greenseal.org/GreenBusiness/Standards.aspx?vid=ViewStandardDetail&cid=0&sid=27>

**SustainWeb: Ethical Eats (UK based restaurants and caterers committed to sourcing sustainable foods)**  
<http://www.sustainweb.org/ethicaleats/>

**Green Restaurant Association's: Dine Green**  
<http://www.dinegreen.com/restaurants/standards.asp>

**San Francisco Green Business Program Standards:**

**Restaurants**  
[http://sfgreenbusiness.org/images/stories/program%20standards%20PDFs/Restaurant\\_Checklist.pdf](http://sfgreenbusiness.org/images/stories/program%20standards%20PDFs/Restaurant_Checklist.pdf)

#### Hospitals

**Green Guide for Health Care™ Food Service Credits**  
[http://www.noharm.org/us\\_canada/issues/food/planning.php#credits](http://www.noharm.org/us_canada/issues/food/planning.php#credits)

**Green Guide for Health Care™ Food Service Credits, "Environmentally Preferable Purchasing: Food Technical Brief"**  
[http://noharm.org/lib/downloads/purchasing/EPP\\_Food\\_Tech\\_Brief\\_GGHC.pdf](http://noharm.org/lib/downloads/purchasing/EPP_Food_Tech_Brief_GGHC.pdf)

**Health Care Without Harm's Tools and Resources for Hospitals, Group Purchasing Organizations and Distributors**  
<http://www.healthfoodinhealthcare.org/resources.php#purchasingguides>

**Healthier Hospitals Initiative**  
<http://healthierhospitals.org/hhi-challenges/healthier-food>

**Kaiser Permanente: Fact Sheet on Sustainable Food Purchasing Policy**  
<http://xnet.kp.org/newscenter/aboutkp/green/stories/2011/110811sustainablefood.html>

**Partnership for a Healthier America**  
<http://www.ahealthieramerica.org/#!/about-the-partnership>

#### Universities

**University of California Policy on Sustainable Practices: Sustainable Foodservices Policy (page 19)** [http://www.universityofcalifornia.edu/sustainability/documents/policy\\_sustain\\_prac.pdf](http://www.universityofcalifornia.edu/sustainability/documents/policy_sustain_prac.pdf)

**Yale Sustainable Food Purchasing Guide** [http://www.yale.edu/sustainablefood/purchasing\\_guide\\_002.pdf.pdf](http://www.yale.edu/sustainablefood/purchasing_guide_002.pdf.pdf)

**Yale Sustainable Food Purchasing Guidelines**  
[http://www.yale.edu/sustainablefood/food\\_purchasing.html](http://www.yale.edu/sustainablefood/food_purchasing.html)  
**Emory University's Sustainable Food Initiative**  
<http://sustainability.emory.edu/page/1008/Sustainable-Food>

**Bon Appetit: General Sustainability Principles**  
<http://www.cafebonappetit.com/>

#### K-12 Schools

**Washington D.C: Healthy Schools Act of 2010**  
<http://dchealthyschools.org/wordpress/wp-content/uploads/2011/11/Healthy-Schools-Act-as-Amended-20110810.pdf>

**Local Food Procurement for San Diego Unified School District**  
<http://www.sandi.net/site/Default.aspx?PageID=993>

**Local Fruit and Vegetable Sourcing in St. Paul's Public Schools- Lessons Learned and RFP**  
<http://food-hub.org/files/resources/>

**Sample Purchasing Guidelines – "Specs" Large Scale Scratch Cooking Environment- Chef Ann Cooper, Berkeley Unified School District**  
[http://www.thelunchbox.org/sites/default/files/SAMPLE\\_PURCHASING\\_GUIDELINES2.pdf](http://www.thelunchbox.org/sites/default/files/SAMPLE_PURCHASING_GUIDELINES2.pdf)

**Primer on geographic Preference: Potential, Pitfalls and Proper Procedures – School Food FOCUS**  
<http://www.schoolfoodfocus.org>

**Alliance for a Healthier Generation**  
<http://www.healthiergeneration.org/companies.aspx?id=5657>

**National Farm to School Network's list of resources on buying and selling local foods**  
<http://www.farmtoschool.org/publications.php?pt=buys>

## Federal, State and Municipal Government

**General Services Agency: Health and Sustainability Guidelines for Federal Concessions and Vending Operations**  
<http://www.gsa.gov/portal/content/104429>

**Massachusetts State Agency Food Standards**  
<http://www.mass.gov/eohhs/docs/dph/com-health/nutrition-phys-activity/eo509-state-agency-food-standards.pdf>

**City and County of San Francisco, Executive Directive: Healthy and Sustainable Food for San Francisco**  
[http://www.sfgov3.org/ftp/uploadedfiles/sffood/policy\\_reports/MayorNewsomExecutiveDirectiveonHealthySustainableFood.pdf](http://www.sfgov3.org/ftp/uploadedfiles/sffood/policy_reports/MayorNewsomExecutiveDirectiveonHealthySustainableFood.pdf)

**New York City Agency Food Standards**  
[http://www.cspinet.org/new/pdf/nyc\\_agency\\_food\\_standards.pdf](http://www.cspinet.org/new/pdf/nyc_agency_food_standards.pdf)

## General Background Resources

**Sustainable Food Policy- A Guide to Developing Sustainable Food Purchasing Policy**  
<http://www.sustainablefoodpolicy.org/>

**Public Health Law and Policy: "Understanding Healthy Procurement: Using Government's Purchasing Power to Increase Access to Healthy Food"**  
[http://www.phlpnet.org/sites/phlpnet.org/files/Understanding\\_Healthy\\_Procurement\\_2011.pdf](http://www.phlpnet.org/sites/phlpnet.org/files/Understanding_Healthy_Procurement_2011.pdf)

**UC Sustainable Agriculture Research & Education Program, Agricultural Sustainability Institute, UC Davis: "Emerging Local Food Initiatives in Northern California Hospitals"**  
[http://www.sarep.ucdavis.edu/CDPP/fti/Farm\\_To\\_Hospital\\_WebFinal.pdf](http://www.sarep.ucdavis.edu/CDPP/fti/Farm_To_Hospital_WebFinal.pdf)

**The Johns Hopkins Center for a Livable Future Health Care and Without Harm: "Balanced Menus: A Pilot Evaluation of Implementation in Four San Francisco Bay Area Hospitals"**  
<http://www.jhsph.edu/bin/k/m/BMCReportFinal.pdf>

**Centers for Disease Control and Prevention (CDC): "Improving the Food Environment Through Nutrition Standards: A guide for government procurement"**  
[http://www.cdc.gov/salt/pdfs/dhdsp\\_procurement\\_guide.pdf](http://www.cdc.gov/salt/pdfs/dhdsp_procurement_guide.pdf)

**Michigan Good Food Work Group Report Series: "Institutional Food Purchasing"**  
<http://mlui.org/downloads/InstFoodPurchasingReport.pdf>

## LEARN MORE ABOUT GOOD FOOD SOURCING

### Local

**USDA's List of Certified Farmers' Markets**  
<http://apps.ams.usda.gov/FarmersMarkets/Default.aspx>

See Appendix C for list of local product availability in LA (distributors and processors)

### Environmental Sustainability

#### Consumer Reports

**Greener Choices: Eco-Labels Center**  
<http://www.greenerchoices.org/eco-labels/productArea.cfm?ProductCategoryID=174>

**Food Alliance, Institute for Agriculture & Trade Policy, Association for the Advancement of Sustainability in Higher Education, Healthcare Without Harm**

**Third Party Certifiers for Sustainability in Food & Agriculture**  
<http://www.sustainablefoodpolicy.org/third-party-certifications-for-identifying-sustainably-produced-foods>

### Natural Resources Defense Council

**Label Lookup**  
<http://www.nrdc.org/living/labels/food.asp>

**Meatless Monday Campaign Toolkits**  
<http://www.meatlessmonday.com/spread-the-movement/>

### CCOF Certified Organic

**CCOF's Organic Online Directory**  
[http://www.ccof.org/cgi-bin/organicdirectory\\_search.cgi](http://www.ccof.org/cgi-bin/organicdirectory_search.cgi)

**USDA Certified Organic**  
[www.ams.usda.gov/nop/](http://www.ams.usda.gov/nop/)

### Food Alliance Certified

**Online directory of certified producers and handlers**  
<http://foodalliance.org/client-search>

### Non-GMO Project Verified

<http://www.nongmoproject.org/take-action/search-participating-products/>

**Stewardship Index for Specialty Crops**  
<http://www.stewardshipindex.org/>

**Sustainable Seafood**

Blue Ocean Institute

*Offers Ocean and seafood sustainability education for chefs*<http://www.blueocean.org>**Monterey Bay Seafood Watch List**[http://www.montereybayaquarium.org/cr/SeafoodWatch/web/sfw\\_factsheet.aspx](http://www.montereybayaquarium.org/cr/SeafoodWatch/web/sfw_factsheet.aspx)**Good Catch...The Essentials: Helping You Navigate Seafood Sustainability**[http://www.goodcatch.org.uk/site\\_media/uploads/Good\\_Catch...the\\_essentials\\_FINAL.pdf](http://www.goodcatch.org.uk/site_media/uploads/Good_Catch...the_essentials_FINAL.pdf)**Marine Stewardship Council**<http://www.msc.org/>**Marine Conservation Society***Buyers guide to sustainable seafood*<http://www.fishonline.org/>**The Institute for Fisheries Resources***List of local fish seasonality*<http://www.ifrfish.org/where/los-angeles-area>**Valued Workforce****United Farm Workers***List of farms with union contracts:*[http://www.ufw.org/\\_page.php?menu=organizing&inc=orga\\_label.html](http://www.ufw.org/_page.php?menu=organizing&inc=orga_label.html)**Agricultural Justice Project's Standards**<http://www.agriculturaljusticeproject.org/AJPStandardsJuly2010Final.pdf>**Agricultural Justice Project's Toolkit for Farmers***Sample labor policies and other resources to help farmers meet standards*[http://www.agriculturaljusticeproject.org/full\\_farmer\\_toolkit.pdf](http://www.agriculturaljusticeproject.org/full_farmer_toolkit.pdf)**Equitable Food Initiative***Partnership among businesses and organizations that have come together to develop standards, training processes and a certification to protect farm workers and produce safer, healthier food.*<http://www.equitablefood.net/#!/home/mainPage>**Bon Appetit: Code of Conduct for Sustainable Tomato**Suppliers <http://www.bameo.com/uploads/documents/CODE%20OF%20CONDUCT%20FOR%20SUSTAINABLE%20TOMATO%20SUPPLIERS%20.pdf>**Domestic Fair Trade Association***DFTA is engaged in a process of developing criteria for domestic fair trade standards. Draft DFTA criteria and instructions for evaluation:*<http://www.thedfta.org/index.php?c=evaluation>**Food Chain Workers Alliance**

Statement on Social Certification

[http://foodchainworkers.org/?page\\_id=232](http://foodchainworkers.org/?page_id=232)**Restaurant Opportunities Center***National Diner's Guide**Consumers guide provides information on the wage, benefits, and promotion practices of the 150 most popular restaurants in America, including several high-road restaurants in Los Angeles.*<http://rocunited.org/dinersguide/>**Fair World Project**<http://fairworldproject.org/>**Animal Welfare****Global Animal Partnership***Recognizes and rewards producers for their welfare practices and promotes and facilitates continuous improvement. Standards listed here:*<http://www.globalanimalpartnership.org/the-5-step-program/our-standards/>**Animal Welfare Approved***Online directory of certified farms*<http://www.animalwelfareapproved.org/product-search/>**Humane Farm Animal Care/Certified Humane Raised and Handled®***Online directory*<http://www.certifiedhumane.org/index.php?page=where-to-buy>**AGA Grass-Fed****AGA Producer Profiles**<http://www.americangrassfed.org/producer-profiles/>**Animal Welfare Approved****Food Labeling for Dummies***A guide to common food label terms and claims*[http://www.animalwelfareapproved.org/wp-content/uploads/2012/08/Food-Labeling-for-Dummies-6\\_high-res.pdf](http://www.animalwelfareapproved.org/wp-content/uploads/2012/08/Food-Labeling-for-Dummies-6_high-res.pdf)

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**Nutrition**

**U.S. Department of Agriculture (USDA): *Dietary Guidelines for Americans***

<http://www.cnpp.usda.gov/DGAs2010-PolicyDocument.htm>

**Harvard School of Public Health: *Healthy Eating Plate***

<http://www.hsph.harvard.edu/nutritionsource/healthy-eating-plate/>

**USDA: *My Plate***

<http://www.choosemyplate.gov/print-materials-ordering/dietary-guidelines.html>

## APPENDIX C: Local Product Availability (Los Angeles)

*Los Angeles wholesale distribution firms with locally sourced products:*

### California Produce Wholesalers

6818 Watcher St.  
Commerce, CA 90040  
Telephone: (800) 460-9193  
Fax: (562) 928 3090  
<http://www.californiaproducewholesalers.com/>



### Worldwide Produce

1661 McGarry St.  
Los Angeles, CA 90021  
Telephone: (800) 300-2737  
Fax: (213) 741-1777  
<http://www.wvproduce.com/>



### FreshPoint Southern California

Locally Grown Division  
155 N. Orange Avenue  
City of Industry, CA 91744  
<http://www.freshpoint.com>



### Processing of locally sourced produce:

**Field Fresh Foods**  
**Locally Fresh Foods**  
14805 South San Pedro Street  
Gardena, CA 90248  
Telephone: (800)411-0588  
<http://www.fieldfre>



### Gold Star Foods

3781 E. Airport Drive  
Ontario, Ca. 91761  
Telephone: (800) 540-0215  
Fax: (866)802-1997  
<http://www.goldstarfoods.com/default.asp>



### Heath & Lejeune

1417 South Eastman Avenue  
Commerce, CA 90023  
Telephone: (213) 614-1909  
<http://soullyorganic.com/>



### L.A. Specialty Produce

13527 Orden Drive  
Santa Fe Springs, CA 90670  
Telephone: (562) 741-2200  
Fax: (562) 741-2907  
<http://www.laspecialty.com/index.html>



### Sunrise Produce Company

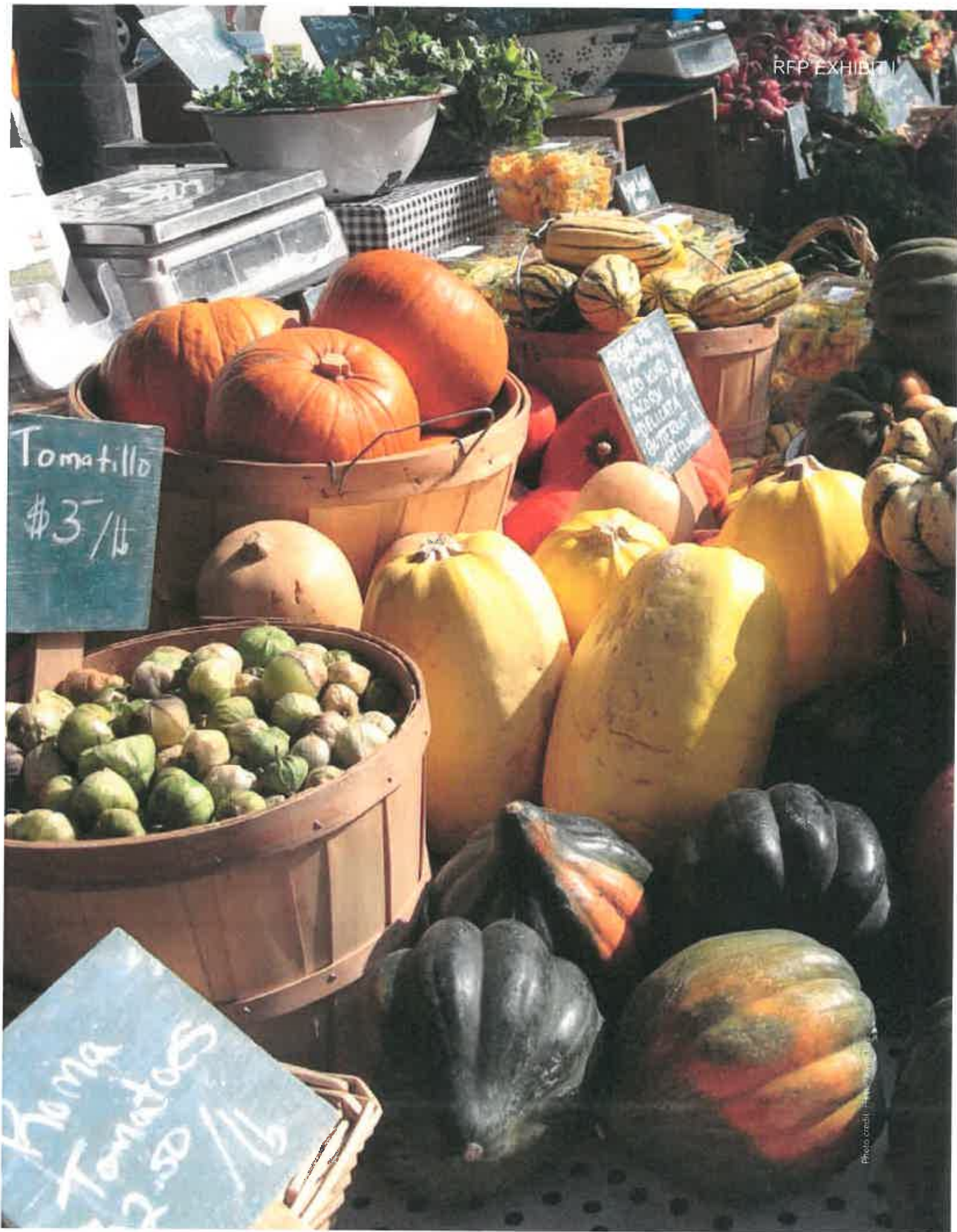
1400 Goodrich Blvd  
Commerce, CA 90022  
Telephone: (323) 726-3838  
<http://www.sunriseproduce.com/index.html>



### West Central Produce

2020 East 7th Place  
Los Angeles, CA 90021  
Telephone: (800) 464-8349  
[www.westcentralproduce.com](http://www.westcentralproduce.com)





Tomatillo  
\$3/lb

Price tag for squash

Mama Tomatoes  
\$1.25/lb





[www.goodfoodla.org](http://www.goodfoodla.org)



# Los Angeles Food Policy Council Good Food Purchasing Pledge



## Baseline Data Collection Plan for Good Food Purchasing Institutions Year 1

The list below details all deliverables requested in Year One of the Good Food Purchasing Policy. Information collected will help assess your baseline purchasing practices and will be used to develop goals and action plans for continued progress. Information will be updated annually. All forms will be provided in toolkit and electronically. Documents should be submitted to Colleen McKinney at [cmckinney@goodfoodla.org](mailto:cmckinney@goodfoodla.org).

DELIVERABLE	DEADLINE
✓ Attend Semi-Annual Good Food Purchasing Technical Assistance Meeting	March 2014
✓ Sign Good Food Purchasing Pledge	(Within one month)
✓ Submit Food Service Operations Overview Form <ol style="list-style-type: none"> <li>1. Total annual dollar amount of food purchases by food category (including beverages)</li> <li>2. Food service contracts terms (i.e. renewal dates) and vendor names</li> <li>3. Existing monitoring and compliance plans</li> </ol>	Within one month of signing Good Food Purchasing Pledge
✓ Submit copy of signed Contractor Code of Conduct forms from food service vendors acknowledging that all subcontractors and suppliers comply with domestic labor law (including state and local) in countries where they produce goods and services, as well as the core International Labour Organization (ILO) standards.	Within one month of signing Good Food Purchasing Pledge
✓ Complete Baseline Assessment: Nutrition Guidelines in Food Service Institutions	Within one month of signing Good Food Purchasing Pledge
✓ Provide three-month detailed purchasing inventory for five food categories (see Good Food Purchasing Tracking form): <ul style="list-style-type: none"> <li>• Five categories include: 1) produce; 2) milk/dairy; 3) meat/poultry; 4) whole grains &amp; legumes; 5) seafood</li> <li>• For each five food categories, provide following information for each product purchased: 1) food type; 2) volume; 3) cost; and 4) source (brand or label – or farm if possible)</li> <li>• Include up to three months of data</li> </ul>	Within two months of signing Good Food Purchasing Pledge
✓ Complete First Draft of Five-Year GFPP Action Plan (see template)	Within four months of signing Good Food Purchasing Pledge
✓ Attend Semi-Annual Good Food Purchasing Technical Assistance Meeting	Summer 2014
✓ Submit final Five-Year GFPP Action Plan to LAFPC	Within eight months of signing Good

**Los Angeles Food Policy Council**  
**Good Food Purchasing Pledge**



RFP EXHIBIT I

	Food Purchasing Pledge
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**Ongoing Data Collection Plan for Good Food Purchasing Institutions**  
*Years Two through Five*

DELIVERABLE	DEADLINE
<ul style="list-style-type: none"> <li>✓ Submit quarterly inventory of food purchases by product category               <ul style="list-style-type: none"> <li>▪ Five categories include: 1) produce; 2) milk/dairy; 3) meat/poultry; 4) whole grains &amp; legumes; 5) seafood</li> <li>▪ For each five food categories, provide following information for each product purchased: 1) food type; 2) volume; 3) cost; and 4) source (to farm level)</li> </ul> </li> </ul>	January April July October
<ul style="list-style-type: none"> <li>✓ Attend Semi-Annual Good Food Purchasing Technical Assistance Meeting</li> </ul>	Winter
<ul style="list-style-type: none"> <li>✓ Update Food Operations Overview, Nutrition Assessment and/or Contractor Code of Conduct forms as necessary</li> </ul>	March
<ul style="list-style-type: none"> <li>✓ Attend Semi-Annual Good Food Purchasing Technical Assistance Meeting</li> </ul>	Summer
<ul style="list-style-type: none"> <li>✓ Submit Report on Policies, Practices and Progress to LAFPC</li> </ul>	August
<ul style="list-style-type: none"> <li>✓ LAFPC submits Annual Report on Implementation to City Administrative Officer</li> </ul>	October

# Food Service Operations Overview



RFP EXHIBIT I



Please submit this form to Colleen McKinney ([cmckinney@goodfoodla.org](mailto:cmckinney@goodfoodla.org)).

1. Total annual dollar amount of food purchases by food category (including beverages).

Annual Food Purchases by Product Category	
Food Category	Annual Purchase Amount (\$)
Fruit & Vegetables <ul style="list-style-type: none"> <li>• <i>Fresh</i></li> <li>• <i>Frozen</i></li> <li>• <i>Canned</i></li> </ul>	
Milk & Dairy	
Meat & Poultry	
Seafood	
Grains & Legumes (beans, rice, quinoa etc)	
Other Products (packaged foods, bakery items etc)	
Beverages	
<b>TOTAL ANNUAL FOOD PURCHASES</b>	

2. List all food service contracts terms (i.e. renewal dates) and vendor names.

Department Food Service Contracts	Vendor Name	Contract Renewal Dates

3. List and describe any existing monitoring and compliance plans included in current contracts (use as much space as needed).

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**CITY OF LOS ANGELES  
CONTRACTOR CODE OF CONDUCT**

**RFP EXHIBIT I**

The City of Los Angeles has long supported the premise that employers should fairly compensate employees, that the health and safety of workers should be protected, and that no form of discrimination or abuse should be tolerated. Experience indicates that laws and regulations designed to safeguard basic tenets of ethical business practices are disregarded in some workplaces, commonly referred to as "sweatshops."

In its role as a market participant that procures equipment, goods, materials and supplies, the City seeks to protect its interests by assuring that the integrity of the City's procurement process is not undermined by contractors who engage in sweatshop practices and other employment practices abhorrent to the City. When the City inadvertently contracts with these contractors, the City's ethical contractors are placed at a distinct competitive disadvantage. Many times ethical contractors are underbid by unscrupulous contractors in competition for City contracts. These ethical contractors may be dissuaded from participating in future procurement contracts.

The City's proprietary contracting interests are served by doing business with contractors who make a good faith effort to ensure that they and their subcontractors shun sweatshop practices and adhere to workplace and wage laws. Seeking to protect these municipal interests, the City requires that all contractors subject to the Sweat-free Procurement Ordinance certify that they and, to the best of their knowledge, their subcontractors will comply with the City's Contractor Code of Conduct and to promise the following:

- (a) To comply with all applicable wage, health, labor, environmental and safety laws, legal guarantees of freedom of association, building and fire codes, and laws and ordinances relating to workplace and employment discrimination.
- (b) To comply with all human and labor rights and labor obligations that are imposed by treaty or law on the country in which the equipment, supplies, goods or materials are made or assembled, including but not limited to abusive forms of child labor, slave labor, convict or forced labor, or sweatshop labor.
- (c) To take good faith measures to ensure, to the best of the contractor's knowledge, that the contractor's subcontractors also comply with the City's Contractor Code of Conduct.
- (d) To pay employees working on contracts for garments, uniforms, foot apparel, and related accessories a procurement living wage, meaning for domestic manufacturers a base hourly wage adjusted annually to the amount required to produce, for 2,080 hours worked, an annual income equal to or greater than the U.S. Department of Health and Human Services most recent poverty guideline for a family of three plus an additional 20 percent of the wage level paid either as hourly wages or health benefits. For manufacturing operations in countries other than the United States, a procurement living wage which is comparable to the wage for domestic manufacturers as defined above, adjusted to reflect the country's level of economic development by using the World Bank's Gross National Income Per Capita Purchasing Power index.

**CERTIFICATION UNDER PENALTY OF PERJURY**

I certify under penalty of perjury under the laws of the State of California that I have read and understood the City's Contractor Code of Conduct and agree to comply with its requirements.

\_\_\_\_\_  
Signature of Officer or Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name and Title of Authorized Representative

\_\_\_\_\_  
Print Company Name, Address and Phone Number

# Los Angeles Food Policy Council Good Food Purchasing Pledge

RFP EXHIBIT 1

**Value 5: Nutrition** – Promote health and well-being by offering generous portions of vegetables, fruits, and whole grains; reducing salt, added sugars, fats and oils; and by eliminating artificial additives.

## Baseline Assessment: Nutrition Guidelines in Food Service Institutions

This baseline assessment will measure your institution's compliance with the nutrition category of the Good Food Purchasing Guidelines. All nutrition goals listed below may not apply to all types of food service institutions. Each food service institution will be eligible for points towards the Good Food Purchasing Pledge based on the total potential applicable points for that type of food service venue. LAFPC will work with each institution individually on their institution's pledge criteria. These nutrition goals were developed from reputable sources including the United States Department of Agriculture (USDA), the Food and Drug Administration (FDA), as well as other leading health organizations. The below nutrition goals will be reviewed and revised periodically to ensure they meet current dietary science and take into consideration program implementation.

Please answer each question below. If box is checked YES, please provide detail on how your institution meets this guideline. If NO, please state why not and if box is checked N/A, please explain why. **Send your self-assessment to [Colleen McKinney at cmckinney@goodfoodla.org](mailto:cmckinney@goodfoodla.org).**

Nutrition Goals	Yes/No/NA	Description: If box is checked YES, please provide detail on how institution meets this guideline. If NO, please state why not. If you checked N/A please explain why.
1. Do fruits, vegetables, and whole grains account for at least 25% of food purchases?	Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/>	
2A. Are seasonal fruits sourced to ensure best taste, quality, and price?	Y <input type="checkbox"/> N <input type="checkbox"/>	

# Baseline Assessment: Nutrition Guidelines in Food Service Institutions <sup>RFP</sup> EXHIBIT I

	N/A <input type="checkbox"/>	
2B. Are seasonal vegetables sourced to ensure best taste, quality, and price?	Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/>	
3A. Does your institution to the greatest extent possible prioritize the purchase of whole fruit before purchasing frozen and/or canned fruit in its own juice with no sugars added?	Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/>	
3B. When fruits are whole, are they purchased without added sugar?	Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/>	
3C. Is canned fruit in its own juice with no sugars added?	Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/>	
4A. Does your institution to the greatest extent possible prioritize the purchase of whole vegetables without added sodium and fat before purchasing frozen and/or canned vegetables that are low sodium or have "no salt added"?	Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/>	

RFP EXHIBIT 1

# Baseline Assessment: Nutrition Guidelines in Food Service Institutions

4B. Are vegetables purchased whole, without added sodium and fat?	Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/>
4C. Are canned vegetables low sodium (per FDA definitions) <sup>1</sup> or have "no salt added"?	Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/>
5. Does your institution prioritize the purchase of whole-grain, high-fiber options <sup>2</sup> ?	Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/>
6. Does your institution prioritize offering plant-based main dishes at each meal service <sup>3</sup> ?	Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/>
7. If meat is offered, is the purchase of "extra lean" (total fat ≤ 5%) and "lean" (total fat ≤ 10%) meat such as skinless chicken, turkey, ground beef, and pork prioritized?	Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/>

<sup>1</sup> Low sodium is defined as 140 mg or less per Reference Amount Customarily Consumed (RACC)

<sup>2</sup> Whole grain is listed as the first or second ingredient; 2 grams or more of fiber/serving

<sup>3</sup> Recommend plant-based dishes to include fruits, vegetable, beans, and legumes



# Baseline Assessment: Nutrition Guidelines in Food Service Institutions RFP EXHIBIT 1

<p>8. If meat is offered, is the purchase of processed meats<sup>4</sup> minimized?</p>	<p>Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/></p>	
<p>9A. If dairy products are offered, is the purchase of Fat-Free or Low Fat dairy products (1% milk fat or less with no added sweeteners) prioritized?</p>	<p>Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/></p>	
<p>9B. If milk is offered, are soy, rice, or other non-dairy milk alternatives without added sweeteners available?</p>	<p>Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/></p>	
<p>10A. If juice is offered, is the purchase of juice that is 100% fruit juice with no added sweeteners prioritized?</p>	<p>Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/></p>	
<p>10B. Is the purchase of all vegetable juice to be Low Sodium as per FDA definitions<sup>5</sup> prioritized?</p>	<p>Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/></p>	

<sup>4</sup> If processed meats are offered, recommend using only products with no more than 480 mg per 2 oz.

<sup>5</sup> Low Sodium is 140 mg or less per RACC

**Baseline Assessment: Nutrition Guidelines in Food Service Institutions** RFP EXHIBIT I

<p>11. Do at least 50% of available beverage choices (excluding 100% fruit and Low Sodium vegetable juices and Fat Free or Low Fat milk with no added sweeteners) contain ≤ 25 calories per 8 ounces?</p>	<p>Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/></p>	
<p>12. Is drinking water (preferably cold tap water in at least 12 ounce cup sizes) offered?</p>	<p>Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/></p>	
<p>13. Has your institution eliminated the use of hydrogenated and partially hydrogenated oils for cooking or baking?</p>	<p>Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/></p>	
<p>14. Are Low Fat and/or Low Calorie and/or Low Sodium condiments offered as per FDA definitions<sup>6</sup>?</p>	<p>Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/></p>	
<p>15. Has your institution committed to developing and implementing a gradual sodium reduction plan* that meets current Dietary Guidelines for Americans (DGA) standards?  * A gradual sodium reduction plan is a guide to assist in reducing sodium gradually over time by a set of defined criteria, in food procured, sold, or distributed by any food service entity; this can include restaurants, snack shops, vending, cafeterias, and other types of food service venues.</p>	<p>Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/></p>	

<sup>6</sup> Low-Fat is 3 g or less per RACC (and per 50g if RACC is small); Low Sodium is 140 mg or less per RACC (and per 50g if RACC is small); Low Calorie is 40 calories or less per RACC (and per 50g if RACC is small).

**Baseline Assessment: Nutrition Guidelines in Food Service Institutions** <sup>RFP EXHIBIT I</sup>

<p>16. Does all pre-packaged food have zero grams <i>trans</i> fat per serving (as labeled)?</p>	<p>Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/></p>	
<p>17. Has your institution eliminated the use of deep frying?</p>	<p>Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/></p>	
<p>18. Is the preparation of all protein, including fish, poultry, meat, or meat alternatives in a low fat way (broiling, grilling, baking, poaching, roasting, or steaming) prioritized?</p>	<p>Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/></p>	
<p>19. Are water, diet drinks (drinks that do not exceed 25 cal. per 8oz), 100% fruit juice without added sweeteners, Low Sodium vegetable juices, Fat Free or Low Fat dairy products with no added sweeteners, and milk alternative products displayed in eye level sections of beverage cases? (if applicable)</p>	<p>Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/></p>	
<p>20. Has your institution prioritized the location of fruit and/or non-fried vegetables at convenient, high-visibility locations (including at front of cafeteria lines) and within reach of checkout registers? (if applicable)</p>	<p>Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/></p>	
<p>21. Are fruit with no-added sweeteners and non-fried vegetable offerings highlighted with signage?</p>	<p>Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/></p>	

RFP EXHIBIT I

# Baseline Assessment: Nutrition Guidelines in Food Service Institutions

22. Has your institution removed candy bars, cookies, chips and beverages with added sugars (such as soda, sports and energy drinks) from checkout register areas/point-of-purchase? (if applicable)	Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/>	
23. Does your institution's menu list the nutritional information for each item using the federal menu labeling requirements under the Patient Protection and Affordable Care Act of 2010 as a guide?	Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/>	
24A. Does your institution prioritize the use of 10' or smaller plates for all meals?	Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/>	
24B. Does your institution prioritize making available reduced-size portions of at least 25% of menu items offered?	Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/>	
24C. Does your institution prioritize offering reduced-size portions at a lower price than regular-sized portions <sup>7</sup> ?	Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/>	

<sup>7</sup> Reduced-sized portions are no more than 70% of the weight, measured in grams, of a regular-size portion of the same menu item.

**Baseline Assessment: Nutrition Guidelines in Food Service Institutions** <sup>RFP EXHIBIT I</sup>

<p>24D. Are other portion control strategies prioritized in your institution?</p>	<p>Y <input type="checkbox"/>  N <input type="checkbox"/>  N/A <input type="checkbox"/></p>	
<p>25. Does your institution have a worksite wellness program including nutrition education for employees and/or patrons?</p>	<p>Y <input type="checkbox"/>  N <input type="checkbox"/>  N/A <input type="checkbox"/></p>	

# FRUIT & VEGETABLE PURCHASING DATA

(insert quarter, year)

Food Type	Total Order Information				Distributor
	# Cases	\$/Case	Total Cost	Product Detail (Example: brand, grower, supplier)	
<b>Total Fruits &amp; Vegetables</b>			\$0.00		



## Five-Year GFPP Action Plan | TEMPLATE

The tiered, points based scoring system outlined in the Good Food Purchasing Guidelines allows participants to choose which level of commitment best suits the Good Food goals of their organization. The guidelines require that a baseline be met for each value, but an institution can receive additional points by making even greater commitments in each value category. Participants are awarded one to five stars based on their total score. To maintain their star rating over time, participating institutions are expected to increase the amount of Good Food they purchase each year.

In Year One of the program, Good Food Purchasing Institutions (GFPI) will develop a five-year action plan that describes their purchasing goals and objectives, based on the baseline purchasing practices measured at the time of pledge adoption. The action plan should include measurable deliverables and benchmarks from Years One through Five. The multi-year action plan will serve as a guide for future annual progress reports. The components of a successful action plan, including the any forms to be submitted, are described below. **Submit final action plan and chart to Colleen McKinney at [cmckinney@goodfoodla.org](mailto:cmckinney@goodfoodla.org).**

### SECTION ONE: Year One – Baseline Assessment

#### ***Introduction & Purpose***

Summarize in a few sentences your institution's interest and involvement in the Good Food Purchasing Program.

#### ***Food Service Operations Overview (SUBMIT FORM)***

Using the *Food Service Operations Overview* form, describe your operation, including:

Total purchases for each food category: fruits & vegetables, milk & dairy, meat & eggs, seafood, grains & legumes, other products (packaged foods, bakery products, etc.), and beverages.

- Total annual food purchases
- Food service contract terms (i.e. renewal dates) and vendor names
- Existing monitoring & compliance plans included in contracts

#### ***GFPP Tracking Sheet (SUBMIT FORM)***

Using the *GFPP Tracking Sheet* or the inventory sheet supplied by your vendor(s), provide the following information for each product:

- Food type
- Volume purchased
- Cost per unit
- Source: include brand or label and plant location. Wherever possible, include the name of the farm or ranch where the item was produced
- Any known certifications or product claims associated with each product

#### ***Summary of Current Best Practices & Recent Achievements***

Highlight any existing best practices or key procurement achievements within your institution. This may include:

- Recent product shifts or commitments (e.g. 100% cage free eggs, direct relationship with local growers)
- Existing healthy and/or sustainable food service initiatives (e.g. trayless dining, compostable dishware, Healthy Picks program)
- Staff trainings or continued learning opportunities related to food service, culinary arts, nutrition, etc.

#### ***Current Challenges***

In your work to improve your food service operation, what have been the greatest challenges to success? What obstacles might continue to slow progress?



## SECTION TWO: Years Two through Five

### ***2-5 Year Plan Goals***

Outline the institution's overall long-term goals for the Good Food Purchasing Program (e.g. earn three-star rating by third year of program).

### ***Objectives & GFPP Five-Year Action Plan Chart (SUBMIT FORM)***

Identify the objectives your institution will focus on to reach your desired rating (i.e. achieve Level 3 Environmental Sustainability by Year Two, Level 2 in Valued Workforce by Year Four, and maintain Level 1 in all other categories). In each category section, identify any changes you will make to your purchasing that will allow you to meet your desired level in that category. For each of the five value categories, explain your institution's objective, benchmarks, and timeline for completion (see template attached).



# Template: GFPP Five-Year Action Plan Chart – For Good Food Purchasers

RFP EXHIBIT I

**Target:** The Good Food Purchasing Pledge harnesses the purchasing power of major institutions to encourage greater production of sustainably produced food, healthy eating habits, respect for workers' rights, humane treatment of animals and support for the local business economy by providing new opportunities for small and mid-sized farmers and job creation along the supply chain.

**Directions:** Use this document as a planning guide for implementing the Good Food Purchasing Guidelines. For each value, you only need to choose one objective from one level. Each Level corresponds with the numeric value. For example, achieving Level 1 would earn you 1 point. Level 2 = 2 points, and so on. If your institution is unable to reach the baseline level for any value category in Year 1, you may submit a plan detailing your goals for achieving baseline compliance within one year.

## Value 1: Local Economies – Support small and mid-sized agricultural and food processing operations within the local area or region

Objective	Benchmarks	Activities	Timeframe	Points
Level 1 = 1 Point	15% annual average of total cost of food purchases comes from sources that are: <ul style="list-style-type: none"> <li>Within 200 miles (or 10 SoCal counties) and large scale operations (&gt;500 acre farms) OR</li> <li>In California AND medium scale operations (180-499 acre farms) OR</li> <li>Outside of California AND small scale operations (&lt;180 acre farms)</li> </ul> 25% annual average of total cost of food purchases by Year 5.			
Level 2 = 2 Points	15% annual average of total cost of food purchases comes from sources that are: <ul style="list-style-type: none"> <li>Local within 200 miles (or 10 SoCal counties) AND medium scale operations OR</li> <li>Within California AND small scale operations</li> </ul> 25% annual average of total cost of food purchases by Year 5.			
Level 3 = 3 Points	15% annual average of total cost of food purchases comes from sources that are: <ul style="list-style-type: none"> <li>Local within 200 miles (or 10 SoCal counties) AND small scale operations</li> </ul> 25% annual average of total cost of food purchases by Year 5.			
Extra Points = 1 Point Each	5% of annual average of total cost of food purchases comes from microenterprise farms (<100 acres) and located within 200 miles.			
	1% of annual average of total cost of food purchases is grown/raised and processed in Los Angeles County.			
	Food is purchased directly from farmer-owned businesses.			
	Food is purchased from women, minority, disabled, or veteran-owned food businesses (farms/operations).			
	50% of total cost of food purchases comes from small and mid-sized food operations within the local area or region.			
At least 25% of prepared seafood sourced from small and or local fleets.				
<b>Total Local Economies Points:</b>				

**Value 2: Environmental Sustainability – Source from producers that employ sustainable production systems**

**RFP EXHIBIT I**

Objective	Benchmark	Activities	Timeframe	Points
<p><b>Level 1 = 1 Point</b></p>	<p>Overall: 15% annual average of total cost of food purchases, with a goal of increasing at least 2% per year will come from Level 1 environmentally sustainable sources; No seafood purchased should be listed as "Avoid" in the Monterey Bay Aquarium's most recent Seafood Watch Guide. 25% annual average of total cost of food purchases by Year 5.</p> <ul style="list-style-type: none"> <li>• <b>Fruits &amp; Vegetables:</b> participate in Stewardship Index for Specialty Crops, OR PRIME score has no high risk components for Integrated Pest Management Practices</li> <li>• <b>Milk &amp; Dairy:</b> No antibiotics, and rBGH/rBST free</li> <li>• <b>Meat &amp; Poultry:</b> Cage-free eggs; or Pasture raised; or USDA Grassfed; OR No antibiotics</li> <li>• <b>Seafood:</b> No seafood purchased listed as "Avoid" in the Monterey Bay Aquarium's Seafood Watch Guide</li> <li>• <b>Grains:</b> Pesticide-free</li> </ul>			
<p><b>Level 2 = 2 Points</b></p>	<p>Overall: 15% annual average of total cost of food purchases, with a goal of increasing at least 2% per year will come from Level 2 environmentally sustainable sources. No seafood purchased should be listed as "Avoid" in the Monterey Bay Aquarium's most recent Seafood Watch Guide. 25% annual average of total cost of food purchases by Year 5.</p> <ul style="list-style-type: none"> <li>• <b>Fruits &amp; Vegetables:</b> PRIME score indicates low-risk for Integrated Pest Management Practices, OR Protected Harvest certified; OR participate in Stewardship Index for Specialty Crops with targets for annual improvement; OR Non-GMO Project Verified; or Food Alliance Certified</li> <li>• <b>Milk &amp; Dairy:</b> Non-GMO Project Verified; OR Animal Welfare Approved</li> <li>• <b>Meat &amp; Poultry:</b> AGA Grassfed; OR Non-GMO Project Verified; OR Animal Welfare Approved</li> <li>• <b>Seafood:</b> Fish listed as "Good" and "Best" choices in Monterey Bay Aquarium's Seafood Watch Guide</li> <li>• <b>Grains:</b> Food Alliance Certified; OR Non-GMO Project Verified</li> </ul>			
<p><b>Level 3 = 3 Points</b></p>	<p>Overall: 15% annual average of total cost of food purchases, with a goal of increasing at least 2% per year will come from Level 3 environmentally sustainable sources; No seafood purchased should be listed as "Avoid" in the Monterey Bay Aquarium's most recent Seafood Watch Guide. 25% annual average of total cost of food purchases by Year 5.</p> <ul style="list-style-type: none"> <li>• <b>Fruits &amp; Vegetables:</b> USDA Organic, OR Biodynamic</li> <li>• <b>Milk &amp; Dairy:</b> Food Alliance Certified, OR USDA Organic</li> <li>• <b>Meat &amp; Poultry:</b> Food Alliance Certified; OR USDA Organic</li> <li>• <b>Seafood:</b> Marine Stewardship Council certified; OR 100% of fish listed as "Best Choice" in the Seafood Watch Guide</li> <li>• <b>Grains:</b> USDA Organic</li> </ul>			

REP EXHIBIT I

Extra Points = 1 Point Each Point	Institution participates in "Meatless Mondays"				
	A minimum of 75% of all seafood is noted as "Best Choices" in the Monterey Bay Aquarium Guide OR certified by the Marine Stewardship Council.				
	50% annual average of total cost of food purchases comes from environmentally sustainable sources.				
Total Environmental Sustainability Points					

**Value 3: Valued Workforce -- Provide safe and healthy working conditions and fair compensation to all food chain workers and producers, from production to consumption**

Objective	Benchmarks	Activities	Timeframe	Points
<p>Level 1 = 1 Point</p> <p>All vendors and suppliers sign in writing that they respect the freedom of association of farmers, ranchers, and fisherfolk and comply with domestic labor law (including state and local) in countries where they produce goods and services, as well as the core standards of the International Labour Organization (ILO):</p> <ol style="list-style-type: none"> <li>1. Freedom of association and the right to collective bargaining.</li> <li>2. Elimination of all forms of forced or compulsory labor.</li> <li>3. Abolition of child labor.</li> <li>4. Elimination of discrimination with respect to employment or occupation</li> </ol>				
<p>Level 2 = 2 Points</p> <p>All suppliers sign in writing that they follow the law AND 5% annual average of total cost of food purchases comes from farms with social responsibility policies, which includes:</p> <ul style="list-style-type: none"> <li>- union or non-poverty wages</li> <li>- respect for freedom of association and collective bargaining</li> <li>- safe and healthy working conditions</li> <li>- prohibition of child labor, except as allowed by domestic law and at least one additional employment benefit such as: <ul style="list-style-type: none"> <li>- health care benefits</li> <li>- paid sick days</li> </ul> </li> <li>- profit-sharing with all employees, OR</li> </ul> <p>Are Fair Trade Certified (for international products)</p> <p>15% annual average of total cost of food purchases by Year 5.</p>				
<p>Level 3 = 3 Points</p> <p>All suppliers sign in writing that they follow the law AND 5% annual average of total cost of food purchases comes from combination of sources, including suppliers that:</p> <ul style="list-style-type: none"> <li>- Have a union contract with their employees; OR</li> <li>- Are a worker-owned Cooperative, OR</li> <li>- Have signed the C/W Fair Food Supplier Code of Conduct, OR</li> <li>- Are Food Justice-Certified by the Agricultural Justice Project, OR</li> <li>- Are certified by the Equitable Food Initiative</li> </ul> <p>15% annual average of total cost of food purchases by Year 5.</p>				
<p>Extra Points = 1 Point Each</p> <p>Buying entity establishes a reporting system for workers to report violations with a protection for workers from retaliation.</p>				
<p>Institution complies with baseline Level 1 fair criteria AND 25% of annual average of total cost of food purchases comes from Level 2 or 3 fair sources.</p>				
<p><b>Total Valued Workforce Points:</b></p>				

**Value 4: Animal Welfare – Provide healthy and humane care for livestock**

Objective	Benchmarks	Activities	Timeframe	Points
<p><b>Level 1 = 1 Point</b></p> <p><b>Overall:</b> 15% annual average of total cost of milk and dairy products and animal protein product purchases, increasing at least 2% per year will come from Level 1 humane sources, 100% of all eggs are cage-free. 25% annual average of total cost of food purchases by Year 5.</p> <ul style="list-style-type: none"> <li>• <b>Milk &amp; Dairy:</b> Produced from Pastured Cows OR USDA Organic</li> <li>• <b>Meat &amp; Poultry:</b> Step 1 of Global Animal Partnership 5-Step Animal Welfare Rating standards, OR USDA Organic; OR Cage-free eggs; OR Pastured</li> </ul>				
<p><b>Level 2 = 2 Points</b></p> <p><b>Overall:</b> 15% annual average of total cost of milk and dairy products and animal protein products, increasing at least 2% per year will come from Level 2 humane sources; 100% of all eggs are cage-free. 25% annual average of total cost of food purchases by Year 5.</p> <ul style="list-style-type: none"> <li>• <b>Milk &amp; Dairy:</b> American Humane Certified</li> <li>• <b>Meat &amp; Poultry:</b> Step 2 of Global Animal Partnership 5-Step Animal Welfare Rating standards, OR American Humane Certified</li> </ul>				
<p><b>Level 3 = 3 Points</b></p> <p><b>Overall:</b> 15% annual average of total cost of milk and dairy products, and animal protein product purchases, increasing at least 2% per year will come from Level 3 humane sources, 100% of all eggs are cage-free. 25% annual average of total cost of food purchases by Year 5.</p> <ul style="list-style-type: none"> <li>• <b>Milk &amp; Dairy:</b> Animal Welfare Approved; OR Humane Farm Animal Care/Certified Humane Raised and Handled®</li> <li>• <b>Meat &amp; Poultry:</b> Step 3 or higher of Global Animal Partnership 5-Step Animal Welfare Rating standards, OR Animal Welfare Approved; OR Humane Farm Animal Care/Certified Humane Raised and Handled®</li> </ul>				
<p><b>Extra Points = 1 Point Each</b></p> <p>Institution encourages plant-based diets by offering 100% vegetarian and/or vegan options.</p> <p>50% annual average of total cost of milk and dairy products, and animal protein products purchases come from humane sources.</p>				
<p><b>Total Animal Welfare Points:</b></p>				

**Value 5: Nutrition – Promote health and well-being by offering generous portions of vegetables, fruits, and whole grains; reducing salt, added sugars, fats and oils; and by eliminating artificial additives.**

Objective	Benchmarks	Activities	Timeframe	Points
Fruits, vegetables, and whole grains account for at least 25% of total food purchases				
Seasonal fruits and vegetables are sourced to ensure best taste, quality, and price				
Purchase whole fruits, without added sugar. When whole and unprocessed fruit cannot be purchased, purchase frozen fruit. If frozen products are unavailable, fruit should be canned in its own juice with no sugars added				
Purchase whole vegetables, without added sodium and fat. When whole and unprocessed vegetables cannot be purchased, purchase frozen vegetables. If frozen products are unavailable, canned vegetables should be low sodium (per FDA definitions) or have "no salt added"				
Prioritize the purchase of whole-grain, high-fiber options				
Prioritize offering plant-based main dishes at each meal service				
If meat is offered, prioritize the purchase of "extra lean" (total fat ≤ 5%) and "lean" (total fat ≤ 10%) meat such as skinless chicken, turkey, ground beef, and pork				
If meat is offered, minimize the purchase of processed meats				
If dairy products are offered, prioritize the purchase of Fat-Free or Low Fat dairy products (1% milk fat or less with no added sweeteners). If milk is offered, soy, rice, or other non-dairy milk alternatives without added sweeteners are available				
Prioritize all juice purchased to be 100% fruit juice with no added sweeteners and vegetable juice that is Low Sodium as per FDA definitions				
At least 50% of available beverage choices (excluding 100% fruit and Low Sodium vegetable juices and Fat Free or Low Fat milk with no added sweeteners) must contain ≤ 25 calories per 8 oz				
Require drinking water (preferably cold tap water in at least 12 ounce cup sizes) to be offered				
Offer Low Fat and/or Low Calorie and/or Low Sodium condiments as per FDA definitions				
Commit to developing and implementing a gradual sodium reduction plan that meets current Dietary Guidelines for Americans (DGA) standards				
All pre-packaged food has zero grams trans fat per serving (as labeled)				
Prioritize the preparation of all protein, including fish, poultry, meat, or meat alternatives in a low fat way (broiling, grilling, baking, poaching, roasting, or steaming)				
Display water, diet drinks (do not exceed 25 cal. per 8oz), 100% fruit juice without added sweeteners, Low				

Sodium vegetable juices, Fat Free or Low Fat dairy products with no added sweeteners, and milk alternative products in eye level sections of beverage cases (if applicable)			
Eliminate the use of deep frying			
Highlight fruit with no-added sweeteners and non-fried vegetable offerings with signage			
Prioritize the location of fruit and/or non-fried vegetables at convenient, high-visibility locations (including at front of cafeteria lines) and within reach of checkout registers (if applicable)			
Develop a worksite wellness program including nutrition education for employees and/or patrons.			
Menu lists the nutritional information for each item using the federal menu labeling requirements under the Patient Protection and Affordable Care Act of 2010			
Prioritize portion control strategies, if applicable (e.g. utilizing 10" or smaller plates for all meals or make available reduced-size portions of at least 25% of menu items offered, and offer reduced-size portions at a lower price than regular-sized portions)			
Remove candy bars, cookies, chips and beverages with added sugars (such as soda, sports and energy drinks) from checkout register areas/point-of-purchase (if applicable)			
Eliminate the use of hydrogenated and partially hydrogenated oils for cooking and baking			
<b>Level 1 (1 Point) – Meets 13 – 15 out of 25</b>			
<b>Level 2 (2 Points) – Meets 16 – 20 out of 25</b>			
<b>Level 3 (3 Points) – Meets 21 – 25 out of 25</b>			
<b>Total Nutrition Points:</b>			
<b>GRAND TOTAL GFPP POINTS</b>			

Good Food Purchasing Commitment Levels		
Stars Awarded	Good Food Purchaser Status Level	Number of Points Needed
★	Good Food Purchaser – One Star	5 - 9
★★	Good Food Purchaser – Two Stars	10 - 14
★★★	Good Food Purchaser – Three Stars	15 - 19
★★★★	Good Food Purchaser – Four Stars	20 - 24
★★★★★	Good Food Purchaser – Five Stars	25+

**BOARD REPORT**


NO. 16-149

DATE: JULY 13, 2016

C.D. 14

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: JOY PICUS CHILD CARE CENTER – TUITION RATE AND FEE INCREASE

AP Diaz	_____	* V. Israel	
R. Barajas	_____	K. Regan	_____
H. Fujita	_____	N. Williams	_____

  
 \_\_\_\_\_  
 General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Approve a 3.5% tuition rate and fee increase for the Joy Picus Childcare Center located within City Hall South, in accordance with Contract No. 3538 between the City of Los Angeles and Mount Washington Preschool and Childcare Center, Inc.; and,
2. Approve the proposed monthly tuition rates and fees page for 2016–17, as attached hereto with such rates and fees to be effective August 1, 2016.

SUMMARY

Mount Washington Preschool and Childcare Centers, Inc. (Contractor) has successfully operated the Joy Picus Child Care Center since July 1, 2009, within City Hall South located at 111 East First Street, Los Angeles, California 90012. Located on City of Los Angeles (City) property that is not dedicated park property, this childcare center primarily serves the children of City employees, but with services also offered to the general public contingent upon available space. Contract No. 3538 (Contract) between the Contractor and the City, attached to this Report as Exhibit A, was awarded to the Contractor through a Request for Proposals process and was executed on January 6, 2016. The Contract has a term of five (5) years, from July 1, 2015 to June 30, 2020, with one five-year option to extend at the discretion of the Department of Recreation and Parks (RAP) General Manager.

Pursuant to the terms and conditions of the Contract (Section 6.10), Contractor may submit a written request to RAP for authorization to increase the tuition rate and fees on a yearly basis. The written request must include substantiation for the requested increase. The tuition and fees may not be increased by more than a maximum of 3.5% per year and is subject to approval by the Board of Recreation and Park Commissioners (Board).

RAP received a request from the Contractor for a tuition and fee increase of 3.5% for Fiscal Year 2016-17, effective August 1, 2016. Attached, as Exhibit B, is a monthly tuition and



## BOARD REPORT

PG. 2 NO. 16-149

fees rate sheet reflecting the requested 3.5% increase. The proposed rate sheet has been reviewed by staff to ensure it does not exceed the 3.5% increase over the previous fiscal year, as allowed by the Contract. The Contractor has cited as justification for the requested rate increases, that in order to meet the City's required minimum wage of Fifteen Dollar (\$15.00) per hour by the year 2020, Contractor will be required to increase teacher salaries by 3.5% each year during the initial term of the Contract, commencing July 1, 2016. Consequently, the Contractor will also be required to submit to RAP annually for Board approval, requests for 3.5% annual tuition and fee increases each year throughout the remainder of the Contract's initial term. The Contractor also conveyed to RAP that the proposed tuition and fee increase(s) were discussed at a meeting of the Joy Picus Parent Advisory Committee on June 6, 2016, and that the parents indicated they understood the reason(s) for the proposed increase and concurred, providing their support for the requested tuition increases.

As the Contractor will be paying increased salaries to teachers in response to the City's minimum wage requirements in order to cover increased staff salaries, and enable the Contractor to recruit and retain quality teachers, staff recommends that the Board approve the Joy Picus Childcare Center proposed monthly tuition and fee increases reflected on the attached tuition and fees rate sheet for Fiscal Year 2016-17.

### FISCAL IMPACT STATEMENT

Approving the tuition and fee increases has no impact to RAP's General Fund as all tuition and fees are retained by Contractor to offset childcare center operating expenses.

This report was prepared by Joel Alvarez, Senior Management Analyst II, Partnership Division.

### LIST OF EXHIBITS

- 1) Exhibit A: Joy Picus Childcare Center Contract No. 3538
- 2) Exhibit B: Joy Picus Child Development Center 2016-17 Monthly Tuition and Fee Rates

**CONTRACT**  
**BETWEEN**  
**THE CITY OF LOS ANGELES**  
**AND**  
**MOUNT WASHINGTON PRESCHOOL AND CHILDCARE CENTER, INC.**  
**FOR THE**  
**OPERATION OF THE JOY PICUS CHILD CARE CENTER**

This operations contract ("CONTRACT") is entered into as of JANUARY 6, 2016, by and between the City of Los Angeles ("CITY"), a municipal corporation acting by and through its Board of Recreation and Park Commissioners ("BOARD") and Mount Washington Preschool and Childcare Center, Inc., a California nonprofit corporation ("CONTRACTOR"), for the operation of a licensed child care facility at the Joy Picus Child Care Center. CITY and CONTRACTOR may be referred to herein individually as "PARTY" and collectively as "PARTIES".

WHEREAS, CITY owns and operates real property commonly known as City Hall South ("PROPERTY"), located at 111 East First Street, Los Angeles, California 90012; and,

WHEREAS, CITY has dedicated a portion of the PROPERTY as the Joy Picus Child Care Center ("CENTER") since January 1989, for the purpose of providing child care services for the benefit of City of Los Angeles employees and the public, through a private contractor; and,

WHEREAS, on September 3, 2014, the BOARD approved a Request for Proposal (RFP) process to identify a responsive and responsible operator to continue childcare services at the CENTER (Report No. 14-235); and,

WHEREAS, on November 17, 2014, Mount Washington Preschool and Childcare Center, Inc. (referred to herein as "CONTRACTOR"), submitted a proposal to operate the CENTER and provide child care services as described in the RFP; and,

WHEREAS, on March 19, 2015, the BOARD approved the award of this CONTRACT to CONTRACTOR for the operation of the CENTER (Report No. 15-053); and,

WHEREAS, CONTRACTOR agrees to fulfill the above obligations and commitments in accordance with the terms and conditions contained herein for the benefit of the needs of the patron(s) of the CENTER.

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set forth herein and the performance thereof, PARTIES hereby agree as follows:

**SECTION 1 – DEFINITIONS**

- CENTER: The portion of City Hall South designated as the Joy Picus Child Care Center, dedicated for the provision of child care services.
- CHS: City Hall South, located at 111 East First Street, Los Angeles, California 90012.
- CITY: The City of Los Angeles, a municipal corporation acting by and through its Board of Recreation and Park Commissioners.
- CONTRACTOR: Mount Washington Preschool and Childcare Center, Inc.
- BOARD: The Board of Recreation and Park Commissioners of the City of Los Angeles.
- RAP: The Department of Recreation and Parks of the City of Los Angeles.
- GM: General Manager of the Department of Recreation and Parks
- GSD: The Department of General Services of the City of Los Angeles.
- ITA: The Information Technology Agency of the City of Los Angeles.

**SECTION 2 - PARTIES TO CONTRACT AND REPRESENTATIVES**

2.1 The Parties to this CONTRACT are:

- CITY: The City of Los Angeles, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners  
Board of Recreation and Park Commissioners  
P.O. Box 86328  
Los Angeles, CA 90086-0328

CONTRACTOR: Mount Washington Preschool and Childcare Center, Inc., a California nonprofit corporation  
4601 North Figueroa Street  
Los Angeles, CA 90065

- 2.2 The representatives of the PARTIES who are authorized to administer this CONTRACT and to whom formal notices, demands, and written communications shall be given are as follows:

CITY: Joel Alvarez, Senior Management Analyst  
Partnership Division  
3900 Chevy Chase Drive  
Los Angeles, CA 90039

Tel. (818) 243-6488  
Fax (818)243-6447  
Email [Joel.alvarez@lacity.org](mailto:Joel.alvarez@lacity.org)

**Note:** For purposes of this CONTRACT, the CITY representative above, or his successor, shall be referred to herein as "City Liaison".

CONTRACTOR: Mount Washington Preschool and Childcare Center, Inc.  
Darlene Cabrera, Executive Director  
4601 North Figueroa Street  
Los Angeles, CA 90065

Tel. (323) 222-7114  
Email [hpccc@sbcglobal.net](mailto:hpccc@sbcglobal.net)

- 2.3 Formal notices, demands and communications to be given hereunder by either party shall be made in writing and may be effectuated by personal delivery or by registered or certified mail, postage prepaid, return receipt requested or through electronic mail (E-Mail), facsimile, or hard copy, and shall be deemed communicated as of the date of receipt.
- 2.4 If the name of the person(s) designated to receive the notices, demands or communications, or the address or other pertinent information of such person is changed, written notice shall be given to the other PARTY within ten (10) working days of such change.

### SECTION 3 - TERM OF CONTRACT

The duration of this CONTRACT ("TERM") shall be effective upon attestation by the City Clerk and shall become operational as of July 1, 2015, and shall terminate on June 30, 2020.

The TERM may be extended for one (1) additional five (5) year option at the discretion of the RAP General Manager.

Neither CITY, nor any board member, officer, or CITY employee thereof shall be liable in any manner to CONTRACTOR because of any action taken to revoke, decline to exercise an option, or disapprove a renewal of this CONTRACT.

#### **SECTION 4 - FACILITY AND SITE DESCRIPTION**

##### **4.1 FACILITY:**

The CENTER is located in the downtown Los Angeles Civic Center, on the Northwest corner of First Street and Los Angeles Street (111 East First Street, Los Angeles, California 90012), within Los Angeles City Hall South. The CENTER has the capacity to be licensed by the State of California for up to eighty-six (86) children (infants, toddlers, and/or preschool-age children). The facility is presently licensed for twenty-six (26) infants and toddlers, and sixty (60) preschool-age children.

The CENTER is presently furnished and equipped to serve infants, toddlers, and preschool-age children. The existing equipment, hardware, furnishings, materials and supplies purchased and owned by the CITY will remain with the CENTER for use by the CONTRACTOR.

Any equipment, hardware, furnishings, materials and/or supplies purchased by CONTRACTOR with CITY funds, or with funds from parent fundraising activities, shall be owned by the CITY and will remain with the CENTER upon expiration or termination of this CONTRACT. Any equipment, hardware, furnishings, materials and/or supplies purchased by CONTRACTOR with its own funding (neither provided by CITY or from parent fundraising activities) shall be owned by the CONTRACTOR and shall not become a fixture of the CENTER.

##### **4.2 SITE DESCRIPTION:**

The interior of the CENTER is approximately 9,500 square feet and the adjacent outdoor playground is approximately 6,500 square feet, which for purposes of this CONTRACT constitutes the entire CENTER, which includes:

###### **a) Interior**

1. Four (4) separate classroom areas ranging from 800 to 1,200 square feet each (Infant, Toddler, Preschool 1 and Preschool 2);
2. Three (3) children's restrooms;
3. One (1) non-commercial food preparation kitchen;
4. One (1) laundry area with washer and dryer;

5. An administrative area with a front check-in counter and a separate office for use by administrative staff;
6. One (1) teacher's office;
7. One (1) staff lounge area;
8. One (1) computer/conference room;
9. Two (2) adult restrooms; and,
10. A 24-Hour key card security alarm system and entrance monitoring cameras at the front door, back door, and play area.

b) Exterior / Playground

1. Two (2) multi-surface playgrounds with sand and resilient rubber surfaces;
2. Resilient rubber surface walkways and tricycle ways;
3. A playground structure for infants, toddlers, and preschooler-age children;
4. An outdoor restroom in the playground area; and,
5. An enclosed buffered tile wall.

c) Parking

1. A thirty (30) minute passenger, unloading/loading turnout zone is located in front of CENTER on Los Angeles Street. CONTRACTOR shall provide enrolled families with a pass to park in the turnout zone. There are seven (7) thirty (30) minute parking spaces available during drop-off and pick-up times, and two (2) additional parking spaces provided in CITY's underground parking garage near the loading and unloading area;
2. Employee parking at CENTER is not provided and will be subject to parking enforcement.

**SECTION 5 - CITY'S PHILOSOPHY ON CHILD CARE**

CITY's philosophy is that the CENTER should provide children with a safe, caring, nurturing, and consistent environment. The children should be treated with respect and appreciation of their interests, to allow them to grow and develop according to their own schedule and needs.

The overall experience they receive at the CENTER should enrich their lives socially, cognitively, physically and emotionally and should enhance their individual capabilities by appreciating and reflecting their diverse qualities in the learning environment and curriculum.

## SECTION 6 - CONTRACTOR'S RESPONSIBILITIES

The following are CONTRACTOR's responsibilities for managing and operating the CENTER:

### 6.1 General Operation

CONTRACTOR shall manage and operate a child care program at the CENTER for the CITY, which provides high quality child care services for a licensed capacity of eighty-six (86) children, ages 6 weeks to under 6 years of age.

### 6.2 Hours and Days of Operation

The hours and days of operation for the CENTER, for child care services, shall be from 6:30 a.m. to 6:00 p.m., Monday through Friday, excluding the following City of Los Angeles recognized employee holidays: New Year's Day; Martin Luther King Jr.'s Birthday; George Washington's Birthday; Cesar Chavez' Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans Day; Thanksgiving Day and the Friday after Thanksgiving; and, Christmas Day.

It is understood that CONTRACTOR staff participate in staff development sessions up to three (3) days per year on days scheduled at the beginning of each calendar year, requiring that the CENTER be closed on the selected days. CONTRACTOR agrees to submit a written request to RAP on or before November 1st of each year, for authorization to close the CENTER on the days selected during the upcoming calendar year for CENTER staff's participation in staff development training sessions.

### 6.3 Operating Responsibilities

CONTRACTOR shall manage and operate the CENTER in a manner consistent with the CITY's philosophy as set forth above, so as to maintain a high quality child development and education center. In addition to the services set forth in this CONTRACT, CONTRACTOR shall be responsible for maintaining the CENTER's operating income through the collection of CENTER fees, pre-approved by the BOARD in writing, and must fully accept any and all risk of operating losses associated with the operation of the CENTER. CONTRACTOR may not use the facility for any other purpose other than child care and related services.

Contractor Shall:

- a) Establish a Center philosophy and curriculum that promotes the best practices in the field of early care and education that is consistent with the CITY's Philosophy, as set forth in Section 5 of this CONTRACT.

- b) Establish and maintain a child care program with effective procedures to ensure the health, safety, and security for all persons while they are involved in the CENTER program.
- c) Develop and maintain a quality program curriculum, with culturally and developmentally appropriate goals and activities.
- d) Implement a holistic curriculum that is well-researched, developmentally-appropriate, and responsive to the diverse needs of the children and their families.
- e) Have primary responsibility to ensure that the CENTER is a safe and healthy environment and meets the regulations of Title 22 of the California Code of Regulations (CCR), including notifying the BOARD of any conditions at the Center that are the CITY's responsibility to address, as set forth in Section 7 of this CONTRACT.
- f) Obtain and maintain a State of California Child Care License for the CENTER, and on an ongoing basis, must meet or exceed the licensing requirements of Title 22, Division 12 of the CCR, as regulated by the Community Care Licensing Division of the State of California Department of Social Services. CONTRACTOR will ensure a copy of the current updated License is provided to the City Liaison, and upon request, to the BOARD. CONTRACTOR will be solely responsible for the operation of the CENTER in compliance with the licensing and permit requirements as set forth by Title 22, Division 12 of the CCR, Community Care Licensing Division.
- g) Ensure that the CENTER obtains National Association for the Education of Young Children (NAEYC) accreditation prior to the expiration of the first five-year term of this CONTRACT, provide copies to the City Liaison, and upon request, to the BOARD. CONTRACTOR shall maintain such accreditation throughout the term of this CONTRACT, and if exercised, during the five (5) year option period.
- h) Be responsible to obtain and pay all required business licenses and permits, as may be required for the management and operation of the CENTER, including fire clearance necessary for CONTRACTOR's performance hereunder, and pay any and all fees required for such licenses, permits, and/or clearances.

#### 6.4 Policies and Procedures

- a) Develop and maintain a policies and procedures manual for the operation of the CENTER, including but not limited to, protocols for communication with the City Liaison, and oversee the implementation of said policies and



procedures. CONTRACTOR shall update the manual as necessary and submit a copy of the manual annually for review by RAP.

- b) Establish and maintain a system to develop strong, working relationships among CENTER personnel and consumer-parents, while protecting personal rights and respecting applicable confidentiality regulations.
- c) Establish and maintain program quality assessments and participate in program evaluations by RAP, beginning six (6) months after start-up of CENTER operations and not less than annually thereafter, to ensure the quality of, and adherence to, the CENTER program.
- d) Develop, implement, and maintain admission procedures in conformance with Title 22, Division 12 of the CCR.
- e) Provide a procedure for receiving and releasing the children to parents and those authorized by the parents, to ensure the safety and security of the children.
- f) Assess and collect fees from consumer-parents.
- g) Require that all staff become certified in first aid and Cardiopulmonary Resuscitation (CPR); that both the Site Supervisor and Head Teacher complete fifteen (15) hours of Health and Safety training; and, continually renew such certification(s) and training as required by State regulations.
- h) Develop procedures for identifying any and all repair, servicing and replacement needs for items in which the CITY is responsible.
- i) Submit maintenance requests to the City Liaison in a timely manner for repairs and/or maintenance to be performed by RAP, GSD, and/or ITA staff. Such requests shall be submitted pursuant to the procedures established in coordination with the City Liaison, with follow-up notices to the City Liaison as necessary for each maintenance and/or repair request.
- j) Immediately provide RAP with copies of any reports submitted to the California State Department of Social Services or Licensing Agency.
- k) Assume the cost of all non-local telephone calls.
- l) Assume the cost of any applicable Possessory Interest tax as determined by the County of Los Angeles Tax Assessor.

#### 6.5 Emergency Policies and Procedures

In coordination with the City Liaison, CONTRACTOR shall:

- a) Establish and maintain policies and procedures to be used during emergencies and other disruptive occurrences affecting the CENTER. These policies and procedures shall supplement the Disaster and Mass Casualty Plan required by Title 22, of the CCR, Section 101174.
- b) Ensure Emergency Preparedness kits are available and maintained in each classroom. CONTRACTOR must maintain at the CENTER, the appropriate level of emergency supplies needed for the care and feeding of children and employees for a minimum of forty-eight (48) hours.
- c) Maintain a parent/guardian emergency contact list of names and telephone numbers of each child enrolled at the CENTER. This list shall also include multiple contacts for immediate family members or extended family members of each child, and all available medical and emergency contact information.

#### 6.6 Staffing

- a) Fully staff and maintain the CENTER at a 4:1 ratio in the Infant Room; a 4:1 ratio in the Toddler Room; and, a 12:1 ratio in the Preschool Room. Such ratios must be maintained at all times, except during designated naptime(s), and must be in accordance with Title 22, Division 12 of the CCR.
- b) Make provisions for overlap of staff at the CENTER between separate shifts in order to ensure continuity of care.
- c) Maintain an appropriate number of staff "floaters" for use as needed at the CENTER to address potential gaps in staff coverage.

#### 6.7 Hiring, Training and Professional Development

- a) Establish and maintain a system for the selection, supervision and training of qualified staff, including compliance with applicable Affirmative Action and Equal Employment Opportunity regulations, and American with Disabilities Act (ADA) and related guidelines and regulations.
- b) Implement a structured, systematic training and professional development program that is linked to clear goals and outcomes for staff employed and enrolled children at the CENTER.

#### 6.8 Employee Manual

CONTRACTOR shall maintain and oversee adherence to a current and updated Employee Manual specific to the CENTER, addressing employment policies and practices, employee benefits, and childcare licensing compliance updates and requirements.

#### 6.9 Removal of Key Personnel

CONTRACTOR shall provide the City Liaison with a list of the names of Key Personnel for the CENTER, including the following or similar personnel:

- a) Executive Director;
- b) Chief Operating Officer;
- c) Site Supervisor; and,
- d) Head Teacher.

CONTRACTOR shall provide the City Liaison with a notice of intent prior to the reassignment or removal of Key Personnel at the CENTER. The notice of intent should include a detailed explanation of how the CONTRACTOR will continue to perform its responsibilities and meet its obligations under the CONTRACT upon completion of the staffing change.

CONTRACTOR may provide the notice of intent to the City Liaison through electronic mail (E-mail), facsimile, or hard copy, provided to the RAP contact listed in Section 2.2 of this CONTRACT.

Reassignment or removal of Key Personnel without the prior notice of intent provided to the City Liaison can be considered a material breach of this CONTRACT and possible grounds for termination of this CONTRACT.

#### 6.10 Tuition and Fees

- a) Upon commencement of this CONTRACT, the tuition and fees shall be set forth as listed in EXHIBIT-A, attached hereto and incorporated herein by reference. Such tuition and fees shall remain in effect until any change is approved in writing by the BOARD.
- b) CONTRACTOR may submit a written request to the City Liaison for authorization to increase the tuition rate and schedule of fees on an annual basis. The written request must include justification and pertinent documents substantiating the requested increase. Any increase may not take effect until approved in writing by the BOARD.
- c) The tuition rate and schedule of fees may not be increased by more than a maximum of 3.5% per year, subject to written approval by the BOARD.

#### 6.11 Operating Budget

CONTRACTOR shall initially manage and operate the CENTER in accordance with the initial annual operating budget attached hereto and incorporated herein by reference as EXHIBIT-B, which consequently was approved by the CITY through its selection of the CONTRACTOR for award of this CONTRACT.

CONTRACTOR shall provide revised annual operating budgets in accordance with Section 6.17.1 of this CONTRACT.

6.12 Enrollment Process and Wait List Policy

In accordance with the priorities set forth below, CONTRACTOR shall administer the enrollment process, including but not limited to, the orientation of prospective families, the collection of registration, tuition, and parent fees, and the management of an enrollment and waiting list policy as follows:

- a) CITY Employees shall be given the highest priority, and every effort by the CONTRACTOR shall be made to ensure that the enrollment spaces at the CENTER are utilized by the children of CITY employees before anyone else.
- b) Consideration by the CONTRACTOR may be given to siblings of existing enrolled children.
- c) Two (2) separate wait-lists shall be maintained by the CONTRACTOR; one (1) for full-time CITY Employees and one (1) for part-time CITY employees. The full-time wait-list shall be exhausted for each category before beginning selections from the part-time wait-list.
- d) Upon achieving no vacancies in any given age group, the following wait-list protocol shall be utilized by the CONTRACTOR:
  1. Siblings of CITY employed families, which includes the Department of Water and Power (DWP);
  2. Siblings of non-CITY employed families whose children are enrolled at the CENTER;
  3. CITY employees without children's siblings enrolled at the CENTER;
  4. Children of the CENTER staff;
  5. Los Angeles CITY residents without children's siblings enrolled at CENTER;
  6. Non-Los Angeles CITY residents.
- e) CONTRACTOR shall ensure that each applicant is placed on the wait-list within their respective categories in the order of their application date.

6.13 Recruitment and Program Promotion

- a) CONTRACTOR shall develop a plan to promote the CENTER with the objective of achieving full enrollment. The plan may include participating in publicity, media, and recruitment activities to promote the CENTER. CONTRACTOR must obtain approval from the City Liaison prior to participating in such media events and promotional activities when related to the CENTER.

- b) CONTRACTOR shall promote quality programming through such activities as seeking new, creative means to improve or enhance services, fund development, improve training and community relations, and other related efforts.

#### 6.14 Parent Engagement and Participation

CONTRACTOR shall develop and implement a plan for encouraging parent engagement and participation in CENTER activities, including but not limited to:

- a) Establishing a regular parent meeting schedule;
- b) Creating and distributing a Parent Handbook;
- c) Support and participation in a Parent Advisory Committee;
- d) Establishing a formal mechanism to track and address parent concerns; and,
- e) Provide clear written directions and establish parameters for involving parents in policy and decision-making processes.

#### 6.15 Subcontracting of Services

- a) The subcontracting of childcare services provided to the children of the CENTER shall be strictly prohibited. All childcare services shall be provided by the CONTRACTOR.
- b) CONTRACTOR may provide hot lunches and enrichment programs through vendors (e.g., music, art, dance, etc.).
- c) CONTRACTOR may provide supplemental services that the CONTRACTOR deems appropriate and beneficial for the children (e.g., nutritionist, nurse, educational therapist).

#### 6.16 Nutrition

CONTRACTOR may provide the following for the CENTER:

- a) A hot lunch program and infant food program, should CONTRACTOR determine such program to be feasible.
- b) Nutritional supplements in the morning, afternoon, and/or late afternoon, with appropriate consideration given for ethnic and cultural preferences, and special diets. Parents shall reserve the right to choose for their child or children to not participate.

- c) Appropriate infant care food services for each infant in accordance with Title 22, Division 12 of the CCR, using food provided by the consumer-parent.

6.17 Reports Required from Contractor

The CENTER benefits from the use of public funds and as such, any and all information connected to the operation of the CENTER must remain open and subject to public scrutiny.

Being that the CONTRACTOR is a non-profit entity operating on City-owned property, funding and expenditures are not to be commingled with that of any business operations at other childcare and/or business locations operated by the CONTRACTOR or any other entity. The following reports must be provided by CONTRACTOR to the City Liaison:

1. **Proposed Annual Budget**

By the first day of April of each year, CONTRACTOR must provide RAP with a detailed proposed budget for the CENTER for the following fiscal year (July 1<sup>st</sup> – June 30<sup>th</sup>). The proposed budget will consist of anticipated revenue and expenditures; both with a description of budget assumptions and calculations.

2. **Annual Audited Statements**

By the first day of December of each year, CONTRACTOR must provide the City Liaison a verified and audited statement for the previous fiscal year (July 1<sup>st</sup> – June 30<sup>th</sup>).

3. **Bi-Annual Reports**

A. Bi-Annual Reports shall be due to the City Liaison on:

1. First Half Report – February 1<sup>st</sup> (for July - December);
2. Second Half Report - August 1<sup>st</sup> (for January - June);

B. The Bi-Annual Reports shall each contain the following:

1. Budget to Actual Report of the actual revenues and expenses for the affected six (6) month period, with a narrative explanation of variances from the budgeted item.
2. An Enrollment List by classroom assignment that includes the child's name, parent's name, attendance status (e.g., full-time, part-time), and attendance for the month (number of days attended).

3. Wait-Lists, one for full time City employees and one for part-time City employees, which include the date that the child/children was/were added to the waiting list, the child's and parent's name(s), and potential future classroom assignment.
4. Staffing List that includes each employee's name, title, classroom or work-assignment, and work schedule (e.g., full-time or part-time). The Staffing List should identify major changes in work assignment, including reassignments, removals, and terminations.

BOARD reserves the right to require the CONTRACTOR to provide the reports in a manner acceptable to RAP.

#### 6.18 Contractor Records

- a) CONTRACTOR must maintain and preserve books of accounts and records of all financial transactions related to the operation of the CENTER, including an accurate and detailed account of all monies received and expended. At any time during the term of this CONTRACT, and/or within three (3) years following the termination of the CONTRACT, the books and records related to the operation and management of the CENTER shall be subject to examination and audit by the CITY.
- b) CONTRACTOR must establish and maintain separate accounts and receipts of the following: 1) Tuition and parent fee revenues; 2) parent donation and fund-raising revenues; and, 3) any other revenue(s) or funds received for, or on behalf of, the CENTER.
- c) CONTRACTOR shall not commingle CENTER funds and/or financial accounts or expenditures, with that of any other CONTRACTOR business operations or that of any other entity.

#### 6.19 Notices from / by Contractor

CONTRACTOR must provide timely and advanced notice to the City Liaison of all important matters related to the operation of the CENTER, including but not limited to:

- a) Special CENTER activities and events for the upcoming month that are not already included in the calendar of activities;
- b) Parent meetings and parent-related activities for the upcoming month that are not already on the calendar of activities;
- c) Notice of parent issues or concerns, and plans to address such issues or concerns;

- d) Licensing and regulatory activity, including notification of site visits and other regulatory activities;
- e) Pending issues that may require CITY intervention or action.

Notices must be sent within ten (10) working days of CONTRACTOR receiving the subject and/or information. For items (d) and (e) of this Section 6.19, CONTRACTOR must notify CITY Liaison immediately within forty-eight (48) hours of becoming aware.

#### 6.20 Contractor Equipment

CONTRACTOR shall provide and maintain standard operating supplies and equipment not provided by CITY. During the term of this CONTRACT, operating supplies and equipment purchased by the CONTRACTOR with its own funds shall remain as property and responsibility of the CONTRACTOR.

### **SECTION 7 - CITY RESPONSIBILITIES**

The following are City of Los Angeles responsibilities to the CENTER:

#### 7.1 The Department of General Services (GSD)

- a) During the TERM of this CONTRACT, GSD will provide the facility space within City Hall South allocated for the operation of the CENTER pursuant to the terms and conditions of this CONTRACT, including parking, as described in Section 4, at no cost to the CONTRACTOR.
- b) GSD will provide some equipment, as described herein, for initial use at CENTER, consisting of a washer, dryer, refrigerator, and stove.

CONTRACTOR shall be responsible for any required equipment replacement upon expiration of the useful life of such equipment, as determined in the sole opinion of the GSD General Manager. CONTRACTOR shall make arrangements with the City Liaison for the removal and disposal of said equipment prior to discarding upon the expiration of the useful life.

- c) GSD will provide basic upkeep and ongoing building maintenance of the CENTER, including plumbing, ceiling and floors, pest extermination, door and access, air conditioning and heating systems, electrical, carpet, roof, and window repair.
- d) GSD will provide scheduled custodial service for the interior of the CENTER. GSD may assist in major spills and accidents on a case-by-case basis. CONTRACTOR will be responsible for spills and clean-ups throughout the day.



- e) GSD will maintain restrooms, including dispensers (toilet paper, paper towels, and soap).
- f) GSD will assume the cost of water, gas, and electricity.
- g) GSD will maintain, repair, and if necessary, replace the 24-Hour key card security alarm system.

#### 7.2 The Department of Information Technology Agency (ITA)

- a) ITA will assume the cost of local telephone calls for the CENTER. CONTRACTOR must pay for and make arrangements with the City Liaison for authorized access to make non-local telephone calls.
- b) ITA will maintain, repair, and if necessary, replace the existing telephone lines and related equipment. Additional telephones and/or telephone lines will require funding by the CONTRACTOR.
- c) CITY will not provide, maintain, support, or assume any costs for Internet connection or data storage.

#### 7.3 The Department of Recreation and Parks (RAP)

- a) RAP will provide scheduled maintenance of CENTER exterior grounds, including the children's play area(s).
- b) RAP is the contract administrator for this CONTRACT, with any needed and/or required activity coordination, communication(s), verification(s), reporting, and/or approval(s) administered through the City Liaison.

#### 7.4 CITY Liaison

CITY will designate a representative to act as the CITY's Liaison for the CENTER (See Section 2.2). The City Liaison shall:

- a) Monitor and address CONTRACTOR compliance with the requirements and obligations of this CONTRACT;
- b) Receive and review bi-annual and annual reports, as stipulated herein;
- c) Conduct performance and compliance reviews, including announced and unannounced site visits to the CENTER to observe operations and compliance matters, and will address any identified issues;
- d) Receive and direct maintenance and repairs requests from the CONTRACTOR for communication to and coordination with the applicable City agency (RAP, GSD, or ITA);

- e) Coordinate activities with other CITY departments as needed;

#### 7.5 Los Angeles Police Department (LAPD)

LAPD will maintain, repair, and if necessary replace the entrance monitoring cameras at the front door, back door, and play area.

### SECTION 8 – PROGRAM AND COMPLIANCE EVALUATION

CITY will conduct a program evaluation to determine ongoing compliance with the terms and conditions of this CONTRACT. This evaluation will address program operations, allowing for review and action on any proposed program modification, such as but not limited to, proposed and/or approved changes in tuition rates and schedule of fees, and/or program and services.

Should deficiencies or areas of non-compliance be identified by CITY, CONTRACTOR shall be allowed sufficient time to take corrective action, as determined by the applicable City agency or BOARD. Failure to correct deficiencies or non-compliance matters within an established time-frame can result in the termination of this CONTRACT, consistent with the default and termination provisions in Section 8 herein.

### SECTION 9 – DEFAULT AND TERMINATION

#### 9.1 City's Right to Terminate

##### a) Termination for Cause

The City Liaison will conduct a regular review of CONTRACTOR operations at CENTER and performance of CONTRACT, including programs, operations, and regular evaluations to monitor compliance with CONTRACT. Should deficiencies or non-compliance items be identified by CITY, CITY shall provide written notification of such deficiencies to the CONTRACTOR and allow CONTRACTOR fifteen (15) calendar days from the date of notice of such deficiencies, to cure such default. CONTRACTOR may request additional time if necessary, subject to approval by the GM, and/or BOARD if required. CITY shall reserve the right to require a sooner correction of deficiencies if such deficiency is related to matters of health, safety, or licensing.

If the CONTRACTOR fails to cure the default within the prescribed time frame provided by the CITY, CITY may terminate this CONTRACT for cause by providing CONTRACTOR with a written notice of termination. In the event that the CONTRACTOR commences to cure the default after the prescribed time-frame provided by the CITY, CITY shall have the sole authority to determine if CONTRACTOR is acting diligently to pursue the

cure of the deficiencies and/or non-compliance items, and hold the CONTRACTOR in default.

In the event there is cause for termination of this CONTRACT, CONTRACTOR agrees to peacefully vacate the CENTER on or before the effective date of termination, and must leave CENTER in the same, or better condition, in which it was found at the beginning of the CONTRACT TERM, with the exception of normal wear and tear.

b) Termination for Serious Threat to Health or Safety

Notwithstanding Section 9 of this CONTRACT (Default and Termination), particularly Section 9.1.a, should CITY reasonably identify a deficiency or area of non-compliance, and determines that such item poses a serious threat to the health and/or safety of the activities or persons within the CENTER (children, parents, and/or employees), the CITY shall immediately notify the CONTRACTOR in writing, and CITY, at the sole discretion and opinion of the RAP General Manager, may terminate this CONTRACT with two (2) calendar days advanced written notice to the CONTRACTOR, without any risk of liability to CITY.

In the event of termination for serious threat to health and/or safety, the CONTRACTOR must vacate the CENTER on or before the effective date of termination and must leave CENTER in the same or better condition in which it was found at the beginning of CONTRACT TERM, with the exception of normal wear and tear.

c) Termination for Convenience

The BOARD may terminate this CONTRACT for CITY's convenience, due to the CITY's inability to financially supplement CENTER operations through RAP, GSD, and/or ITA, as provided in Section 7 of this CONTRACT.

BOARD shall notify the CONTRACTOR in writing of such inability to continue the financial support of CENTER operations. If CONTRACTOR elects to fund such services provided by RAP, GSD and/or ITA, CONTRACTOR shall propose such action to the City Liaison for consideration by the BOARD. Any BOARD acceptance and/or approval of such a proposal shall be communicated by RAP to the CONTRACTOR in writing.

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## 9.2 Contractor's Right to Terminate

CONTRACTOR may terminate this CONTRACT for cause with sixty (60) calendar days advanced written notice to RAP. Such written notice must include an explicit explanation of the cause for termination.

In the event of the CONTRACTOR's termination for cause, CONTRACTOR must vacate the CENTER on or before the effective date of such termination and must leave CENTER in the same or better condition in which it was found at the beginning of CONTRACT TERM, with the exception of normal wear and tear.

## 9.3 Bankruptcy, Credit Arrangements, Attachments, Tax Liens

The occurrence of any one or more of the following events shall constitute a material default and breach of this CONTRACT by CONTRACTOR:

- a) The CONTRACTOR's general assignment or general arrangement, for the benefit of creditors;
- b) The filing by or against the CONTRACTOR of a petition to have the CONTRACTOR adjudged a bankruptcy or a petition for reorganization, or arrangement under any law relating to bankruptcy;
- c) The appointment of a trustee or receiver to take possession of substantially all of CONTRACTOR's assets, including the CENTER, or of the CONTRACTOR's interest in this CONTRACT;
- d) Any attachment where such seizure is not discharged within thirty (30) days; and/or,
- e) The filing of any tax lien against the CONTRACTOR.

## SECTION 10 - LIABILITY

### 10.1 Indemnification:

Except for the active negligence or willful misconduct of CITY or any of its boards, officers, agents, employees, assigns, or successors in interest, CONTRACTOR undertakes and agrees to defend, indemnify and hold harmless CITY and any and all of CITY's Officers, Agents, and Employees from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including CONTRACTOR's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of, or incident to, the performance of this CONTRACT on the part of the CONTRACTOR, its officers, agents, employees, or sub-contractor of any tier.

10.2 Insurance:

## A. General Conditions:

CONTRACTOR shall obtain and keep in force an insurance policy which covers all operations conducted at the CENTER pursuant to the terms and conditions of this CONTRACT. Such insurance policy must also insure the City of Los Angeles, as an additional insured, and comply with the Office of the Administrative Officer's insurance requirements, as described in the Insurance Requirements sheet (Form Gen. 146 – Rev. 09/06), attached hereto and incorporated herein by reference as Exhibit-C. Pursuant to the Instructions for Submitting Proof of Insurance to the City, attached hereto and incorporated herein as Exhibit-D, such proof of insurance shall be submitted to CITY via the Office of the City Administrative Officer, Risk Management website; [www.track4la.lacity.org](http://www.track4la.lacity.org).

The RAP GENERAL MANAGER, based upon advice of the City Risk Management, may increase or decrease the amounts of insurance coverage required herein, by providing ninety (90) calendar days advanced written notice to the CONTRACTOR.

Without limiting CONTRACTOR'S indemnification of CITY, CONTRACTOR shall provide and maintain at its own expense during the entire term of this CONTRACT, insurance containing the coverage limits no less than the amounts and types listed on Exhibit-C, covering its operations hereunder in accordance with the following conditions:

## 1. Additional Insured:

CITY, its Officers, Agents and Employees shall be included as additional insureds in all liability insurance policies except: Workers' Compensation, Employer's Liability, Professional Errors and Omissions and second-party Legal Liability coverages (such as Fire Legal). CITY shall be named "Loss Payee as Its Interest May Appear" in all required property, fidelity and/or surety coverage(s).

## 2. Insurance Requirements:

All insurance required hereunder shall conform to CITY requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Attorney and/or Office of the City Administrative Officer (CAO) Risk Management Office, for its review in accordance with Los Angeles City Administrative Code Sections 11.47 through 11.56.

3. Primary Insurance:  
Such insurance shall be primary with respect to any insurance maintained by the CITY and shall not call on CITY'S insurance program for contributions.
4. Admitted Carrier / Licensed California Broker:  
Such insurance shall be obtained from brokers or carriers authorized to transact insurance business in California.
5. 30-Day Notice:  
With respect to the interest(s) of the CITY, such insurance shall not be canceled, materially reduced in coverage or limits or non-renewed except after thirty (30) days written notice by receipted delivery (e.g. certified mail-return receipt, courier et.) has been given to the Office of the CAO Risk Management Office.
6. Prior Approval:  
Evidence of insurance shall be submitted to and approved by the Office of the CAO Risk Management Office prior to commencement of any work or tenancy under this CONTRACT.
7. Severability of Interest:  
Except with respect to the insurance company's limits of liability, each liability insurance policy shall apply separately to each insured against whom claim or suit is brought. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
8. Acceptable Evidence:  
CONTRACTOR shall submit acceptable evidence of insurance for approval in accordance with Exhibit-D of this CONTRACT.
9. Renewal:  
Once the insurance has been approved by the City Attorney and/or CAO Risk Management Office, evidence of renewal of an expiring policy may be submitted pursuant to the instructions on Exhibit-D. If the policy or the carrier has changed, new evidence of insurance must be submitted in accordance with Exhibits C and D.
10. Aggregate Limits/Blanket Coverage:  
If any of the required insurance coverages contain aggregate limits, or apply to other operations or tenancy of the CONTRACTOR separate of this CONTRACT, CONTRACTOR shall provide the CITY with prompt written notice of any incident, occurrence, claim, settlement or judgment against such insurance, which in CONTRACTOR'S best judgment will diminish the protection such insurance affords the CITY. Further,

CONTRACTOR shall immediately take all reasonable and available steps to restore such aggregate limits or shall provide other insurance protection for such aggregate limits.

B. Self-Insurance and Self-Insured Retentions:

Self-insurance programs and self-insured retentions in insurance policies are subject to separate approval by the CITY, upon review of evidence of CONTRACTOR'S financial capacity to respond. Additionally, such programs or retentions must provide the CITY with at least the same protections from liability and defense of suits as would be afforded by first-dollar insurance.

C. Modification of Coverage:

CITY reserves the right at any time during the term of this CONTRACT to change the amounts and types of insurance required hereunder by giving CONTRACTOR ninety (90) days advance written notice of such change.

D. Availability/Failure to Procure Insurance:

The required coverages and limits are subject to availability on the open market at reasonable cost as determined by the CITY. Non-availability or non-affordability must be documented by a letter from the CONTRACTOR'S insurance broker or agent, indicating good faith insurance quotes were sought out and showing at minimum the names of the insurance carriers and the declinations or quotations received from each.

Within the foregoing constraints, CONTRACTOR'S failure to procure or maintain required insurance or a self-insurance program shall constitute a material breach of this CONTRACT, under which the RAP GENERAL MANAGER may immediately terminate or suspend this CONTRACT, or at its discretion, CITY may procure or renew such insurance to protect CITY'S interests and pay any and all premiums in connection therewith, and recover all monies so paid from the CONTRACTOR.

E. Underlying Insurance:

CONTRACTOR shall be responsible for requiring indemnification and insurance as it deems appropriate from its employees receiving mileage allowance, consultants, agents and/or subcontractor(s), if any, to protect CONTRACTOR's and CITY's interest(s), and for ensuring that such persons comply with applicable insurance statutes. CONTRACTOR is encouraged to seek professional advice in this regard.

F. Workers' Compensation:

CONTRACTOR hereby certifies that it is aware of the provisions of Section 3700 et seq., of the California Labor Code, which requires every employer to be insured against liability for Workers' Compensation, or to undertake self-insurance in accordance with the provisions of that Code, and that it will

comply with such provisions at all such times as they may apply during the performance of this CONTRACT.

Any breach of this condition for insurance requirements can be considered a material breach of this CONTRACT.

**SECTION 11 – WAIVER OF CLAIMS**

The PARTIES to this CONTRACT hereby waive any claim against the other PARTY and its officers, agents or employees, for damages or loss caused by any suit or proceedings directly or indirectly challenging the validity of this CONTRACT, or any part thereof, or by any judgment or award in any suit or proceeding declaring this CONTRACT null, void, or voidable, or delaying the same or any part thereof from being carried out.

**SECTION 12 – INCORPORATION OF STANDARD PROVISIONS**

CONTRACTOR shall comply with the Standard Provisions for City Contracts (Rev. 03/09), attached hereto and incorporated herein by reference as EXHIBIT-E and thereby made part of this CONTRACT.

**SECTION 13 – ENTIRE CONTRACT**

This CONTRACT contains the full and complete contract between the PARTIES. No verbal agreement or conversation between CONTRACTOR and any officer or employee of the CITY shall affect or modify any of the terms and/or conditions of this CONTRACT. No modifications of this CONTRACT shall be valid or effective unless evidenced by a written agreement executed by both PARTIES.

**SECTION 14 – EXHIBITS**

This CONTRACT and incorporated documents represent the entire integrated agreement of the PARTIES and supersedes all prior written or oral representations, discussions, and agreements. The following Exhibits are to be attached to and made part of this CONTRACT by reference:

- A. Initial Tuition Rate and Schedule of Fees
- B. Initial Operating Budget
- C. Insurance Requirements
- D. Instructions for Submitting Proof of Insurance
- E. Standard Provisions for City Contracts (Rev. 03/09)

In the event of any inconsistency between any of the provisions of this CONTRACT and/or Exhibits attached hereto, the inconsistency shall be resolved by giving



precedence in the following order: 1) This CONTRACT exclusive of attachments; 2) Exhibit E; 3) Exhibit D; 4) Exhibit C; 5) Exhibit A; and, then 5) Exhibit B.

**SECTION 15 – RATIFICATION**

At the request of RAP, and because of the need therefor, CONTRACTOR began performance of the responsibilities contained herein prior to execution of this CONTRACT, which were required prior to the execution hereof. By execution of this CONTRACT, RAP hereby accepts such service(s) subject to all the terms, covenants, and conditions of this CONTRACT, and ratifies its agreement with CONTRACTOR for such services(s).

**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, the PARTIES have executed this Operating Agreement as of the day and year first above written.

CITY OF LOS ANGELES, a municipal corporation, acting by and through its BOARD OF RECREATION AND PARK COMMISSIONERS

MOUNT WASHINGTON PRESCHOOL AND CHILDCARE CENTER, INC., a California nonprofit corporation

By: *Agnes Paterson*  
President

By: *Patricia Griffith*  
Patricia Griffith

Date: JANUARY 6, 2016

Title: Board President, MWPCAC

By: *Amad B...*  
Secretary

Date: Dec. 14 | 2015

Date: JANUARY 6, 2016

By: *Susan Phifer*  
Susan Phifer

APPROVED AS TO FORM:

Title: Secretary

MICHAEL N. FEUER, City Attorney

By: *Deij*  
Deputy City Attorney

Date: 12-14-15

Date: Jan 6, 2016

EXHIBIT-A

Initial Tuition Rates and Schedule of Fees

**JOY PICUS CHILD DEVELOPMENT CENTER**

2015 - 2016 Monthly Tuition Rates

Effective: July 1, 2015

Waiting List Fee: To be paid at the time application is turned in (non-refundable) \$ 73.00  
 Enrollment Fee: To be paid at the time of enrollment: \$ 125.00

Infants - Ratio 3:1	City Rate	Community Rate	DWP Rate
5 days per week	\$ 1,200.00	\$ 1,242.00	\$ 1,048.33
4 days per week	\$ 1,069.00	\$ 1,109.00	\$ 947.66
3 days per week	\$ 807.00	\$ 836.00	\$ 716.00
2 days per week	\$ 541.00	\$ 560.00	\$ 480.33
Extra day of care (when available)	\$ 73.00	\$ 73.00	\$ 73.00

Toddlers - Ratio 4:1	City Rate	Community Rate	DWP Rate
5 days per week	\$ 1,177.00	\$ 1,218.00	\$ 1,038.33
4 days per week	\$ 1,049.00	\$ 1,087.00	\$ 938.06
3 days per week	\$ 790.00	\$ 819.00	\$ 706.80
2 days per week	\$ 529.00	\$ 549.00	\$ 473.53
Extra day of care (when available)	\$ 73.00	\$ 73.00	\$ 73.00

Preschool I - Ratio 6:1	City Rate	Community Rate	DWP Rate
5 days per week	\$ 1,039.00	\$ 1,099.00	\$ 926.33
4 days per week	\$ 910.00	\$ 955.00	\$ 819.66
3 days per week	\$ 704.00	\$ 737.00	\$ 636.40
2 days per week	\$ 496.00	\$ 529.00	\$ 450.93
Extra day of care (when available)	\$ 73.00	\$ 73.00	\$ 73.00

Preschool II - Ratio 8:1	City Rate	Community Rate	DWP Rate
5 days per week	\$ 884.00	\$ 975.00	\$ 771.33
4 days per week	\$ 806.00	\$ 857.00	\$ 715.86
3 days per week	\$ 626.00	\$ 672.00	\$ 558.40
2 days per week	\$ 441.00	\$ 476.00	\$ 395.93
Extra day of care (when available)	\$ 73.00	\$ 73.00	\$ 73.00

Hours of Operation: 6:30AM - 6:00PM Monday through Friday

Holidays/Closure Days: Closed all City Holidays & other days per schedule provided annually

- Tuition is due by the first (1st) of every month.
- If the 1st is on a holiday or weekend, then tuition is due on the NEXT business day.
- A \$10.00 per day late fee will be applied to tuition received after the 1st of the month.
- A \$1.00 per minute late pick-up fee will be applied for late pick-up after 6:00PM.
- There are no tuition credits or adjustments for illness, holidays, vacations or circumstances beyond our control.

PLEASE MAKE CHECKS PAYABLE TO: MWPCCC

## EXHIBIT-B

Fiscal Year 2015-16 Operating Budget

**MOUNT WASHINGTON PRESCHOOL AND CHILD CARE CENTER, INC.  
 JOY PICUS CHILD DEVELOPMENT CENTER  
 BUDGET 2015 - 2016**

	<u>JOY PICUS</u> <u>7/1/2015 - 6/30/2016</u>
<b>Income</b>	
IN KIND CONTRIBUTIONS	119,736.00
FUNDRAISING	3,000.00
TUITION REVENUE	883,240.52
FAMILY DISCOUNTS	-10,982.94
STAFF DISCOUNTS	0.00
WAIT LIST FEE	5,475.00
REGISTRATION/APPLICATION FEE	3,750.00
NSF FEE REVENUE	125.00
<b>TOTAL INCOME</b>	<u>1,004,343.58</u>
<b>Expense</b>	
PROGRAM EXPENSES	37,166.45
WAGES AND TAXES	698,005.55
EMPLOYEE BENEFITS	22,858.12
EMPLOYEE TRAVEL & TRAINING EXP	1,500.00
BUSINESS EXPENSES	19,938.22
OCCUPANCY EXPENSES	13,380.00
DEPRECIATION & AMORTIZATION EXP	636.25
IN KIND EXPENSE	119,736.00
SHARED COMMON COSTS	34,436.60
SHARED MANAGEMENT AND ADMINISTRATIVE COSTS	54,549.47
<b>TOTAL EXPENSE</b>	<u>1,002,206.66</u>
<b>NET INCOME</b>	<u>2,136.92</u>

EXHIBIT-C

Form Geo 146 (Rev. 3/09)

Required Insurance and Minimum Limits

Name: Mount Washington Preschool and Child Care Center, Inc.

Date: 02/26/2015

Agreement/Reference: Joy Picus Child Care Center Operations Contract

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL. If the total per occurrence equals or exceeds the CSL amount.

Limits

Workers' Compensation - Workers' Compensation (WC) and Employer's Liability (EL)

WC Statutory
EL \$1,000,000

Waiver of Subrogation in favor of City

Longshore & Harbor Workers
Jones Act

General Liability - General Liability, including Sexual Misconduct

\$1,000,000

Products/Completed Operations

Sexual Misconduct

Fite Legal Liability

Automobile Liability (for any and all vehicles used for this contract, other than commuting to/from work)

Professional Liability (Errors and Omissions)

Discovery Period 12 Months After Completion of Work or Date of Termination

Property Insurance (to cover replacement cost of building - as determined by insurance company)

All Risk Coverage

Boiler and Machinery

Flood

Builder's Risk

Earthquake

Pollution Liability

Surety Bonds - Performance and Payment (Labor and Materials) Bonds

100% of the contract price

Crime Insurance

Other: 1) If a contractor has no employees and decides to not cover herself/himself for workers' compensation, please complete the form entitled "Request for Waiver of Workers' Compensation Insurance Requirements" located at http://caofy.org/caof/riak/InsuranceForms.htm
2) In the absence of imposed auto liability requirements, all contractors using vehicles during the course of their contract must adhere to the financial responsibility laws of the State of California.

## EXHIBIT-D

Instructions for Providing Proof of Insurance

Form Gen. 133 (Rev. 05/12)

**CITY OF LOS ANGELES  
INSTRUCTIONS AND INFORMATION  
ON COMPLYING WITH CITY INSURANCE REQUIREMENTS  
(Share this information with your insurance agent or broker)**

1. **Agreement/Reference** All evidence of insurance must identify the nature of your business with the CITY. Clearly show any assigned number of a bid, contract, lease, permit, etc. or give the project name and the job site or street address to ensure that your submission will be properly credited. Provide the **types of coverage and minimum dollar amounts** specified on the Required Insurance and Minimum Limits sheet (Form Gen. 146) included in your CITY documents.
2. **When to submit** Normally, no work may begin until a CITY insurance certificate approval number ("CA number") has been obtained, so insurance documents should be submitted as early as practicable. For **As-needed Contracts**, insurance need not be submitted until a specific job has been awarded. **Design Professionals** coverage for new construction work may be submitted simultaneously with final plans and drawings, but before construction commences.
3. **Acceptable Evidence and Approval** Electronic submission is the best method of submitting your documents. **Track4LA®** is the CITY's online insurance compliance system and is designed to make the experience of submitting and retrieving insurance information quick and easy. The system is designed to be used by insurance brokers and agents as they submit client insurance certificates directly to the City. It uses the standard insurance industry form known as the **ACORD 25 Certificate of Liability Insurance** in electronic format – the CITY is a licensed redistributor of ACORD forms. **Track4LA®** advantages include standardized, universally accepted forms, paperless approval transactions (24 hours, 7 days per week), and security checks and balances. The easiest and quickest way to obtain approval of your insurance is to have your insurance broker or agent access **Track4LA®** at <http://track4la.lacity.org> and follow the instructions to register and submit the appropriate proof of insurance on your behalf. Insurance industry certificates other than the ACORD 25 that have been approved by the State of California may be accepted, however **submissions other than through Track4LA® will significantly delay the insurance approval process as documents will have to be manually processed.** All Certificates must provide a thirty (30) days' cancellation notice provision (ten (10) days for non-payment of premium) AND an Additional Insured Endorsement naming the CITY an additional insured completed by your insurance company or its designee. If the policy includes an automatic or blanket additional insured endorsement, the Certificate must state the CITY is an automatic or blanket additional insured. An endorsement naming the CITY an Additional Named Insured and Loss Payee as Its Interests May Appear is required on property policies. All evidence of insurance must be authorized by a person with authority to bind coverage, whether that is the authorized agent/broker or insurance underwriter. Completed **Insurance Industry Certificates other than ACORD 25 Certificates** are sent electronically to [CAO.insurance.bonds@lacity.org](mailto:CAO.insurance.bonds@lacity.org).

Additional Insured Endorsements DO NOT apply to the following:

Indication of compliance with statute, such as Workers' Compensation Law.

Professional Liability insurance.

Verification of approved insurance and bonds may be obtained by checking **Track4LA®**, the CITY's online insurance compliance system, at <http://track4la.lacity.org>.

4. **Renewal** When an existing policy is renewed, have your insurance broker or agent submit a new Acord 25 Certificate or edit the existing Acord 25 Certificate through **Track4LA**® at <http://track4la.lacity.org>.
5. **Alternative Programs/Self-Insurance** Risk financing mechanisms such as Risk Retention Groups, Risk Purchasing Groups, off-shore carriers, captive insurance programs and self-insurance programs are subject to separate approval after the CITY has reviewed the relevant audited financial statements. To initiate a review of your program, you should complete the Applicant's Declaration of Self Insurance form (<http://cao.lacity.org/risk/InsuranceForms.htm>) to the Office of the City Administrative Officer, Risk Management for consideration.
6. **General Liability** insurance covering your operations (and products, where applicable) is required whenever the CITY is at risk of third-party claims which may arise out of your work or your presence or special event on City premises. **Sexual Misconduct** coverage is a required coverage when the work performed involves minors. **Fire Legal Liability** is required for persons occupying a portion of CITY premises. Information on two CITY insurance programs, the SPARTA program, an optional source of low-cost insurance which meets the most minimum requirements, and the Special Events Liability Insurance Program, which provides liability coverage for short-term special events on CITY premises or streets, is available at ([www.2sparta.com](http://www.2sparta.com)), or by calling (800) 420-0555.
7. **Automobile Liability** insurance is required only when vehicles are used in performing the work of your Contract or when they are driven off-road on CITY premises; it is not required for simple commuting unless CITY is paying mileage. However, compliance with California law requiring auto liability insurance is a contractual requirement.
8. **Errors and Omissions** coverage will be specified on a project-by-project basis if you are working as a licensed or other professional. The length of the claims discovery period required will vary with the circumstances of the individual job.
9. **Workers' Compensation and Employer's Liability** insurance are not required for single-person contractors. However, under state law these coverages (or a copy of the state's Consent To Self Insure) must be provided if you have any employees at any time during the period of this contract. Contractors with no employees must complete a Request for Waiver of Workers' Compensation Insurance Requirement (<http://cao.lacity.org/risk/InsuranceForms.htm>). A **Waiver of Subrogation** on the coverage is required only for jobs where your employees are working on CITY premises under hazardous conditions, e.g., uneven terrain, scaffolding, caustic chemicals, toxic materials, power tools, etc. The Waiver of Subrogation waives the insurer's right to recover (from the CITY) any workers' compensation paid to an injured employee of the contractor.
10. **Property Insurance** is required for persons having exclusive use of premises or equipment owned or controlled by the CITY. **Builder's Risk/Course of Construction** is required during construction projects and should include building materials in transit and stored at the project site.
11. **Surety** coverage may be required to guarantee performance of work and payment to vendors and suppliers. A **Crime Policy** may be required to handle CITY funds or securities, and under certain other conditions. **Specialty coverages** may be needed for certain operations. For assistance in obtaining the CITY required bid, performance and payment surety bonds, please see the City of Los Angeles Bond Assistance Program website address at <http://cao.lacity.org/risk/BondAssistanceProgram.pdf> or call (213) 258-3000 for more information.

EXHIBIT-E

Standard Provisions for City Contracts (Rev. 03/09)

[Document Follows This Page]



STANDARD PROVISIONS FOR CITY CONTRACTS

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## STANDARD PROVISIONS FOR CITY CONTRACTS

### PSC-1. CONSTRUCTION OF PROVISIONS AND TITLES HEREIN

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" herein in this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one **CONTRACTOR** herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

### PSC-2. NUMBER OF ORIGINALS

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the **CITY'S** option, one or more additional original texts of this Contract may also be retained by the City.

### PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Contract.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of the Contract shall not be affected thereby.

and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

**PSC-9. WAIVER**

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

**PSC-10. TERMINATION**

**A. TERMINATION FOR CONVENIENCE**

The **CITY** may terminate this Contract for the **CITY'S** convenience at any time by giving **CONTRACTOR** thirty days written notice thereof. Upon receipt of said notice, **CONTRACTOR** shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The **CITY** shall pay **CONTRACTOR** its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by **CONTRACTOR** to affect such termination. Thereafter, **CONTRACTOR** shall have no further claims against the **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon the date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

**B. TERMINATION FOR BREACH OF CONTRACT**

1. Except for excusable delays as provided in PSC-7, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, the **CITY** may give **CONTRACTOR** written notice of such default. If **CONTRACTOR** does not cure such default or provide a plan to cure such default which is acceptable to the **CITY** within the time permitted by the **CITY**, then the **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then the **CITY** may immediately terminate this Contract.
3. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates the

this Contract. The CITY has the right to approve **CONTRACTOR'S** subcontractors, and the CITY reserves the right to request replacement of subcontractors. The CITY does not have any obligation to pay **CONTRACTOR'S** subcontractors, and nothing herein creates any privity between the CITY and the subcontractors.

**PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION**

**CONTRACTOR** may not, unless it has first obtained the written permission of the CITY:

- A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

**PSC-14. PERMITS**

**CONTRACTOR** and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance hereunder and shall pay any fees required therefor. **CONTRACTOR** certifies to immediately notify the CITY of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

**PSC-15. CLAIMS FOR LABOR AND MATERIALS**

**CONTRACTOR** shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any CITY property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), against **CONTRACTOR'S** rights to payments hereunder, or against the CITY, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**PSC-16. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED**

If applicable, **CONTRACTOR** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the CITY'S Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this Contract, **CONTRACTOR** shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

**PSC- 17. RETENTION OF RECORDS, AUDIT AND REPORTS**

**CONTRACTOR** shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form, in accordance with

and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information right (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its subcontractors of any tier, in performing the work under this Contract; or (2) as a result of the **CITY'S** actual or intended use of any Work Product furnished by **CONTRACTOR**, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-21 shall survive expiration or termination of this Contract.

#### **PSC-22. INTELLECTUAL PROPERTY WARRANTY**

**CONTRACTOR** represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patents, copyrights, trademarks, trade secrets, right of publicity and proprietary information.

#### **PSC-23. OWNERSHIP AND LICENSE**

Unless otherwise provided for herein, all Work Products originated and prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract shall be and remain the exclusive property of the **CITY** for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas matters and combinations thereof, and all forms of intellectual property. **CONTRACTOR** hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by **CONTRACTOR** under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

For all Work Products delivered to the **CITY** that are not originated or prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract, **CONTRACTOR** hereby grants a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

### **PSC-28. EQUAL EMPLOYMENT PRACTICES**

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **CONTRACTOR** and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Hiring practices;
  2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  3. Training and promotional opportunities; and
  4. Reasonable accommodations for persons with disabilities.
- L. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR'S** Contract with the **CITY**.

#### **PSC-29. AFFIRMATIVE ACTION PROGRAM**

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
  2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  3. **CONTRACTOR** shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to

- (\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a **CITY** contract.
- H. Notwithstanding any other provisions of a **CITY** contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in **CITY** contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. **CONTRACTOR** shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the **CITY**. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, **CONTRACTOR** may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, **CONTRACTOR** must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
  2. **CONTRACTOR** may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the **CITY** with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and **CONTRACTOR**.



- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the **CITY** and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the **CITY**.

**PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS**

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, **CONTRACTOR** will fully comply with all applicable State and Federal employment reporting requirements for **CONTRACTOR'S** employees. **CONTRACTOR** shall also certify (1) that the Principal Owner(s) of **CONTRACTOR** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that **CONTRACTOR** will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, *et seq.* of the California Family Code; and (3) that **CONTRACTOR** will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to obtain compliance of its subcontractors shall constitute a default by **CONTRACTOR** under this Contract, subjecting this Contract to termination where such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

**CONTRACTOR** certifies that, to the best of its knowledge, it 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 Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

5. **CONTRACTOR** shall comply with all rules, regulations and policies promulgated by the **CITY'S** Designated Administrative Agency which may be amended from time to time.
- B. Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR** has violated provisions of either the LWO or the SCWRO, or both.
- C. Where under the LWO Section 10.37.6(d), the **CITY'S** Designated Administrative Agency has determined (a) that **CONTRACTOR** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the **CITY** in such circumstances may impound monies otherwise due **CONTRACTOR** in accordance with the following procedures. Impoundment shall mean that from monies due **CONTRACTOR**, **CITY** may deduct the amount determined to be due and owing by **CONTRACTOR** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether **CONTRACTOR** is to continue work following an impoundment shall remain in the sole discretion of the **CITY**. **CONTRACTOR** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.
- D. **CONTRACTOR** shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). **CONTRACTOR** shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from **CONTRACTOR**.

**PSC- 32. AMERICANS WITH DISABILITIES ACT**

**CONTRACTOR** hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations. **CONTRACTOR** will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. **CONTRACTOR** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by **CONTRACTOR**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

- A. During the performance of the Contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** will comply with the EBO.
- B. The failure of **CONTRACTOR** to comply with the EBO will be deemed to be a material breach of this Contract by the **CITY**.
- C. If **CONTRACTOR** fails to comply with the EBO the **CITY** may cancel, terminate or suspend this Contract, in whole or in part, and all monies due or to become due under this Contract may be retained by the **CITY**. The **CITY** may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.
- E. If the **CITY'S** Designated Administrative Agency determines that a **CONTRACTOR** has set up or used its contracting entity for the purpose of evading the intent of the EBO, the **CITY** may terminate the Contract. Violation of this provision may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

**CONTRACTOR** shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

"During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles' Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922."

**PSC 36. SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this Contract.

**Exhibit 1 (Continued)  
Required Insurance and Minimum Limits**

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Agreement/Reference: \_\_\_\_\_

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amount shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

Limits

\_\_\_ **Workers' Compensation – Workers' Compensation (WC) and Employer's Liability (EL)** WC Statutory  
EL \_\_\_\_\_

Waiver of Subrogation in favor of City  Longshore & Harbor Workers

Jones Act

\_\_\_ **General Liability** \_\_\_\_\_

Products/Completed Operations  Sexual Misconduct \_\_\_\_\_

Fire Legal Liability \_\_\_\_\_

\_\_\_\_\_

\_\_\_ **Automobile Liability** (for any and all vehicles used for this Contract, other than commuting to/from work) \_\_\_\_\_

\_\_\_ **Professional Liability** (Errors and Omissions) \_\_\_\_\_

\_\_\_ **Property Insurance** (to cover replacement cost of building – as determined by insurance company) \_\_\_\_\_

All Risk Coverage  Boiler and Machinery

Flood \_\_\_\_\_  Builder's Risk

Earthquake \_\_\_\_\_  \_\_\_\_\_

\_\_\_ **Pollution Liability** \_\_\_\_\_

\_\_\_\_\_

\_\_\_ **Surety Bonds – Performance and Payment (Labor and Materials) Bonds** 100 % of Contract Price

\_\_\_ **Crime Insurance** \_\_\_\_\_

Other: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## Exhibit B

### 2016-17 Monthly Tuition and Fee Rates

### JOY PICUS CHILD DEVELOPMENT CENTER

#### 2016 - 2017 Monthly Tuition Rates

Effective: August 1, 2016

Waiting List Fee: To be paid at the time application is turned in (non-refundable): \$ 75.00  
Enrollment Fee: To be paid at the time of enrollment: \$ 129.00

	City Rate	Community Rate
<b>Infants - Ratio 3:1</b>		
5 days per week	\$ 1,242.00	\$ 1,285.00
4 days per week	\$ 1,106.00	\$ 1,147.00
3 days per week	\$ 835.00	\$ 865.00
2 days per week	\$ 559.00	\$ 579.00
Extra day of care (when available)	\$ 75.00	\$ 75.00

	City Rate	Community Rate
<b>Toddlers - Ratio 4:1</b>		
5 days per week	\$ 1,218.00	\$ 1,260.00
4 days per week	\$ 1,085.00	\$ 1,125.00
3 days per week	\$ 817.00	\$ 847.00
2 days per week	\$ 547.00	\$ 568.00
Extra day of care (when available)	\$ 75.00	\$ 75.00

	City Rate	Community Rate
<b>Preschool I - Ratio 6:1</b>		
5 days per week	\$ 1,075.00	\$ 1,137.00
4 days per week	\$ 941.00	\$ 986.00
3 days per week	\$ 728.00	\$ 762.00
2 days per week	\$ 513.00	\$ 547.00
Extra day of care (when available)	\$ 75.00	\$ 75.00

	City Rate	Community Rate
<b>Preschool II - Ratio 8:1</b>		
5 days per week	\$ 914.00	\$ 1,009.00
4 days per week	\$ 834.00	\$ 886.00
3 days per week	\$ 647.00	\$ 695.00
2 days per week	\$ 456.00	\$ 492.00
Extra day of care (when available)	\$ 75.00	\$ 75.00

Hours of Operation: 6:30AM - 6:00PM Monday through Friday

Holidays/Closure Days: Closed all City Holidays & other days per schedule provided annually

- Tuition is due by the first (1st) of every month.
- If the 1st is on a holiday or weekend, then tuition is due on the NEXT business day.
- A \$10.00 per day late fee will be applied to tuition received after the 1st of the month.
- A \$1.00 per minute late pick-up fee will be applied for late pick-up after 6:00PM.
- There are no tuition credits or adjustments for illness, holidays, vacations or circumstances beyond our control.

PLEASE MAKE CHECKS PAYABLE TO: MWPCCC

**BOARD REPORT**

NO. 16-150

DATE: JULY 13, 2016

C.D. 1

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: ELYSIAN PARK RECREATION CENTER – AMENDMENT TO AGREEMENT NO. 3482 WITH LOS ANGELES THEATRE ACADEMY TO EXTEND THE TERM OF AGREEMENT

AP Diaz	_____	*V. Israel	_____
R. Barajas	_____	K. Regan	_____
H. Fujita	_____	N. Williams	_____

  
 \_\_\_\_\_  
 General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Approve a proposed Amendment to Agreement No. 3482, herein included as Attachment 1, between the City of Los Angeles and Los Angeles Theatre Academy, to extend the term of Agreement No. 3482, from three years to six years, subject to approval of the Mayor, the City Council, and the City Attorney as to form;
2. Direct the Board Secretary to transmit the Amendment to the Mayor, in accordance with Executive Directive No. 3, and to the City Attorney for review and approval as to form; and,
3. Authorize the Board President and Secretary to execute the Amendment subsequent to all necessary approvals.

SUMMARY

On June 27, 2013, the Board of Recreation and Park Commissioners (Board) approved Agreement No. 3482 (Agreement), attached to this Report as Exhibit A, between the City of Los Angeles (City) and Los Angeles Theatre Academy (Organization), authorizing the Organization's operation of Theatre Arts, After School, and Summer Day Camp Programs (collectively "Program"), at Elysian Park Recreation Center, located 929 Academy Road, Los Angeles, CA 90012 (Report No. 13-174). The Agreement, which was executed on December 18, 2013, presently carries a three-year term and is due to expire on December 17, 2016.

The Organization has served the Elysian Park community since 2010. The Theatre Arts and After-School Programs currently serve over forty (40) youth during the school year and over One Hundred Thirty (130) youth each summer in the Summer Day Camp. Additionally, the Organization's operating staff and administration currently consist of twenty-three (23) staff, two

## BOARD REPORT

PG. 2 NO. 16-150

interns, six board members and five advisory board members. Attached as Exhibit A is a list of the board members and advisory board members.

The Organization has successfully operated the Program at the Elysian Park Recreation Center (Premises) for the past three years, consistently receiving positive yearly evaluations from staff. The Organization has consistently paid all required cost recovery reimbursement fees in a timely manner in the amount of four hundred thirty-three dollars (\$433.00) per month, in addition to paying direct staffing costs to the Department of Recreation and Parks (RAP) Metro Region Operations when staff are required to be present and on duty while the Organization is utilizing the Premises before and after the Premises is normally open to the public.

Staff recommends that the term of Agreement No. 3482 be extended three (3) additional years through the proposed Amendment, allowing the Organization to continue operating the Program for the benefit of the local community. With the Board's approval of the proposed Amendment, the Agreement's new date of expiration will be December 17, 2019.

### FISCAL IMPACT STATEMENT

Extending the term of Agreement No. 3482 with Organization will have no adverse impact on the RAP General Fund, as the Organization will continue to be solely responsible for all costs and expenses associated with the operation of the Program.

This Report was prepared by Joel Alvarez, Senior Management Analyst II, and Chinyere Stoneham, Senior Recreation Director II, Partnership Division.

### LIST OF ATTACHMENTS/EXHIBITS

- 1) Proposed Amendment to Agreement No. 3482
- 2) Exhibit A – Los Angeles Theatre Academy Contract No. 3482
- 3) Exhibit B - Los Angeles Theatre Academy Board of Directors
- 4) Exhibit C - Board Report No. 13-174

**AMENDMENT TO AGREEMENT NO. 3482  
BETWEEN  
THE CITY OF LOS ANGELES  
AND  
LOS ANGELES THEATRE ACADEMY  
FOR  
THE OPERATION OF THEATRE ARTS,  
AFTER SCHOOL AND SUMMER DAY CAMP PROGRAMS  
AT  
ELYSIAN PARK RECREATION CENTER**

THIS AMENDMENT TO AGREEMENT NO. 3482 ("AMENDMENT") is made this \_\_\_\_\_ of \_\_\_\_\_, 2016, by and between the City of Los Angeles, acting by and through its Board of Recreation and Park Commissioners ("CITY") and Los Angeles Theatre Academy, a California 501C(3) non-profit organization ("ORGANIZATION"). CITY and ORGANIZATION may be referred to collectively herein as "PARTIES."

WHEREAS, on June 27, 2013, the Board of Recreation and Park Commissioners approved Agreement No. 3482, between the CITY and ORGANIZATION for ORGANIZATION's operation of Theatre Arts, After School and Summer Day Camp Programs at Elysian Park Recreation Center, located at 929 Academy Road, Los Angeles, CA 90012; (Report No. 13-174); and,

WHEREAS, Agreement No. 3482 was executed on December 18, 2013, for a three (3) year term and is due to expire on December 17, 2016; and,

WHEREAS, ORGANIZATION has notified CITY that ORGANIZATION wishes to continue its collaboration with CITY under the same terms and conditions for an additional three (3) year term, commencing upon the current expiration date of Agreement No. 3482; and,

WHEREAS, CITY accepts ORGANIZATION's offer to continue its collaboration with CITY.

NOW THEREFORE, in consideration of the forgoing, and the terms and conditions contained herein, and the performance thereof, PARTIES hereby agree to amend Agreement No. 3482 as follows:



Section 2 – Term and Termination

The first paragraph in Section 2 is hereby amended in its entirety and shall now read:

The performance period authorized under this AGREEMENT (for ease of reference, shall be referred to herein as the “TERM” shall be a maximum of six (6) years, subject to annual performance evaluations (“ANNUAL PERFORMANCE REVIEWS”) more fully described below in Section 3 of this AGREEMENT.

With the exception of Section 2 (Term), as amended herein, Agreement No. 3482 shall remain unchanged by this Amendment and in full force and effect. Should any provision of Agreement No. 3482 conflict with this Amendment, the terms and conditions of this Amendment shall prevail.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the PARTIES have executed this AMENDMENT TO AGREEMENT NO. 3482, as of the day and year first written above.

CITY OF LOS ANGELES, a municipal corporation, acting by and through its BOARD OF RECREATION AND PARK COMMISSIONERS

LOS ANGELES THEATRE ACADEMY, a California 501C(3) non-profit organization

By: \_\_\_\_\_  
President

By: \_\_\_\_\_

By: \_\_\_\_\_  
Secretary

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

**APPROVED AS TO FORM:**

Date: \_\_\_\_\_

MICHAEL N. FEUER, City Attorney

By: \_\_\_\_\_  
Deputy City Attorney

Date: \_\_\_\_\_

**AGREEMENT  
BETWEEN CITY OF LOS ANGELES  
AND  
LOS ANGELES THEATRE ACADEMY, INC.  
FOR THE  
OPERATION OF THEATRE ARTS, AFTER SCHOOL, AND  
SUMMER DAY CAMP PROGRAMS  
AT  
ELYSIAN PARK RECREATION CENTER**

This AGREEMENT ("AGREEMENT") is entered into as of December 18, 2013, ("COMMENCEMENT DATE") by and between the City of Los Angeles, a municipal corporation acting by and through its Board of Recreation and Park Commissioners ("CITY"), and Los Angeles Theatre Academy, Inc., a California 501(c)(3) non-profit corporation ("ORGANIZATION"). CITY and ORGANIZATION may be referred to herein as "PARTIES".

WHEREAS, CITY, through its Department of Recreation and Parks ("RAP"), owns and operates certain real property within Elysian Park ("PARK"), commonly known as the Elysian Park Recreation Center ("CENTER"), located at 929 Academy Road, Los Angeles, CA 90012; and,

WHEREAS, ORGANIZATION has a history of operating successful youth recreation programs in the Elysian Park area, focusing on youth theatre arts, after school classes and summer day camps, and wishes to provide such programs at designated areas within the CENTER (such areas referred to herein as, the "PREMISES"), as depicted on the site map attached hereto and incorporated herein as Exhibit-A; and,

WHEREAS, ORGANIZATION has agreed to operate and maintain the PREMISES in accordance with the terms and conditions contained herein, to fulfill the recreational needs of the residents of the City of Los Angeles; and,

WHEREAS, CITY agreed to accept this offer of operations and maintenance at the meeting of the Board of Recreation and Park Commissioners ("BOARD") on 6/27/13 Board Report No. 13 - 174.

NOW THEREFORE, in consideration of the foregoing and the terms and conditions set forth herein and the performance thereof, PARTIES hereby agree as follows:

1. **USE OF PROPERTY.** In consideration of the anticipated benefits to the public, the sufficiency of which is mutually acknowledged, CITY grants to ORGANIZATION by this AGREEMENT authority to use the PREMISES for the operation of youth theatre arts programs, after school classes and summer day camps as described in the Permitted Uses set forth below, which shall be performed by

ORGANIZATION in compliance with the terms and conditions of this AGREEMENT, including payment of Cost Recovery Fees to RAP as applicable, and performance of the Maintenance Requirements specified herein, at the sole cost and expense of ORGANIZATION.

2. **TERM AND TERMINATION.** The performance period authorized under this AGREEMENT (for ease of reference, shall be referred to herein as the "TERM") shall be a maximum of three (3) years, subject to annual performance evaluations ("ANNUAL PERFORMANCE REVIEWS") more fully described below in Section 3 of this AGREEMENT.
  - a. **Commencement and Expiration.** This AGREEMENT shall take effect on the date of execution, as set forth by the COMMENCEMENT DATE above, and shall end upon the expiration of the TERM.
  - b. **Termination.** In addition to termination for an uncured breach or default, or if ORGANIZATION ceases to operate under this AGREEMENT, or CITY's written termination notice to ORGANIZATION effective after sixty (60) calendar days from the date of issuance due to an unfavorable performance review, pursuant to Section 3 of this AGREEMENT or for cause during the TERM, either CITY or ORGANIZATION may terminate this AGREEMENT by giving the other sixty (60) calendar days advanced written notice. CITY and ORGANIZATION reserve the right to terminate this AGREEMENT at their sole discretion, for convenience, emergency, or necessity. If CITY or ORGANIZATION should elect to terminate this AGREEMENT, ORGANIZATION agrees to immediately cease all operations and other activity, remove all personal property and equipment, and peacefully surrender the PREMISES to CITY within sixty (60) calendar days of receiving or providing written notice of termination. If ORGANIZATION fails to remove all personal property and equipment within sixty (60) calendar days after termination of this AGREEMENT, CITY, at its option, may remove such property and equipment, in which event ORGANIZATION shall pay to the CITY, upon demand, the reasonable cost of such removal, plus the cost of transportation and disposition thereof.
  - c. **Events of Breach or Default by ORGANIZATION.** The following occurrences constitute events of breach or default of this AGREEMENT:
    - (i) ORGANIZATION materially fails in the performance of any provision or condition of this AGREEMENT, such as failure to maintain required insurance coverage, failure to comply with applicable legal requirements, failure to pay assessed fees or utility charges, or failure to fulfill the obligation to operate, maintain and repair the PREMISES as specified herein.

- (ii) ORGANIZATION's attempt to assign rights or obligations under this AGREEMENT without CITY's prior written consent or approval by RAP General Manager or his or her designee.
  - d. **CITY's Remedies to Events of Breach or Default by ORGANIZATION.** Upon the occurrence of one or more events of breach or default by ORGANIZATION, CITY may, at its election and without waiving any right to select any other remedy provided in this Section or elsewhere in this AGREEMENT, initiate any of the following:
    - (i) Notice to Cure Breach or Default. CITY may issue a written notice of breach or default to ORGANIZATION, and if ORGANIZATION does not cure said breach or default within thirty (30) calendar days of receipt of said notice, CITY may, by delivering a second written notice to ORGANIZATION, terminate this AGREEMENT without further delay, whereupon ORGANIZATION shall vacate the PREMISES within sixty (60) calendar days. For a breach or default involving sanitary or safety conditions, the cure period is reduced to seven (7) calendar days.
    - (ii) CITY's Right to Cure. CITY at its sole discretion and with no obligation to do so, subject to any applicable conditions and limitations set forth elsewhere in this AGREEMENT, may, after a continuing breach or default by ORGANIZATION, perform or cause to be performed any of ORGANIZATION's unperformed obligations under this AGREEMENT. CITY may enter the PREMISES and remain there for the purpose of correcting or remedying the continuing breach or default. Such action by CITY shall not be deemed to waive or release said breach or any default or CITY's right to take further, preventative action.
  - e. **Cease to Operate.** The phrase "cease to operate" shall mean the first to occur of any of the following: (i) the termination (but not temporary suspension) of ORGANIZATION's corporate charter or grant of non-profit status, unless the same is reinstated within sixty (60) calendar days after such termination; (ii) a material change in ORGANIZATION's purposes or function as contained in ORGANIZATION's corporate charter or grant of non-profit status ("Stated Purposes"); (iii) a material change in the delivery of services by ORGANIZATION, as described herein; or (iv) the failure of ORGANIZATION to use the PREMISES for any of the PERMITTED USES or any other default of the terms and conditions or other obligations contained in this AGREEMENT, for a consecutive period of sixty (60) calendar days; unless prevented from doing so because of damage, destruction, major repairs or refurbishment of the improvements within the PREMISES, or for reasons beyond ORGANIZATION's control.
3. **ANNUAL PERFORMANCE REVIEWS.** PARTIES mutually agree to a series of ANNUAL PERFORMANCE REVIEWS, which shall be conducted by RAP to

determine the feasibility and benefit of continuing the collaborative relationship between the PARTIES under this AGREEMENT.

- a. Continuance of CITY's collaboration with ORGANIZATION shall be contingent upon a favorable ANNUAL PERFORMANCE REVIEW, which shall include, but not be limited to:
  - (i) An evaluation of ORGANIZATION's compliance with the terms and conditions of this AGREEMENT;
  - (ii) Fulfillment of ORGANIZATION's obligations for the operation and maintenance of the PREMISES under this AGREEMENT, including the provision of programs and/or services performed under the PERMITTED USES specified herein, and further defined by ORGANIZATION's Proposal for Providing Community Services attached hereto and incorporated herein by reference as Exhibit B;
  - (iii) Adequacy of ORGANIZATION's funding;
  - (iv) The volume of the public's participation in ORGANIZATION's programs; and,
  - (v) ORGANIZATION's cooperation with CITY staff.
- b. Every year during the life of this AGREEMENT, for purposes of completing the ANNUAL PERFORMANCE REVIEW process, ORGANIZATION shall submit to RAP during the period of June 1<sup>st</sup> through July 1<sup>st</sup> of each year, an annual performance or program report ("PERFORMANCE REPORT"). This PERFORMANCE REPORT shall cover, but not be limited to:
  - (i) Annual Budget and Report of Expenditures;
  - (ii) Data on participants and program results;
  - (iii) Copies of marketing, recruitment, and press materials; and,
  - (iv) Discussion of program changes or challenges.
- c. RAP General Manager or his or her designee reserves the right to request additional material or clarifying information after review of the submitted PERFORMANCE REPORT.
- d. CITY's approval to continue the collaborative relationship shall be based on findings obtained through the ANNUAL PERFORMANCE REVIEW, evaluation of the PERFORMANCE REPORT, and a review of compliance with the terms and conditions of this AGREEMENT, including interviews with RAP's

operations and maintenance staff at the PREMISES, if any are on-site. A sample Performance Evaluation Form is attached hereto and incorporated herein by reference as Exhibit C. Results of the ANNUAL PERFORMANCE REVIEW may be used in determining future collaborations with ORGANIZATION. CITY shall not unreasonably withhold its determination.

4. **ACCESS TO THE PROPERTY.** ORGANIZATION and any authorized third party associated with ORGANIZATION's activities at the PREMISES will abide by the terms and conditions expressed in this AGREEMENT, and will cooperate fully with CITY's employees in the performance of their duties. Authorized representatives, agents and employees of CITY will have the right to enter the PREMISES for purposes of fulfilling normal duties, performing inspections, conducting events or programs, or in case of emergencies. If required for public safety, CITY may immediately suspend and/or terminate ORGANIZATION activities involving the PREMISES.
5. **PERMITTED USES.** ORGANIZATION shall not expand and/or change the scope of PERMITTED USES, without the prior written approval and consent of the Board through an amendment to this AGREEMENT. ORGANIZATION, at its sole cost and expense, shall:
  - a. Provide theatre arts programs, after school classes and summer day camps in accordance with ORGANIZATION's Proposal for Providing Community Services attached hereto and incorporated herein as Exhibit B.
  - b. Use certain facilities within PREMISES which consist of the gymnasium, stage, kitchen, one designated craft room, outdoor playground, and amphitheater, to provide theatre arts programs, after school classes and summer day camp during ORGANIZATION's program hours.
  - c. Operate within the PARK on the PREMISES only during the specified days and hours listed below in Section 6 (Days and Periods of Use) of this AGREEMENT.
  - d. Maintain PREMISES in accordance with Section 8 of this AGREEMENT.
  - e. Provide sufficient staff necessary to perform the operation of its theatre arts programs, after school classes and summer day camp, including the provision of services as agreed to herein, providing sufficient staff and all materials, supplies, equipment, and funds necessary to operate the program permitted herein to the reasonable satisfaction of CITY. Staff/participant ratio shall be at least one (1) staff person for every six (6) program participant ages three to five (3-5) years old and one (1) staff person for every ten (10) program participants six to twelve (6-12) years old.

- f. Ensure that ORGANIZATION's protocol for selecting and authorizing any person to participate in program activities on the PREMISES complies with applicable CITY, State, and/or Federal protocols for employees, volunteers, contractors and subcontractors engaging in the PERMITTED USES described herein, including maintenance, such as, certifications, licensing, background checks, finger printing, etc.
  - g. Punctually pay or cause to be paid all financial obligations incurred in connection with the operation and maintenance of the PREMISES. ORGANIZATION shall discharge or provide for the discharge of all claims authorized or incurred for labor, equipment, materials, and supplies furnished in connection with ORGANIZATION's use of the PREMISES.
  - h. Ensure that no photographs of minors or depiction of their likeness is included in any publication without obtaining prior written consent from the child's parent or legal guardian.
  - i. Prohibit and prevent the dispensing and/or consumption of beer, wine or other intoxicating liquors (commonly referred to as alcoholic beverages), which is NOT one of the PERMITTED USES authorized herein, and therefore shall not be permitted to occur on the PREMISES under any circumstances.
6. **DAYS AND PERIODS OF USE.** ORGANIZATION shall be entitled to use the PREMISES to provide theatre arts programs, after school classes and summer day camp, including public programs and services, recreational uses and functions, events, and other agreed upon uses as follows ("PERMITTED TIMES"):
- a. Program Operation: Monday - Friday  
Theater Arts and After School Club  
(September to May, 2:00 pm–6:00 pm)  
Summer Day Camp (June to August, 8:00 am – 6:00 pm)
  - b. Should ORGANIZATION require access to premises at an earlier or later time, ORGANIZATION shall be required to pay staffing cost pursuant to Section 11.e.
  - c. Access for repairs, maintenance, and PROGRAM preparation will only occur during the days and hours of operation stipulated above.
  - d. Special Events: ORGANIZATION shall make requests for use of PREMISES or portion thereof for special events and activities other than operations, repair, or maintenance, including any fundraising as stipulated in Section 10 below, by completing an Application for Use of Facility at least thirty (30) days in advance of the particular activity or event and submitting it to the contact person in Section 23. Building use fees will be charged for all special events, including fundraising events authorized in Section 10. Upon approval by RAP General



Manager or his or her designee, which shall not be unreasonably withheld, the event or activity hours may be extended beyond normal closing time, but not beyond 10:30 p.m. in accordance with Los Angeles Municipal Code Section 63.44.

- e. ORGANIZATION shall cooperate with City of Los Angeles personnel and RAP PARK staff on all matters relative to the conduct of operations or any activity, event, and/or special use or fundraiser, including concerns related to parking, traffic and attendance.
  - f. PARTIES agree and understand that activities outside the control of RAP take place at the adjacent Dodger Stadium or Los Angeles Police Academy which may impact ingress and egress at PREMISES, or full use of PREMISES, during PERMITTED TIMES.
7. **PARKING.** During the Term of this Agreement and during Permitted Times specified above in Section 6 of this Agreement, ORGANIZATION, its staff, and public patrons and/or guests, whether or not involved in ORGANIZATION activities at the PREMISES, shall have the non-exclusive right without charge, to park vehicles within any available parking spaces at the PREMISES on a first-come-first-served basis. Exclusive or designated parking shall not be allowed, unless previously approved in writing by RAP General Manager or his or her designee.
8. **MAINTENANCE AND REPAIR OF PROPERTY.** During the TERM of this AGREEMENT, and subject to the terms and conditions contained herein, ORGANIZATION, at its sole cost and expense, shall perform the functions of maintenance and/or repair of the PREMISES as described herein.
- a. ORGANIZATION accepts the PREMISES in its condition at execution of this AGREEMENT. RAP shall not have any obligation to repair, remodel, replace, and/or reconstruct any building, facility, feature, or portion of the PREMISES, nor any appliance or fixture thereon, whether installed by CITY or ORGANIZATION, and regardless of cause.
  - b. Daily maintenance to be performed by ORGANIZATION:
    - (i) Maintain pedestrian paths, common walkways and other shared areas in a safe and sanitary condition while in use by ORGANIZATION;
    - (ii) Pick up and dispose of trash and debris whether by ORGANIZATION's activity or activity of a contracted vendor;
    - (iii) Prevent any such matter or material from being or accumulating upon said PREMISES such that it is clearly visible to public view.

- c. ORGANIZATION shall immediately repair any damages to the PREMISES which occur during ORGANIZATION's operations, or by vandalism, or that is caused by its restoration, refurbishment, or maintenance of PREMISES; ORGANIZATION recognizes that any damage which remains unrepaired may constitute a hazard to public safety.
  - d. No offensive or dangerous materials, nor any substance constituting an unnecessary, unreasonable or material hazard detrimental to the public health, shall be permitted or allowed to remain on the PREMISES.
  - e. ORGANIZATION shall be responsible for securing any ORGANIZATION property, equipment, materials, or supplies used or stored at CENTER.
  - f. To the extent resources are available, CITY may undertake to maintain or repair improvements, fixtures, trade fixtures, roof systems, plumbing, electrical, heating-ventilation-air conditioning systems, building structure, and/or utility systems in place as of the execution of this AGREEMENT, if originally installed by CITY. ORGANIZATION agrees and understands that CITY shall not guarantee any level of maintenance or repair because resource availability is unknown. In the event needed repairs impede the ability of ORGANIZATION to conduct operations, ORGANIZATION may undertake repairs at no cost to RAP or may suspend operations in accordance with Casualty and Condemnation, Section 16. RAP will provide no maintenance or repair to improvements, fixtures, exterior walls, trade fixtures, roof systems, plumbing, electrical, heating-ventilation-air conditioning systems, building structure, and/or utility systems installed by ORGANIZATION.
  - g. To the extent that needed repairs are not made, ORGANIZATION waives any and all claims against CITY for damages or indemnification as a result of the failure to make repairs.
9. **FUNDING.** All funds, including grants, donations, or any other funds received by ORGANIZATION in connection with the PREMISES or related to matters covered by this AGREEMENT, or generated from programs or activities conducted on the PREMISES, shall be applied exclusively to the operations and maintenance of the PREMISES, including but not limited to the delivery of theatre arts programs, after school classes and summer day camps on the PREMISES, and will be strictly accounted for as provided herein. Such funds shall not be comingled with other funds of ORGANIZATION unrelated to this AGREEMENT and/or the operation and maintenance of the PREMISES. If for any reason ORGANIZATION fails to secure funding to carry out its obligations and commitments under this AGREEMENT, CITY may and can terminate this AGREEMENT pursuant to a Breach and Default of this AGREEMENT. ORGANIZATION may charge its patrons appropriate fees for programs, services, and/or activities offered by ORGANIZATION on the PREMISES, in an amount comparable to those fees charged by organizations offering similar programs, services, and/or activities in the community.

ORGANIZATION may also charge admission fees for special events in an amount comparable to admission fees charged for similar events in the community.

10. **FUNDRAISING.** ORGANIZATION may hold fundraising activities on PREMISES, but must obtain prior written approval for the date and time from RAP General Manager or his or her designee for each fundraising event no fewer than thirty (30) calendar days prior to the scheduled activity in accordance with the procedure in Section 6. All monies raised from fundraising conducted at the PREMISES must be used only in support of the activities authorized under this AGREEMENT. Within thirty (30) days of each fundraising event held at the PREMISES, ORGANIZATION shall provide a written balance statement for the event that shall detail expenses and revenues, including net funds raised. Fundraising activities shall not include the distribution and/or the consumption of alcoholic beverages in accordance with Section 5.I. of this AGREEMENT.
11. **CONSIDERATION.** Pursuant to the terms and conditions of this AGREEMENT, the consideration for this AGREEMENT, in exchange for ORGANIZATION's use of the PREMISES, shall be the provision of theatre arts programs, after school classes and summer day camps for the benefit of the general public, at no cost to CITY, including but not limited to, ORGANIZATION's maintenance and/or repair of the PREMISES. CITY shall have no responsibility for payment of any fees for the provision of the PROGRAM at the PREMISES.
  - a. **Cost Recovery Fee.** During the TERM of AGREEMENT, ORGANIZATION shall pay monthly a Cost Recovery Fee in the amount of \$433.00 for costs incurred by RAP related to this AGREEMENT and ORGANIZATION's use of the PREMISES, as approved by the Board on July 19, 2012 (Report No. 12-217), and for utility and/or trash costs not directly paid to providers, as detailed below. Payments shall be due by the tenth day of each month for that month. Cost Recovery Fee(s) may be subject to change with written notice of no less than sixty (60) days in advance.
  - b. **Utilities.** Pursuant to the RAP policy regarding utility payments for services provided at PARK facilities operated by non-profit organizations and other collaborating entities, approved by the BOARD on July 13, 2011 (Report No. 11-202), the cost of utility services to the PREMISES (electricity, gas, water) shall be the sole responsibility of ORGANIZATION. Such utility expenses shall be paid directly by ORGANIZATION to utility service provider(s) where feasible or recovered by RAP through utility fee reimbursements if not. Utility fees of \$112.00 monthly are included in the Cost Recovery Fee mentioned in paragraph a. above.
  - c. **Trash and Solid Waste Disposal.** Pursuant to the RAP policy regarding trash and solid waste disposal for services provided at PARK facilities operated by non-profit organizations and other collaborations, approved by the BOARD on February 1, 2012 (Report No. 12-028), removal of waste, trash and recyclables

must be at the sole expense of the ORGANIZATION with services of non-CITY provider, billed directly to the ORGANIZATION where feasible, or recovered by RAP through fees if not. Trash fees of \$85.00 monthly are included in the Cost Recovery Fee mentioned in paragraph a. above.

- d. **Telephone and data lines.** It is understood that ORGANIZATION has no dedicated lines for their use. If ORGANIZATION decides to install a phone line, ORGANIZATION shall be responsible for the cost of telephone and data lines utilized on PREMISES and shall pay the service provider directly. CITY shall bear no costs in regards to the telephone and data lines on PREMISES that ORGANIZATION uses.
- e. **Direct Staffing Costs.** In addition to staff impact cost recovery reimbursement fees of \$236.00 monthly included in the Cost Recovery Fee mentioned in paragraph a. above, ORGANIZATION shall reimburse RAP \$20.00 per hour ("STAFF FEES") for After School Club and Summer Day Camp use associated with any hours RAP staff is required to be present and on duty while Organization is utilizing PREMISES before and after PREMISES is normally open to the public during PERMITTED TIMES. STAFF FEES are separate from Cost Recovery Reimbursement Fees mentioned above, and are subject to change based on PREMISES' public operating hours and RAP's Schedule of Rates and Fees. ORGANIZATION shall inform the Facility Director at least thirty (30) days prior to the subject month the additional hours utilized for that month. Facility Director will inform ORGANIZATION the total amount due for STAFF FEES by the 15<sup>th</sup> of the month prior to the subject month the additional RAP staff hours are requested for. STAFF FEES shall be paid to Facility Director on or by the first of each month for that month. For example, for the month of December, ORGANIZATION shall notify and inform RAP the number of additional RAP staff hours needed by November 1<sup>st</sup>. RAP will inform ORGANIZATION by November 15<sup>th</sup> the amount of STAFF FEES to be paid for December and payment to RAP shall be due by or on December 1<sup>st</sup>.
- f. **Cost Recovery Reimbursement Fee Payments.** Payment of Cost Recovery Fees shall be by check, money order, or cashier's check made out to "City of Los Angeles Department of Recreation and Parks." RAP at its discretion may provide courtesy invoices, but ORGANIZATION is wholly responsible for timely payment of cost recovery fees regardless of written notification which is not required. Cost Recovery Fee payments are to be mailed to:

City of Los Angeles Department of Recreation and Parks  
Partnership Division  
3900 Chevy Chase Drive, Mail Stop 628-9  
Los Angeles, CA 90039

12. **ALTERATIONS, IMPROVEMENTS, AND REPLACEMENTS.** No physical alterations, additional improvements, and/or replacements shall be made to

existing improvements on the PREMISES without prior written authorization by CITY. ORGANIZATION shall provide CITY detailed information and specifications for review and written approval by CITY, including but not limited to an explanation of the project scope of work, design or architectural plans, renderings or models, budget and funding source information for capital improvement projects, and any other information reasonably requested by CITY. Unless agreed to in advance, all project associated costs shall be paid at the sole expense of ORGANIZATION.

13. **CAPITAL PROJECT PROPOSAL.** When proposing a project involving any alterations, additional improvements, and/or replacements to the PREMISES, ORGANIZATION shall adhere to the following guidelines and instructions for submitting a proposed project for CITY's consideration:
- a. Submit a project proposal for CITY review and presentation for conceptual approval by the BOARD, if necessary. The proposal should include but not limited to, project objectives, conceptual drawings, a written description of the project's scope of work, general project details and requirements, and estimated preliminary budget.
  - b. Should the project be conceptually approved by the BOARD, ORGANIZATION will be authorized to perform any required preliminary work or site assessments, either through a Right-Of-Entry (ROE) permit if required, or the CITY's authorization and/or this AGREEMENT.
  - c. Depending on the scope of work and magnitude of the proposed project, ORGANIZATION may be assessed an administrative fee to be determined by RAP, for project review and all services provided by CITY staff. Such fee shall be paid to the "City of Los Angeles Department of Recreation and Parks" and shall have been paid in full prior to the CITY's conceptual approval of the proposed project.
  - d. If necessary and pursuant to the recommendation of the City Attorney, a development agreement shall be prepared to set forth the terms and conditions under which the proposed project shall be implemented, depending on the scope of work and project magnitude.
  - e. When prepared, ORGANIZATION shall submit fifty percent (50%) and ninety percent (90%) complete design drawings for CITY review and approval. Upon CITY's approval, all design and architectural work shall be completed by a California licensed architect and/engineer.
  - f. PARTIES shall submit a proposed development agreement and final plans and specifications, respectively, to the BOARD for its consideration and final project approval.

- g. ORGANIZATION shall obtain, at its own cost and expense, all necessary and/or required City, County, State, and/or Federal permits, approvals, licenses, and/or authorizations for project implementation, including but not limited to environmental clearances in compliance with the California Environmental Quality Act (CEQA).
- h. ORGANIZATION shall submit approved plans and specifications for final approval to:

City of Los Angeles Department of Recreation and Parks  
Planning, Construction and Maintenance Branch  
Assistant General Manager  
221 N. Figueroa Street, Suite 100  
Los Angeles, CA 90012

- i. Upon receipt of final approval, commence construction in coordination with CITY staff.
14. **INSURANCE.** Before occupying the PREMISES under this AGREEMENT and periodically as required during its TERM, ORGANIZATION shall furnish CITY with evidence of insurance from firms reasonably acceptable to CITY and approved to do such business in the State of California. ORGANIZATION or any third party providing work or services under this AGREEMENT shall name the City of Los Angeles and its boards, officers, agents, employees, assigns and successors in interest as an additional insured for all required coverages, as applicable. ORGANIZATION will ensure that like insurance will be maintained by any such third party. Evidence of required coverage shall be on forms reasonably acceptable to CITY's Risk Manager and shall include the types and minimum limits set forth in Exhibit-E attached hereto and incorporated herein by reference.
- a. ORGANIZATION shall maintain all such insurance at its sole cost and expense throughout the TERM of this AGREEMENT. CITY may, by applying generally accepted risk management principles, change the required amounts and types of insurance to be effective at the renewal date of the insurance then in effect by giving ORGANIZATION sixty (60) calendar days written notice, provided that such amounts and/or types shall be reasonably available to ORGANIZATION.
  - b. If any of the required insurance contains aggregate limits or applies to other operations of ORGANIZATION outside of this AGREEMENT, ORGANIZATION shall give CITY written notice of any incident, occurrence, claim, settlement or judgment against such insurance that in ORGANIZATION's best judgment may diminish the protection such insurance affords CITY within thirty (30) calendar days of the knowledge of same. ORGANIZATION shall further restore such aggregate limits or shall provide other replacement insurance for such aggregate limits within sixty (60) calendar days of the knowledge of same.

- c. If an insurance company elects to cancel insurance before the stated expiration date, declines to renew in the case of a continuous policy, reduces the stated limits other than by impairment of an aggregate limit or materially reduces the scope of coverage, thereby affecting CITY's interest, ORGANIZATION will provide CITY at least thirty (30) calendar days (ten (10) calendar days for non-payment of premium) prior written notice of such intended election. The notice will be sent by receipted delivery addressed as follows: City Administrative Officer, Risk Management, 200 North Main Street, Room 1240, City Hall East, Los Angeles, California 90012, or to such address as CITY may specify by written notice to ORGANIZATION.
  - d. ORGANIZATION's failure to procure and maintain the required insurance shall constitute a material breach of this AGREEMENT under which CITY may immediately terminate the AGREEMENT or, at its discretion, pay to procure or renew such insurance to protect CITY's interest; ORGANIZATION agrees to reimburse CITY for all money so paid.
  - e. Self-insurance programs and self-insured retention in insurance policies are subject to separate approval by CITY upon review of evidence of ORGANIZATION's financial capacity. Additionally, such programs or retention must provide CITY with an equivalent protection from liability.
15. **INDEMNIFICATION/HOLD HARMLESS.** Except for the active negligence or willful misconduct of CITY, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, ORGANIZATION undertakes and agrees to defend, indemnify and hold harmless the City and any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including but not limited to, attorneys' fees (both in house and outside counsel) and costs of litigation (including all actual litigation cost incurred by the CITY, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including ORGANIZATION's employees and agents, or damage or destruction of any PROPERTY of the negligent acts, errors, omission or willful misconduct incident to the performance of this AGREEMENT by ORGANIZATION or its subcontractors of any tier. Rights and remedies available to the CITY under this provision are cumulative of those provided for elsewhere in this AGREEMENT and those allowed under the law of the United State, the State of California, and the CITY. This provision shall survive the expiration or termination of this AGREEMENT.
16. **CASUALTY AND CONDEMNATION.** ORGANIZATION shall be excused from its obligations in this AGREEMENT with respect to the operation, maintenance and repair of any portion of the PREMISES or any improvement thereon damaged by casualty or taken by condemnation until any such portion or improvement is restored to ORGANIZATION's use. CITY shall not be obligated to restore PREMISES damaged by casualty in whole or in part. If PREMISES is taken by

condemnation, CITY shall not be obligated to provide ORGANIZATION a replacement property for ORGANIZATION's use.

17. **HAZARDOUS SUBSTANCES.** PARTIES agree that PREMISES shall be used in a manner consistent with its intended public recreational purposes and within the scope of use set forth above. ORGANIZATION shall use the PREMISES in compliance with laws pertaining to hazardous substances. As used herein, "hazardous substances" shall mean any product, chemical, material or waste whose nature, quantity and/or intensity of presence, use, manufacture, disposal, transportation, spill, release or effect, either by itself or in combination with other such substances, is either: (a) potentially injurious to public health, safety or welfare or injurious to the environment; (b) regulated or monitored by any governmental authority; or (c) a basis for liability of CITY or ORGANIZATION to any governmental agency or third party under applicable statute.
18. **PUBLICITY.** CITY and ORGANIZATION agree to cooperate and coordinate with respect to the nature, text, and timing of any press release or public announcement(s) concerning the existence of this AGREEMENT, the use or promotion of the PREMISES, the acquisition of any real property, or construction of any improvements at the PREMISES, except as may be legally required by applicable laws, regulations, or judicial order. CITY and ORGANIZATION agree to notify each other in writing of any press release, public announcement, marketing or promotion of the PREMISES. Further, any press release, public announcement, marketing materials, or brochures prepared by either CITY or ORGANIZATION, shall appropriately acknowledge the contributions of both CITY and ORGANIZATION. To the extent stipulated in any grant agreement, the CITY and ORGANIZATION shall duly notify any grantors, and each other, prior to any public or media event publicizing the accomplishments funded by any grant agreement, and shall provide the opportunity for attendance and participation by grantor representatives. Further, CITY and ORGANIZATION shall coordinate the scheduling and organization of any public or media event to provide the opportunity for attendance and participation by officials and/or representatives of both CITY and ORGANIZATION; including elected officials and public officials. Similarly, any document, written report, or brochure prepared by either CITY or ORGANIZATION, in whole or in part pursuant to the acquisition of property and/or installation of improvements, shall contain any acknowledgements required under any grant agreement.

ORGANIZATION agrees that any public release or distribution of information related to this AGREEMENT or related project, programs or services, shall include the following statement at the beginning or introduction of such release:

"In collaboration with the City of Los Angeles Department of Recreation and Parks"

19. **SIGNAGE.** No signs or banners of any kind will be displayed unless previously approved in writing by the Board and or the RAP General Manager or his or her



designee. RAP may require removal or refurbishment, at ORGANIZATION's expense, of any sign previously approved. On signage at PREMISES, ORGANIZATION shall provide the following credit or as proportions of signage allow similar credit as approved by RAP in writing:

"In collaboration with the City of Los Angeles Department of Recreation and Parks"

20. **FILMING.** It is the policy of the CITY to facilitate the use of City-controlled properties as film locations when appropriate. RAP has established a Park Film Office to coordinate use of park property for film production purposes. Any commercial filming at the park shall be subject to approval by RAP and the Film Office. All fees for use of park property by film production companies shall be established and collected by the Film Office in accordance with CITY and RAP policies. The Park Film Office may be reached at (323) 644-6220. ORGANIZATION shall not charge any fees for film production conducted at PREMISES.
21. **Breach or Default by ORGANIZATION.** The following occurrences constitute events of breach or default of this AGREEMENT: ORGANIZATION materially fails in the performance of any provision or condition of this AGREEMENT, such as failure to maintain required insurance coverage, failure to comply with applicable legal requirements or failure to fulfill the obligation to operate, maintain and repair the PREMISES as specified herein. ORGANIZATION's attempt to assign rights or obligations under this AGREEMENT without CITY's prior written consent shall also constitute an event of breach or default.
22. **Breach or Default by ORGANIZATION – CITY's Remedies.** Upon the occurrence of one or more events of breach or default by ORGANIZATION, CITY may, at its election and without waiving any right to select any other remedy provided in this Section or elsewhere in this AGREEMENT, initiate any of the following:
- a. **Notice to Cure Breach or Default.** CITY may issue a written notice of breach or default to ORGANIZATION, and if ORGANIZATION does not cure said breach or default within thirty (30) calendar days of receipt of said notice, CITY may, by delivering a second written notice to ORGANIZATION, terminate this AGREEMENT without further delay, whereupon ORGANIZATION shall vacate the PREMISES within fourteen (14) calendar days. For a breach or default involving sanitary or safety conditions, the cure period is reduced to seven (7) calendar days.
  - b. **CITY's Right to Cure.** CITY at its sole discretion and with no obligation to do so, subject to any applicable conditions and limitations set forth elsewhere in this AGREEMENT, may, after a continuing breach or default by ORGANIZATION, perform or cause to be performed any of ORGANIZATION's unperformed obligations under this AGREEMENT. CITY may enter the

PREMISES and remain there for the purpose of correcting or remedying the continuing breach or default. Such action by CITY shall not be deemed to waive or release said breach or any default or CITY's right to take further, preventative action.

23. **NOTICES.** Any notice, request for consent, or statement ("Notice"), that CITY or ORGANIZATION is required or permitted to give or cause to be given to the other, shall be in writing and shall be delivered or addressed as set forth below. Either CITY or ORGANIZATION may designate a different address for any Notice by written statement to the other in accordance with the provisions of this Section. Notices shall be delivered personally or sent by confirmed facsimile transmission, by reliable courier providing tracking services, or by deposit with the United States Postal Service with postage prepaid and return receipt requested.

All Notices shall be addressed as follows:

If to CITY: City of Los Angeles Department of Recreation and Parks  
Metro Region Superintendent  
3900 Chevy Chase Drive, Mail Stop 656-10  
Los Angeles, CA 90039  
Telephone: (213) 485-8744; Fax: (818) 247-4740

With a copy to: City of Los Angeles Department of Recreation and Parks  
Partnership Division  
3900 Chevy Chase Drive, Mail Stop 628-9  
Los Angeles, CA 90039  
Telephone: (818) 243-6488; Fax: (818) 243-6447

If to ORGANIZATION: Los Angeles Theatre Academy Inc.  
c/o Alejandra Flores  
1544 North Boylston Street  
Los Angeles, CA 90012  
Telephone: (323) 333-3787

24. **REPRESENTATIONS AND WARRANTIES.** CITY and ORGANIZATION each represents and warrants to the other that it has full power and authority to execute this AGREEMENT and to perform its obligations and requirements hereunder. This AGREEMENT constitutes the valid and legal binding obligation of CITY and ORGANIZATION, enforceable in accordance with its terms and conditions.
25. **NO JOINT VENTURE OR AGENCY RELATIONSHIP.** Nothing herein contained shall be construed to place the PARTIES to this AGREEMENT in the relationship of a joint venture, association, partnership, or other form of a business organization or agency relationship. ORGANIZATION shall have no power to obligate or bind CITY in any manner whatsoever. Further, under no circumstances will ORGANIZATION represent itself to be an agent of the CITY or any of its

departments. Nothing in this AGREEMENT may be construed to have authorized or vested in ORGANIZATION the power to be an agent of the CITY or an actor under the color of law, be it civilly or criminally.

26. **RELATIONSHIP OF PARTIES.** PARTIES agree that no other party shall have any right, power, or authority to assume, create, or incur any expense, liability, or obligation, expressed or implied, on behalf of any other party, except as expressly provided herein.
27. **APPROVAL OF SUB-LEASES OR SUB-AGREEMENTS.** Any operation, services, or activity conducted on the PROPERTY on behalf of the ORGANIZATION by a third party, including but not limited to the sale of food and/or beverages or other items, shall be subject to prior written approval by RAP General Manager or his or her designee. In addition, any concession or other sub-lease or sub-agreement affecting the PROPERTY shall be filed with the RAP General Manager or his or her designee for review and written approval no fewer than sixty (60) calendar days before the date ORGANIZATION proposes to implement the sub-lease or sub-agreement. No sub-lease or sub-agreement shall take effect unless approved by RAP General Manager or his or her designee. ORGANIZATION shall require all individuals and organizations providing programs or services within the PROPERTY to agree in writing to abide by all conditions set forth in this AGREEMENT.
28. **MERCHANDISE.** No merchandise shall be sold by ORGANIZATION on PROPERTY without the prior written consent of the RAP GENERAL MANAGER or his or her designee.
29. **SAFETY PRACTICES.** ORGANIZATION shall correct violations of safety practices immediately and shall cooperate fully with CITY in the investigation of accidents or deaths occurring on the PROPERTY. In the event of injury or death, or serious injury (requiring an emergency room hospital visit), ORGANIZATION must notify the Park Director and/or Metro Region Superintendent in accordance with Section 23 in this AGREEMENT as soon as possible but no later than twenty-four (24) hours after the incident. Notice of non-serious injuries occurring on the PROPERTY shall be provided to the Park Director and/or Metro Region Superintendent in accordance with Section 23 of this AGREEMENT within seventy-two (72) hours. ORGANIZATION shall keep internal documentation of the incident(s) and provide RAP General Manager or his or her designee with such information upon request.
30. **SUSPECTED CHILD ABUSE.** ORGANIZATION or ORGANIZATION'S parents, volunteers, agents, contractors and subcontractors, and/or any person participating in ORGANIZATION's PROGRAM or activities at the PROPERTY must contact the Los Angeles County Child Protection Hotline to report any suspected child abuse at PROPERTY. ORGANIZATION will notify the Park Director and/or the Metro Region Superintendent within twenty-four (24) hours of report being made.

31. **RECREATION CENTER CONTACT.** Recreation Center staff may be contacted at (323) 226-1402.
32. **ORDINANCES AND STANDARD PROVISIONS.** The "Standard Provisions for Contracts (Rev. 3/09)" are incorporated herein by reference and attached hereto as Exhibit-E. If there is any conflicting language between the "Standard Provisions for City Contracts (Rev. 3/09)" and this AGREEMENT, the language of this AGREEMENT shall prevail. ORGANIZATION and CONTRACTOR have the same meaning for purposes of the "Standard Provisions for City Contracts (Rev. 3/09)." In addition, ORGANIZATION will provide documentation of compliance with all required Ordinance Provisions as determined by CITY.
33. **INCORPORATION OF DOCUMENTS**

This AGREEMENT and incorporated documents represent the entire integrated agreement of the parties and supersedes all prior written or oral representations, discussions, and agreements. The following documents are incorporated and made a part hereof by reference:

- Exhibit A: Site Map
- Exhibit B: Proposal for Providing Community Services
- Exhibit C: Sample Performance Evaluation Form
- Exhibit D: Insurance Requirements
- Exhibit E: Standard Provisions for City Contracts (Rev. 3/09)

The order of precedence in resolving conflicting language, if any, in the documents shall be: 1) This AGREEMENT exclusive of attachments; 2) Exhibit A; 3) Exhibit B; 4) Exhibit E; 5) Exhibit D; 6) Exhibit C.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this AGREEMENT as of the day and year first above written.

CITY OF LOS ANGELES, a municipal corporation acting by and through its BOARD OF RECREATION AND PARK COMMISSIONERS

LOS ANGELES THEATRE ACADEMY INC., a California nonprofit 501(c) (3) corporation

By: [Signature]  
President

By: [Signature]

By: [Signature]  
Secretary

Title: vice President

Date: 12/18/13

By: [Signature]

Title: TREASURER

Date: 11/27/13

APPROVED AS TO FORM:

MICHAEL N. FEUER, City Attorney

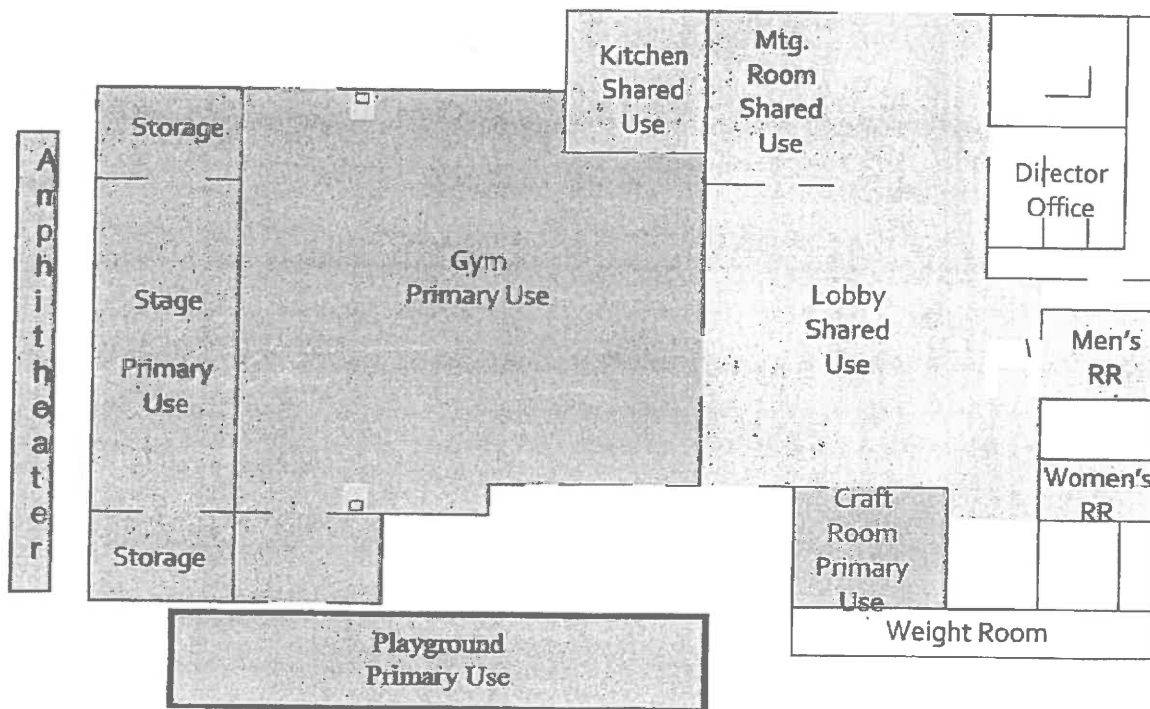
By: [Signature]  
Deputy City Attorney

Date: 12/18/13

**Exhibit A**  
Site Map

PREMISES Defined

Pursuant to Section 2 of this AGREEMENT, the PREMISES located at 929 Academy Road, Los Angeles, CA 90012, within the grounds of Elysian Therapeutic Recreation Center, is delineated below within the red lines.



## Exhibit B

### Proposal for Providing Community Services

#### *Institution of Open Arts & After School Program for the Community of LA*

The Los Angeles Theatre Academy (LATA) proposes an initial offering of a community-based theatre program to involve community members in the theatre arts in addition to periodic offerings in the visual and communicative arts. The Los Angeles Theatre Academy (LATA) will expand artistic offerings to the community by building upon the foundation of its outstanding children's theatre company as it expands the arts programming at the amphitheater.

#### *A Robust Community Center Providing Essential Services Theatre Art Productions*

The theatre program will remain open throughout the year and will produce a minimum of four stage productions in collaboration with members of the surrounding community. Productions will be scheduled so as to cover the full range of seasons including spring, summer, fall and winter. The proposed inaugural programming schedule would include the following programs and after school enrichment activities to school-aged children:

- Annual Children's Theatre Summer Festival (ACTS Festival)
- Arts in Education Programs on weekends and evenings
- After School Program with the emphasis on theatre programs (ASP-LATA)
- Summer/Winter Camp Supporting Working Parents (SWP-LATA)
- Periodic Visiting Artists Workshops open to the general public

#### *A Full Service Non-Profit Arts Space in Service to the Children of Los Angeles*

Offering the following types of programs:

- Solano School Programming Extension: Support of the extension of programming with the administration and students of the Solano Avenue School
- Music Department: Classes and Concerts from rock to classic piano and guitar
- Computer Lab: TV, film and video editing room, Classes creating professional video presentations with current youth-friendly technology such as iPod/cell phone
- Earth Science Workshops: Guided nature tours of the ecology of Elysian Park
- Second and Primary Language Classes: Spanish, Chinese & English (ESL)
- Art Contests, Children's Gallery, Talent Shows: Local Artist presentation and exhibitions drawing on the rich artistic talent pool of the surrounding community
- Film & Book Programming: Book club, poetry night, classic films & TV show
- Painting classes: Watercolor and Pastel Classes
- Teen & Adult Classes: Cooking, Gardening, Pottery, Knitting, Yoga, Salsa Latin Dance, Flamenco, Tango, Capoeira, Aerobics and more
- Chess and Yugi-Gi-Oh: Sponsored Tournaments
- Parents Night Out: Mommy and Me, Daddy and Me Classes
- Child Care Center: Potential service to the community during the day
- Parties and Events: Featuring theatre themes and theatre show

**Exhibit C**

Sample Performance Evaluation Form



City of Los Angeles Department of Recreation and Parks  
PARTNERSHIP DIVISION

**CONSOLIDATED PERFORMANCE REVIEW**

<b>PARTNER ORGANIZATION</b>					
<b>PROJECT/PROGRAM TITLE</b>					ONE-TIME or ROE <input type="checkbox"/>
					ANNUAL <input type="checkbox"/>
<b>DEPARTMENT FACILITY(IES)</b>					
<b>PERIOD COVERED</b>			<b>DATE OF INSPECTION</b>		
	<b>Unsatisfactory</b>	<b>Improvement Needed</b>	<b>Meets Standards</b>	<b>Exceeds Standard</b>	<b>Outstanding</b>
<b>PROGRAM</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Partnership enhances recreational opportunities (no duplication)					
Participants enjoying/engaged in program based on inspection or oral/written feedback					
Participation appears to include reasonable proportion from the local community and inclusion of special needs participants					
Instructors are specialized, licensed, experienced, and have an appropriate level of education; they are professional, polite, and prepared					
Participants show progress (if applicable)					
	<b>Unsatisfactory</b>	<b>Improvement Needed</b>	<b>Meets Standards</b>	<b>Exceeds Standard</b>	<b>Outstanding</b>
<b>FINANCIAL</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cost of the program is free, low cost, or relatively similar to programs in same community and consistent with agreement					
Partner's annual budget is provided and is sufficiently funded for commitment					
Partner pays on-time and according to requirements					
	<b>Unsatisfactory</b>	<b>Improvement Needed</b>	<b>Meets Standards</b>	<b>Exceeds Standard</b>	<b>Outstanding</b>
<b>OUTREACH</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Number of participants reaches or exceeds target					
Recruits new participants					
Provides demographic information and analysis and/or surveys of participants					



Marketing material includes "In collaboration with the City of Los Angeles, Department of Recreation & Parks" and Department logo					
Partner web site links to the RAP web site					
Department approves marketing material					
	Unsatisfactory	Improvement Needed	Meets Standards	Exceeds Standard	Outstanding
<b>SAFETY</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employees and volunteers of partnership programs are fingerprinted and written verification is provided					
Provides liability insurance that includes the City of Los Angeles, Department of Recreation and Parks as determined by City Risk Manager (check website)					
Adequate program staff to provide proper supervision and safety					
All equipment and instructional supplies adhere to Department safety specifications and requirements					
Maintains designated areas in clean and orderly condition					
	Unsatisfactory	Improvement Needed	Meets Standards	Exceeds Standard	Outstanding
<b>ORGANIZATION</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The value of the partnership is provided and partner is meeting program requirements					
Maintains good communication and a professional relationship with the Department					
Compliance with the terms of the agreement including proof of non-profit status (if applicable – check websites)					
Provides required written reports including Annual Report					
Sub-leasing is not occurring					
Department has control over property usage during non-designated times (if applicable)					
Compliance Resolutions completed satisfactorily (if any)					
Public Complaints resolved (if any)					
Capital improvement projects are in conformance with City Standards and in coordination with the Department and Bureau of Engineering (if applicable)					
<b>OVERALL EVALUATION</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**ADDITIONAL COMMENTS / RESULTS / RECOMMENDATIONS**

*Include RAP Staff feedback and participant comments*

NAME AND TITLE OF EVALUATOR	
SIGNATURE OF EVALUATOR	DATE
NAME AND TITLE OF EVALUATION REVIEWER	
SIGNATURE OF REVIEWER	DATE

**ATTACHMENTS**

Compliance Resolution Forms  
  Public Comments  
  Flyers and PR Materials  
  Photos  
  Program Forms  
 Annual Report  
  Budget  
  Inspection(s)  
  Compliance Check  
  Legal/Insurance Status  
  Other \_\_\_\_\_

Exhibit D
Insurance Requirements

Form Gen. 146 (Rev. 3/09)

Required Insurance and Minimum Limits

Name: Los Angeles Theatre Academy, Inc. Date: 09/05/2012

Agreement/Reference: Operation of a theater arts, after school club and summer day camp at Elysian Therapeutic Rec Center
Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

Workers' Compensation - Workers' Compensation (WC) and Employer's Liability (EL)
General Liability
Automobile Liability (for any and all vehicles used for this contract, other than commuting to/from work)
Professional Liability (Errors and Omissions)
Discovery Period 12 Months After Completion of Work or Date of Termination
Property Insurance (to cover replacement cost of building - as determined by insurance company)
Pollution Liability
Surety Bonds - Performance and Payment (Labor and Materials) Bonds 100% of the contract price
Crime Insurance

## CITY OF LOS ANGELES

INSTRUCTIONS AND INFORMATION  
ON COMPLYING WITH CITY INSURANCE REQUIREMENTS

(Share this information with your insurance agent or broker.)

1. **Agreement/Reference** All evidence of insurance must identify the nature of your business with the CITY. Clearly show any assigned number of a bid, contract, lease, permit, etc. or give the project name and the job site or street address to ensure that your submission will be properly credited. Provide the **types of coverage and minimum dollar amounts** specified on the Required Insurance and Minimum Limits sheet (Form Gen. 146) included in your CITY documents.
2. **When to submit** Normally, no work may begin until a CITY insurance certificate approval number ("CA number") has been obtained, so insurance documents should be submitted as early as practicable. For **As-needed Contracts**, insurance need not be submitted until a specific job has been awarded. **Design Professionals** coverage for new construction work may be submitted simultaneously with final plans and drawings, but before construction commences.
3. **Acceptable Evidence and Approval** Electronic submission is the preferred method of submitting your documents. **Track4LA™** is the CITY's online insurance compliance system and is designed to make the experience of submitting and retrieving insurance information quick and easy. The system is designed to be used primarily by insurance brokers and agents as they submit client insurance certificates directly to the City. It uses the standard insurance industry form known as the **ACORD 25 Certificate of Liability Insurance** in electronic format – the CITY is a licensed redistributor of ACORD forms. Track4LA™ advantages include standardized, universally accepted forms, paperless approval transactions (24 hours, 7 days per week), and security checks and balances. The easiest and quickest way to obtain approval of your insurance is to have your insurance broker or agent access **Track4LA™** at <http://track4la.lacity.org> and follow the instructions to register and submit the appropriate proof of insurance on your behalf.

Insurance industry certificates other than the ACORD 25 that have been approved by the State of California, may be accepted, however **submissions other than through Track4LA™ will significantly delay the insurance approval process as documents will have to be manually processed**. All Certificates must provide a thirty (30) days' cancellation notice provision (ten (10) days for non-payment of premium) AND an Additional Insured Endorsement naming the CITY an additional insured completed by your insurance company or its designee. If the policy includes an automatic or blanket additional insured endorsement, the Certificate must state the CITY is an automatic or blanket additional insured. An endorsement naming the CITY an Additional Named

Insured and Loss Payee as Its Interests May Appear is required on property policies. All evidence of insurance must be authorized by a person with authority to bind coverage, whether that is the authorized agent/broker or insurance underwriter. Completed **Insurance Industry Certificates other than ACORD 25 Certificates** are sent electronically to [CAO.insurance.bonds@lacity.org](mailto:CAO.insurance.bonds@lacity.org).

Additional Insured Endorsements DO NOT apply to the following:

- Indication of compliance with statute, such as Workers' Compensation Law.
- Professional Liability insurance.

Verification of approved insurance and bonds may be obtained by checking **Track4LA™**, the CITY's online insurance compliance system, at <http://track4la.lacity.org>.

4. **Renewal** When an existing policy is renewed, have your insurance broker or agent submit a new Acord 25 Certificate or edit the existing Acord 25 Certificate through **Track4LA™** at <http://track4la.lacity.org>.

5. **Alternative Programs/Self-Insurance** Risk financing mechanisms such as Risk Retention Groups, Risk Purchasing Groups, off-shore carriers, captive insurance programs and self-insurance programs are subject to separate approval after the CITY has reviewed the relevant audited financial statements. To initiate a review of your program, you should complete the Applicant's Declaration of Self Insurance form (<http://cao.lacity.org/risk/InsuranceForms.htm>) to the Office of the City Administrative Officer, Risk Management for consideration.

6. **General Liability** insurance covering your operations (and products, where applicable) is required whenever the CITY is at risk of third-party claims which may arise out of your work or your presence or special event on City premises. **Sexual Misconduct** coverage is a required coverage when the work performed involves minors. **Fire Legal Liability** is required for persons occupying a portion of CITY premises. (Information on two CITY insurance programs, the SPARTA program, an optional source of low-cost insurance which meets the most minimum requirements, and the Special Events Liability Insurance Program, which provides liability coverage for short-term special events on CITY premises or streets, is available at ([www.2sparta.com](http://www.2sparta.com)), or by calling (800) 420-0555.

7. **Automobile Liability** insurance is required only when vehicles are used in performing the work of your Contract or when they are driven off-road on CITY premises; it is not required for simple commuting unless CITY is paying mileage. However, compliance with California law requiring auto liability insurance is a contractual requirement.

8. **Errors and Omissions** coverage will be specified on a project-by-project basis if you are working as a licensed or other professional. The length of the claims discovery period required will vary with the circumstances of the individual job.

9. **Workers' Compensation and Employer's Liability** insurance are not required for single-person contractors. However, under state law these coverages (or a copy of the state's Consent To Self Insure) must be provided if you have any employees at any time during the period of this contract. Contractors with no employees must complete a Request for Waiver of Workers' Compensation Insurance Requirement (<http://cao.lacity.org/risk/InsuranceForms.htm>). A **Waiver of Subrogation** on the coverage is required only for jobs where your employees are working on CITY premises under hazardous conditions, e.g., uneven terrain, scaffolding, caustic chemicals, toxic materials, power tools, etc. The Waiver of Subrogation waives the insurer's right to recover (from the CITY) any workers' compensation paid to an injured employee of the contractor.

10. **Property Insurance** is required for persons having exclusive use of premises or equipment owned or controlled by the CITY. **Builder's Risk/Course of Construction** is required during construction projects and should include building materials in transit and stored at the project site.

11. **Surety** coverage may be required to guarantee performance of work and payment to vendors and suppliers. A **Crime Policy** may be required to handle CITY funds or securities, and under certain other conditions. **Specialty coverages** may be needed for certain operations. For assistance in obtaining the CITY required bid, performance and payment surety bonds, please see the City of Los Angeles Bond Assistance Program website address at <http://cao.lacity.org/risk/BondAssistanceProgram.pdf> or call (213) 258-3000 for more information

Exhibit E  
Standard Provisions for City Contracts (Rev. 3/09)

## STANDARD PROVISIONS FOR CITY CONTRACTS

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## STANDARD PROVISIONS FOR CITY CONTRACTS

### **PSC-1. CONSTRUCTION OF PROVISIONS AND TITLES HEREIN**

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" herein in this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one **CONTRACTOR** herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

### **PSC-2. NUMBER OF ORIGINALS**

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the **CITY'S** option, one or more additional original texts of this Contract may also be retained by the City.

### **PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT**

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Contract.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of the Contract shall not be affected thereby.

**PSC-4. TIME OF EFFECTIVENESS**

Unless otherwise provided, this Contract shall take effect when all of the following events have occurred:

- A. This Contract has been signed on behalf of **CONTRACTOR** by the person or persons authorized to bind **CONTRACTOR** hereto;
- B. This Contract has been approved by the City Council or by the board, officer or employee authorized to give such approval;
- C. The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and
- D. This Contract has been signed on behalf of the **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

**PSC-5. INTEGRATED CONTRACT**

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in paragraph PSC-6 hereof.

**PSC-6. AMENDMENT**

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-4.

**PSC-7. EXCUSABLE DELAYS**

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

**PSC-8. BREACH**

Except for excusable delays as described in PSC-7, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights

and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

**PSC-9. WAIVER**

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

**PSC-10. TERMINATION**

**A. TERMINATION FOR CONVENIENCE**

The **CITY** may terminate this Contract for the **CITY'S** convenience at any time by giving **CONTRACTOR** thirty days written notice thereof. Upon receipt of said notice, **CONTRACTOR** shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The **CITY** shall pay **CONTRACTOR** its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by **CONTRACTOR** to affect such termination. Thereafter, **CONTRACTOR** shall have no further claims against the **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon the date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

**B. TERMINATION FOR BREACH OF CONTRACT**

1. Except for excusable delays as provided in PSC-7, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, the **CITY** may give **CONTRACTOR** written notice of such default. If **CONTRACTOR** does not cure such default or provide a plan to cure such default which is acceptable to the **CITY** within the time permitted by the **CITY**, then the **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then the **CITY** may immediately terminate this Contract.
3. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates the

**CITY'S** lobbying policies, then the **CITY** may immediately terminate this Contract.

4. In the event the **CITY** terminates this Contract as provided in this section, the **CITY** may procure, upon such terms and in such manner as the **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to the **CITY** for all of its costs and damages, including, but not limited, any excess costs for such services.
5. All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.
6. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-10(A) Termination for Convenience.
7. The rights and remedies of the **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

**PSC-11. INDEPENDENT CONTRACTOR**

**CONTRACTOR** is acting hereunder as an independent contractor and not as an agent or employee of the **CITY**. **CONTRACTOR** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the **CITY**.

**PSC-12. CONTRACTOR'S PERSONNEL**

Unless otherwise provided or approved by the **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. The **CITY** shall have the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** agrees to remove personnel from performing work under this Contract if requested to do so by the **CITY**.

**CONTRACTOR** shall not use subcontractors to assist in performance of this Contract without the prior written approval of the **CITY**. If the **CITY** permits the use of subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of

this Contract. The **CITY** has the right to approve **CONTRACTOR'S** subcontractors, and the **CITY** reserves the right to request replacement of subcontractors. The **CITY** does not have any obligation to pay **CONTRACTOR'S** subcontractors, and nothing herein creates any privity between the **CITY** and the subcontractors.

**PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION**

**CONTRACTOR** may not, unless it has first obtained the written permission of the **CITY**:

- A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

**PSC-14. PERMITS**

**CONTRACTOR** and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance hereunder and shall pay any fees required therefor. **CONTRACTOR** certifies to immediately notify the **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

**PSC-15. CLAIMS FOR LABOR AND MATERIALS**

**CONTRACTOR** shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any **CITY** property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), against **CONTRACTOR'S** rights to payments hereunder, or against the **CITY**, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**PSC-16. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED**

If applicable, **CONTRACTOR** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this Contract, **CONTRACTOR** shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

**PSC- 17. RETENTION OF RECORDS, AUDIT AND REPORTS**

**CONTRACTOR** shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form, in accordance with

requirements prescribed by the **CITY**. These records shall be retained for a period of no less than three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. Said records shall be subject to examination and audit by authorized **CITY** personnel or by the **CITY'S** representative at any time during the term of this Contract or within the three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. **CONTRACTOR** shall provide any reports requested by the **CITY** regarding performance of this Contract. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

#### **PSC-18. FALSE CLAIMS ACT**

**CONTRACTOR** acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the **CITY** under the False Claims Act (Cal. Gov. Code §§ 12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

#### **PSC-19. BONDS**

All bonds which may be required hereunder shall conform to **CITY** requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

#### **PSC-20. INDEMNIFICATION**

Except for the active negligence or willful misconduct of the **CITY**, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, **CONTRACTOR** undertakes and agrees to defend, indemnify and hold harmless the **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by **CONTRACTOR** or its subcontractors of any tier. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-20 shall survive expiration or termination of this Contract.

#### **PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION**

**CONTRACTOR**, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the **CITY**, and any of its Boards, Officers, Agents, Employees, Assigns,

and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information right (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its subcontractors of any tier, in performing the work under this Contract; or (2) as a result of the **CITY'S** actual or intended use of any Work Product furnished by **CONTRACTOR**, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-21 shall survive expiration or termination of this Contract.

#### **PSC-22. INTELLECTUAL PROPERTY WARRANTY**

**CONTRACTOR** represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patents, copyrights, trademarks, trade secrets, right of publicity and proprietary information.

#### **PSC-23. OWNERSHIP AND LICENSE**

Unless otherwise provided for herein, all Work Products originated and prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract shall be and remain the exclusive property of the **CITY** for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas matters and combinations thereof, and all forms of intellectual property. **CONTRACTOR** hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by **CONTRACTOR** under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

For all Work Products delivered to the **CITY** that are not originated or prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract, **CONTRACTOR** hereby grants a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.



**CONTRACTOR** shall not provide or disclose any Work Product to any third party without prior written consent of the **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subcontractors performing work under this Contract such that the **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

#### **PSC-24. INSURANCE**

During the term of this Contract and without limiting **CONTRACTOR'S** indemnification of the **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by **CONTRACTOR**, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form General 146 in Exhibit 1 hereto), covering its operations hereunder. Such insurance shall conform to **CITY** requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto) and shall otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

#### **PSC-25. DISCOUNT TERMS**

**CONTRACTOR** agrees to offer the **CITY** any discount terms that are offered to its best customers for the goods and services to be provided hereunder and apply such discount to payments made under this Contract which meet the discount terms.

#### **PSC-26. WARRANTY AND RESPONSIBILITY OF CONTRACTOR**

**CONTRACTOR** warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within **CONTRACTOR'S** profession, doing the same or similar work under the same or similar circumstances.

#### **PSC-27. NON-DISCRIMINATION**

Unless otherwise exempt, this Contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the **CITY**. In performing this Contract, **CONTRACTOR** shall not

discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

### **PSC-28. EQUAL EMPLOYMENT PRACTICES**

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **CONTRACTOR** and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of **CITY** contracts. On their or either of their request **CONTRACTOR** shall provide evidence that he or she has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of **CITY** contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has failed to comply with the Equal Employment Practices provisions of a **CITY** contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until **CONTRACTOR** shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the **CITY**, or when an individual bid or proposal is submitted, **CONTRACTOR** shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of **CITY** Contracts.

- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Hiring practices;
  2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  3. Training and promotional opportunities; and
  4. Reasonable accommodations for persons with disabilities.
- L. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR'S** Contract with the **CITY**.

**PSC-29. AFFIRMATIVE ACTION PROGRAM**

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
  2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  3. **CONTRACTOR** shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to

their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, **CONTRACTOR** shall certify on an electronic or hard copy form to be supplied, that **CONTRACTOR** has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of **CITY** contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Affirmative Action Program provisions of **CITY** contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has breached the Affirmative Action Program provisions of a **CITY** contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that **CONTRACTOR** has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a **CITY** contract, there may be deducted from the amount payable to **CONTRACTOR** by the **CITY** under the contract, a penalty of ten dollars

(\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a **CITY** contract.

- H. Notwithstanding any other provisions of a **CITY** contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in **CITY** contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. **CONTRACTOR** shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the **CITY**. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, **CONTRACTOR** may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, **CONTRACTOR** must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
  - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
  - 2. **CONTRACTOR** may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the **CITY** with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and **CONTRACTOR**.

- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  2. Classroom preparation for the job when not apprenticeable;
  3. Pre-apprenticeship education and preparation;
  4. Upgrading training and opportunities;
  5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
  6. The entry of qualified women, minority and all other journeymen into the industry; and
  7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's work force to achieve the requirements of the **CITY'S** Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the **CITY** and may be used at the discretion of the **CITY** in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.

- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the **CITY** and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the **CITY**.

### **PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS**

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, **CONTRACTOR** will fully comply with all applicable State and Federal employment reporting requirements for **CONTRACTOR'S** employees. **CONTRACTOR** shall also certify (1) that the Principal Owner(s) of **CONTRACTOR** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that **CONTRACTOR** will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, *et seq.* of the California Family Code; and (3) that **CONTRACTOR** will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to obtain compliance of its subcontractors shall constitute a default by **CONTRACTOR** under this Contract, subjecting this Contract to termination where such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

**CONTRACTOR** certifies that, to the best of its knowledge, it 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 Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.



**PSC-31. LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE**

- A. Unless otherwise exempt, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:
1. **CONTRACTOR** assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.
  2. **CONTRACTOR** further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. **CONTRACTOR** shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. **CONTRACTOR** shall deliver the executed pledges from each such subcontractor to the **CITY** within ninety (90) days of the execution of the subcontract. **CONTRACTOR'S** delivery of executed pledges from each such subcontractor shall fully discharge the obligation of **CONTRACTOR** with respect to such pledges and fully discharge the obligation of **CONTRACTOR** to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
  3. **CONTRACTOR**, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the **CITY** with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. **CONTRACTOR** shall post the Notice of Prohibition Against Retaliation provided by the **CITY**.
  4. Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of PSC-31 and shall incorporate the provisions of the LWO and the SCWRO.

5. **CONTRACTOR** shall comply with all rules, regulations and policies promulgated by the **CITY'S** Designated Administrative Agency which may be amended from time to time.
- B. Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR** has violated provisions of either the LWO or the SCWRO, or both.
- C. Where under the LWO Section 10.37.6(d), the **CITY'S** Designated Administrative Agency has determined (a) that **CONTRACTOR** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the **CITY** in such circumstances may impound monies otherwise due **CONTRACTOR** in accordance with the following procedures. Impoundment shall mean that from monies due **CONTRACTOR**, **CITY** may deduct the amount determined to be due and owing by **CONTRACTOR** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether **CONTRACTOR** is to continue work following an impoundment shall remain in the sole discretion of the **CITY**. **CONTRACTOR** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.
- D. **CONTRACTOR** shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). **CONTRACTOR** shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from **CONTRACTOR**.

#### **PSC- 32. AMERICANS WITH DISABILITIES ACT**

**CONTRACTOR** hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations. **CONTRACTOR** will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. **CONTRACTOR** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by **CONTRACTOR**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

**PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time, which requires **CONTRACTOR** to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect **CONTRACTOR'S** fitness and ability to continue performing this Contract.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this Contract, **CONTRACTOR** pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. **CONTRACTOR** further agrees to: (1) notify the **CITY** within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that **CONTRACTOR** is not in compliance with all applicable federal, state and local laws in performance of this Contract; (2) notify the **CITY** within thirty calendar days of all findings by a government agency or court of competent jurisdiction that **CONTRACTOR** has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance; (3) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the **CITY**; and (4) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the **CITY** within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

**PSC-34. MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM**

**CONTRACTOR** agrees and obligates itself to utilize the services of Minority, Women and Other Business Enterprise firms on a level so designated in its proposal, if any. **CONTRACTOR** certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Personal Services Contracts Greater than \$100,000, if applicable. **CONTRACTOR** shall not change any of these designated subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of the **CITY**, provided that such approval shall not be unreasonably withheld.

**PSC-35. EQUAL BENEFITS ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of the Contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** will comply with the EBO.
- B. The failure of **CONTRACTOR** to comply with the EBO will be deemed to be a material breach of this Contract by the **CITY**.
- C. If **CONTRACTOR** fails to comply with the EBO the **CITY** may cancel, terminate or suspend this Contract, in whole or in part, and all monies due or to become due under this Contract may be retained by the **CITY**. The **CITY** may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.
- E. If the **CITY'S** Designated Administrative Agency determines that a **CONTRACTOR** has set up or used its contracting entity for the purpose of evading the intent of the EBO, the **CITY** may terminate the Contract. Violation of this provision may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

**CONTRACTOR** shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

“During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles’ Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922.”

#### **PSC 36. SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this Contract.

**EXHIBIT 1****INSURANCE CONTRACTUAL REQUIREMENTS**

**CONTACT** For additional information about compliance with City Insurance and Bond requirements, contact the Office of the City Administrative Officer, Risk Management at (213) 978-RISK (7475) or go online at [www.lacity.org/cao/risk](http://www.lacity.org/cao/risk). The City approved Bond Assistance Program is available for those contractors who are unable to obtain the City-required performance bonds. A City approved insurance program may be available as a low cost alternative for contractors who are unable to obtain City-required insurance.

**CONTRACTUAL REQUIREMENTS****CONTRACTOR AGREES THAT:**

**1. Additional Insured/Loss Payee.** The CITY must be included as an Additional Insured in applicable liability policies to cover the CITY'S liability arising out of the acts or omissions of the named insured. The CITY is to be named as an Additional Named Insured and a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.

**2. Notice of Cancellation.** All required insurance will be maintained in full force for the duration of its business with the CITY. By ordinance, all required insurance must provide at least thirty (30) days' prior written notice (ten (10) days for non-payment of premium) directly to the CITY if your insurance company elects to cancel or materially reduce coverage or limits prior to the policy expiration date, for any reason except impairment of an aggregate limit due to prior claims.

**3. Primary Coverage.** CONTRACTOR will provide coverage that is primary with respect to any insurance or self-insurance of the CITY. The CITY'S program shall be excess of this insurance and non-contributing.

**4. Modification of Coverage.** The CITY reserves the right at any time during the term of this Contract to change the amounts and types of insurance required hereunder by giving CONTRACTOR ninety (90) days' advance written notice of such change. If such change should result in substantial additional cost to CONTRACTOR, the CITY agrees to negotiate additional compensation proportional to the increased benefit to the CITY.

**5. Failure to Procure Insurance.** All required insurance must be submitted and approved by the Office of the City Administrative Officer, Risk Management prior to the inception of any operations by CONTRACTOR.

CONTRACTOR'S failure to procure or maintain required insurance or a self-insurance program during the entire term of this Contract shall constitute a material breach of this Contract under which the CITY may immediately suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect the CITY'S interests and pay any and all premiums in connection therewith and recover all monies so paid from CONTRACTOR.

**6. Workers' Compensation.** By signing this Contract, CONTRACTOR hereby certifies that it is aware of the provisions of Section 3700 *et seq.*, of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake

self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all time during the performance of the work pursuant to this Contract.

**7. California Licensee.** All insurance must be provided by an insurer admitted to do business in California or written through a California-licensed surplus lines broker or through an insurer otherwise acceptable to the CITY. Non-admitted coverage must contain a **Service of Suit** clause in which the underwriters agree to submit as necessary to the jurisdiction of a California court in the event of a coverage dispute. Service of process for this purpose must be allowed upon an agent in California designated by the insurer or upon the California Insurance Commissioner.

**8. Aggregate Limits/Impairment.** If any of the required insurance coverages contain annual aggregate limits, CONTRACTOR must give the CITY written notice of any pending claim or lawsuit which will materially diminish the aggregate within thirty (30) days of knowledge of same. You must take appropriate steps to restore the impaired aggregates or provide replacement insurance protection within thirty (30) days of knowledge of same. The CITY has the option to specify the minimum acceptable aggregate limit for each line of coverage required. No substantial reductions in scope of coverage which may affect the CITY'S protection are allowed without the CITY'S prior written consent.

**9. Commencement of Work.** For purposes of insurance coverage only, this Contract will be deemed to have been executed immediately upon any party hereto taking any steps that can be considered to be in furtherance of or towards performance of this Contract. The requirements in this Section supersede all other sections and provisions of this Contract, including, but not limited to, PSC-4, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

### Exhibit 1 (Continued) Required Insurance and Minimum Limits

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Agreement/Reference: \_\_\_\_\_  
Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amount shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

Limits

**Workers' Compensation – Workers' Compensation (WC) and Employer's Liability (EL)**

WC \_\_\_\_\_  
EL Statutory \_\_\_\_\_

- Waiver of Subrogation in favor of City
- Longshore & Harbor Workers
- Jones Act

**General Liability**

- Products/Completed Operations
- Sexual Misconduct \_\_\_\_\_
- Fire Legal Liability \_\_\_\_\_
- \_\_\_\_\_

**Automobile Liability** (for any and all vehicles used for this Contract, other than commuting to/from work)

**Professional Liability** (Errors and Omissions)

**Property Insurance** (to cover replacement cost of building – as determined by insurance company)

- All Risk Coverage
- Boiler and Machinery
- Flood \_\_\_\_\_
- Builder's Risk
- Earthquake \_\_\_\_\_
- \_\_\_\_\_

**Pollution Liability**

\_\_\_\_\_

**Surety Bonds – Performance and Payment (Labor and Materials) Bonds**

100 % of Contract Price

**Crime Insurance**

Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT B**

Los Angeles Theatre Academy Board of Directors

Board Chair

Susana Benavidez, Chair  
Business Development, Latham & Watkins

Secretary

Henry Madrid  
President, Madrid Consulting Group, LL

Treasurer

Christine Peters  
President, Citizens Committee to Save Elysian Park

Dr. Ralphael Mattei  
Chiropractor

Elizabeth Gasca  
Teacher, Montebello Unified District

Iris Kennedy  
Teacher, LAUSD

Los Angeles Theatre Academy Advisory Board

Patricia Alarcon  
LA Commissioner

Roxana Sanchez  
Mother

Roberto Cantu  
Professor, California State University, Los Angeles

Gabriela Teissier  
Anchor, Univisión KMEX-TV Primera Edición

Estela Scarlata  
Set Designer and Production Manager, LATA



APPROVED

REPORT OF GENERAL MANAGER

NO. 13-174

DATE June 27, 2013

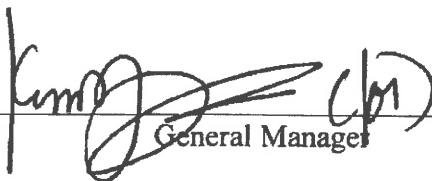
JUN 27 2013  
BOARD OF RECREATION  
& PARK COMMISSIONERS

C.D. 14

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: ELYSIAN PARK RECREATION CENTER – AGREEMENT WITH LOS ANGELES THEATRE ACADEMY, INC., FOR THE SHARED USE OF ELYSIAN PARK RECREATION CENTER FOR THEATRE ARTS, AFTER SCHOOL CLUB AND SUMMER DAY CAMP PROGRAMS

R. Adams	_____	K. Regan	_____
H. Fujita	_____	M. Shull	_____
*V. Israel	_____	N. Williams	_____

  
General Manager

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATIONS:

That the Board:

1. Approve a proposed three (3) year agreement (Agreement), substantially in the form on file in the Board Office, between the Department of Recreation and Parks (RAP) and Los Angeles Theatre Academy, Inc. (LATA), a California non-profit organization, setting forth the terms and conditions for the shared use of park property at Elysian Park Recreation Center, subject to the approval of the Mayor and of the City Attorney as to form;
2. Direct the Board Secretary to transmit the proposed Agreement, to the Mayor in accordance with Executive Directive No. 3, and concurrently, to the City Attorney for review and approval as to form;
3. Authorize the Board President and Secretary to execute the Agreement upon receipt of the necessary approvals; and,
4. Direct the Department's Chief Accounting Employee to deposit fees for utility and other cost recovery reimbursements received from LATA in the accounts 302/89/89707H; General Recreation Activity Program, Sub-Account TBD established for such purposes.

## REPORT OF GENERAL MANAGER

PG. 2

NO. 13-174SUMMARY:

Elysian Park is one of the oldest parks in Los Angeles, consisting of 600 acres. Within Elysian Park is the Elysian Therapeutic Recreation Center now referred to as the Elysian Park Recreation Center located at 929 Academy Road, Los Angeles, CA 90012. Prior to July 2010, the Elysian Therapeutic Recreation Center was used to foster the development of independent, social and recreation skills of developmentally disabled youth. However, the challenging economic environment and resulting staff and service reductions led to the closure of the programs for developmentally disabled youth at Elysian Therapeutic Recreation Center in June 2010. With the availability of some space at the facility, Metro Region administration has allowed LATA to share the use of Elysian Park Recreation Center with RAP's LA KIDS program staff.

LATA, a non-profit community based organization, has been dedicated to providing theatre arts, after school, and summer day camp programs to the community surrounding Elysian Park since 2008. LATA currently offers theatre arts programs that include four (4) full stage productions, an annual children's theatre summer festival, arts in education programs, summer and winter camps supporting working parents, an after-school club and periodic visiting artist workshops. Program participants are subject to modest LATA program fees which are commensurate with other programs in the surrounding area and registration procedure. LATA serves approximately fifty to sixty (50-60) participants each year, with ages ranging from five to sixteen (5-16) years old.

Staff recommends approval of the proposed Agreement so that LATA may be allowed to continue using park property to provide youth programs which provide recreational benefits and is in the best interest of the Elysian Park community.

Should the proposed Agreement be approved, LATA's performance will be monitored through an annual performance review to ensure compliance with the Agreement. As part of the proposed Agreement, LATA will pay a Cost Recovery Fee in the amount of \$433.00 per month or \$5,196.00 a year plus any additional reimbursement for as-needed staff coverage costs to open or close the building during the hours RAP is not operating its programs. The Cost Recovery Fee will cover indirect costs associated with the impact of LATA's program to RAP.

ENVIROMENTAL IMPACT STATEMENT

Staff has determined that the proposed Agreement with LATA will allow the Elysian Park Recreation Center facility to be used for recreational programs involving negligible or no expansion of use, and, therefore, is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Article III, Section 1, Class 1(14) of the City CEQA Guidelines.

REPORT OF GENERAL MANAGER

PG. 3

NO. 13-174

The Superintendent of RAP's Metro Region and the Office of Councilmember Jose Huizar (Council District 14) are aware of the agreement and concur with staff's recommendations.

FISCAL IMPACT STATEMENT:

The proposed Agreement will have no adverse impact on RAP's General Fund as operations and program costs associated with LATA's use of park property will be paid for by LATA and any additional staff impact costs will be compensated through the collection of Board approved Cost Recovery Fees.

This report was prepared by Joel Alvarez, Senior Management Analyst, and Chinyere Stoneham, Senior Recreation Director, Partnership Division.

**BOARD REPORT**

NO. 16-151

DATE: July 13, 2016

C.D. Various

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: PARTNERSHIP DIVISION – DONATION FROM THE NATASHA WATLEY FOUNDATION IN SUPPORT OF A DEPARTMENT OPERATED GIRLS SOFTBALL LEAGUE AT NINE PARK SITES

AP Diaz	_____	* V. Israel	_____
R. Barajas	_____	K. Regan	_____
H. Fujita	_____	N. Williams	_____

  
 \_\_\_\_\_  
 General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Accept a donation from the Natasha Watley Foundation (NWF), consisting of cash and funding, uniforms, equipment, and in-kind services, with a total estimated value of Seventeen Thousand, Seven Hundred Seventy-One Dollars (\$17,771.00), in support of the Department of Recreation and Parks (RAP) operation of the 2016 Natasha Watley Softball League (League), and that appropriate recognition be given to NWF; and,
2. Direct the RAP Chief Accounting Employee to deposit in the established Sports Organization Account under Fund 302, Department 89, Account 89703H, Sub-Account NW, all funds received from the NWF for the League, and to authorize the payment of League-related expenses from said Sub-Account.

SUMMARY

The NWF was founded by two-time Olympic softball medalist Natasha Watley to create softball-based developmental opportunities for girls in underserved communities so they can learn the game of softball and valuable life-skills. The NWF seeks young women whose financial resources are limited and to provide them with the opportunity to train, develop, and compete in a high-quality softball league such as the "Natasha Watley Softball League" in which they will be guided by the League's Coach Mentor Program (CMP).

As part of RAP's ongoing collaborative operation of the League with the NWF, NWF donates the following for the 2016 summer season: sports uniforms with an estimated value of Seven Thousand, Four Hundred Seventy-One Dollars (\$7,471.00); cash in the amount of One Thousand, Five Hundred Sixty Dollars (\$1,560.00) for the payment of umpire fees; softball equipment with an estimated value of Two Thousand, Seven Hundred Forty Dollars (\$2,740.00); and in-kind services in the form of a Coach Mentor Program (CMP) with an estimated value of

## BOARD REPORT

PG. 2 NO. 16-151

up to \$6,000.00. The collective value of the NWF's contribution to the League is estimated to be Seventeen Thousand, Seven Hundred Seventy-One Dollars (\$17,771.00).

The 2016 Summer League will be the ninth year of the League's operation and the fifth year of the CMP and associated Essay Contest. The NWF has supported the League every year with financial and in-kind contributions since 2011. In 2015, the league consisted of two divisions/age groups: ages 8-10 (eight to ten) and ages 11-12 (eleven to twelve).

The CMP matches top female athletes from universities nationwide with each of the participating recreation centers. Coach Mentors not only coach but also teach the "Four Points of the Diamond" – discipline, dedication, dignity, and duty. With the help of the Coach Mentors, players between the ages of 11 to 12 (eleven to twelve) are given the opportunity to write an essay based on the core values of character and the Four Points of the Diamond. The 2015 essay contest winner, Jocelyn Montes De Oca from Algin Sutton Recreation Center, and a chaperone attended the National Pro Fast Pitch Championship Game in Hoover, Alabama, and participated in softball clinics taught by top female athletes, with all expenses paid by the NWF.

The 2016 League will consist of fourteen (14) teams representing nine Recreation Centers and their respective communities. Recreation Centers include Baldwin Hills, Central, Green Meadows, Harbor City, Imperial Courts, Jackie Tatum Harvard, Martin Luther King Jr., Ross Snyder and Van Ness. The 2016 League Opening Day was held on June 21, 2016, at Van Ness Recreation Center. Games began on June 28, 2016, and will end in mid-August. Each team will play eight games. RAP will conduct all administrative functions related to the program, such as promoting the League, recruiting and registering players, providing head or assistant coaches who will assist with weekly practices, and hosting the opening and closing ceremonies.

### FISCAL IMPACT STATEMENT

Acceptance of this donation results in no impact to RAP's General Fund, but rather supplements the payment of League-related expenses, as RAP does not have the funding resources necessary to conduct these youth programs at the same level, without assistance from supporters like the NWF.

This Report was prepared by Joel Alvarez, Senior Management Analyst II, and Chinyere Stoneham, Senior Recreation Director II, Partnership Division.

**BOARD REPORT**

NO. 16-152

DATE: July 13, 2016

C.D. 4

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: GRIFFITH OBSERVATORY CAFÉ – AMENDMENT TO AGREEMENT NO. 248 WITH WOLFGANG PUCK CATERING AND EVENTS, LLC; – EXERCISE AGREEMENT RENEWAL OPTION AND APPROVE CAPITAL INVESTMENT

A.P. Diaz	_____	*V. Israel	_____
R. Barajas	_____	K. Regan	_____
H. Fujita	_____	N. Williams	_____

  
 \_\_\_\_\_  
 General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Approve a proposed Amendment (Amendment) to Concession Agreement No. 248 (Agreement), herein included as Attachment 1, subject to approval of the Mayor and the City Council, and of the City Attorney as to form, to exercise the first of two five-year renewal options as provided in the Agreement, and approve the capital investment valued at \$250,000;
2. Find, in accordance with Charter Section 1022, that it is necessary, feasible and economical to secure these services by contract as the Department of Recreation and Parks (RAP) lacks sufficient and necessary personnel to undertake these specialized professional services;
3. Direct the Board Secretary to transmit the proposed Amendment to the Mayor in accordance with Executive Directive No. 3, and the City Attorney for approval as to form;
4. Authorize the Board President and Secretary to execute the Amendment upon receipt of necessary approvals; and,
5. Authorize the General Manager or Designee to make any necessary technical changes to implement the Board's intentions.

SUMMARY

Griffith Observatory is located at 2800 East Observatory Road in Griffith Park. The Observatory opened in 1935 and is an icon of Los Angeles, a national leader in public astronomy, and one of Southern California's most popular attractions. In January 2002, the Observatory closed for comprehensive renovation and expansion - including the addition of two concessions: a café and a bookstore and gift shop. The renewed building reopened to the public in November 2006, and

## BOARD REPORT

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has operated continuously for the public. Attendance to this free-admission facility during 2015 was 1,337,608 guests.

The Griffith Observatory Café, Catering, and Food Cart Service Concession (Concession), which also opened in November 2006, is operated by Wolfgang Puck Catering and Events, LLC (Puck) as the result of a Award Recommendation approval (Board Report No. 05-47 – Attachment 2) for a term of ten years with two renewal terms of five years each at the sole discretion of the City acting by and through its Board of Recreation and Park Commissioners.

The Concession is casual, self-service dining, located on the lower level of the Observatory. Due to the delicate, sensitive and expensive instruments (particularly the historic telescopes) and displays in the Observatory, no open flame cooking, frying, broiling, or baking is permitted in the Concession. Menu and pricing consists of high quality, reasonably priced sandwiches, salads, soup, beverages, desserts and snack items found in similar local cultural institutions. The Concession opens at the same time as the Observatory, and closes one hour prior to the Observatory. Catering service and food cart service are also part of the Concession. Alcohol service is permitted with private catering service. (The Bookstore and Gift Shop is operated under a separate Concession Agreement with Event Network, LLC.)

Staff presented an Informational Report to the Board on August 12, 2015, highlighting the operation by Puck which has demonstrated full compliance of obligations under the Agreement. A key factor with Puck's operation is the support for the Concession via Puck's kitchen, storage facility and staff at Hollywood and Highland in Los Angeles. During calendar year 2015, Puck grossed Two Million, Seventy-Three Thousand, Four Hundred Seventy-Eight Dollars (\$2,073,478.00) resulting in One Hundred Eighty-Eight Thousand, Seven Hundred Thirty-Four Dollars (\$188,734.00) in revenue-share to the City.

Discussions with Puck to exercise the first five-year renewal option resulted in proposed terms by Puck which are beneficial to the City:

1. Extend the Agreement's expiration date from September 5, 2016 to September 5, 2021;
2. Increase return to the City through revised gross receipt tiers and shared-revenue percentages;
3. Revise the rental guarantee which ensures yearly escalation;
4. Add capital investment, by Puck to the Concession, valued at Two Hundred Fifty Thousand Dollars (\$250,000.00);

Puck's rent is computed as a percentage of gross receipts. Under the Amendment, the potential for increased rent to the City is achieved through increased percentages over additional gross receipt tiers for café and food cart sales (marked "New" below). The original annual rent guarantee for Puck was seventy percent (70%) of the total rent paid in the previous year. Under the Amendment, the guarantee is changed to One Hundred Seventy Thousand Dollars (\$170,000.00) for the first additional year and guarantees an escalation of three percent (3%)

## BOARD REPORT

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annually.

City shall receive:

- Percentage of Gross Receipts of all Sales:

Sales Type	Gross Receipts	Original Fee	New Fee
Café and Food Cart	Up to \$1,000,000	8%	8%
	\$1,000,001 to \$1,500,000	10%	10%
	<b>\$1,500,001 to \$2,000,000</b>	10%	<b>12%</b>
	<b>\$2,000,001 to \$2,500,000</b>	10%	<b>15%</b>
	<b>\$2,500,001 +</b>	10%	<b>20%</b>
Catering	Up to \$1,000,000	14%	14%
	\$1,000,001 +	16%	16%

or

- The Annual Minimum Revenue-Sharing Guarantee:

Year	Annual Minimum Guarantee
11 (September 2016 – August 2017)	\$170,000.00
12 (September 2017 – August 2018)	\$175,100.00
13 (September 2018 – August 2019)	\$180,353.00
14 (September 2019 – August 2020)	\$185,763.59
15 (September 2020 – August 2021)	\$191,336.50

whichever is greater.

The Two Hundred Fifty Thousand Dollars (\$250,000.00) capital investment by Puck includes the redesign of the Concessions' interior space to improve the flow of patron selection and payment, expand display areas, increase item choices including kid-friendly and health-conscience selections, while eliminating the bottle-neck of the service station. The redesign includes addition of a new salad bar with soup wells, relocation of soda fountain and coffee machines, new custom shelving, replacement of the service station to self-service space, and installation of new air-screen coolers for grab-and-go purchases (Attachment 4). The City is not responsible for the investment costs, including any overage.

Staff recommends that the Board approve the proposed Amendment to Agreement No. 248 (Attachment 1), so as to accept Puck's proposed terms, exercise the first of two five-year renewal options, approve the capital investment, and attach –the Standard Provisions for City Contracts (Rev. 3/09) to the Agreement in order to ensure all current contracting requirements are met.



## BOARD REPORT

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### FISCAL IMPACT STATEMENT

RAP will receive annual minimum revenue guarantee of One Hundred Seventy Thousand Dollars (\$170,000.00) for the first additional year of operation, escalating 3% in subsequent Agreement years to One Hundred Ninety-One Thousand, Three Hundred Thirty-Seven Dollars (\$191,337.00) for year five. Historical figures project annual revenue to be over Two Hundred One Thousand Dollars (\$201,000.00) in the first year under the increased revenue-share percentage tiers.

This report was prepared by Stanley Woo, Management Analyst II, Partnership and Revenue Branch, Concessions Unit.

### LIST OF ATTACHMENTS

- 1) Proposed Amendment to Agreement No. 248
- 2) Board Report No. 05-47
- 3) Contract No. 248
- 4) Capital Investment 2016

**AMENDMENT TO CONCESSION AGREEMENT NO. 248  
FOR THE OPERATION AND MAINTENANCE OF GRIFFITH OBSERVATORY CAFÉ,  
CATERING, AND FOOD CART SERVICE CONCESSION**

THIS AMENDMENT TO CONCESSION AGREEMENT NO. 248 is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, by and between the CITY OF LOS ANGELES, a municipal corporation (hereinafter referred to as "CITY"), acting by and through its Board of Recreation and Park Commissioners (hereinafter referred to as "BOARD") and Wolfgang Puck Catering and Events, LLC (hereinafter referred to as "CONCESSIONAIRE").

**WITNESSETH**

Whereas, on April 5, 2006, the City Council approved Concession Agreement No. 248 (hereinafter referred to as "AGREEMENT") for Griffith Observatory Café, Catering, and Food Cart Service (hereinafter referred to as "CONCESSION") and authorized the Board President and Secretary to execute the AGREEMENT on behalf of the CITY; and

Whereas, CONCESSIONAIRE has operated in full compliance with its obligations under the initial ten (10) year term of the AGREEMENT and the BOARD hereby exercises the first of two (2) five (5) year renewal options; and

Whereas, the new expiration date of the AGREEMENT is September 5, 2021; and

Whereas, CONCESSIONAIRE has proposed capital improvements not to exceed \$250,000; and

Whereas, CITY accepts CONCESSIONAIRE'S proposed capital improvements.

Now, therefore, the parties to Concession Agreement No. 248 hereby mutually agree to amend the AGREEMENT as follows:

**1. SECTION 4. TERM OF CONCESSION AGREEMENT, RENEWAL & CONCESSIONAIRE CAPITAL INVESTMENT BUY-BACK**

Delete the first two paragraphs of Section 4 in their entirety and replace with:

"The term of the Agreement shall be fifteen (15) years, effective September 6, 2006 with one five (5) year option to renew, at the sole discretion of CITY and agreed to by CONCESSIONAIRE, provided that CONCESSIONAIRE is in full compliance with its obligations under the AGREEMENT upon the expiration of the initial term or any extensions thereof. In the event of any renewal, CITY will give CONCESSIONAIRE a preliminary notice of its willingness to renew and said renewal shall be decided no later than six (6) months prior to the end of the then current term."

Delete the sixth paragraph of Section 4 in its entirety and replace with:

The investment buy-back amount shall be based on single straight-line, non-interest bearing amortization over fifteen (15) years. Buy-back will be calculated on actual months/years of operation. The following schedule of investment buy-back from CONCESSIONAIRE is based on full and completed years from the date of AGREEMENT execution. The schedule will be adjusted as necessary to reflect the actual time of operation in whole months or one-twelfths (1/12) of the current operating year.

Full and completed year from date of AGREEMENT execution:	Capital investment buy-back allowed per completed year of operation:
11	\$200,000
12	\$150,000
13	\$100,000
14	\$50,000
15	0

## 2. SECTION 13. RENTAL

Delete Section 13 (A) in its entirety and replace with:

“As consideration for CITY’S granting the CONCESSION rights hereinabove set forth, CONCESSIONAIRE agrees to pay to CITY the following percentages of Gross Receipts as defined below:

- Percentage of Gross Receipts of all Sales:

Sales Type	Gross Receipts	Fee
Café and Food Cart	Up to \$1,000,000	8%
	\$1,000,001 to \$1,500,000	10%
	\$1,500,001 to \$2,000,000	12%
	\$2,000,001 to \$2,500,000	15%
	\$2,500,001 +	20%
Catering	Up to \$1,000,000	14%
	\$1,000,001 +	16%

or

- The Annual Minimum Revenue-Sharing Guarantee:

Year	Annual Minimum Guarantee
11 (September 2016 – August 2017)	\$170,000.00
12 (September 2017 – August 2018)	\$175,100.00
13 (September 2018 – August 2019)	\$180,353.00
14 (September 2019 – August 2020)	\$185,763.59
15 (September 2020 – August 2021)	\$191,336.50

whichever is greater.

If the annual minimum revenue-sharing is not met by August 31st of each year, the difference between the actual revenue-sharing payment received by CITY and the annual minimum revenue-sharing guarantee will be due to CITY by September 15th, prorated as necessary for the first year of operation or fractional part thereof, and prorated as necessary for the final year of operation or fractional part thereof.

CONCESSIONAIRE shall mail all payments and reports to:

Department of Recreation and Parks  
Partnership and Revenue Branch / Concessions Unit  
P.O. Box 86328  
Los Angeles, CA 90086

Notwithstanding, in the event that the Rental Guarantee is not met by CONCESSIONAIRE for reasons beyond CONCESSIONAIRE'S control, such as and by way of example only, a change in the scope of services at the directive of CITY, or due to closure or unavailability of the Café or Special Event Premises or "cart set up areas", CONCESSIONAIRE and the GENERAL MANAGER shall meet and confer with regard to rental guarantee obligations set forth in this AGREEMENT and make recommendations on reducing or waiving minimum annual rent on a year-to-year basis to the BOARD as appropriate.

Delete Section 13 (G) in its entirety.

**3. SECTION 15. CAPITAL INVESTMENT – FIXED EQUIPMENT (FF&E) & INTERIOR DESIGN**

Delete Section 15 in its entirety and replace with:

“CONCESSIONAIRE will be responsible to fund and complete a new Capital Investment improvement project submitted to CITY in April 2016 (Exhibit H). It includes demolition of the display island, relocation of soda fountain dispensers to the glass wall in enclosed millwork, relocation of coffee machines, creation of millwork for streamlined shelving along window, installation of a self-service salad bar with soup wells, replacement of the hot-line sneeze guard to create a self-service station, and installation of new air-screen coolers for grab and go items and bottled beverages. The total value of the Capital Investment is Two Hundred Fifty Thousand Dollars (\$250,000.00).

All design, equipment, furnishings, etc., shall be subject to the prior review and (reasonable) approval by CITY.

In no event shall CITY have any obligation to pay any investment costs in excess of \$250,000.00 incurred by CONCESSIONAIRE to improve the CONCESSION, unless otherwise specifically agreed to in a writing signed by both parties.

Facility Improvements shall be completed no later than ninety (90) days after execution of the AMENDMENT, or within ninety (90) days of mutual agreement - scheduled with CITY (acting through Observatory management). The Facility Improvements become property of CITY.

Invoices and receipts shall be submitted to CITY to document all expenses relating to the Facility Improvements. If actual cost is more than stated in this AGREEMENT, CONCESSIONAIRE is still responsible for completing the projects. If actual cost is less than \$250,000.00 the remaining amount must be invested in improvements to the CONCESSION facility as approved by CITY.

The \$250,000.00 Capital Investment is subject to Buy-Back in accordance with Section 4. When fully amortized, ownership of all improvements will revert to CITY.”

#### **4. SECTION 16. OPERATING RESPONSIBILITIES**

Add the following clauses:

“Craft services specific to film or television production (Production) for up to 100 guests may be provided by a third party with no buyout arrangement due to CONCESSIONAIRE. All other Production-related events are subject to CONCESSIONAIRE’S right of first refusal. If refused, there is no buyout arrangement due to CONCESSIONAIRE. Initial contact from Production-

related events for craft services shall be made with CONCESSIONAIRE for determination on service by a third party with no buy out.”

“Discounts shall be offered by CONCESSIONAIRE to Observatory staff and volunteers on Café and Cart purchases at fifteen percent (15%) and fountain sodas and brewed beverages at fifty percent (50%) with appropriate CITY-issued identification.”

“Site-specific brands and names, such as but not limited to Café at the End of the Universe, belong to CITY and do not require permission of CONCESSIONAIRE for use by CITY.”

## **5. SECTION 25. TERMINATION**

Add the following to the beginning of the last paragraph of 25(A) of contract No. 248:

“Additional terms of Termination are stipulated in Exhibit I - Standard Provisions for City Contracts (Rev. 3/09), Section PSC-10, “Termination.” In the event of any conflict or inconsistency between the provisions of the AGREEMENT and those of the Exhibit documents incorporated herein by reference, this AGREEMENT shall be controlling.

CITY reserves the right to pay-off the unamortized portion of CONCESSIONAIRE’S Capital Investment (Section 4, Section 15), if any, with no interest or penalties, and terminate the AGREEMENT in its entirety and all rights ensuing therefrom as provided by applicable law, for convenience, upon ninety (90) days written notice; and”

**6. SECTION 42. INCORPORATION OF DOCUMENTS**

Add the following:

“H: Capital Investment 2016

I: Standard Provisions for City Contracts (Rev. 3/09)

In the event of any conflict or inconsistency between the provisions of the AGREEMENT and those of the Exhibit documents incorporated herein by reference, this AGREEMENT shall be controlling.”

Exhibits H and I are attached to this Amendment to Concession Agreement No. 248 document.

(Signature Page to Follow)

IN WITNESS WHEREOF, the parties hereto have caused this AMENDMENT NUMBER ONE (1) TO CONCESSION AGREEMENT NO. 248, to be executed by their duly authorized representatives.

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners.

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

WOLFGANG PUCK CATERING AND EVENTS, LLC

BY: \_\_\_\_\_  
Carl Schuster CEO

DATE: \_\_\_\_\_

BTRC No.: \_\_\_\_\_

APPROVED AS TO FORM:

MICHAEL N. FUEUR  
City Attorney

BY: \_\_\_\_\_  
Strefan Fauble  
Deputy City Attorney III

DATE: \_\_\_\_\_



## STANDARD PROVISIONS FOR CITY CONTRACTS

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## STANDARD PROVISIONS FOR CITY CONTRACTS

### **PSC-1. CONSTRUCTION OF PROVISIONS AND TITLES HEREIN**

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" herein in this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one **CONTRACTOR** herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

### **PSC-2. NUMBER OF ORIGINALS**

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the **CITY'S** option, one or more additional original texts of this Contract may also be retained by the City.

### **PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT**

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Contract.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of the Contract shall not be affected thereby.

**PSC-4. TIME OF EFFECTIVENESS**

Unless otherwise provided, this Contract shall take effect when all of the following events have occurred:

- A. This Contract has been signed on behalf of **CONTRACTOR** by the person or persons authorized to bind **CONTRACTOR** hereto;
- B. This Contract has been approved by the City Council or by the board, officer or employee authorized to give such approval;
- C. The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and
- D. This Contract has been signed on behalf of the **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

**PSC-5. INTEGRATED CONTRACT**

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in paragraph PSC-6 hereof.

**PSC-6. AMENDMENT**

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-4.

**PSC-7. EXCUSABLE DELAYS**

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

**PSC-8. BREACH**

Except for excusable delays as described in PSC-7, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights

and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

**PSC-9. WAIVER**

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

**PSC-10. TERMINATION**

**A. TERMINATION FOR CONVENIENCE**

The **CITY** may terminate this Contract for the **CITY'S** convenience at any time by giving **CONTRACTOR** thirty days written notice thereof. Upon receipt of said notice, **CONTRACTOR** shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The **CITY** shall pay **CONTRACTOR** its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by **CONTRACTOR** to affect such termination. Thereafter, **CONTRACTOR** shall have no further claims against the **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon the date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

**B. TERMINATION FOR BREACH OF CONTRACT**

1. Except for excusable delays as provided in PSC-7, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, the **CITY** may give **CONTRACTOR** written notice of such default. If **CONTRACTOR** does not cure such default or provide a plan to cure such default which is acceptable to the **CITY** within the time permitted by the **CITY**, then the **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then the **CITY** may immediately terminate this Contract.
3. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates the

**CITY'S** lobbying policies, then the **CITY** may immediately terminate this Contract.

4. In the event the **CITY** terminates this Contract as provided in this section, the **CITY** may procure, upon such terms and in such manner as the **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to the **CITY** for all of its costs and damages, including, but not limited, any excess costs for such services.
5. All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.
6. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-10(A) Termination for Convenience.
7. The rights and remedies of the **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

#### **PSC-11. INDEPENDENT CONTRACTOR**

**CONTRACTOR** is acting hereunder as an independent contractor and not as an agent or employee of the **CITY**. **CONTRACTOR** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the **CITY**.

#### **PSC-12. CONTRACTOR'S PERSONNEL**

Unless otherwise provided or approved by the **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. The **CITY** shall have the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** agrees to remove personnel from performing work under this Contract if requested to do so by the **CITY**.

**CONTRACTOR** shall not use subcontractors to assist in performance of this Contract without the prior written approval of the **CITY**. If the **CITY** permits the use of subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of

this Contract. The **CITY** has the right to approve **CONTRACTOR'S** subcontractors, and the **CITY** reserves the right to request replacement of subcontractors. The **CITY** does not have any obligation to pay **CONTRACTOR'S** subcontractors, and nothing herein creates any privity between the **CITY** and the subcontractors.

**PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION**

**CONTRACTOR** may not, unless it has first obtained the written permission of the **CITY**:

- A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

**PSC-14. PERMITS**

**CONTRACTOR** and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance hereunder and shall pay any fees required therefor. **CONTRACTOR** certifies to immediately notify the **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

**PSC-15. CLAIMS FOR LABOR AND MATERIALS**

**CONTRACTOR** shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any **CITY** property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), against **CONTRACTOR'S** rights to payments hereunder, or against the **CITY**, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**PSC-16. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED**

If applicable, **CONTRACTOR** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this Contract, **CONTRACTOR** shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

**PSC-17. RETENTION OF RECORDS, AUDIT AND REPORTS**

**CONTRACTOR** shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form, in accordance with

requirements prescribed by the **CITY**. These records shall be retained for a period of no less than three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. Said records shall be subject to examination and audit by authorized **CITY** personnel or by the **CITY'S** representative at any time during the term of this Contract or within the three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. **CONTRACTOR** shall provide any reports requested by the **CITY** regarding performance of this Contract. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

**PSC-18. FALSE CLAIMS ACT**

**CONTRACTOR** acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the **CITY** under the False Claims Act (Cal. Gov. Code §§ 12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

**PSC-19. BONDS**

All bonds which may be required hereunder shall conform to **CITY** requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

**PSC-20. INDEMNIFICATION**

Except for the active negligence or willful misconduct of the **CITY**, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, **CONTRACTOR** undertakes and agrees to defend, indemnify and hold harmless the **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by **CONTRACTOR** or its subcontractors of any tier. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-20 shall survive expiration or termination of this Contract.

**PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION**

**CONTRACTOR**, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the **CITY**, and any of its Boards, Officers, Agents, Employees, Assigns,



and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information right (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its subcontractors of any tier, in performing the work under this Contract; or (2) as a result of the **CITY'S** actual or intended use of any Work Product furnished by **CONTRACTOR**, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-21 shall survive expiration or termination of this Contract.

#### **PSC-22. INTELLECTUAL PROPERTY WARRANTY**

**CONTRACTOR** represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

#### **PSC-23. OWNERSHIP AND LICENSE**

Unless otherwise provided for herein, all Work Products originated and prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract shall be and remain the exclusive property of the **CITY** for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas matters and combinations thereof, and all forms of intellectual property. **CONTRACTOR** hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by **CONTRACTOR** under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

For all Work Products delivered to the **CITY** that are not originated or prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract, **CONTRACTOR** hereby grants a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

**CONTRACTOR** shall not provide or disclose any Work Product to any third party without prior written consent of the **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subcontractors performing work under this Contract such that the **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

#### **PSC-24. INSURANCE**

During the term of this Contract and without limiting **CONTRACTOR'S** indemnification of the **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by **CONTRACTOR**, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form General 146 in Exhibit 1 hereto), covering its operations hereunder. Such insurance shall conform to **CITY** requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto) and shall otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

#### **PSC-25. DISCOUNT TERMS**

**CONTRACTOR** agrees to offer the **CITY** any discount terms that are offered to its best customers for the goods and services to be provided hereunder and apply such discount to payments made under this Contract which meet the discount terms.

#### **PSC-26. WARRANTY AND RESPONSIBILITY OF CONTRACTOR**

**CONTRACTOR** warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within **CONTRACTOR'S** profession, doing the same or similar work under the same or similar circumstances.

#### **PSC-27. NON-DISCRIMINATION**

Unless otherwise exempt, this Contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the **CITY**. In performing this Contract, **CONTRACTOR** shall not

discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

#### **PSC-28. EQUAL EMPLOYMENT PRACTICES**

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **CONTRACTOR** and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of **CITY** contracts. On their or either of their request **CONTRACTOR** shall provide evidence that he or she has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of **CITY** contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has failed to comply with the Equal Employment Practices provisions of a **CITY** contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until **CONTRACTOR** shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the **CITY**, or when an individual bid or proposal is submitted, **CONTRACTOR** shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of **CITY** Contracts.

- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
  - 1. Hiring practices;
  - 2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  - 3. Training and promotional opportunities; and
  - 4. Reasonable accommodations for persons with disabilities.
  
- L. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR'S** Contract with the **CITY**.

**PSC-29. AFFIRMATIVE ACTION PROGRAM**

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
  
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to

their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, **CONTRACTOR** shall certify on an electronic or hard copy form to be supplied, that **CONTRACTOR** has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of **CITY** contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Affirmative Action Program provisions of **CITY** contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has breached the Affirmative Action Program provisions of a **CITY** contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that **CONTRACTOR** has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a **CITY** contract, there may be deducted from the amount payable to **CONTRACTOR** by the **CITY** under the contract, a penalty of ten dollars

(\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a **CITY** contract.

- H. Notwithstanding any other provisions of a **CITY** contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in **CITY** contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. **CONTRACTOR** shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the **CITY**. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, **CONTRACTOR** may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, **CONTRACTOR** must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
  - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
  - 2. **CONTRACTOR** may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the **CITY** with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and **CONTRACTOR**.

- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  2. Classroom preparation for the job when not apprenticeable;
  3. Pre-apprenticeship education and preparation;
  4. Upgrading training and opportunities;
  5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
  6. The entry of qualified women, minority and all other journeymen into the industry; and
  7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the **CITY'S** Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the **CITY** and may be used at the discretion of the **CITY** in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.



- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the **CITY** and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the **CITY**.

### **PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS**

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, **CONTRACTOR** will fully comply with all applicable State and Federal employment reporting requirements for **CONTRACTOR'S** employees. **CONTRACTOR** shall also certify (1) that the Principal Owner(s) of **CONTRACTOR** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that **CONTRACTOR** will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, *et seq.* of the California Family Code; and (3) that **CONTRACTOR** will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to obtain compliance of its subcontractors shall constitute a default by **CONTRACTOR** under this Contract, subjecting this Contract to termination where such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

**CONTRACTOR** certifies that, to the best of its knowledge, it 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 Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

**PSC-31. LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE**

- A. Unless otherwise exempt, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:
1. **CONTRACTOR** assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.
  2. **CONTRACTOR** further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. **CONTRACTOR** shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. **CONTRACTOR** shall deliver the executed pledges from each such subcontractor to the **CITY** within ninety (90) days of the execution of the subcontract. **CONTRACTOR'S** delivery of executed pledges from each such subcontractor shall fully discharge the obligation of **CONTRACTOR** with respect to such pledges and fully discharge the obligation of **CONTRACTOR** to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
  3. **CONTRACTOR**, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the **CITY** with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. **CONTRACTOR** shall post the Notice of Prohibition Against Retaliation provided by the **CITY**.
  4. Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of PSC-31 and shall incorporate the provisions of the LWO and the SCWRO.

5. **CONTRACTOR** shall comply with all rules, regulations and policies promulgated by the **CITY'S** Designated Administrative Agency which may be amended from time to time.
- B. Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR** has violated provisions of either the LWO or the SCWRO, or both.
- C. Where under the LWO Section 10.37.6(d), the **CITY'S** Designated Administrative Agency has determined (a) that **CONTRACTOR** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the **CITY** in such circumstances may impound monies otherwise due **CONTRACTOR** in accordance with the following procedures. Impoundment shall mean that from monies due **CONTRACTOR**, **CITY** may deduct the amount determined to be due and owing by **CONTRACTOR** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether **CONTRACTOR** is to continue work following an impoundment shall remain in the sole discretion of the **CITY**. **CONTRACTOR** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.
- D. **CONTRACTOR** shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). **CONTRACTOR** shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from **CONTRACTOR**.

**PSC-32. AMERICANS WITH DISABILITIES ACT**

**CONTRACTOR** hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations. **CONTRACTOR** will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. **CONTRACTOR** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by **CONTRACTOR**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

**PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time, which requires **CONTRACTOR** to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect **CONTRACTOR'S** fitness and ability to continue performing this Contract.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this Contract, **CONTRACTOR** pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. **CONTRACTOR** further agrees to: (1) notify the **CITY** within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that **CONTRACTOR** is not in compliance with all applicable federal, state and local laws in performance of this Contract; (2) notify the **CITY** within thirty calendar days of all findings by a government agency or court of competent jurisdiction that **CONTRACTOR** has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance; (3) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the **CITY**; and (4) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the **CITY** within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

**PSC-34. MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM**

**CONTRACTOR** agrees and obligates itself to utilize the services of Minority, Women and Other Business Enterprise firms on a level so designated in its proposal, if any. **CONTRACTOR** certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Personal Services Contracts Greater than \$100,000, if applicable. **CONTRACTOR** shall not change any of these designated subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of the **CITY**, provided that such approval shall not be unreasonably withheld.

**PSC-35. EQUAL BENEFITS ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of the Contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** will comply with the EBO.
- B. The failure of **CONTRACTOR** to comply with the EBO will be deemed to be a material breach of this Contract by the **CITY**.
- C. If **CONTRACTOR** fails to comply with the EBO the **CITY** may cancel, terminate or suspend this Contract, in whole or in part, and all monies due or to become due under this Contract may be retained by the **CITY**. The **CITY** may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.
- E. If the **CITY'S** Designated Administrative Agency determines that a **CONTRACTOR** has set up or used its contracting entity for the purpose of evading the intent of the EBO, the **CITY** may terminate the Contract. Violation of this provision may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

**CONTRACTOR** shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

“During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles’ Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922.”

**PSC-36. SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this Contract.

## EXHIBIT 1

### INSURANCE CONTRACTUAL REQUIREMENTS

**CONTACT** For additional information about compliance with City Insurance and Bond requirements, contact the Office of the City Administrative Officer, Risk Management at (213) 978-RISK (7475) or go online at [www.lacity.org/cao/risk](http://www.lacity.org/cao/risk). The City approved Bond Assistance Program is available for those contractors who are unable to obtain the City-required performance bonds. A City approved insurance program may be available as a low cost alternative for contractors who are unable to obtain City-required insurance.

### CONTRACTUAL REQUIREMENTS

CONTRACTOR AGREES THAT:

**1. Additional Insured/Loss Payee.** The CITY must be included as an Additional Insured in applicable liability policies to cover the CITY'S liability arising out of the acts or omissions of the named insured. The CITY is to be named as an Additional Named Insured and a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.

**2. Notice of Cancellation.** All required insurance will be maintained in full force for the duration of its business with the CITY. By ordinance, all required insurance must provide at least thirty (30) days' prior written notice (ten (10) days for non-payment of premium) directly to the CITY if your insurance company elects to cancel or materially reduce coverage or limits prior to the policy expiration date, for any reason except impairment of an aggregate limit due to prior claims.

**3. Primary Coverage.** CONTRACTOR will provide coverage that is primary with respect to any insurance or self-insurance of the CITY. The CITY'S program shall be excess of this insurance and non-contributing.

**4. Modification of Coverage.** The CITY reserves the right at any time during the term of this Contract to change the amounts and types of insurance required hereunder by giving CONTRACTOR ninety (90) days' advance written notice of such change. If such change should result in substantial additional cost to CONTRACTOR, the CITY agrees to negotiate additional compensation proportional to the increased benefit to the CITY.

**5. Failure to Procure Insurance.** All required insurance must be submitted and approved by the Office of the City Administrative Officer, Risk Management prior to the inception of any operations by CONTRACTOR.

CONTRACTOR'S failure to procure or maintain required insurance or a self-insurance program during the entire term of this Contract shall constitute a material breach of this Contract under which the CITY may immediately suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect the CITY'S interests and pay any and all premiums in connection therewith and recover all monies so paid from CONTRACTOR.

**6. Workers' Compensation.** By signing this Contract, CONTRACTOR hereby certifies that it is aware of the provisions of Section 3700 *et seq.*, of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake

self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all time during the performance of the work pursuant to this Contract.

**7. California Licensee.** All insurance must be provided by an insurer admitted to do business in California or written through a California-licensed surplus lines broker or through an insurer otherwise acceptable to the CITY. Non-admitted coverage must contain a **Service of Suit** clause in which the underwriters agree to submit as necessary to the jurisdiction of a California court in the event of a coverage dispute. Service of process for this purpose must be allowed upon an agent in California designated by the insurer or upon the California Insurance Commissioner.

**8. Aggregate Limits/Impairment.** If any of the required insurance coverages contain annual aggregate limits, CONTRACTOR must give the CITY written notice of any pending claim or lawsuit which will materially diminish the aggregate within thirty (30) days of knowledge of same. You must take appropriate steps to restore the impaired aggregates or provide replacement insurance protection within thirty (30) days of knowledge of same. The CITY has the option to specify the minimum acceptable aggregate limit for each line of coverage required. No substantial reductions in scope of coverage which may affect the CITY'S protection are allowed without the CITY'S prior written consent.

**9. Commencement of Work.** For purposes of insurance coverage only, this Contract will be deemed to have been executed immediately upon any party hereto taking any steps that can be considered to be in furtherance of or towards performance of this Contract. The requirements in this Section supersede all other sections and provisions of this Contract, including, but not limited to, PSC-4, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

### Exhibit 1 (Continued) Required Insurance and Minimum Limits

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Agreement/Reference: \_\_\_\_\_

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits (“CSLs”). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

	Limits
<b>Workers’ Compensation – Workers’ Compensation (WC) and Employer’s Liability (EL)</b>	<b>WC</b> <u>Statutory</u> <b>EL</b> _____
<input type="checkbox"/> Waiver of Subrogation in favor of City	<input type="checkbox"/> Longshore & Harbor Workers <input type="checkbox"/> Jones Act

<b>General Liability</b>	
<input type="checkbox"/> Products/Completed Operations	<input type="checkbox"/> Sexual Misconduct _____
<input type="checkbox"/> Fire Legal Liability _____	
<input type="checkbox"/> _____	

<b>Automobile Liability</b> (for any and all vehicles used for this Contract, other than commuting to/from work)	
--	--

<b>Professional Liability</b> (Errors and Omissions)	
--	--

<b>Property Insurance</b> (to cover replacement cost of building – as determined by insurance company)	
<input type="checkbox"/> All Risk Coverage	<input type="checkbox"/> Boiler and Machinery
<input type="checkbox"/> Flood _____	<input type="checkbox"/> Builder’s Risk
<input type="checkbox"/> Earthquake _____	<input type="checkbox"/> _____

<b>Pollution Liability</b>	
<input type="checkbox"/> _____	

<b>Surety Bonds – Performance and Payment (Labor and Materials) Bonds</b>	100 % of Contract Price
<b>Crime Insurance</b>	

**Other:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



APPROVED

FEB 16 2005

BOARD OF RECREATION  
AND PARK COMMISSIONERS

REPORT OF GENERAL MANAGER

NO. 05-47

DATE February 16, 2005

CD 4

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: GRIFFITH OBSERVATORY - AWARD OF THE OPERATION OF THE  
CAFÉ, CART, AND CATERING CONCESSION

H. Fujita  
J. Koib  
K. Chan

F. Mok  
\*K. Regan  
J. Combs

  
General Manager

Approved                     

Disapproved                     

Withdrawn                     

RECOMMENDATION:

That the Board:

1. Award the Griffith Observatory Café and Catering Concession to Wolfgang Puck Catering and Events, LLC (Puck);
2. Approve a ten-year concession agreement, substantially in the form as on file in the Board Office, for the operation of the Griffith Observatory Café, Cart and Catering Concession, subject to approval of the Mayor and City Council, and approval of the City Attorney as to form;
3. Direct the Board Secretary to transmit the proposed agreement to the Mayor in accordance with Executive Directive No. 16, and concurrently to the City Attorney for review as to form; and,
4. Authorize the Board President and Secretary to execute the agreement upon receipt of necessary approvals.

SUMMARY:

On September 1, 2004, the Board approved the release of a Request for Proposals (RFP) for a new ten-year agreement with two five-year renewal options, to operate the Observatory Café, Cart, and Catering Concession, with an option for a bookstore operation (Board Report 04-266). Previously,

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on July 9, 2003, the Board had authorized Administrative Resources Staff to retain the services of consultant Art Manask & Associates (Board Report 03-227) to assist Staff with the development of the RFP and the evaluation of the proposals. The RFP was released on October 13, 2004, and two proposals were received on November 30, 2004, from the following firms:

- Wolfgang Puck Catering and Events, LLC ("Puck") – Well-known food service experts operating in various locations nationwide, based in Los Angeles.
- Delaware North Companies Parks & Resorts ("DNC") – Food service experts operating in various locations nationwide, with a regional office in Fresno, California.

Staff, with assistance from Manask and Associates, conducted a preliminary evaluation of all proposals to determine completeness and submission of all compliance documents, and to evaluate each firm's financial ability to fund the minimum \$750,000 required for this project. This initial review indicated that both proposers met the minimum requirements of having extensive experience in the food services industry and the financial backing to fund the required build-outs and FF&E in order to operate the concession. Although both demonstrated strengths in various areas, the Department's challenge was to select the operator with the best combination of expertise and resources suited to this concession. Evaluation was made on the café, carts, and catering portion of the proposals, not any bookstore option. The criteria for selecting the best proposer, as stated in the RFP, were:

- Experience and Capability; Quality of Experience
- Operational Plan
- Build Out Plan and Capital Investment for Café and Carts
- Projected Commissions; Rent to City and Financial Projections

To assist with formulating a recommendation, a five-member panel (identified in the Attachment) convened to review the proposals, scrutinize presentations, and interview both proposers. The panel members were selected based on their expertise in cultural institution foodservice, experience with similar foodservice RFPs and retail business and, in the case of the Observatory Director, his intimate knowledge of the Department's needs and vision for this Los Angeles landmark. After proposal reviews, presentations, and interviews, the panel members were instructed to individually rank the proposals according to each of the four evaluation criteria defined in the RFP, thus awarding corresponding points to the proposals based on their ranking. A top rank within a category would receive the highest value of ten points, and the second ranked proposal in a category would receive eight to nine available points based on the level of characteristics which differentiated the two. As stipulated in the RFP, each of the four categories carried equal weight, and no ties were to exist in any one category. The panel awarded Puck a total of 194 cumulative points, and DNC a total of 177 cumulative points (see Attachment).

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Both Puck and DNC demonstrated their ability to provide the necessary improvements and to operate the concession. The following is a summary of the panel's ranking and staffs recommendation comments under each of the four evaluation criteria.

### Experience and Capability; Quality of Experience

The panel was asked to rank each proposer on the verified years and quality of experience, experience in similar types of business/environment/clientele, prior work with public agencies, catering experience, and experience operating food and/or beverage carts.

Though both companies were closely matched in experience and capability, the panel ranked Puck first, affirming Puck as a Los Angeles-based firm, with local resources already established including an elaborate kitchen/commissary less than five miles from the Observatory and a personnel/staff pool to draw from – both of which are critical elements since the Observatory's renovation and expansion project provided very limited space for food preparation and storage (including cart storage). Puck's existing operations also offered a wealth of experienced and trained personnel/staff to help ensure not only a smooth grand opening but to give the necessary support during occasional catered events hosted at the Observatory. DNC's proposal, while strong in many areas, did not feature an ongoing support kitchen to augment production of the café, cart, and catering menu, nor were local, company-trained personnel at their immediate disposal for large catered events. Staff also believes Puck, established locally, has a keen understanding of the Los Angeles dining clientele, as well as experience/familiarization dealing with the local regulations and standards required for café, cart, and catering operations at cultural and museum locations in Los Angeles.

### Operational Plan

In this category, the proposers were ranked on their concept and operational description; creativity and imagination; organizational structure; menus, products and services; price schedules and pricing policies; timelines for build-out and starting operations; employee staffing and training plans; experience of proposed onsite management at Observatory; customer service; alignment to Observatory mission and City goal; marketing and advertising strategy; and environmental awareness, conservation, and recycling. The panel stated that both proposers proposed an adequate operational plan.

Again, citing Puck's local support in kitchen/storage facilities, local administrative staff, and their pool of local/trained service personnel, the panel agreed and staff concurs that local support for this Observatory concession is a key factor. Puck was given the culinary cutting edge in creativity and imagination which should prove beneficial in the development of menus – both café menus offering themed items inspired by the mission of the Observatory, and notably also for catering menus and catering pricing for which audiences are widely varied by culture, expectations, and budget.

DNC does not have the local support in the form of kitchen and storage facilities. All food production and storage would be performed at the Observatory's limited facility, though DNC stated

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that a rented kitchen, tent, or mobile kitchen would be used for larger productions associated with catered events.

Build-Out Plan and Capital Investment for Café and Carts:

Both proposers demonstrated that their build-out plans were provisional pending discussion with Observatory staff, and both showed imagination in this area. Both proposers provided ideas for the café build-out: DNC included interpretive murals coordinated with counters/tabletops laminated with planets, satellites, comets, asteroids, and other celestial objects, as well as food stations with decorative elements reflective of space exploration equipment; Puck's concept included a retrospective approach that intertwined Arthur Dent's fictional quest for a place to eat, and referenced sci-fi experiences from "Lost in Space" and Orson Wells "Infinite Worlds" by incorporating classic sci-fi book, comic, and film posters on the interior walls of the café. Both were within the acceptable range of plans expected by the Department with an understanding of the sensitivity of the Observatory landmark status and science mission.

In regards to capital investments, the RFP stated if the City terminated the contract for cause, there would be no reimbursement ("buy-back") of any kind. In the event of contract termination by the Operator or City for other than cause (mutual agreement, for example), the City would reimburse unamortized capital investment but would not include any FF&E that is proprietary to the Operator (includes trade dress, logo, etc. and is operator-specific and not transferable to another operator). Puck proposed to invest \$425,000 eligible buy-back capital investment and \$175,000 non, whereas DNC proposed \$388,000 eligible buy-back and \$180,000 non. The amortization will be straight line, non-interest bearing over the 10 years of the initial contract term. The buy-back amounts proposed by each were very close.

Projected Commissions; Rent to City and Financial Projections:

The two firms proposed the following rental terms:

	Café	Carts	Catering (food)	Catering (beverage)
DNC	4% of revenue up to \$2M	4% of revenue up to \$2M	2.5% of all revenue	5% of all revenue
	7.5% of revenue over \$2M to \$4M	7.5% of revenue over \$2M to \$4M		
	10% of revenue over \$4M	10% of revenue over \$4M		
Puck	8% of revenue up to \$1M	8% of revenue up to \$1M	14% of revenue up to \$1M	14% of revenue up to \$1M
	10% of revenue over \$1M	10% of revenue over \$1M	16% of revenue over \$1M	16% of revenue over \$1M

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In comparison to industry standards, DNC was low in their proposed rent, whereas Puck's percentages were consistent with rent on operations of this type and standard in the industry, including local institutions. As Puck proposed substantially greater rental payments to the City, and the panel concurred that their proposal was realistic, Puck was scored higher in this category. Both proposals included projected three-year commissions, both of which included the sources: café, cart, catering, and bookstore/gift shop. For analysis purposes, staff focused on café and cart commissions only since the retail bookstore/gift shop component was determined moot (for reasons explained below) and since the amount of catering activity permitted by the Department to the prospective concessionaires has yet to be determined. In both cases of retail and catering commissions, Puck was significantly higher; however, the table below reflects only café and cart commissions from both proposers based on their projected sales and proposed rental percentages:

Projected Three Year Total Commissions:

	DNC	Puck
Café	\$185,454	\$360,749
Cart	\$ 61,818	\$ 23,206
Total	\$247,272	\$383,955

There was no rental guarantee on behalf of DNC, whereas Puck proposed a minimum guaranteed annual rent beginning in year two of the agreement in an amount equal to seventy percent (70%) of the total rent paid in the previous contract year; subject to an unanticipated percentage decline in Observatory attendance, applied (as a percentage) to the 70% guarantee.

Bookstore Option Not to be Exercised:

Proposers were asked to submit proposals for operation of either the café, carts, catering services alone; or combined operation of the café, carts, and catering with the bookstore/gift shop. Proposals were ranked solely on food service criteria. As an option, proposers were allowed to add bookstore/gift shop retail services as part of their proposal, though features and benefits stemming from the retail service would not change their respective ranking/points. The evaluation was based strictly on food service(s) attributes.

Both proposers submitted proposals also including the operation of the gift shop, DNC as part of the master operation, Puck by use of a subcontractor. After concluding the café, carts, and catering ranking, and formulation of the recommendation for Puck, staff analyzed Puck's bookstore option. Upon review of Puck's giftshop proposal, staff was not convinced that the proposed services would fulfill the Department's retail services needs. A subcontract arrangement for retail services as proposed by Puck may not allow for close monitoring and controls compared to a direct relationship between the Department and a retail concessionaire. Also, a 10 year agreement plus two five-year extensions may be too long of a term since the retail industry changes more rapidly than the food industry. Therefore, award of this agreement will be solely for the operation of the café, carts, and

REPORT OF GENERAL MANAGER

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catering service. Staff will recommend, via a concurrent Board Report, that the Board direct staff to prepare a new RFP exclusively for the operation of the Observatory bookstore/gift shop concession at a five-year term with one five year option.

Conclusion:

The Department was fortunate to receive two excellent proposals for this concession from two proposers of high standing and extensive experience. Overall, the evaluation panel ranked Puck higher in each of the four categories defined in the RFP. Staff believes these categories and the resulting ranks to be crucial for establishing the best proposer for a successful café, cart, and catering concession. In addition, the potential use of the Wolfgang Puck name is a benefit to help draw patrons to the Observatory Café who may otherwise opt not to frequent the café during their visits to the Observatory. Puck's sales and marketing resources in the Los Angeles market were considered superior. Not only will this help promote visitorship in the café, but the catering expertise would be in place to market and utilize the Observatory's rental/catering spaces sensitively and strategically, which could potentially lead to a new and previously untapped revenue stream for the City. Panel members expressed their feelings that given the success and high visibility of Wolfgang Puck Catering and Events, LLC, in the culinary/dining industry and in the celebrity/entertainment industry, and the fact that Los Angeles is their home base with many fine dining restaurants as well as the catering operation and two museums (Natural History Museum of Los Angeles County and the new Kidspace Museum in Pasadena), Puck would be highly motivated to sustain their excellence at this high-profile location.

Subsequent to the panel's ranking, analysis was completed by Staff to verify trade and financial references. As such, as a result of the panel's input and ranking exercise as well as these additional considerations, staff concludes that Wolfgang Puck Catering and Events, LLC, is the best candidate to operate the Observatory café, cart, and catering concession at the Observatory and recommends Puck for award.

The Department prepared an Environmental Impact Report (EIR) for the Griffith Observatory Master Plan in accordance with the requirements of the California Environmental Quality Act (CEQA) and was certified by the Board on May 7, 1997 (No. 187-97). A Notice of Determination was filed with the Los Angeles City Clerk and the Los Angeles County Clerk on May 13, 1997. This EIR covers the current renovation and restoration project for the Griffith Observatory, which includes the provision of concession facilities and services.

Report prepared by Stanley Woo, Management Analyst II, Administrative Resources Division.

ATTACHMENT

GRIFFITH OBSERVATORY  
CAFÉ, CART, AND CATERING CONCESSION  
REQUEST FOR PROPOSAL

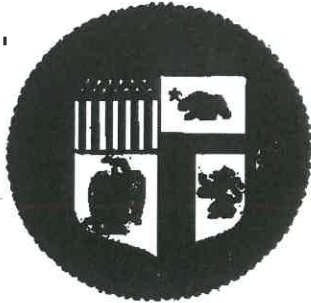
RFP Review Panel and Ranking

The individuals on the panel were as follows:

- Arthur M. Manask, President and CEO of Art Manask & Associates, consultants specializing in the food service industry
- Shelley Stephens, Museum Store Consulting, consultant to museum stores nationwide
- Warren J. Hiff, President Emeritus of the Aquarium of the Pacific
- Danelle Woodson, Benefits Manager of Amgen, Inc. in Thousand Oaks
- Edwin C. Krupp, Ph.D., Astronomer and Director of the Griffith Observatory

The aggregate panel scores are summed as follows:

Rating Criteria	DNC	Puck
Experience and Capability; Quality of Experience	46	48
Operational Plan	46	47
Build-Out Plan and Capital Investment for Café and Carts	44	49
Projected Commissions; Rent to City and Financial Projections	41	50
Total Points	177	194



**City of Los Angeles**  
Department of Recreation and Parks

**OPERATING CONCESSION AGREEMENT**

between the

**City of Los Angeles**  
**Department of Recreation and Parks**

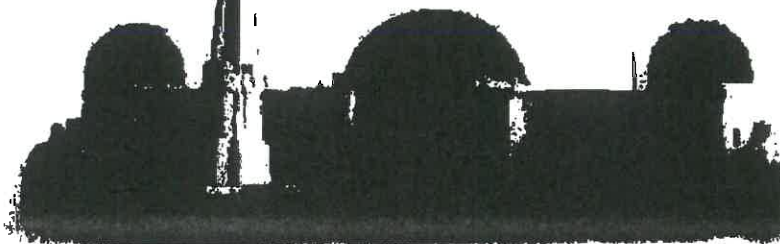
and

**Wolfgang Puck Catering and Events, LLC**

**FOR THE OPERATION AND MAINTENANCE OF  
GRIFFITH OBSERVATORY CAFÉ, CATERING,  
AND FOOD CART SERVICE CONCESSION**

AGREEMENT NUMBER 248

**The  
Griffith Observatory**  
Cafe and Catering Food Service Concession





THIS AGREEMENT, made and entered into this 11 day of September [REDACTED], 2006, by and between the CITY OF LOS ANGELES, a municipal corporation, (hereinafter "CITY"), acting by and through its BOARD OF RECREATION AND PARK COMMISSIONERS, (hereinafter "BOARD"), and Wolfgang Puck Catering and Events, LLC. d.b.a. Wolfgang Puck Catering (hereinafter "CONCESSIONAIRE").

WITNESSETH

WHEREAS, the principal purpose of CITY in entering into this AGREEMENT is to serve the public by providing a food service concession; and

WHEREAS, the BOARD advertised for proposals for the operation of the Griffith Observatory Café and Catering food service concession; and

WHEREAS, the BOARD received and carefully analyzed two proposals received on November 30, 2004; and

WHEREAS, the BOARD determined that CONCESSIONAIRE was the best responsible proposer, and selected said proposer to operate the CONCESSION in accordance with the terms and conditions of this AGREEMENT; and

WHEREAS, CONCESSIONAIRE desires to secure and enter into a AGREEMENT in accordance with the foregoing and undertakes to provide services of the type and character required therein by CITY to meet the needs of the public at Griffith Observatory Café and Catering food service concession; and

NOW THEREFORE, in consideration of the PREMISES and of the terms, covenants and conditions hereinafter contained to be kept and performed by the respective parties, it is agreed as follows:

**SECTION 1. DEFINITIONS:**

For the purpose of this AGREEMENT, the following words and phrases are defined and shall be construed as hereinafter set forth:

**AGREEMENT:** This Concession AGREEMENT consisting of 51 pages and 7 Exhibits (A -G) attached hereto.

**BOARD:** Board of Recreation and Park Commissioners.

**CAFÉ AT THE END OF THE UNIVERSE (CAFÉ):** Name of the café within the Griffith Observatory for which this AGREEMENT encompasses.

**CEQA:** California Environmental Quality Act

**CITY:** City of Los Angeles, acting by and through its Board of Recreation and Park Commissioners.

**CONCESSION:** Griffith Observatory Café, Catering, and Food Cart Service

**CONCESSIONAIRE:** Wolfgang Puck Catering and Events, LLC  
6801 Hollywood Boulevard, Suite 513  
Los Angeles, CA 90028  
Phone: (323)491-1280, Fax: (323)491-1282  
E-mail: [carl.schuster@wolfgangpuck.com](mailto:carl.schuster@wolfgangpuck.com)  
Website: [www.wolfgangpuck.com](http://www.wolfgangpuck.com)

**CONCESSION MANAGER:** The person with whom the GENERAL MANAGER deals with on a daily basis regarding the CONCESSION.

**CONTRACT YEAR:** The calendar year except that the first CONTRACT YEAR hereunder shall commence on the date that food service operations begin and shall continue until the following December 31, and the last CONTRACT YEAR hereunder shall end on the date of the expiration or earlier termination of the AGREEMENT.

**DEPARTMENT:** The Department of Recreation and Parks, acting through the BOARD.

**FACILITY:** Griffith Observatory Café and Catering Food Service Areas.

**FOTO:** Friends Of The Observatory – A non-profit membership organization that has been established to support and promote Griffith Observatory.

**GENERAL MANAGER:** GENERAL MANAGER of the DEPARTMENT, or that person's authorized representative, acting on behalf of CITY. All actions of the GENERAL MANAGER are subject to review by the BOARD.

**LAAC:** The Los Angeles Administrative Code.

**LAMC:** The Los Angeles Municipal Code.

**OBSERVATORY  
MANAGEMENT:**

Director of Griffith Observatory or his/her designee.

**PARK:**

Griffith Park

**PREMISES:**

The geographical area, as defined in the AGREEMENT, in which the CONCESSION may be operated and for which CONCESSIONAIRE has responsibilities as described in the AGREEMENT.

**SPECIAL EVENT PREMISES:**

Temporary extension of PREMISES for FACILITY rentals (outside groups and organizations) and internal events as defined in Exhibit A.

**SECTION 2. CONCESSION GRANTED:**

CONCESSIONAIRE shall be granted the exclusive right, privilege, and obligation to furnish, equip, operate and maintain the Griffith Observatory Café, Catering, and Food Cart Service Concession. The exclusivity extends to entire Observatory area including grounds, parking, and East and West Observatory Roads.

CITY reserves the right to have up to three (3) annual exceptions where the CITY may utilize outside caterers for internal and/or external events if needed whereby CONCESSIONAIRE shall be given the first opportunity and right-of-refusal to provide said services to the satisfaction of the DEPARTMENT. The Observatory café kitchen will not be shared with outside caterers.

CITY reserves the right to receive the entire donated food and beverage catering service package for internal events. CITY also reserves the right to receive donated food and/or beverage for internal events. CONCESSIONAIRE is expected to provide services and set-up for donated food and/or beverages based on actual costs.

CONCESSIONAIRE agrees and understands that other concession businesses - non-food related, may be permitted to operate under concession permits/agreements within the immediate area of the PREMISES herein described.

CONCESSIONAIRE shall provide high quality food and beverage service consistent with the gourmet image of Wolfgang Puck; employment, training, and supervision of personnel with appropriate qualifications and experience to assist in such functions; performance or supervision of CONCESSIONAIRE employees in the performance of all other tasks related to the operation; all licenses and permits at CONCESSIONAIRE'S expense necessary for the operation of the CONCESSION granted; and all maintenance and repair of the Café.

For and in consideration of the payment of the fees and charges as hereinafter provided, and subject to all of the terms, covenants, and conditions of the AGREEMENT, CITY hereby grants to

CONCESSIONAIRE the privilege to provide only those services set forth in the AGREEMENT, and not for any other purpose without the prior written consent of the GENERAL MANAGER. The CONCESSION rights herein granted shall be carried on at the FACILITY solely within the limits and confines of said areas designated as PREMISES in the AGREEMENT. CONCESSIONAIRE, by accepting the AGREEMENT, agrees for itself, its successors and assigns that it will not make use of the PREMISES in any manner which might interfere with the intended use of the FACILITY by the DEPARTMENT.

CITY reserves the right to further develop or improve the FACILITY and the PREMISES as it sees fit, and without interference or hindrance by CONCESSIONAIRE. In the event that such development or improvement may require the suspension or termination of the AGREEMENT, CITY shall provide CONCESSIONAIRE with sixty (60) days prior written notice. CITY shall not be liable for loss of business which results from the construction of any development or improvements to the FACILITY outside of the PREMISES.

In the event of a conflict between CONCESSIONAIRE and any other concessionaire or any lessee at the FACILITY regarding the services to be offered or products to be sold by respective concessionaires or lessees, GENERAL MANAGER shall meet and confer with all necessary parties in order to determine the services to be offered or products to be sold by each, and CONCESSIONAIRE hereunder agrees thereafter to be bound by said determination. Notwithstanding, services or products sold by CONCESSIONAIRE or service or products that are substantially similar to those sold by CONCESSIONAIRE shall not be offered or sold by any other concession or any lessee at the FACILITY.

**SECTION 3. PREMISES:**

The PREMISES (hereinafter referred to as PREMISES) to be authorized for use by CONCESSIONAIRE at Griffith Observatory shall include The Café at the End of the Universe, SPECIAL EVENT PREMISES (except only during such times that such areas are used by CONCESSIONAIRE in accordance with the terms herein), and pre-designated "cart set-up area(s)" as determined by the DEPARTMENT (see Exhibit A1 – A6). The Café will be in an admission free area that can be accessed by visitors and the general public independently of the Observatory shows, tours, and operating hours (within the PARK operating hours of 5:30 a.m. to 10:00 p.m.).

CONCESSIONAIRE shall not use or allow the PREMISES to be used, in whole or in part, during the term of the AGREEMENT, for any use in violation of any present or future laws, ordinances, rules and regulations at any time applicable thereto of any public or governmental authority or agencies, departments or officers thereof, including CITY, relating to sanitation or the public health, safety or welfare or operations at and use of the PREMISES.

**SECTION 4. TERM OF CONCESSION AGREEMENT, RENEWAL & CONCESSIONAIRE CAPITAL INVESTMENT BUY-BACK:**

The term of this AGREEMENT is ten (10) years, terminating midnight, the evening of the 5 day of SEPTEMBER, 2016.

Any renewal shall be initiated at the sole discretion of the CITY and agreed to by CONCESSIONAIRE. The CITY will consider no more than two (2) renewal terms of five (5) years each provided that CONCESSIONAIRE is in full compliance with its obligations under the AGREEMENT upon the expiration of the initial term or any extensions thereof. Any renewal shall be at the sole discretion of the CITY, which will give the CONCESSIONAIRE a preliminary notice of its willingness to renew and shall be decided not later than six (6) months prior to the end of the then current term.

Upon the expiration of any term not renewed hereunder, the CONCESSIONAIRE shall remove all of its employees and property from the Observatory facilities in a smooth, orderly and cooperative manner and the CONCESSIONAIRE shall bring current all of its financial obligations to the CITY.

The CITY reserves the right at any time during the term of the contract to pay-off the unamortized portion of CONCESSIONAIRE'S capital INVESTMENT (as specified in Section 15. Capital INVESTMENT – Fixed Equipment (FF&E) & Interior Design), if any, with no interest or penalties, and terminate the AGREEMENT for convenience upon ninety (90) days written notice. CITY and CONCESSIONAIRE agree and understand that any consideration of termination for convenience within the first twelve months places a hardship on the CITY, in efforts to provide continuity of outstanding service at OBSERVATORY, and a hardship on CONCESSIONAIRE for reasons that include insufficient opportunity to amortize start-up investments. Should the CITY exercise its right to terminate the AGREEMENT for convenience within the first twelve months of operation, CITY and CONCESSIONAIRE shall meet and confer in good faith to review and determine what remedies are equitable in regard to start-up expenditures assumed by CONCESSIONAIRE. CONCESSIONAIRE may terminate the AGREEMENT for convenience upon one-hundred-twenty (120) days notice to the CITY, as specified in Section 25; however, the Capital INVESTMENT Buy-Back must first be negotiated to the acceptance of the GENERAL MANAGER.

CONCESSIONAIRE will fund certain improvements to CAFÉ to facilitate the performance of Services (INVESTMENT). The scope and specifications for such improvements shall be mutually agreed in writing by the parties prior to the disbursement of any INVESTMENT funds. The INVESTMENT shall be payable in accordance with the disbursement scheduled agreed, in writing, by the parties, and shall be a minimum of Four Hundred Twenty-Five Thousand (\$425,000) Dollars.

The INVESTMENT, shall be amortized over a period of ten years, calculated at a rate equal to straight-line depreciation basis. If the AGREEMENT is terminated, as further detailed in Section 25 herein, prior to the full amortization of the INVESTMENT, then CITY is liable for and promises to pay to CONCESSIONAIRE within ninety (90) days of termination notice date, the unamortized portion of the INVESTMENT.

The INVESTMENT buy-back amount shall be based on single straight-line, non-interest bearing amortization over ten (10) years. Buy-back will be calculated on actual months/years of operation. The following schedule of INVESTMENT buy-back from CONCESSIONAIRE is based on full and completed years from the date of AGREEMENT execution. The schedule will be adjusted as

necessary to reflect the actual time of operation in whole months or one-twelfths (1/12) of the current operating year.

Full and completed year from date of AGREEMENT execution:	Capital INVESTMENT buy-back allowed per completed year of operation:
1	\$382,500
2	\$340,000
3	\$297,500
4	\$255,000
5	\$212,500
6	\$170,000
7	\$127,500
8	\$85,000
9	\$42,500
10	0

Note: the original capital investment eligible for buy-back is \$425,000.

If due to request of CITY additional improvements are required and approved beyond those proposed by CONCESSIONAIRE or related to minimum improvements required in accordance with Section 15, prior to adding to the INVESTMENT amount, the CITY and CONCESSIONAIRE shall meet and confer in good faith to amend the AGREEMENT to increase the amount of INVESTMENT subject to Buy-Back.

If the City terminates the contract for cause there would be no buy-back of amortized INVESTMENT and as specified in Section 15, the unamortized portion of improvements would remain property of CONCESSIONAIRE. In that event, CITY and CONCESSIONAIRE shall meet and confer in good faith to review and determine what portion of the improvement equates to the INVESTMENT amortized as of the date of termination, prorated to reflect the actual time of operation in whole months or one-twelfths (1/12) of the current operating year.

In the event of contract termination for any reason other than by CITY for cause, including termination by CONCESSIONAIRE for cause, the CITY or the successor CONCESSIONAIRE would reimburse CONCESSIONAIRE the unamortized capital cost. The reimbursement ('buy-back') of unamortized capital INVESTMENT would not include any FF&E that is proprietary to the CONCESSIONAIRE (includes trade dress, logo, etc. and is CONCESSIONAIRE-specific and not transferable to another CONCESSIONAIRE). Capital INVESTMENT and buy-back does not include the items listed in Section 16. Operating Responsibilities, Paragraph D.

**SECTION 5. TIME OF EXECUTION**

Unless otherwise provided, this AGREEMENT shall be considered executed when:

A. The Office of the City Attorney has indicated in writing of its approval of this

- AGREEMENT as to form and legality; AND
- B. Said AGREEMENT has been approved by the CITY'S Council, Board, officer, or employee authorized to give such approval, AND
  - C. Said AGREEMENT has been signed on behalf of the CONCESSIONAIRE by the person or persons authorized to bind the CONCESSIONAIRE hereto, AND
  - D. This AGREEMENT has been signed on behalf of the CITY by the persons designated by the BOARD as authorized to enter into this AGREEMENT.

**SECTION 6. NUMBER OF ORIGINALS**

The number of original texts shall be equal to the number of the parties hereto, one text being retained by each party.

**SECTION 7. INDEPENDENT CONTRACTORS/ CONSULTANTS**

The CONCESSIONAIRE is acting hereunder as an independent contractor and not as an agent or employee of the CITY. The CONCESSIONAIRE shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the CITY.

**SECTION 8. CONCESSIONAIRE NON REIMBURSABLE EXPENSES**

CONCESSIONAIRE shall be responsible for paying for the following investment items. These investment dollars would not be subject to amortization and buy-back in the case of contract termination under any circumstances. Such non-reimbursable items funded by CONCESSIONAIRE shall remain CONCESSIONAIRE'S property throughout the AGREEMENT term and after expiration or earlier termination of this AGREEMENT.

- A. CONCESSIONAIRE pre-opening and start-up costs and expenses including any corporate overhead, staff or related charges if applicable to your company except as otherwise stated in Section 4, Paragraph 4.
- B. Consumable food, non-alcoholic beverage (and alcoholic beverages, if applicable), gift shop/bookstore (if applicable) and supply inventories.
- C. Change and petty cash funds.
- D. Loose Equipment (defined as, but not necessarily limited to, kitchenware, point-of-sale/cash registers, computers and computer related hardware and software, catering equipment, office furniture/furnishings, carts and fax machine).
- E. Carts (food and beverage outside).

**SECTION 9. REFURBISHMENT & REPLACEMENT FUND**

CONCESSIONAIRE shall set aside a reserve in the amount of one percent (1%) of total gross annual receipts hereunder from foodservice operations for the purpose of replacement of the FF&E when they become worn and have to be replaced. This reserve shall be cumulative and carry-over from year-to-year during the term of the AGREEMENT. In the event of AGREEMENT termination for any reason, any surplus in this account will be turned-over to the CITY. These dollars are not to be used for routine repair and maintenance or Loose Equipment replacement.

**SECTION 10. CAFÉ CONSTRUCTION & PROJECT MANAGEMENT**

The CITY will have the final approval of construction, contractors and project management personnel relating to the Griffith Observatory Renovation and Expansion Project which has created the Café, kitchen, and special event spaces which will be utilized under this AGREEMENT. CITY has and will select and engage all architects, engineers and contractors for the Project. In regard to any additional work by CITY in the CONCESSION PREMISES which may be required during completion of the Project, the CITY shall coordinate and seek input as necessary from the CONCESSIONAIRE during the process, where CITY reserves the right make the final approval(s) relating to such.

**SECTION 11. INTERFACE WITH OBSERVATORY MANAGEMENT:**

Collaboration with OBSERVATORY MANAGEMENT is essential to the success of this CONCESSION. As such, CONCESSIONAIRE shall consult, seek approval, interact and work in unison under the reasonable direction of OBSERVATORY MANAGEMENT on a regular basis. Matters requiring coordination and direction of OBSERVATORY MANAGEMENT include, but are not limited to:

- Thematic design of the Café
- Names of the thematic food/merchandise
- Character of packaging
- Deliveries
- Cart placement and storage
- Menu approval
- FACILITY rental availability
- Appropriateness/mission of outside clients
- Staff parking
- Restrictions

The OBSERVATORY MANAGEMENT shall have reasonable editorial comments and meaningful input to the overall design of the CONCESSION PREMISES as well as the menu/selection offered by the CONCESSIONAIRE. As such, the CITY reserves the right to suspend sale of inappropriate items offered by the CONCESSIONAIRE based on the reasonable review by the OBSERVATORY MANAGEMENT. CONCESSIONAIRE retains control of menu development and recipes.



**SECTION 12. START-UP SCHEDULE:**

CONCESSIONAIRE shall provide a transition schedule detailing the various implementation tasks required under this AGREEMENT to ensure a full understanding of CONCESSIONAIRE responsibilities and to also ensure coordinated efforts with the DEPARTMENT and OBSERVATORY MANAGEMENT. CONCESSIONAIRE shall include said schedule as Exhibit B, attached thereto and incorporated within.

**SECTION 13. RENTAL:**

**A. Payments:**

As consideration for CITY'S granting the CONCESSION rights hereinabove set forth, CONCESSIONAIRE agrees to pay to CITY the following percentage(s) of Gross Receipts as defined below as consideration for the granting of CONCESSION: \_\_\_\_\_

- Café and Food Cart  
First \$1,000,000 8%  
Over \$1,000,000 10%

- Catering  
First \$1,000,000 14%  
Over \$1,000,000 16%

\* No commissions will be paid on internal catering.

\*\* No commissions will be paid from Griffith Observatory FACILITY rentals.

The CONCESSIONAIRE shall mail all payments and reports to:

Department of Recreation and Parks  
Administrative Resources Division  
P.O. Box 5358  
Glendale, CA 91221-5385

*replaced of  
new  
Amendment*

A Rental Guarantee shall be guaranteed by CONCESSIONAIRE based on annual rent beginning in Year Two equal to 70% of the total rent paid in previous CONTRACT YEAR as determined by an Annual Accounting Adjustment defined in Section 13. Rental, Paragraph F, below.

Notwithstanding, in the event that the Rental Guarantee is not met by CONCESSIONAIRE for reasons beyond CONCESSION'S control, such as and by way of example only, a change in the scope of services at the directive of CITY or attendance, CONCESSIONAIRE and the GENERAL MANAGER shall meet and confer with regard to rental guarantee obligations set forth in this AGREEMENT and make recommendations on reducing or waiving minimum annual rent on a year-to-year basis to the BOARD as appropriate.

**B. Product Servicing Agreements**

CONCESSIONAIRE shall have the right to enter into a sponsorship agreement (Product Servicing Agreement) with corporations with respect to food and/or beverage products that are offered by the CONCESSION. CITY, FOTO and CONCESSIONAIRE may pursue Product Servicing Agreements independently; however, each party must notify the other party to avoid any conflicts between such agreements. CITY and FOTO shall not enter into any Product Servicing Agreements without the CONCESSIONAIRE'S prior written approval. CONCESSIONAIRE shall not enter into any Product Servicing Agreements without the CITY'S prior written approval. CITY agrees to provide introductions to CONCESSIONAIRE with food and beverage vendors that may be interested in having their products exclusively served or sold by the CONCESSION in exchange for marketing and/or rights fees. CONCESSIONAIRE will pay an eight percent (8%) commission on any marketing, sponsorships, or rights and fees paid in connection with Product Servicing Agreements to CITY.

Any food and/or beverage covered by a Product Servicing Agreement shall at least be of equal quality of similar products used by CONCESSIONAIRE and at all times be consistent with the gourmet image of Wolfgang Puck.

The CITY will warrant that CONCESSIONAIRE will not pay a premium over the CONCESSIONAIRE'S current pricing for any such products.

**C. Gross Receipts Defined**

Discounted sales will not be considered for calculation of Gross Receipts.

The term "Gross Receipts" is defined to mean the total amount charged or received for the sale of any service, food, and beverage for which a charge is made or credit is allowed, including all receipts, cash, credits, and property of any kind or nature. However, "Gross Receipts" does not include cash discounts allowed or taken on sales, nor the amount of any sales or use tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser and paid by CONCESSIONAIRE. In the event merchandise is taken in trade, "Gross Receipts" means the retail value of the merchandise sold, less the fair market trade-in allowance. When the traded merchandise is sold, "Gross Receipts" means the actual selling price less retail sales taxes. In the case of vending machines, "Gross Receipts" shall be the total amount taken by the vending machines, less all applicable sales tax, excise taxes, container deposits, spoilage, and CRV. The term "Gross Receipts" shall not include:

1. Receipts from the sale of waste or scrap materials resulting from the operation of CONCESSIONAIRE'S business;
2. Receipts from the sale of or the trade-in value of any furniture, fixtures or equipment used on the PREMISES, and owned by ;
3. The value of any merchandise, supplies or equipment exchanged or transferred from or to other business locations of CONCESSIONAIRE where such exchanges or

- transfers are not made for the purpose of avoiding a sale by CONCESSIONAIRE which would otherwise be made from or at the PREMISES;
4. Receipts in the form of refunds from or the value of merchandise, supplies or equipment returned to shippers, suppliers or manufacturers;
  5. Receipts with respect to any sale where the subject of such sale, or some part thereof, is thereafter returned by the purchaser to and accepted by CONCESSIONAIRE, to the extent of any refund actually granted or adjustment actually made, either in the form of cash or credit;
  6. The amount of any cash or quantity discounts received from sellers, suppliers or manufacturers;
  7. The amount of any discounts given to CONCESSIONAIRE'S employees;
  8. Receipts from the sale at cost of uniforms or clothing to CONCESSIONAIRE'S employees where such uniforms or clothing are required to be worn by said employees;
  9. Proceeds from any arbitration, lawsuit, judgment or settlement of a lawsuit or other dispute unless such receipts are otherwise expressly included in the definition of "Gross Receipts" or losses resulting from bad debt received from the consumers or purchasers.
  10. The cost or value of free meals given to employees of CONCESSIONAIRE pursuant to such employees' employment contracts. CONCESSIONAIRE shall not be credited with nor allowed to have any reduction in the amount of Gross Receipts, as herein defined, which results from any error in cash handling by CONCESSIONAIRE, or from any arrangement for a rebate, kickback, or hidden credit given or allowed to customer.
  11. Discounts, surcharges or business-related complimentary meals applied to receipts for services or merchandise, with the concurrence of both CONCESSIONAIRE and CITY.
  13. Tips, service charges and/or gratuities collected and paid to CONCESSIONAIRE'S employees, independent contractors or agents or subcontractor's employees, independent contractors or agents.
  14. Amounts collected by CONCESSIONAIRE for flowers, entertainment, service staff, and similar catering-related charges that are collected by CONCESSIONAIRE without mark-up to the CITY or outside customer and any facility and equipment rental fees and other charges charged by CITY or CONCESSIONAIRE. In the event that these expenses are included as part of a package, upon request of the CITY, CONCESSIONAIRE shall provide a breakdown of the components of the package and the cost of those components should be consistent with the expenses of other events.
  15. Interest, service or sales carrying charges paid by customers for extension of credit.
  16. The amount of any discounts to be provided under this AGREEMENT.

**D. Method of Payment**  
**Percentage of Gross Receipts Rental**

Rental payments are to be paid by CONCESSIONAIRE to CITY in monthly installments during each year of the term of the AGREEMENT. Within fifteen (15) days after the end of each calendar month, CONCESSIONAIRE shall pay CITY as the rental payment for such previous calendar month the percent of gross receipts received in said previous month.

**E. Pro Rata Payment**

If the execution or termination of the AGREEMENT falls on any date other than the first or last day of any calendar month, the applicable rental payment for said month, if it is based on a flat rate or a minimum rental, shall be paid by CONCESSIONAIRE to CITY pro rata in the same proportion that the number of days the AGREEMENT is in effect for that month bears to the total number of days in that month.

**F. Late Payment Fee**

Failure of CONCESSIONAIRE to pay any of the rental payments or any other fees, charges, or payments required herein on time is a breach of this AGREEMENT if not cured by CONCESSIONAIRE pursuant to Section 25, Termination. CITY expects all compensation to be paid on time and CONCESSIONAIRE agrees to pay on time. Payments postmarked after the due date will be considered late.

Without waiving any rights available at law, in equity or under the AGREEMENT, in the event of late or delinquent payments by CONCESSIONAIRE, the latter recognizes that CITY will incur certain expenses as a result thereof, the amount of which is difficult to ascertain. Therefore, in addition to monies owing, CONCESSIONAIRE agrees to pay the CITY a late fee set forth below to compensate CITY for all expenses and/or damages and loss resulting from said late or delinquent payments.

Unless otherwise specified in the AGREEMENT, the charges for late or delinquent payments shall be \$50.00 plus interest calculated at the rate of eighteen percent (18%) per annum, assessed monthly on the balance of the unpaid amount.

**G. Annual Accounting Adjustment**

By 12:00 noon on January 30th of each year beginning 2008, CONCESSIONAIRE shall prepare and submit to CITY a statement showing the total Gross Receipts for the last calendar year by category and the rental paid for the year. If the sums paid by CONCESSIONAIRE during said period total less than the Rental Guarantee of seventy percent (70%) of the total rent paid in the previous year, CONCESSIONAIRE shall remit to the CITY the under payment amount with the annual statement due on January 30th. The Rental Guarantee is subject to an unanticipated percentage decline in Observatory attendance, applied (as a percentage) to the 70% guarantee. Notwithstanding the expiration of the AGREEMENT, Rental Guarantee provision shall survive the expiration of the AGREEMENT and rental payment, if any due based on a pro-rata portion of an equal number of days operated by CONCESSIONAIRE compared to the previous year, shall be made on or prior to thirty (30) days after AGREEMENT expiration or termination.

**SECTION 14. ADDITIONAL FEES AND CHARGES**

If CITY pays any sum or incurs any obligations or expense which CONCESSIONAIRE has agreed to pay or reimburse CITY for, or if CITY is required or elects to pay any sum or to incur any obligations or expense by reason of the failure, neglect or refusal of CONCESSIONAIRE to perform or fulfill any one or more of the conditions, covenants or agreements contained in the AGREEMENT, or as a result of a negligent act or omission or willful act of misconduct of CONCESSIONAIRE contrary to said conditions, covenants and agreements, CONCESSIONAIRE agrees to pay to CITY the sum so paid or the expense so incurred, including all interest, costs, (including CITY'S 15% administrative overhead cost), damages and penalties. This amount shall be added to the rental payment thereafter due hereunder, and each and every part of the same shall be and become additional rental payment, recoverable by CITY in the same manner and with like remedies as if it were originally a part of the basic rental payment set forth in Section 13. Rental, hereof.

For all purposes under this section, and in any suit, action or proceeding of any kind between the parties hereto, any receipt showing the payment of any sum by CITY for any work done or material furnished shall be prima facie evidence against CONCESSIONAIRE that the amount of such payment was necessary and reasonable. Should CITY elect to use its own operating and/or maintenance personnel in making any repairs, replacements and/or alterations and to charge CONCESSIONAIRE with the cost of same, receipts and timesheets will be used to establish the charges, which shall be presumed to be reasonable in absence of contrary proof submitted by CONCESSIONAIRE. Receipts showing payments or, in the event that CITY uses its own resources to accomplish repairs, replacements, or alterations, timesheets and receipts, shall be presented to CONCESSIONAIRE ten (10) days prior to the amount being added to the following month's rental payment due.

**SECTION 15. CAPITAL INVESTMENT - FIXED EQUIPMENT (FF&E) & INTERIOR DESIGN**

The CITY will provide the café space(s) based on the floor plans accompanying this AGREEMENT, which floor plans shall be attached thereto and incorporated herein as Exhibit C. CONCESSIONAIRE will be responsible to build-out (finish) the café and kitchen spaces (including seating/dining, furnishings, fixtures and equipment) in the amount, at minimum, of \$425,000.00.

CONCESSIONAIRE believes that \$425,000 is sufficient to complete all required capital improvements to the reasonable satisfaction of the GENERAL MANAGER, by September 15, 2006, or as approved by the GENERAL MANAGER. CITY shall hold CONCESSIONAIRE responsible for guaranteeing the completion of all required improvements, according to approved plans, regardless of cost, and the amount subject to buy-back is \$425,000 (in accordance with Section 4. Term of Concession Agreement, Renewal, and Concessionaire Capital INVESTMENT Buy-Back). Should the required improvements be completed to the reasonable satisfaction of the GENERAL MANAGER for less than \$425,000 in authorized costs, the balance shall be expended on other improvements at the PREMISES or environs as mutually agreed between CONCESSIONAIRE and

the GENERAL MANAGER over the original ten (10) year term of this AGREEMENT. If the CONCESSIONAIRE and GENERAL MANAGER do not mutually agree, CITY shall designate the improvements for which the remaining funds will be spent, and CITY'S decision shall be final, so long as the improvements benefit the CONCESSION.

If due to request of CITY additional improvements are required and approved beyond those proposed by CONCESSIONAIRE or related to minimum improvements, prior to performing additional work or adding to the INVESTMENT amount, the CITY and CONCESSIONAIRE shall meet and confer in good faith to amend the Agreement to increase the amount of INVESTMENT subject to Buy-Back.

When fully amortized, ownership to all improvements will revert to the CITY. CONCESSIONAIRE will be responsible for the cost of any changes (minor changes only) to the current equipment designed into the spaces, all such changes subject to the prior approval of the CITY, which approval shall not unreasonably be withheld or delayed.

All design, equipment, furnishings, etc., shall be subject to the prior review and (reasonable) approval of the CITY. CITY will be responsible for cost of any changes it requires following initial approval of design, equipment, furnishings, etc.

Capital INVESTMENTS by CONCESSIONAIRE will be approved in advance by CITY and amortized straight-line, non-interest bearing over a ten (10) year period in accordance with the INVESTMENT terms in Section 4 herein.

#### **SECTION 16. OPERATING RESPONSIBILITIES:**

To ensure CONCESSIONAIRE meets the expectations of the CITY and that the visitor experience at Griffith Observatory is positive in every respect, CONCESSIONAIRE shall operate under the following principal guidelines.

##### **A. Food and Beverage**

CONCESSIONAIRE shall offer creatively prepared food and beverage to enhance the Griffith Observatory visitor and guest experience and which shall be at all times consistent with the gourmet image of Wolfgang Puck. Thematic in nature, the Café at the End of the Universe shall offer menu items which reflect the Observatory's astronomical intent and is consistent with the Observatory's programmatic initiatives. Menu items shall be derived from the freshest local ingredients, and best quality products available. Menu items shall be fresh and appeal to both kids and adults, families, the casual visitor, program participants, and locals. Menu items shall offer ethnic and dietary options. Branded programs may include Wolfgang Puck coffees and teas as well as "signature" menu items. CONCESSIONAIRE agrees that should CITY modify, rebrand, or otherwise materially alter the theme of The Café, CONCESSIONAIRE will modify food and beverage items accordingly.

CONCESSIONAIRE shall utilize their state-of-the-art 7500 square foot kitchen/commissary at 6801 Hollywood, Suite 500 (at Highland) or other suitable location in the preparation of all Café and catering menu items for Griffith Observatory. Said commissary shall be licensed by the Los Angeles County Health Department as required. Food handling and preparation shall be performed under food industry safety standards. CONCESSIONAIRE may utilize other locations for food and cart storage and catering support, upon the written approval of the GENERAL MANAGER, which approval shall not unreasonably be withheld or delayed.

CONCESSIONAIRE shall maintain high standards of food safety and sanitation utilizing such programs as ServSafe certification, elements of Hazard Analysis Critical Control Point System (HACCP) policies and procedures or other current policies and procedures which focus on identifying hazards that may contaminate potentially hazardous foods during any food handling step from receiving to serving.

CONCESSIONAIRE shall offer the public a full range selection of breakfast, luncheon, and fast food items and beverages all consistent with the gourmet image of Wolfgang Puck. CONCESSIONAIRE shall have the option to sell alcoholic beverages (beer, wine, and spirits) at the CONCESSION. Sale of alcoholic beverages must comply with the rules and regulations of the Alcoholic Beverage Control Board. CONCESSIONAIRE shall obtain a liquor license/permit allowing for the service of all alcohol beverages at the PREMISES. CITY/Observatory Management shall cooperate fully with CONCESSIONAIRE with regard to obtaining such license.

CONCESSIONAIRE shall minimize the paper items (straw covers, serving cartons, etc.) distributed with take-out CONCESSION products. CONCESSIONAIRE shall use commercially reasonable best efforts to sell merchandise in recyclable bottles, and shall not dispense take-out food or beverage items in glass or Styrofoam containers. CONCESSIONAIRE shall not sell or give away or otherwise dispose of any commodity which in the opinion of GENERAL MANAGER will cause undue litter. CONCESSIONAIRE shall not sell lottery merchandise.

**B. Price Schedules**

All menu prices shall be comparable with menu prices at other first class, high quality, Los Angeles-area cultural institutions, cafés and catering/banquet facilities for substantially similar services, items and portions. Prices shall be determined with a goal of high perceived value. CITY agrees that CONCESSIONAIRE'S merchandise, including its schedule of prices, charges and rates for same, shall be within CONCESSIONAIRE'S discretion; subject, however, to disapproval by GENERAL MANAGER if the selection of items offered is inadequate, of inferior quality, or if any of said prices, charges and rates are excessively high or low. Such determination shall not be unreasonable and shall take into account the business considerations presented by CONCESSIONAIRE. All prices must be posted on display or on menus if table service is provided. Menu prices and portions will be Exhibit D

to this AGREEMENT and such prices will be set and established for each calendar year. December of each year will be the annual review time for new pricing to be effective January of the following year. No price adjustments or changes will be made without the CITY'S prior written approval and knowledge, which will not be unreasonably withheld. Whenever conditions result in cost increases to the CONCESSIONAIRE, then and in that event, the CITY will consider price adjustments at other times during the year.

Customized catering proposals shall have varied appeal and pricing to suit a wide range of budgets.

CONCESSIONAIRE retains the right to refuse catering opportunities based on pricing or other reasonable criteria.

Discounts shall be offered by CONCESSIONAIRE to Observatory staff and volunteers on Café and Cart purchases at ten percent (10%) and fountain sodas and brewed beverages at fifty percent (50%) with appropriate CITY-issued identification.

Special Pricing shall be extended for day-to-day Internal Catering needs: Gala and other special event menus will be offered at a 15% discount from CONCESSIONAIRE'S standard retail pricing. Labor and equipment rentals will be provided for internal catering at CONCESSIONAIRE'S cost (hourly wage plus 20% payroll tax and benefits); there is no "service" charge.

All services and/or merchandise carried in stock, displayed, offered for sale and/or sold by CONCESSIONAIRE in said PREMISES shall be of high quality consistent with the gourmet image of Wolfgang Puck and must be related to the ordinary business of the permitted CONCESSION operations. No limitation, adulterated, misbranded or impure articles shall be sold or kept for sale by CONCESSIONAIRE. All merchandise kept for sale or rented by the CONCESSIONAIRE shall be kept subject to the reasonable approval or rejection of the GENERAL MANAGER and CONCESSIONAIRE shall remove from the PREMISES any article which may be rejected and shall not again offer it for sale without the consent of the GENERAL MANAGER. The GENERAL MANAGER may order the improvement of the quality of any merchandise kept or offered for sale or rental.

CONCESSIONAIRE agrees that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within CONCESSIONAIRE'S profession, doing the same or similar work under the same or similar circumstances.

**C. Hours of Operation**

The CONCESSIONAIRE shall operate the CAFÉ during the following hours:

Monday            10:00 a.m. to 8:00 p.m.



Tuesday	7:00 a.m. to 8:00 p.m.
Wednesday	7:00 a.m. to 8:00 p.m.
Thursday	7:00 a.m. to 8:00 p.m.
Friday	7:00 a.m. to 9:00 p.m.
Saturday	7:00 a.m. to 9:00 p.m.
Sunday	7:00 a.m. to 8:00 p.m.

Should hours of the Observatory change, CONCESSIONAIRE shall adjust café hours such that the café is open not later than one (1) hour after the Observatory opens and stays open continuously until at least one (1) hour before the Observatory closes. Extended hours of business shall be at the CONCESSIONAIRE'S discretion. The Hours of Operation for catered special events is expected to conform to the PARK'S Hours of Operation.

CONCESSIONAIRE must post the hours of operation in a location visible to the public, and must be open for business during the hours posted. Any deviation from the hours specified and the hours for special events shall be subject to the prior reasonable approval of GENERAL MANAGER.

**D. Equipment, Furnishings and Expendables**

CONCESSIONAIRE is requested to provide, all Loose Equipment which includes, but is not necessarily limited to, kitchenware, point-of-sale/cash registers, computers and computer related hardware and software, catering equipment, office furniture/furnishings, carts and fax machine. The CITY will have the right of review and approval of any Loose Equipment that will be used or in view of Observatory visitors/customers, which approval shall not unreasonably be withheld or delayed.

CITY may at no cost to CONCESSIONAIRE, provide certain equipment (which shall remain the property of the CITY, and reserves the right at any time to replace any and all items of CITY-owned equipment at this CONCESSION with functionally equivalent equipment.

All Loose Equipment and any personal property required for said CONCESSION shall be purchased and installed, by CONCESSIONAIRE at its sole expense and shall remain its personal property. If, upon termination of the AGREEMENT, CITY does not renew said AGREEMENT, CONCESSIONAIRE shall have the right to remove its own Loose Equipment and any personal property, but not improvements, from the PREMISES and shall be allowed a period of thirty (30) days to make such removal. If not removed within that period, said Loose Equipment shall become the property of CITY.

**E. Maintenance, Refurbishing and Repair of Café Equipment**

CONCESSIONAIRE shall, at all times and at its expense, keep and maintain the PREMISES including all equipment, whether owned and/or installed by CONCESSIONAIRE or CITY, such as, but not limited to, heat exchangers, fans, controls and electric panels, installed by

CITY, together with all of the fixtures, plate and mirror glass, equipment and personal property therein, in good repair and in a clean, sanitary and orderly condition and appearance. PREMISES map to state the exclusion of rest rooms. For the purposes of this Section, the PREMISES shall mean the Café at the End of the Universe and the kitchen.

No equipment provided by CITY shall be removed or replaced by CONCESSIONAIRE without the prior written consent of the GENERAL MANAGER, and if consent is secured, such removal and/or replacement shall be at the expense of CONCESSIONAIRE.

**F. Maintenance of Café and SPECIAL EVENT PREMISES**

CONCESSIONAIRE shall, at its expense, keep and maintain all the interior walls and surfaces of PREMISES and all improvements, fixtures, trade fixtures, and utility systems which may now or hereafter exist thereon, whether installed by CITY or CONCESSIONAIRE, in good, operable, useable and sanitary order throughout the term of the AGREEMENT, providing for such repairs, replacements, rebuilding and restoration as may be required by or given prior written approval by the GENERAL MANAGER to comply with the requirements hereof. Common passageways leading to other CONCESSION facilities or offices maintained by CITY which also lead to the PREMISES shall not be considered under the control of CONCESSIONAIRE for purposes of this Section. For the purposes of this provision, improvements shall include all buildings and appurtenances recessed into or attached by any method to the ground or to another object which is recessed or attached to the ground or to other CITY-owned facilities (such as buildings, fences, posts, signs, electrical hook-ups, plumbing, tracks, tanks, etc.).

CONCESSIONAIRE'S duties shall include all sweeping, washing, servicing, repairing, replacing, cleaning and interior painting that may be required to properly maintain the PREMISES in a safe, clean, orderly and attractive condition. Those duties shall also include electrical, mechanical and plumbing maintenance in the interior of the PREMISES, such as light fixtures, toilets and faucets. However, CITY shall maintain the walls of the PREMISES. CITY shall maintain the exterior of all buildings and will endeavor to perform all exterior repairs occasioned by normal wear and tear, and the elements, unless otherwise provided for in the AGREEMENT.

In the event that any structural or other improvements or furnishings and supplies constructed or installed by CONCESSIONAIRE in any one or all of the various PREMISES are damaged or destroyed, in whole or in part, from any cause whatsoever, CONCESSIONAIRE shall forthwith proceed with the removal of the debris and damaged or destroyed structural or other improvements, equipment, furnishings and supplies. Thereafter CONCESSIONAIRE shall proceed with all dispatch with the reconstruction work necessary to restore the damaged or destroyed PREMISES to the condition they were in prior to the occurrence of such damage or destruction. CONCESSIONAIRE shall pay all costs and expenses incurred in connection therewith unless caused by CITY'S or its agents', employees', or contractors' negligence.

CITY does not have any duty to make any improvements, replacements or repairs whatsoever to the PREMISES and any structures, improvements, fixtures, trade fixtures, equipment and utilities during the term hereof except as set forth above.

If CONCESSIONAIRE fails, after written notice, to correct such conditions which have led or, in the reasonable opinion of CITY agents, could lead to significant damage to CITY property under CONCESSIONAIRE'S control, the GENERAL MANAGER may at its option, and in addition to all other remedies which may be available to it, repair, replace, rebuild, redecorate or paint any such PREMISES included in said notice, with the cost thereof, plus fifteen percent (15%) for administrative overhead, to be paid by CONCESSIONAIRE to CITY on demand.

CONCESSIONAIRE shall be responsible for janitorial clean-up related to Special Events held at SPECIAL EVENT PREMISES.

For purposes of this Section F. the PREMISES shall mean the Café at the End of the Universe and the kitchen. The parties acknowledge and agree that CONCESSIONAIRE shall be responsible for set-up and clean up during and immediately following special event help at SPECIAL EVENT PREMISES or during and immediately following cart service at cart set-up areas.

**G. Cart Operations**

As a supplement to food and beverage service in the Café during peak periods such as weekends, holidays and summer, based upon attendance and profitability as mutually agreed upon, CONCESSIONAIRE shall provide mobile cart service featuring refrigeration and display area for food and beverages. The cart(s) shall be configured and merchandised to maximize visual appeal, menu variety and practicality.

CONCESSIONAIRE shall secure all necessary licenses and permits under the AGREEMENT covering the operation of these items. CONCESSIONAIRE shall maintain the carts in good repair and in a clean and sanitary condition at all times and keep the area 10' around cart(s) clean and sanitary. Cart(s) must be removed from the agreed upon set-up area daily. Temporary storage of cart(s) is permitted within the Café pending written approval from Observatory Management. During non-use periods, carts would be stored off-PREMISES at CONCESSIONAIRE'S cost and expense, at a Health Department Approved offsite location when not in use at the Observatory such as the Hollywood and Highland support location.

CONCESSIONAIRE shall be responsible for the maintenance of the mobile food and beverage cart(s) and shall provide a trash receptacle on the mobile food and beverage cart(s) for use by customers thereof. CONCESSIONAIRE shall not sell any items in glass containers from the mobile food and beverage cart(s). CONCESSIONAIRE shall be

responsible for maintenance and cleanliness of the mobile food and beverage cart(s).

**H. Personnel**

In the Observatory's setting, the foodservice CONCESSIONAIRE'S staff is normally perceived by the public (visitor) as "representatives of the Observatory." The CITY and Observatory is very concerned about its public image and reputation. For this reason, the GENERAL MANAGER and OBSERVATORY MANAGEMENT will have the prior approval of Manager, Assistant Manager, and Catering Manager before hiring or placement at the Observatory, which approval shall not unreasonably be withheld or delayed.

Such person must be an outstanding, highly qualified and experienced manager or supervisor of operations, vested with full power and authority to accept service of all notices provided for herein and regarding operation of the CONCESSION business herein authorized, including the quality and prices of CONCESSION merchandise and services and the appearance, conduct and demeanor of CONCESSIONAIRE'S agents, servants and employees. Said CONCESSION MANAGER shall be available during regular business hours and, at all times during that person's absence, a responsible subordinate shall be in charge and available.

The CONCESSION MANAGER shall devote the greater part of his or her working time and attention to the operation of the CONCESSION and shall promote, increase and develop the business and render every possible service and convenience to the public. During the days and hours established for the operation of the subject concession, the CONCESSION MANAGER'S personal attention shall not be directed toward the operation of any other business activity.

In the event of problems with any front-line CONCESSIONAIRE'S staff (staff that works in customer spaces and/or has customer contact), upon the CITY'S reasonable and lawful request, CONCESSIONAIRE will remove the staff person(s) from the Observatory and ensure a timely replacement of the position. Removal of the staff person does not mean "termination."

CONCESSIONAIRE management team shall consist of a manager, assistant manager, catering manager, head cashier, chef, and assistant chef. CONCESSIONAIRE staff who handle/prepare food shall complete comprehensive ServSafe training on food, hygiene, and cleanliness. All staff shall provide professional, warm and friendly service. Staff shall ensure prompt service.

CONCESSIONAIRE shall provide the GENERAL MANAGER with certificates on each employee indicating freedom from communicable tuberculosis as required by Section 5163 of the Public Resources Code.

CONCESSIONAIRE will, in the operation of the services under the AGREEMENT, employ

or permit the employment of only such personnel as will assure a high standard of service to the public and cooperation with the Department of Recreation and Parks. All such personnel, while on or about the PREMISES, shall be neat in appearance and courteous at all times and shall be appropriately attired, with badges or other suitable means of identification. No personnel employed by CONCESSIONAIRE, while on or about the PREMISES, shall be under the influence of illegal drugs, narcotics, other controlled substances or alcohol, or use inappropriate language, or engage in otherwise inappropriate conduct for a work environment. In the event an employee is not reasonably satisfactory, the GENERAL MANAGER may direct CONCESSIONAIRE to remove that person from the PREMISES.

CONCESSIONAIRE employees performing services or administrative work on PREMISES shall be subject to the rules and regulations established by CITY as reasonable and necessary for its PREMISES, operation facilities, services equipment, and offices, which rules and regulations shall not be in violation of any federal, state, or local laws.

**I. Health, Safety and Security of Patrons and Employees**

The following supplements the requirements of federal, state, and local authorities relative to the health and safety of employees and patrons to the Observatory foodservice facilities. The CITY reserves the right to perform health and safety inspections for food service at Griffith Park at a reasonable time and so as not to disrupt CONCESSIONAIRE'S provision of Services hereunder, and if the conditions at any of the Observatory service locations under the control of CONCESSIONAIRE do not meet the highest reasonable standards as measured by industry standards due to CONCESSIONAIRE'S acts or omissions, the CITY may direct the CONCESSIONAIRE to take necessary action at CONCESSIONAIRE cost and expense, which may include closing service locations, and the CONCESSIONAIRE agrees to abide by all such directions. CONCESSIONAIRE shall correct safety deficiencies and violations of safety practices immediately after the condition becomes known or GENERAL MANAGER notifies CONCESSIONAIRE of said condition.

If requested by the CITY, the CONCESSIONAIRE'S Café employees shall receive medical examinations of a type and scope to be specified by the CITY, prior to the commencement of their work at the Observatory facilities, and at other times which the CITY may require. The CONCESSIONAIRE shall certify to the CITY that such examinations have been performed and that its employees are in full compliance with all applicable medical standards. Any medical examinations requested by the CITY shall be consistent with foodservice industry standards and shall not be in contravention of any local, state or federal law.

The CONCESSIONAIRE'S Café employees will be required to receive tuberculin tests prior to their working at the Observatory facilities under CONCESSIONAIRE control, and other tests as the CITY may require from time to time as a cost of business under the contract. If required by CITY, upon receipt of CONCESSIONAIRE'S certifications, the CITY shall issue an identification badge to each of CONCESSIONAIRE'S employees.

The CONCESSIONAIRE agrees that it will immediately notify the CITY of all cases of communicable diseases, skin infections, or food poisoning contracted by its employees or by patrons of the CITY facilities. The CONCESSIONAIRE shall promptly report to the CITY the details of any such case, the action it has taken to remedy the case, as well as the action it has taken to prevent recurrence. The CONCESSIONAIRE shall maintain a weekly blood incident log. The CITY retains the right to review the logs at any reasonable time if lawful.

The CONCESSIONAIRE shall comply with all applicable federal, municipal and the CITY fire, safety and health laws, ordinances, rules and regulations. The CONCESSIONAIRE shall train its employees to respond to fire, civil defense, bomb threats, and other emergencies based on procedures established by the CITY, and to the extent applicable to Observatory employees.

The CONCESSIONAIRE shall immediately notify the CITY of any fire, accident, or safety hazard that occurs at any facility of the CITY under CONCESSIONAIRE'S control. The CONCESSIONAIRE shall take reasonable measures to remedy any condition in any facility under CONCESSIONAIRE'S control that is unsafe, unhealthy, or dangerous. The CITY can review and reasonably approve CONCESSIONAIRE'S OSHA required standards and CONCESSIONAIRE will be responsible for OSHA training of its staff.

The CONCESSIONAIRE shall cooperate fully with CITY in the investigation of accidents occurring on the PREMISES. In the event of injury to a patron or customer, CONCESSIONAIRE shall act reasonably to ensure that the injured person receives prompt and qualified medical attention, and as soon as possible thereafter, CONCESSIONAIRE shall submit a CITY Form General No. 87 "Non-Employee Accident or Illness Report", Exhibit E. CONCESSIONAIRE fails to correct hazardous conditions, which are within the control of CONCESSIONAIRE specified by the GENERAL MANAGER in a written notice, which have led, or in the reasonable opinion of CITY agents could lead, to injury, the GENERAL MANAGER may at his option, and in addition to all other remedies which may be available to CITY, to repair, replace, rebuild, redecorate or paint any such PREMISES to correct the specified hazardous conditions, with the cost thereof, plus fifteen percent (15%) for administrative overhead, to be paid by CONCESSIONAIRE to CITY on demand.

**J. Marketing**

CONCESSIONAIRE shall take all reasonable measures, in every proper manner, to develop, maintain, and increase the business conducted by it under this AGREEMENT.

Except as may be otherwise provided in the AGREEMENT with CONCESSIONAIRE, the CONCESSIONAIRE shall not refer to the Griffith Observatory or its facilities in any manner or through any medium, whether written, oral, or visual, for any purpose whatsoever, including, but not limited to, advertising, promotion, publicity, solicitation or fund-raising

without the prior written permission of the CITY. Notwithstanding, CONCESSIONAIRE shall not be obligated to seek approval more than once for identical promotional materials.

CONCESSIONAIRE shall obtain pre-approval by GENERAL MANAGER and OBSERVATORY MANAGEMENT of all signage provided and/or installed by CONCESSIONAIRE throughout the Observatory building and facilities.

CONCESSIONAIRE shall market the café on an ongoing basis to the local PARK/ Los Angeles marketplace and daily Observatory visitor, where focus is comprised of but not limited to:

- Creating loyalty programs for families, kids, nannies, Observatory members, and other potential customers;
- Promoting discount and event programs for members, staff and volunteers;
- Developing pricing strategies that will attract PARK customer audiences;
- Providing take-away health and nutrition guide for visitors;
- Designing themed menu programs for special exhibits, ethnic celebrations, and seasonal calendars;
- Bundling Planetarium entrance or retail merchandise and food programs for groups with a single charge;
- Advertising in Observatory / PARK mailings and publications, print and web family publications;
- Promoting kid-friendly menu programs to attract school / organization sponsored groups; and
- Building local and regional client base by creating event packages conforming to observatory policy.

In addition to the marketing and promotion relating to operation of the café and mobile carts, CONCESSIONAIRE shall provide support in the marketing and promotion of Griffith Observatory rental spaces as defined, permitted, and scheduled by OBSERVATORY MANAGEMENT.

CONCESSIONAIRE shall allocate 1% of annual catering revenues hereunder to an advertising and promotion budget for the Griffith Observatory. CONCESSIONAIRE'S corporate marketing team shall develop content (i.e. menu recipes) and communications (i.e. calendars) promoting the food program on the Observatory and Wolfgang Puck websites, and initiate e-mail and direct marketing initiatives to promote event and group sales.

**Dates for FACILITY rentals and related catering are strictly at the availability and discretion of OBSERVATORY MANAGEMENT.** To the degree in which OBSERVATORY rental spaces are afforded to CONCESSIONAIRE for promotion and subsequent booking requiring catering service, CONCESSIONAIRE shall implement a corresponding catering marketing program which may include, but not mandate, targeting a broader local, regional, national, and global event customer where focus is comprised but not

limited to:

- Leveraging the combined national and local clients of CONCESSIONAIRE of CONCESSIONAIRE'S promotion / marketing / sales efforts for Griffith Observatory;
- Maximizing the relationships established at the preeminent venues that CONCESSIONAIRE operates nationwide to drive and sustain visitor and special event sales throughout the term of the contract;
- Establishing the Observatory as a corporate and convention destination by targeting meeting planners, destination management companies, event producers, and other event decision-makers;
- Initiating open house events and Chef's Table dinners for local event and meeting planners from local corporations and entertainment companies.

**K. Use of Wolfgang Puck.**

1. Use of Wolfgang Puck. Subject to Section K(2) below, the parties expressly acknowledge and agree that CONCESSIONAIRE'S name or any name utilizing the name Wolfgang Puck or any derivative thereof or any other trademark, service mark or other intellectual property (including, but not limited to, recipes) of CONCESSIONAIRE, Wolfgang Puck or any affiliates thereof (whether such is owned or licensed to any of the foregoing, collectively, "Puck IP") may not be used to publicize, promote, market or in any way be used in connection with the Services in a manner that is not approved in writing by CONCESSIONAIRE.
2. Permitted Uses. Subject to the prior approval of CONCESSIONAIRE the Café, Carts and Catering shall be marketed as Wolfgang Puck Catering. In connection therewith, CITY shall have the right, subject to CONCESSIONAIRE 'S prior written approval as to manner of use, to use the name selected by the parties to promote and advertise the Catering. Furthermore, CITY shall expressly assign any rights it may have in the selected name to CONCESSIONAIRE.
3. No License. The parties further agree that except as set forth in this Section, CITY shall have no right to promote or advertise to the public or otherwise CONCESSIONAIRE'S Services. Nothing contained in this Section or any other provision of this AGREEMENT shall be interpreted or intended to convey a license or any ownership or other rights to CITY in any Puck IP, including but not limited to any rights to use, or any co-branding rights with respect to the Puck-IP.
4. Termination. Upon termination of this AGREEMENT or expiration of the Term, CITY shall immediately cease using the Puck IP under this Section and AGREEMENT or as otherwise approved by CONCESSIONAIRE.

**L. Customer Surveys**



The Café and catering services are an integral and important part of the visitor (or guest in the case of catering) experience. The CITY and OBSERVATORY MANGEMENT is very concerned about its public image and reputation. For this reason CONCESSIONAIRE shall install customer survey programs covering its entire foodservice, café, carts and catering services at the OBSERVATORY. The forms and techniques (i.e., automated, written, intercepts, focus groups, etc.) will be subject to prior review and approval of the CITY, which approval shall not unreasonably be withheld or delayed. CONCESSIONAIRE shall provide the results from these activities at least quarterly to the CITY.

**M. Cleanliness**

Though bussing is intended to be self-service, CONCESSIONAIRE staff members, shall assist patrons and visitors in public spaces.

CONCESSIONAIRE shall clean all food preparation equipment daily. Walls, ceilings, and floors shall be kept free of grease and dirt and shall be cleaned regularly. Windows shall be washed regularly. Counter tops and tables shall be kept clean and dry at all times. All dirty dishes shall be removed and stacked out of sight from public view. Grease shall not be poured down drains, but shall be disposed of in containers. All utensils, dishes, cups, bowls, and glasses shall be spotless and dry when served to patrons.

CONCESSIONAIRE shall keep the PREMISES, and the surrounding areas clean and sanitary at all times [at least twenty-five (25) feet for PREMISES; ten (10) feet for carts]. No offensive or refuse matter, nor any substance constituting an unnecessary, unreasonable or unlawful fire hazard, or material detrimental to the public health, shall be permitted or remain thereon, and CONCESSIONAIRE shall prevent any such matter or material from being or accumulating upon said PREMISES. CONCESSIONAIRE shall not be responsible for clean-up/maintenance, which is not directly related to its foodservice operations.

CONCESSIONAIRE at its own expense shall see that all garbage or refuse is collected from the CONCESSION FACILITY as often as necessary and in no case less than twice a week and deposited only into the trash dumpsters located north of the main OBSERVATORY building, in the DEPARTMENT'S shared trash bin area adjacent to the main parking lot.

For purposes of this Section M, the PREMISES shall mean the Café at the End of the Universe and the kitchen. The parties acknowledge and agree that CONCESSIONAIRE shall be responsible for set-up and clean up during and immediately following special events held at SPECIAL EVENT PREMISES or during and immediately following cart service at cart set-up areas.

**N. Conduct**

CONCESSIONAIRE shall at all times conduct its business in a quiet and orderly manner to the reasonable satisfaction of the GENERAL MANAGER.

**O. Disorderly Persons**

CONCESSIONAIRE shall use its best efforts to permit no intoxicated person or persons, profane or indecent language, or boisterous or loud conduct in or about the PREMISES and will call upon the aid of peace officers to assist in maintaining peaceful conditions. It shall not knowingly allow the use or possession of illegal drugs, narcotics or controlled substances on the PREMISES.

**P. Non-Discrimination/ Equal Employment Practices/ Affirmative Action**

1. CONCESSIONAIRE, in its CONCESSION operations at the FACILITY, for itself, its personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree that: (1) no person on the grounds of race, color, national origin, religion, ancestry, sex, age, physical handicap or sexual orientation shall be excluded from participation, denied the benefits of or be otherwise subjected to discrimination in access to or in the use of the facilities covered by the AGREEMENT; (2) that in the construction of any improvements on, over or under the PREMISES authorized to be utilized herein and the furnishing of services thereon, no person on the grounds of race, color, national origin, religion, ancestry, sex, age, physical handicap or sexual orientation shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination.
2. CONCESSIONAIRE agrees that in the event of breach of any of the above nondiscrimination covenants, with proper notification as per Section 37. Notices, paragraph B, CITY shall have the right to terminate the AGREEMENT and to reenter and repossess said land and the facilities thereon and hold the same as if said AGREEMENT had never been made or issued.
3. In addition, CONCESSIONAIRE, during the term of the AGREEMENT, agrees not to discriminate in its employment practices against any employee or applicant for employment because of the employee's or applicant's race, color, religion, national origin, ancestry, sex, age, physical handicap or sexual orientation. All subcontracts entered into by CONCESSIONAIRE shall be approved in advance by CITY and shall contain a like provision.

**Q. Diversion of Business**

CONCESSIONAIRE shall not divert, cause, allow or permit to be diverted any business from the PREMISES and shall take all reasonable measures, in every proper manner, to develop, maintain and increase the business conducted by it under the AGREEMENT.

**R. Claims for Labor and Materials**

The CONCESSIONAIRE shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this AGREEMENT so as to prevent any lien or other claim under any provision of law from arising against any CITY property (including reports, documents, and other tangible matter produced by the CONCESSIONAIRE

hereunder), against the CONCESSIONAIRE'S rights hereunder, or against the CITY, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**S. Signs and Advertisements**

CONCESSIONAIRE shall not erect, construct or place any signs, banners, ads, or displays of any kind whatsoever upon any portion of the FACILITY or PREMISES without the prior written approval from the GENERAL MANAGER and OBSERVATORY MANAGEMENT. Certain signs and advertisements may also require the prior written approval of the Cultural Affairs Department or other appropriate agencies.

Upon the expiration or earlier termination of the AGREEMENT, CONCESSIONAIRE shall remove, obliterate or paint out, as GENERAL MANAGER may reasonably direct, any and all of its signs and displays on the PREMISES and in connection therewith, and shall restore said PREMISES and improvements thereto to the same condition as prior to the placement of any such signs or displays, ordinary wear and tear excepted.

In the FACILITY licensed hereunder, a sign shall be posted in a prominent place stating that the CONCESSION is operated under a Concession AGREEMENT issued by CITY through the Department of Recreation and Parks.

**T. Taxes and Permits**

CONCESSIONAIRE shall pay all taxes of whatever character that may be levied or charged upon the rights of CONCESSIONAIRE to use the PREMISES, or upon CONCESSIONAIRE'S improvements, fixtures, equipment or other property thereon or upon CONCESSIONAIRE'S operations hereunder. In addition, by executing the AGREEMENT and accepting the benefits thereof, a property interest may be created known as a "Possessory Interest" and such property interest will be subject to property taxation. CONCESSIONAIRE, as the party in whom the Possessory interest is vested, may be subject to the payment of the property taxes levied by the State and County upon such interest.

For and during the entire term of the AGREEMENT, the CONCESSIONAIRE must hold a Los Angeles Business Tax Registration Certificate required by the CITY'S Business Tax Ordinance (LAMC Article 1, Chapter 2, Sections 21.00 et. seq.). For and during the entire term covered by the AGREEMENT, the CONCESSIONAIRE shall maintain, or obtain as necessary, all such Certificates required of it under said Ordinance and shall not allow any such Certificate to be revoked or suspended.

Pursuant to Section 21.3.3 of Article 1.3 of the LAMC Commercial Tenants Occupancy Tax, CONCESSIONAIRE must pay to the CITY for the privilege of occupancy, a tax at the rate of \$1.48 per calendar quarter or fractional part thereof for the first \$1,000 or less of charges (rent) attributable to said calendar quarter, plus \$1.48 per calendar quarter for each additional \$1,000 of charges or fractional part thereof in excess of \$1,000. Said tax shall be paid to the Department of Recreation and Parks quarterly, on or before the fifteenth (15<sup>th</sup>) of April, July,

October, and January of each calendar year, for the preceding three (3) months.

CONCESSIONAIRE shall obtain and maintain at its sole expense any and all approvals, permits, or licenses that may be required in connection with the operation of the CONCESSION including, but not limited to: tax permits, business licenses, health permits, building, police and fire permits, etc.

**U. Utilities**

CONCESSIONAIRE shall be responsible for those utility charges including, but not limited to deposits, installation costs, meter deposits and all service charges for electricity, heat, air-conditioning, cable, telephone, DSL, and other utility/services to PREMISES (excluding SPECIAL EVENT PREMISES), and shall be paid by CONCESSIONAIRE directly to utility/service corporations. A separate meter exists for direct electrical service to the café, kitchen, and commissary of the CONCESSION. There are no natural gas lines to provide service to the CONCESSION. CONCESSIONAIRE will not be responsible for water usage relating to operation of the CONCESSION nor building Heating, Ventilating, and Air Conditioning (HVAC). As provided by the CITY, water shall be utilized by CONCESSIONAIRE in the most efficient manner possible, and CONCESSIONAIRE expressly agrees to comply with all CITY water conservation programs.

CONCESSIONAIRE hereby expressly waives all claims for compensation or for any diminution or abatement of the rental payment provided for herein for any and all loss or damage sustained by reason of any defect, deficiency or impairment of the water, heating, or air conditioning systems, electrical apparatus or wires furnished to the PREMISES which may occur from time to time and from any cause or from any loss resulting from water, earthquake, wind, civil commotion or riot; and CONCESSIONAIRE hereby expressly releases and discharges CITY, the Department of Recreation and Parks and CITY'S officers, employees, servants and agents from any and all demands, claims, actions and causes of action arising from any of the aforesaid causes.

In all instances where damage to any utility service line at the OBSERVATORY is caused by CONCESSIONAIRE'S negligence or that of, its employees, contractors, sub-contractors, suppliers, agents or invitees, CONCESSIONAIRE shall be responsible for the cost of repairs and any and all damages occasioned thereby.

For purposes of this Section U, the PREMISES shall mean the Café at the End of the Universe and the kitchen.

**V. Vending Machines**

CONCESSIONAIRE shall first receive written approval from the GENERAL MANAGER before installing or permitting vending, electronic game, or other coin operated machines to be installed. The GENERAL MANAGER shall have the right to order the immediate removal of any unauthorized machines.

**W. Environmental Sensitivity**

CONCESSIONAIRE shall implement a conservation policy to include, but not be limited to, utilizing non-toxic, recyclable paper, Styrofoam and cardboard products; sorting and separating all aluminum and tin products, providing appropriate collection containers in food service areas; sorting all polystyrene and plastic related products from paper and paperboard products; recycling cardboard boxes and wooden pallets at CONCESSIONAIRE'S distribution facilities; and maintain inventory controls to reduce waste. Such policy may include utilization of a refuse removal company that performs such services.

The CONCESSIONAIRE must operate the CONCESSION in an environmentally sensitive manner and all operations must comply with CITY directives as communicated to CONCESSIONAIRE regarding protection of the environment. CONCESSIONAIRE shall not use or allow the use on the PREMISES of environmentally unsafe products.

**X. Amplified Sound**

No amplified sound is permitted by CONCESSIONAIRE in its operations on PREMISES without consent by CITY.

**Y. Fund Raising Activities**

CONCESSIONAIRE will be expected to cooperate with DEPARTMENT personnel on all matters relative to the conduct of fund-raising and/or special events. CONCESSIONAIRE is granted the right of first refusal to provide food or beverages at DEPARTMENT-sponsored events at the PREMISES defined under this AGREEMENT should menu of the CONCESSIONAIRE be appropriate for the event as reasonably determined by the GENERAL MANAGER.

As stated in Section 2. Concession Granted, CITY reserves the right to have up to three (3) annual exceptions where the CITY may utilize outside caterers for internal and/or external events if needed whereby CONCESSIONAIRE shall be given the first opportunity and right-of-refusal to provide said services to the satisfaction of the DEPARTMENT. The Observatory café kitchen will not be shared with outside caterers. Alcohol, if served at the excepted events shall be served only by the CONCESSIONAIRE, although beverages or alcohol may be given to the CITY, where CONCESSIONAIRE is expected to provide services and set-up for such based on actual costs. In the event the products are not of the gourmet image of Wolfgang Puck, CITY reserves the right to obtain services from outside providers.

**Z. Scheduled Events In Griffith Park**

Long standing annual events (i.e. walk-a-thons, 5K runs) as well as new events in PARK may on occasion increase or decrease the usual amount of business CONCESSION location(s) due to increased park attendance and/or limited/restricted traffic access. CONCESSIONAIRE shall endeavor to adjust personnel scheduling and available goods

accordingly. Regular hours must be maintained, at a minimum, during scheduled special events, however, CONCESSIONAIRE may abbreviate its services, if appropriate with OBSERVATORY MANAGEMENT approval.

**AA. Security**

The CONCESSIONAIRE agrees to comply with all reasonable security requirements of the CITY and Observatory as it relates to its procedures, practices and its employees. All of CONCESSIONAIRE'S employees, whether or not they are regular or part time at the Observatory will be subject to the CITY and Observatory security rules and regulations when on the CITY'S property. OBSERVATORY MANAGEMENT will provide CONCESSIONAIRE with Staff Manual with regular updates. The CONCESSIONAIRE understands and agrees that its property, particularly its consumable goods, is not the responsibility of the CITY. The CITY is not responsible for the loss of personal effects of CONCESSIONAIRE'S employees, agents, and/or subcontractors. CONCESSIONAIRE shall require its employees to wear I.D. badges approved by the CITY at all times when working on the Observatory PREMISES.

CONCESSIONAIRE shall be responsible for the security of the interior Cafe and kitchen. CONCESSIONAIRE may install equipment, approved by the City, which will assist in protecting the PREMISES from theft, burglary, or vandalism. Any such equipment must be purchased, installed, and maintained by CONCESSIONAIRE.

**SECTION 17. INSURANCE**

**A. Insurance Requirements**

CONCESSIONAIRE shall acquire and maintain during the term of the AGREEMENT the established insurance, indemnity, and worker's compensation as detailed under Exhibit F attached thereto and incorporated within. These coverage limits are subject to change based on mutual agreement of the parties. Evidence of coverage shall be provided on the CITY'S insurance endorsement forms which are included in this AGREEMENT. CONCESSIONAIRE'S insurance coverage must be reviewed and approved by the CITY prior to commencement of operations and services at the Observatory.

**B. Indemnification:**

Except for the active negligence or willful misconduct of CITY, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, CONCESSIONAIRE undertakes and agrees to defend, indemnify and hold harmless CITY and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including CONCESSIONAIRE'S employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this AGREEMENT by the CONCESSIONAIRE or sub-contractors of any

tier. The provisions of this paragraph survive expiration or termination of this AGREEMENT.

**C. Insurance**

**General Conditions**

1. Without limiting CONCESSIONAIRE'S indemnification of CITY, CONCESSIONAIRE shall provide and maintain at its own expense during the entire term of the AGREEMENT insurance having the limits customarily carried and actually arranged by CONCESSIONAIRE but not less than the amounts and types listed in the AGREEMENT covering its operations hereunder subject to the following conditions:

**a. Additional Insured**

CITY, its Officers, Agents and Employees shall be included as additional insureds in all liability insurance policies except: Workers' Compensation/ Employer's Liability, Professional Errors and Omissions and second-party Legal Liability coverages (such as Fire Legal). CITY shall be named Loss Payee As Its Interest May Appear in all required property, fidelity or surety coverages.

**b. Insurance Requirements**

All insurance required hereunder shall conform to CITY requirements established by Charter, ordinance or policy and shall be filed with the Office of the City Attorney for its review in accordance with Los Angeles City Administrative Code Sections 11.47 through 11.56.

**c. Primary Insurance**

Such insurance shall be primary with respect to any insurance maintained by CITY and shall not call on CITY'S insurance program for contributions.

**d. Admitted Carrier/Licensed California Broker**

Such insurance shall be obtained from brokers or carriers authorized to transact insurance business in California.

**e. 30-Day Notice**

With respect to the interest of CITY, such insurance shall not be canceled, materially reduced in coverage or limits or non-renewed except after thirty (30) days written notice by receipted delivery (e.g. certified mail-return receipt, courier) has been given to City Attorney Insurance and Bonds.

**f. Prior Approval**

Evidence of insurance shall be submitted to and approved by City Attorney and City Risk Manager prior to commencement of any work or tenancy under this AGREEMENT.

**g. Severability of Interest**

Except with respect to the insurance company's limits of liability, each liability insurance policy shall apply separately to each insured against who claim or suit is brought. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.

**h. Acceptable Evidence**

The appropriate CITY Special Endorsement forms are the preferred form of evidence of insurance. Alternatively, CONCESSIONAIRE may submit a certified copy of the policy or other evidence acceptable to the City Attorney and City Risk Manager containing language which complies with sub-paragraphs a. through g. above. With respect to Professional Liability insurance, either a signed copy of the Policy Declarations Page or a letter from CONCESSIONAIRE'S insurance broker certifying coverage, together with a 30-day cancellation notice endorsement in favor of the CITY as specified in subparagraph e. will satisfy with this requirement.

**i. Renewal**

Once the insurance has been approved by CITY, evidence of renewal of an expiring policy may be submitted on a manually signed renewal endorsement form. If the policy or the carrier has changed, however, new evidence as specified in paragraph a. through h. above must be submitted.

**j. Aggregate Limits/Blanket Coverage**

If any of the required insurance coverages contain aggregate limits, or apply to other operations or tenancy of CONCESSIONAIRE outside this AGREEMENT, CONCESSIONAIRE shall give CITY prompt, written notice of any incident, occurrence, claim, settlement or judgment against such insurance which in CONCESSIONAIRE'S best judgment will diminish the protection such insurance affords CITY. Further, CONCESSIONAIRE shall immediately take all reasonable and available steps to restore such aggregate limits or shall provide other insurance protection for such aggregate limits.

**2. Self-Insurance and Self-Insured Retentions**

Self-insurance programs and self-insured retentions in insurance policies are subject to separate approval by CITY upon review of evidence of CONCESSIONAIRE'S financial capacity to respond, which approval shall not be reasonably withheld or delayed. Additionally, such programs or retentions must provide CITY with at least the same protections from liability and defense of suits as would be afforded by first-dollar insurance.

**3. Modification of Coverage**

CITY reserves the right at any time during the term of this AGREEMENT to change the amounts and types of insurance required hereunder by giving CONCESSIONAIRE ninety (90) days advance written notice of such change and said change is mutually agreed upon by CONCESSIONAIRE. If such change should result in substantial additional cost to CONCESSIONAIRE, CITY agrees to negotiate additional compensation proportional to the increased benefit to CITY.

**4. Availability/Failure to Procure Insurance**

The required coverages and limits are subject to availability on the open market at reasonable cost as determined by CITY. Nonavailability or nonaffordability must be documented by a letter from CONCESSIONAIRE'S insurance broker or agent indicating a good faith insurance and showing as minimum the names of the insurance carriers and the declinations or quotations received from each.

Within the foregoing constraints, CONCESSIONAIRE'S failure to procure or maintain



required insurance or a self-insurance program shall constitute a material breach of contract under which CITY may immediately terminate this AGREEMENT or, at its discretion, procure or renew such insurance to protect CITY'S interests and pay any and all premiums in connection therewith, and recover all monies so paid from CONCESSIONAIRE.

5. Underlying Insurance

CONCESSIONAIRE shall be responsible for requiring indemnification and insurance as it deems appropriate from its employees receiving mileage allowance, consultants, agents and subcontractor, if any, to protect CONCESSIONAIRE'S and CITY interest, and for ensuring that such persons comply with applicable insurance statutes. CONCESSIONAIRE is encouraged to seek professional advice in this regard.

**D. Workers' Compensation**

CONCESSIONAIRE hereby certifies that it is aware of the provisions of Section 3700 et seq., of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all such times as they may apply during the performance of the work of this contract.

**SECTION 18. PERFORMANCE BOND:**

CONCESSIONAIRE shall provide a Performance Bond upon execution of this AGREEMENT by CITY whereas the amount, form, agreement of deposit and indemnity, and the deposit maintenance of said bond are set forth as follows.

CITY shall not execute the AGREEMENT and CONCESSIONAIRE may not begin operations on the licensed PREMISES until said bond has been received and reasonably approved by the CITY. The Faithful Performance Bond must meet all the following requirements:

**A. Amount of Bond**

The amount of the bond shall be \$10,000.00.

**B. Form of Bond**

The term "Faithful Performance Bond" does not mean that only a formal bond from a bonding company is acceptable. Any of the following instruments are acceptable if they meet the requirements spelled out in this Section. CONCESSIONAIRE'S bond shall be in any one of the following forms but may not be a combination of two or more types:

1. A cash deposit made at the Cashier's window of the Department of Recreation and Parks.
2. A cashier's check drawn on any bank that is a member of the Los Angeles Clearing House Association, which cashier's check is payable to the order of the City of Los Angeles.
3. A check drawn on and certified by any bank that is a member of the Los Angeles Clearing House Association, payable to the order of the City of Los Angeles.

4. United States Government negotiable securities (i.e., treasury bills, treasury notes, or treasury bonds).
5. A certificate of time deposit in a bank that is a member of the Los Angeles Clearing House Association, payable to the order of the City of Los Angeles.

**C. Agreement of Deposit and Indemnity**

The above instruments must be accompanied by an agreement of deposit and indemnity, approved as to form and legality by the City Attorney, wherein CONCESSIONAIRE unconditionally agrees that in the event of any default, CITY shall have full power and authority to use the deposit in whole or in part to indemnify CITY. Every deposit of securities or certificates of time deposit must be accompanied by express authority for the GENERAL MANAGER to convert same into cash and to deposit said cash in the City Treasury in the manner governing deposit of cash in the City Treasury by the Charter of the City of Los Angeles. All deposits of cash or checks must be immediately so deposited by the DEPARTMENT.

The BOARD shall authorize and request the Treasurer of the City of Los Angeles to receive said United States Government negotiable securities, together with the properly executed agreement of indemnity and deposit, for safekeeping. In the event said securities are to be converted to cash because of default, the BOARD may authorize and request the Treasurer to sell said securities on its behalf.

**D. Maintenance of Deposit**

Said bond shall be held by CITY during the entire term of the AGREEMENT. United States Government negotiable securities shall at all times have both a par value and a market value of not less than the amount specified in this AGREEMENT and, in the event the market value of said securities declines, CONCESSIONAIRE shall, upon written demand of the GENERAL MANAGER, within ten days of the mailing by the DEPARTMENT of such demand, pledge and furnish such additional United States Government negotiable securities with appropriate agreement of indemnity and deposit approved as to form and legality by the City Attorney, as may be necessary to maintain both a par and market value of securities on deposit of not less than the amount specified in this AGREEMENT. If such additional securities are not received by the DEPARTMENT within ten days after the mailing of written notice as stated above, all default provisions may be exercised at the discretion of CITY.

In the event of maturity of the securities prior to termination of the AGREEMENT for which they are deposited, the BOARD shall authorize and request the Treasurer to redeem the securities. The BOARD shall then use the proceeds of the redeemed securities to purchase a sufficient amount of United States Government negotiable securities to be at least equal as to both par and market value to the original amount of the deposit, and place them with Treasurer on receipt.

If the redemption proceeds are not sufficient, CONCESSIONAIRE shall deposit cash with the DEPARTMENT in an amount sufficient to make up the difference within ten days of mailing of notice of deficiency by the DEPARTMENT.

**SECTION 19. IMPROVEMENTS:**

The CONCESSIONAIRE agrees to make to the satisfaction of the CITY the improvements specified in the CONCESSIONAIRE'S proposal, as referenced in Section 15. Capital INVESTMENT – Fixed Equipment (FF&E) & Interior Design, incorporated herein.

Thereafter, CONCESSIONAIRE shall make no improvements to the PREMISES except with the prior written authorization of the GENERAL MANAGER as required. Said future improvements, if any, shall be subject to all environmental all other required approvals prior to construction of the improvements. CONCESSIONAIRE shall be responsible for the cost of the improvements, subject to buyback in the event of termination, only in regard to improvements required by CITY, and shall begin and complete said improvements within the time frame specified upon consideration and approval by the GENERAL MANAGER. CITY reserves the right to recover damages from CONCESSIONAIRE if the improvements are not completed once GENERAL MANAGER approval has been granted and work on the improvement has begun if due to reasons within CONCESSIONAIRE'S control. Such damages may include, but are not limited to, recovering up to the entire cost of the improvements from the CONCESSIONAIRE'S performance bond. The bond must be recompensed as stipulated in Section 18, Performance Bond, herein.

All structural or other improvements, equipment and interior design and decor constructed or installed by CONCESSIONAIRE in the FACILITY areas, both as required by Section 15 and any other improvements made by CONCESSIONAIRE on the PREMISES, including the plans and specifications therefore, shall be at its sole cost and expense, unless constructed or installed at the CITY'S request, in which case said improvements will be subject to buyback in the event of termination of this AGREEMENT, and shall in all respects conform to and comply with the applicable statutes (including CEQA), ordinances, building codes, rules and regulations of CITY and such other authorities that may have jurisdiction over the Observatory areas or CONCESSIONAIRE'S operations therein. The approval by GENERAL MANAGER as provided above shall not constitute a representation or warranty as to such conformity or compliance, but responsibility therefore shall at all times remain in CONCESSIONAIRE. CONCESSIONAIRE, at its sole cost and expense, shall also procure all building, fire, safety, aesthetics and other permits necessary for the construction of the structural and other improvements, installation of the equipment and the interior design and decor.

In addition, CONCESSIONAIRE shall require by any contract that it awards in connection with the structural or other improvements, the installation of any and all equipment and the interior designing and decor, that the contractor doing, performing or furnishing the same shall comply with all applicable statutes, ordinances, codes, rules and regulations, and submit to CITY evidence of required insurance coverage.

CITY has the right to monitor all phases of construction. All improvements must be made according to DEPARTMENT standards. All architectural services acquired by CONCESSIONAIRE must be with an agency qualified to do business in the State of California.

All improvements provided by CONCESSIONAIRE during the term of this AGREEMENT shall be and become the property of CITY upon termination of the AGREEMENT.

**SECTION 20. DAMAGE OR DESTRUCTION TO PREMISES:**

**A. Partial Damage**

If all or a portion of the PREMISES are partially damaged by fire, explosion, flooding inundation, floods, the elements, public enemy or other casualty, but not rendered uninhabitable, the same will be repaired with due diligence by CITY at its own cost and expense, subject to the limitations as hereinafter provided; if said damage is caused by the negligent acts or omissions of CONCESSIONAIRE, its agents, officers, or employees, CONCESSIONAIRE shall be responsible for reimbursing CITY for the reasonable cost and expense incurred in making such repairs.

**B. Extensive Damage**

If the damages as described above in paragraph A, are so extensive as to render the PREMISES or a portion thereof uninhabitable or unusable for food service operations, but are capable of being repaired within a reasonable time not to exceed sixty (60) days, the same shall be repaired with due diligence by CITY at its own cost and expense and a negotiated portion of the fees and charges payable hereunder shall abate from the time of such damage until such time as the PREMISES are fully restored and certified by GENERAL MANAGER as again ready for use; provided, however, that if such damage is caused by the negligent acts or omissions of CONCESSIONAIRE, its agents, officers or employees, said fees and charges will not abate and CONCESSIONAIRE shall be responsible for the cost and expenses incurred in making such repairs.

**C. Complete Destruction**

In the event all or a substantial portion of the PREMISES are completely destroyed by fire, explosion, the elements, public enemy or other casualty, or are so damaged that they are uninhabitable or unusable and cannot be replaced except after more than sixty (60) days, CITY shall be under no obligation to repair, replace or reconstruct said PREMISES, and an appropriate portion of the fees and charges payable hereunder shall abate as of the time of such damage or destruction and shall henceforth cease until such time as the said PREMISES are fully restored. If within four (4) months after the time of such damage or destruction said PREMISES have not been repaired or reconstructed, CONCESSIONAIRE may terminate this AGREEMENT in its entirety as of the date of such damage or destruction. Notwithstanding the foregoing, if the said PREMISES, or a substantial portion

thereof, are completely destroyed as a result of the negligent acts or omissions of CONCESSIONAIRE, its agents, officers, or employees, said fees and charges shall not abate and CITY may, in its discretion, require CONCESSIONAIRE to repair and reconstruct the same within twelve (12) months of such destruction and CONCESSIONAIRE shall be responsible for reimbursing CITY for the cost and expenses incurred in making such repairs.

**D. Limits of CITY'S Obligation Defined**

It is understood that, in the application of the foregoing provisions, CITY may, but shall not be obligated to repair or reconstruct the PREMISES. If CITY chooses to do so, CITY'S obligation shall also be limited to repair or reconstruction of the PREMISES to the same extent and of equal quality as obtained by CONCESSIONAIRE at the commencement of its operations hereunder. Redecoration and replacement of furniture, equipment and supplies shall be the responsibility of CONCESSIONAIRE and any such redecoration and refurbishing/reequipping shall be equivalent in quality to that originally installed.

**SECTION 21. PROHIBITED ACTS**

CONCESSIONAIRE shall not:

1. Do or allow to be done anything which may interfere with the effectiveness or accessibility of utility, heating, ventilating or air conditioning systems or portions thereof on the PREMISES or elsewhere on the FACILITY, nor do or permit to be done anything which may interfere with free access and passage in the PREMISES or the public areas adjacent thereto, or in the streets or sidewalks adjoining the PREMISES, or hinder police, fire fighting or other emergency personnel in the discharge of their duties;
2. Interfere with the public's enjoyment and use of the FACILITY or use the PREMISES for any purpose which is not essential to the CONCESSION operations;
3. Rent, sell, lease or offer any space for storing of any articles whatsoever within or on the PREMISES other than specified herein, without the written consent of the GENERAL MANAGER;
4. Overload any floor in the PREMISES;
5. Place any additional lock of any kind upon any window or interior or exterior door in the PREMISES, or make any change in any existing door or window lock or the mechanism thereof, unless a key therefore is maintained on the PREMISES, nor refuse, upon the expiration or sooner termination of the AGREEMENT, to surrender to GENERAL MANAGER any and all keys to the interior or exterior doors on the PREMISES, whether said keys were furnished to or otherwise procured by CONCESSIONAIRE, and in the event of the loss of any keys furnished by GENERAL MANAGER, CONCESSIONAIRE shall pay CITY, on demand, the cost for replacement thereof;
6. Do or permit to be done any act or thing upon the PREMISES which will invalidate, suspend or increase the rate of any insurance policy required under the

AGREEMENT, or carried by CITY, covering the PREMISES, or the buildings in which the same are located or which, in the opinion of GENERAL MANAGER, may constitute a hazardous condition that will increase the risks normally attendant upon the operations contemplated under the AGREEMENT, provided, however, that nothing contained herein shall preclude CONCESSIONAIRE from bringing, keeping or using on or about the PREMISES such materials, supplies, equipment and machinery as are appropriate or customary in carrying on its business, or from carrying on said business in all respects as is customary;

7. Use, create, store or allow any hazardous materials as listed in Division 4, Chapter 30, Article 9 of Title 22, California Administrative Code, or those which meet the toxicity, reactivity, corrosivity or flammability criteria of Article 11 of the above Code, as well as any other substance which poses a hazard to health and environment, provided, however, that nothing contained herein shall preclude CONCESSIONAIRE from bringing, keeping or using on or about the PREMISES such materials, supplies, equipment and machinery as are appropriate or customary in carrying on its business, or from carrying on said business in all respects as is customary except that all hazardous materials must be stored and used in compliance with all City, State and Federal rules, regulations, ordinances and laws;
8. Allow any sale by auction upon the PREMISES;
9. Permit undue loitering on or about the PREMISES;
10. Use the PREMISES in any manner that will constitute waste;
11. Use or allow the PREMISES to be used for any improper, immoral, or unlawful purposes.

## **SECTION 22. ASSIGNMENT, SUBLEASE, BANKRUPTCY**

CONCESSIONAIRE shall not under-let or sub-let the subject PREMISES or any part thereof or allow the same to be used or occupied by any other person or for other use than that herein specified, nor assign this AGREEMENT nor transfer, assign or in any manner convey any of the rights or privileges herein granted without the prior written consent of CITY except to an affiliated business entity. Neither the AGREEMENT nor the rights herein granted shall be assignable or transferable by any process or proceedings in any court, or by attachment, execution, proceeding in insolvency or bankruptcy either voluntary or involuntary, or receivership proceedings. Any attempted assignment, mortgaging, hypothecation, or encumbering of the CONCESSION rights or other violation of the provisions of this Section shall be void and shall confer no right, title or interest in or to this AGREEMENT or right of use of the whole or any portion of the PREMISES upon any such purported assignee, mortgagee, encumbrance, pledgee or other lienholder, successor or purchaser.

Except to an affiliated business entity, the CONCESSIONAIRE may not, without 60-days prior written permission of the CITY:

- A. Assign or otherwise alienate any of its rights hereunder, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties hereunder.

Transfer or assignment to an affiliated business entity requires written notification to the CITY, 30

days in advance.

### **SECTION 23. BUSINESS RECORDS**

CONCESSIONAIRE shall maintain during the term of the AGREEMENT and for three (3) years thereafter, all of its books, ledgers, journals and accounts wherein are kept all entries reflecting the Gross Receipts received or billed by it from the business transacted pursuant to the AGREEMENT. Such books, ledgers, journals, accounts and records shall be available for inspection and examination by GENERAL MANAGER, or a duly authorized representative, during ordinary business hours upon reasonable notice during the term of this AGREEMENT and for at least three (3) years thereafter at a location where said books and records are normally maintained by CONCESSIONAIRE.

#### **A. Employee Fidelity Bonds**

At the GENERAL MANAGER'S discretion, adequate employee fidelity bonds may be required to be maintained by CONCESSIONAIRE covering all its employees who handle money.

#### **B. Cash And Record Handling Requirements**

If requested by GENERAL MANAGER, CONCESSIONAIRE shall prepare a description of its cash handling and sales recording systems and equipment to be used for operation of the CONCESSION which shall be submitted to GENERAL MANAGER for approval, which shall not unreasonably be withheld or delayed.

CONCESSIONAIRE shall be required to maintain a method of accounting of the CONCESSION which shall correctly and accurately reflect the Gross Receipts and disbursements received or made by CONCESSIONAIRE from the operation of the CONCESSION. The bank accounts and ledgers, established for the CONCESSION shall be separate from the bank accounts and ledgers used for any other business operated by CONCESSIONAIRE or for recording CONCESSIONAIRE'S other financial affairs. Such method shall include the keeping of the following documents:

1. Regular books of accounting such as general ledgers.
2. Journals including supporting and underlying documents such as vouchers, checks, tickets, bank statements, etc.
3. State and Federal income tax returns in the event separate returns are filed for this CONCESSION, or checks, or other documents proving payment of sums shown.
4. Cash register tapes shall be retained so that day to day sales can be identified. A cash register must be used in public view which prints each sale and the daily total.
5. Any other accounting records directly related to this AGREEMENT that CITY, in its reasonable discretion, deems necessary for proper reporting of receipts.

CONCESSIONAIRE shall obtain and install a cash register(s) or points of sale system on which it shall record all gross sales. The cash register shall be non-resettable and sufficient to supply an accurate recording of all sales on tape. CONCESSIONAIRE shall not purchase

or install the cash register or point of sale system before obtaining the GENERAL MANAGER'S written approval of the specific equipment and system to be purchased. All cash registers or point of sale system(s) shall have a price display which shall remain visible to the public at all times.

CONCESSIONAIRE shall transmit sales and commission reports for the CONCESSION operations as specified in the AGREEMENT in a form acceptable to the GENERAL MANAGER, on or before sixty (60) days after the close of each calendar year during the term of the AGREEMENT. The sales and commissions reports shall also include detail on daily customer counts, average checks, per capita spending broken down by café, catering (internal and external) and carts with reasonable detail approved in advance by CITY.

CONCESSIONAIRE shall transmit with its rental payment a Monthly Gross Receipts and Rent Report for the month for which rent is submitted. The report shall include a statement of the Gross Receipts by source of sales, and such other information as the GENERAL MANAGER may properly require. See Exhibit G for a sample variation of the required monthly remittance advice form. Refer to Section 23. Business Records, paragraph B, Cash and Record Handling Requirements for more information.

## **SECTION 24. REGULATIONS, INSPECTION, AND DIRECTIVES**

### **A. Regulations**

The operations conducted by CONCESSIONAIRE pursuant to the AGREEMENT shall be subject to:

1. Any and all applicable rules, regulations, orders and restrictions which are now in force or which may be hereafter adopted by CITY with respect to the operation of the Department of Recreation and Parks;
2. Any and all orders, directions or conditions issued, given or imposed by GENERAL MANAGER with respect to the use of the roadways, driveways, curbs, sidewalks, parking areas or public areas adjacent to the PREMISES;
3. Any and all applicable laws, ordinances, statutes, rules, regulations or orders, including the LAMC, LAAC, the Charter of the City of Los Angeles, and of any governmental authority, federal, state or municipal, lawfully exercising authority over the CONCESSIONAIRE'S operations; and
4. Any and all applicable local, state and federal laws and regulations relative to the design and installation of facilities to accommodate disabled persons.

### **B. Permissions**

Any permission required by the AGREEMENT shall be secured in writing by CONCESSIONAIRE from CITY, or the GENERAL MANAGER, or the OBSERVATORY MANAGEMENT and any errors or omissions therefrom shall not relieve CONCESSIONAIRE of its obligations to faithfully perform the conditions therein. CONCESSIONAIRE shall immediately comply with any written request or order submitted to it by CITY or the GENERAL MANAGER, or the OBSERVATORY MANAGEMENT.



**C. Right of Inspection**

CITY and the GENERAL MANAGER, their authorized representatives, agents and employees shall have the right to enter upon the PREMISES at any and all reasonable times for the purpose of inspection, evaluation, and observation of CONCESSIONAIRE'S operation. During these inspections, they shall have the right to photograph, film, or otherwise record conditions and events taking place upon the PREMISES only for reasons of documenting the inspection. The inspections may be made by persons identified to CONCESSIONAIRE as CITY employees, or may be made by independent contractors engaged by CITY, but shall not be competitors of CONCESSIONAIRE. Inspections may be made for the purposes set forth below, and for any other lawful purpose for which the CITY or another governmental entity with jurisdiction is authorized to perform inspections of the PREMISES:

1. To determine if the terms and conditions of the AGREEMENT are being complied with.
2. To observe transactions between the CONCESSIONAIRE and patrons in order to evaluate the quality and quantities of services provided or items sold or dispensed.

**D. Control of PREMISES**

CITY shall have absolute and full access to the PREMISES and all its appurtenances during the term of the Concession AGREEMENT and may make such changes and alterations therein, and in the grounds surrounding same, as may be determined by said CITY. Such determination shall not be unreasonable and shall take into account the business considerations presented by CONCESSIONAIRE.

**E. Americans with Disabilities Act**

CONCESSIONAIRE shall comply with the Americans with Disabilities Act 42 U.S.C. Section 12101 et seq., and with the provisions of the Certification Regarding Compliance with the Americans with Disabilities Act which is attached to AGREEMENT and incorporated herein by this reference.

**F. Child Support Ordinance**

This AGREEMENT is subject to Section 10.10, Article 1, Chapter 1, Division 10 of the LAAC, Child Support Assignment Orders Ordinance. CONCESSIONAIRE is required to complete a Certification of Compliance with Child Support obligations which is attached to the AGREEMENT and incorporated herein by this reference. Pursuant to this ordinance, CONCESSIONAIRE shall (1) fully comply with all State and Federal employment reporting requirements applicable to Child Support Assignment Orders; (2) certify that the principal owner(s) of CONCESSIONAIRE are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (3) fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code section 5230 et seq.; and (4) maintain such compliance throughout the term of this AGREEMENT.

**G. Minority, Women, and Other Business Enterprise Outreach Program**  
CONCESSIONAIRE agrees and obligates itself to make reasonable efforts to utilize the services of Minority, Women, and Other Business Enterprise firms on a level so designated in its proposal, if any. CONCESSIONAIRE certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Contracts greater than \$100,000, if applicable. CONCESSIONAIRE shall not change any of these designated subconsultants and subcontractors, nor shall CONCESSIONAIRE reduce their level of effort, without prior written approval of the CITY, provided that such approval shall not be unreasonably withheld.

**H. Living Wage Ordinance/Service Contract Worker Retention Ordinance**  
The CONCESSIONAIRE, if subject to, must comply with City Ordinance 172336 (Living Wage Ordinance), which requires in part that nothing less than a prescribed minimum level of compensation (a "living wage") be paid to employees of service contractors of the CITY and its financial assistance recipients and to employees of such recipients. Under Section 10.37.2 of the Ordinance, CONCESSIONAIRE shall pay service employees who spend any of their time on CITY contracts a wage of no less than the hourly rates set under the authority of the Living Wage Ordinance (LWO). Such rates shall be adjusted annually to correspond with adjustments, if any, to retirement benefits paid to members of the City Employees' Retirement System.

CONCESSIONAIRE must also comply with and sign the Service Contract Worker Retention Ordinance (SCWRO), adopted through Ordinance 171004. This Ordinance requires concessionaires to retain all employees from the previous contractor/concessionaire for a period of 90 days, and must continue to retain those satisfactorily performing employees.

**I. Contractor Responsibility Ordinance**  
Every Request for Proposal, Request for Bid, Request for Qualifications or other procurement process is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 et seq. of Article 14, Chapter 1 of Division 10 of the LAAC, unless exempt pursuant to the provisions of the Ordinance.

**J. Equal Benefits Ordinance**  
Section 10.8.2.1 (c) of the LAAC (Equal Benefits Ordinance) requires that every contract with or on behalf of the City of Los Angeles for which the consideration is in excess of the \$5,000.00 must incorporate the Equal Benefits Provisions.

**K. Contractor Evaluation Ordinance**  
At the end of this contract, the CITY will conduct an evaluation of the Contractor's performance. The CITY may also conduct evaluations of the Contractor's performance during the term of the contract. As required by Section 10.39.2 of the LAAC, evaluations

will be based on a number of criteria, including the quality of the work product or service performed the timeliness of performance, financial issues, and the expertise of personnel that the Contractor assigns to the contract. A Contractor who receives a "Marginal" or "Unsatisfactory" rating will be provided with a copy of the final City evaluation and allowed fourteen (14) calendar days to respond. The CITY will use the final City evaluation, and any response from the Contractor, to evaluate proposals and to conduct reference checks when awarding other service contracts.

**L. Slavery Disclosure Ordinance**

Unless otherwise exempt in accordance with the provisions of this Ordinance, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the LAAC, as may be amended from time to time. Contractor certifies that it has complied with the applicable provisions of this Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this Contract.

**SECTION 25. TERMINATION**

**A. By CITY**

CITY shall have the right to terminate upon sixty (60) days written notice the AGREEMENT in its entirety and all rights ensuing therefrom as provided by applicable law if any one or more of the following events occur and is not remedied within thirty (30) days of the termination notice date.

1. CONCESSIONAIRE fails to keep, perform and observe any promise, covenant and condition set forth in the AGREEMENT on its part to be kept, performed or observed after receipt of written notice of default from GENERAL MANAGER, except where fulfillment of CONCESSIONAIRE'S obligation requires activity over a period of time and CONCESSIONAIRE has commenced to perform whatever may be required within ten (10) days after receipt of such notice and continues such performance diligently and without interruption except for causes beyond its control;
2. The interest of CONCESSIONAIRE under the AGREEMENT is assigned, transferred, passes to or devolves upon, by operation of law or otherwise, any other person, firm or corporation without permission of CITY except to an affiliated business entity in accordance with Section 22. Assignment, Sublease, Bankruptcy;
3. CONCESSIONAIRE becomes, without the prior, written approval of GENERAL MANAGER a successor or merged corporation in a merger, a constituent corporation in a consolidation or a corporation in dissolution. Notwithstanding, in the event that Compass Group USA, Inc. gains majority ownership and control of CONCESSIONAIRE, such change in control shall not be considered in contravention of this Section 25A(3);
4. The levy of any attachment or execution, or the appointment of any receiver, or the execution of any other process of any court of competent jurisdiction which is not vacated, dismissed or set aside within a period of ten (10) days and which does, or as a direct consequence of such process will, interfere with CONCESSIONAIRE'S use of the PREMISES or with its operations under the AGREEMENT;

5. CONCESSIONAIRE becomes insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files a voluntary petition in bankruptcy, or a petition or answer seeking an arrangement for its reorganization, or the arrangement for its reorganization, or the readjustment of its indebtedness under the federal bankruptcy laws or under any other law or statute of the United States, or of any state law, or consents to the appointment of a receiver, trustee or liquidator of all or substantially all of its property or its property located within the CONCESSION areas;
6. By order or decree of court, CONCESSIONAIRE is adjudged bankrupt, or an order is made approving a petition filed by any of the creditors or stockholders of CONCESSIONAIRE seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws, or under any law or statute of the United States, or any state thereof;
7. A petition under any part of the federal bankruptcy laws, or an action under any present or future solvency law or statute is filed against CONCESSIONAIRE and is not dismissed within one hundred twenty (120) days;
8. By or pursuant to, or under authority of, any legislative act, resolution or rule, order or decree of any court, governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator takes possession or control of all or substantially all of the property of CONCESSIONAIRE;
9. Cessation or deterioration of service for any period which, in the opinion of GENERAL MANAGER, materially and adversely affects the operation or service required to be performed by CONCESSIONAIRE under the AGREEMENT;
10. Any lien is filed against the PREMISES because of any act or omission of CONCESSIONAIRE and such lien is not removed, enjoined or a bond for satisfaction of such lien is not posted within ten (10) days; or
11. CONCESSIONAIRE voluntarily abandons, deserts, vacates or discontinues its operation of the business herein authorized.

*insert — additional termination language*

No acceptance by CITY of the rental payment or other payments specified herein, in whole or in part, and for any period, after a default of any of the terms, covenants and conditions to be performed, kept or observed by CONCESSIONAIRE, other than the default in the payment thereof, shall be deemed a waiver of any right on the part of CITY including the right to terminate the AGREEMENT on account of such default.

**B. CITY'S Right of Reentry**

CITY shall, as an additional remedy, upon the giving of written notice of termination as above provided, have the right to reenter the PREMISES and every part thereof on the effective date of termination without further notice of any kind, remove any and all persons therefrom and may regain and resume possession either with or without the institution of summary or legal proceedings or otherwise. Such reentry, however, shall not in any manner affect, alter or diminish any of the obligations of CONCESSIONAIRE under the AGREEMENT.

**C. Additional Rights of CITY**

CITY, upon valid termination of the AGREEMENT, or upon reentry, regaining or resumption of possession of the PREMISES upon valid termination of the AGREEMENT, may occupy said PREMISES and shall have the right to permit any person, firm or corporation to enter upon the PREMISES and use the same. Such occupation by others may be of only a part of the PREMISES, or the whole thereof or a part thereof together with other space, and for a period of time the same as or different from the balance of the term remaining hereunder, and on terms and conditions the same as or different from those set forth in the AGREEMENT.

**D. Survival of CONCESSIONAIRE'S Obligations**

In the event the AGREEMENT is terminated by CITY, or in the event CITY reenters, regains or resumes possession of the PREMISES upon valid termination of the AGREEMENT, all of the then-accrued obligations of CONCESSIONAIRE hereunder shall survive and shall remain in full force and effect for the full term of the AGREEMENT. Subject to CITY'S obligation to mitigate damages, the amount of the rental payment shall become due and payable to CITY to the same extent, at the same time and in the same manner as if no termination, reentry, regaining or resumption of possession had taken place. CITY may maintain separate actions to recover any monies then due, or at its option and at any time, may sue to recover the full deficiency.

The amount of damages for the period of time subsequent to termination, reentry, regaining or resumption of possession, subject to an offset for any rental payment received by CITY from a succeeding CONCESSIONAIRE, shall be the amount of rental otherwise due until the end of the term of the AGREEMENT.

The damages specified above shall not affect or be construed to affect CITY'S right to such damages in the event of termination, reentry, regaining or resumption of possession where CONCESSIONAIRE has not received any actual Gross Receipts under the AGREEMENT.

**E. Waiver of Redemption and Damages**

CONCESSIONAIRE hereby waives any and all rights of redemption granted by or under any present or future law or statute in the event it is dispossessed for any cause under its control, or in the event CITY obtains or retains possession of the PREMISES in any lawful manner. CONCESSIONAIRE further agrees that in the event the manner or method employed by CITY in reentering or regaining possession of the PREMISES gives rise to a cause of action in CONCESSIONAIRE in forcible entry and detailed under the laws of the State of California, the total amount of damages to which CONCESSIONAIRE shall be entitled in any such action shall be the sum of One Dollar (\$1), and CONCESSIONAIRE agrees that this provision may be filed in any such action as its stipulation fixing the amount of damages to which it is entitled.

**F. By CONCESSIONAIRE**

The AGREEMENT may be terminated by CONCESSIONAIRE, and Capital INVESTMENTS subject to buy-back according to the Schedule of INVESTMENT Buy-Back provided in Section 4, upon the happening of one or more of the following events:

1. The permanent abandonment of the Department of Recreation and Parks of the FACILITY or the permanent removal of all DEPARTMENT services from the FACILITY;
2. The lawful assumption by the United States government, or any authorized agency thereof, of the operation, control or use of the FACILITY or any substantial part thereof, in such manner as to materially restrict CONCESSIONAIRE from operating thereon;
3. The complete destruction of all or a substantial portion of the PREMISES from a cause other than the negligent act or omission to act of CONCESSIONAIRE, its agents, officers, or employees, and the failure of CITY to repair or reconstruct said PREMISES;
4. Any exercise of authority under this AGREEMENT which so interferes with CONCESSIONAIRE'S use and enjoyment of the PREMISES as to constitute a termination, in whole or in part, of the AGREEMENT by operation of law in accordance with the laws of the State of California;
5. The CITY'S failure to maintain the PREMISES/FACILITY with an image consistent with that of Wolfgang Puck;
6. The default by CITY in the performance of any covenant or agreement herein required to be performed by CITY and the failure of CITY to remedy such default for a period of thirty (30) days after receipt from CONCESSIONAIRE of written notice to do so; or
7. CONCESSIONAIRE may terminate the AGREEMENT without cause upon one hundred twenty (120) days notice to CITY and Observatory of its intention to do so; however, the capital INVESTMENT buy-back must first be negotiated to the acceptance of the GENERAL MANAGER.

**SECTION 26. SURRENDER OF POSSESSION**

CONCESSIONAIRE covenants and agrees to yield and deliver possession of the PREMISES to CITY on the date of the expiration or earlier termination of the AGREEMENT promptly, peaceably, quietly and in as good order and condition as the same now are or may be hereafter improved by CONCESSIONAIRE or CITY, normal use and wear and tear thereof excepted.

No agreement of surrender or to accept a surrender shall be valid unless and until the same has been reduced to writing and signed by the duly authorized representatives of CITY and CONCESSIONAIRE. Neither the doing nor omission of any act or thing by any of the officers, agents or employees of CITY shall be deemed an acceptance of a surrender of the PREMISES utilized by CONCESSIONAIRE under the AGREEMENT.

**SECTION 27. WAIVER**

A waiver of a default of any part, term or provision of the AGREEMENT shall not be construed as a waiver of any succeeding default or as a waiver of the part, term, or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

**SECTION 28. CONDITIONS AND COVENANTS**

Each covenant herein is a condition, and each condition herein is as well a covenant by the parties bound thereby, unless waived in writing by the parties hereto.

**SECTION 29. FORCE MAJEURE**

Neither party hereto shall be liable to the other for any failure, delay or interruption in the performance of any of the terms, covenants or conditions of the AGREEMENT due to causes beyond the control of that party including, without limitation, strikes, boycotts, labor disputes, embargoes, shortage of material, acts of God, landslides, acts of the public enemy, acts of superior governmental authority, floods, riots, rebellion, sabotage or any other circumstance for which such party is not responsible and which is not in its power to control.

**SECTION 30. REMEDIES ARE NON-EXCLUSIVE**

No right, power, remedy or privilege of CITY shall be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all of said rights, powers, remedies or privileges shall be deemed cumulative and additional and not in lieu or exclusive of each other or of any other remedy available to CITY at law or in equity.

**SECTION 31. CONCESSION AGREEMENT BINDING UPON SUCCESSORS**

The AGREEMENT shall be binding upon and shall inure to the benefit of the successors, heirs, executors, administrators and assigns of the parties hereto. The term "CONCESSIONAIRE" shall include any assignee of CONCESSIONAIRE under any assignment permitted and approved by GENERAL MANAGER.

**SECTION 32. LAW OF CALIFORNIA APPLIES**

The AGREEMENT shall be enforced and interpreted under the laws of the State of California.

**SECTION 33. AGENT FOR SERVICE OF PROCESS**

It is expressly agreed and understood that if CONCESSIONAIRE is not a resident of the State of California, or is a partnership or joint venture without a partner or member resident in said State, or is a foreign corporation, then in any such event CONCESSIONAIRE does designate the Secretary of State, State of California, its agent for the purpose of service of process in any court action between it and CITY arising out of or based upon the AGREEMENT, and the service shall be made as provided by the laws of the State of California for service upon a non-resident. It is further expressly agreed, covenanted and stipulated that if, for any reason, service of such process is not possible, as an alternative method of service of process, CONCESSIONAIRE may be personally served with such process out of this State by mailing, by registered or certified mail, the complaint and process to CONCESSIONAIRE at the address set out hereafter in the AGREEMENT, and that such service shall constitute valid service upon CONCESSIONAIRE as of the date of mailing, and CONCESSIONAIRE shall have thirty (30) days from the date of mailing to respond thereto. It is

further expressly agreed that CONCESSIONAIRE is amenable, and hereby agrees, to the process so served, submits to the jurisdiction and waives any and all objection and protest thereto, any laws to the contrary notwithstanding.

**SECTION 34. VENUE**

Venue of any action brought under the AGREEMENT shall lie in Los Angeles County.

**SECTION 35. ATTORNEY'S FEES**

If CITY shall, without any fault, be made a party to any litigation commenced by or against CONCESSIONAIRE arising out of or related to CONCESSIONAIRE'S use or enjoyment of the PREMISES and as a result of which CONCESSIONAIRE is finally adjudicated to be liable, then CONCESSIONAIRE shall pay all reasonable costs and reasonable attorney's fees incurred by or imposed upon CITY in connection with such litigation.

If CONCESSIONAIRE shall, without any fault, be made a party to any litigation commenced by or against CITY arising out of or related to CITY 'S use or enjoyment of the PREMISES and as a result of which CITY is finally adjudicated to be liable, then CITY shall pay all reasonable costs and reasonable attorney's fees incurred by or imposed upon CONCESSIONAIRE in connection with such litigation.

Each party shall give prompt notice to the other of any claim or suit instituted against it that may affect the other party.

**SECTION 36. WAIVER OF CLAIMS**

Except to the extent that CITY is at fault, CONCESSIONAIRE hereby waives any claim against CITY, its officers, agents or employees, for loss of anticipated profits caused by any suit or proceeding directly or indirectly attacking the validity of the AGREEMENT or any part hereof, or by any judgment or award in any suit or proceeding declaring the AGREEMENT null, void or voidable, or delaying the same, or any part hereof, from being carried out.

**SECTION 37. NOTICES**

**A. To CITY**

Written notices to CITY hereunder shall, until CONCESSIONAIRE'S receipt of written notice otherwise from these parties, be addressed to said parties at:

Office of the Board of Recreation and Park Commissioners  
Attention: General Manager  
The Garland Building  
1200 West 7<sup>th</sup> Street, Suite 700  
Los Angeles, CA 90017  
(213) 928-9040

and



City of Los Angeles  
Department of Recreation and Parks  
Administrative Resources Division  
3900 W. Chevy Chase Drive, Mail Stop 628  
Los Angeles, CA 90039

All such notices may either be delivered personally to GENERAL MANAGER, Department of Recreation and Parks, or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid for delivery by registered or certified mail. Service in such manner by registered or certified mail shall be effective upon receipt.

**B. To CONCESSIONAIRE**

Written notices to CONCESSIONAIRE hereunder shall, until CITY'S receipt of written notice otherwise from CONCESSIONAIRE, be addressed to CONCESSIONAIRE at:

Wolfgang Puck Catering and Events, LLC  
Carl Shuster, CEO  
6801 Hollywood Boulevard, Suite 513  
Los Angeles, CA 90028  
Phone: (323)491-1280, Fax: (323)491-1282  
E-mail: [carl.schuster@wolfgangpuck.com](mailto:carl.schuster@wolfgangpuck.com)  
Website: [www.wolfgangpuck.com](http://www.wolfgangpuck.com)

With copy to:  
Compass Group USA, Inc.  
Attn. General Counsel  
2400 Yorkmont Road  
Charlotte, NC 28217  
Fax: 704-328-7998

The execution of any such notice by GENERAL MANAGER shall be as effective for CONCESSIONAIRE as if it were executed by CITY, or by Resolution or Order of said CITY. All such notices may either be delivered personally to the CONCESSIONAIRE or to any officer or responsible employee of CONCESSIONAIRE or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid for delivery by registered or certified mail. Service in such manner by registered or certified mail shall be effective upon receipt.

The execution of any notice to CONCESSIONAIRE by GENERAL MANAGER shall be as effective for CONCESSIONAIRE as if it were executed by BOARD, or by Resolution or Order of said BOARD.

**SECTION 38. INTERPRETATION**

The language of the AGREEMENT shall be construed according to its fair meaning and not strictly for or against either CITY or CONCESSIONAIRE.

The section headings appearing herein are for the convenience of CITY and CONCESSIONAIRE, and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of the AGREEMENT.

If any provision of the AGREEMENT is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of the AGREEMENT, and all such other provisions shall remain in full force and effect; and it is the intention of the parties hereto that if any provision of the AGREEMENT is capable of two constructions, one of which render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

The use of any gender herein shall include all genders and the use of any number shall be construed as the singular or the plural, all as the context may require.

**SECTION 39. ENTIRE AGREEMENT**

The provisions of the AGREEMENT contain the entire AGREEMENT between the parties hereto and said AGREEMENT may not be changed or modified in any manner except by formal, written amendment fully executed by both CITY and CONCESSIONAIRE.

**SECTION 40. TIME OF THE ESSENCE**

Time is of the essence for all provisions of the AGREEMENT.

**SECTION 41. COUNTERPARTS**

This AGREEMENT may be executed in counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original, and all of which counterparts, taken together, shall constitute one and the same instrument.

**SECTION 42. INCORPORATION OF DOCUMENTS:**

The following Exhibits are to be attached to and made part of this AGREEMENT by reference:


- A PREMISES Maps
- B Transition Schedule
- C CAFÉ Plans with Indications of CITY Work
- D Menu Prices and Portions
- E Non-employee Accident/Illness Report
- F Insurance Requirements
- G Sample Monthly CONCESSION Remittance Advice

IN WITNESS WHEREOF, THE CITY OF LOS ANGELES has caused this AGREEMENT to be executed on its behalf by its duly authorized Board of Recreation and Park Commissioners, and CONCESSIONAIRE has executed the same as of the day and year herein below written.

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners.


Date: 9/6/06

BY:   
President

BY:   
Secretary

Wolfgang Puck Catering and Events, LLC  
d/b/a Wolfgang Puck Catering -  
CONCESSIONAIRE

Date: \_\_\_\_\_

BY: 

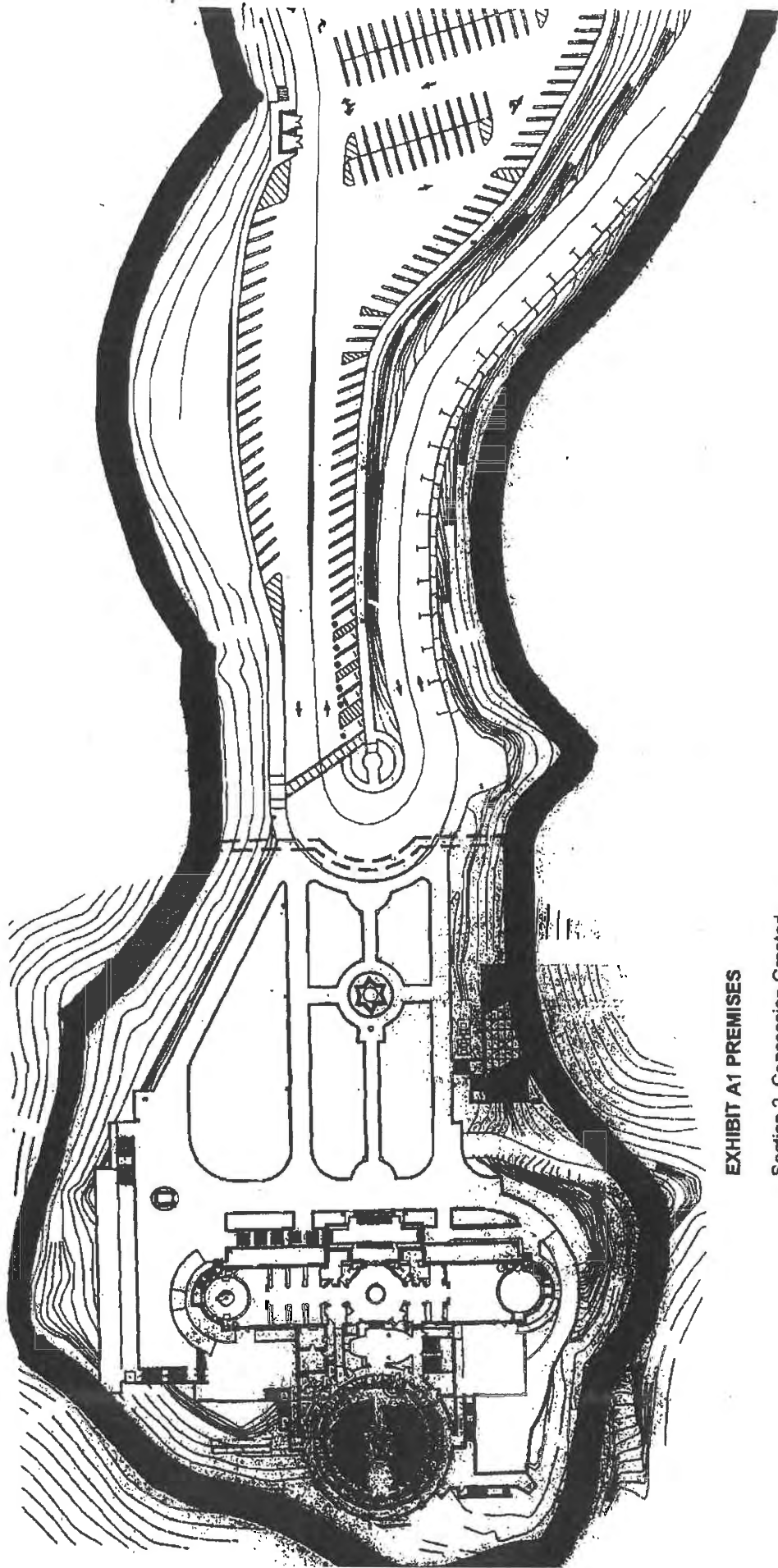
BY: \_\_\_\_\_

[SEAL]

APPROVED AS TO FORM:

Date: 9-6-06

BY:   
MARK BROWN, Sr. Assistant City Attorney



#### EXHIBIT A1 PREMISES

Section 2. Concession Granted  
CONCESSIONAIRE shall be granted the exclusive right, privilege, and obligation furnish, equip, operate and maintain the Griffith Observatory Cafe, Catering, and Food Cart Concession. The exclusivity extends to entire Observatory area including grounds, parking and East and West Observatory Roads.

Section 3. Premises  
The premises to be authorized for use by CONCESSIONAIRE at Griffith Observatory shall include The Cafe at the End of the Universe, Special Event Spaces, and pre-designated "cart set-up area(s)" as determined by the DEPARTMENT (as detailed on the six (6) pages of Exhibit A).

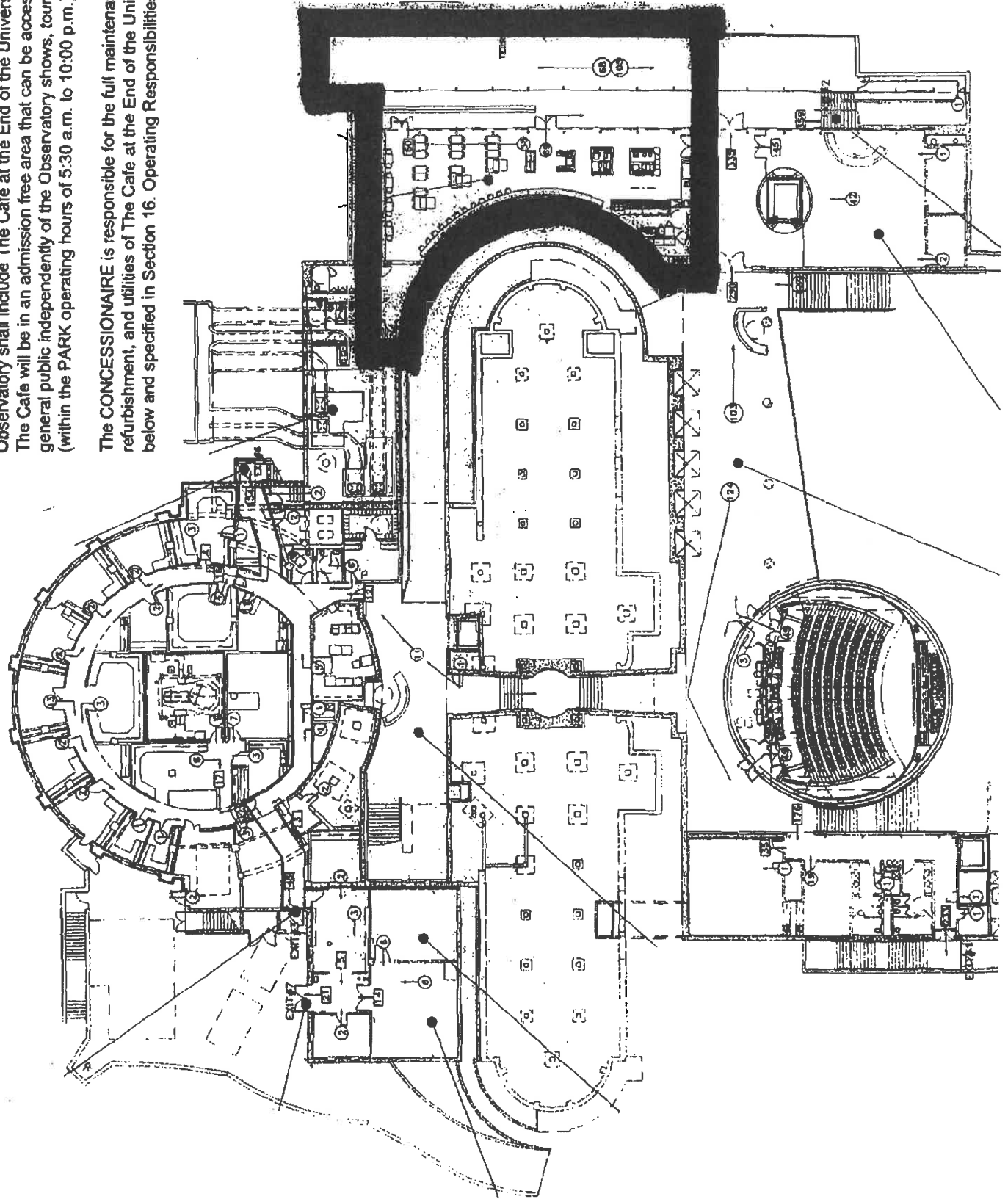
Section 16. G. Cart Operations  
Food carts may be placed at one or more locations anywhere within the PREMISES upon mutual consent and approval of OBSERVATORY MANAGEMENT. CONCESSIONAIRE shall maintain the carts in good repair and in a clean and sanitary condition at all times and keep the area 10' around cart(s) clean and sanitary.

**EXHIBIT A2 PREMISES - THE CAFE AT THE END OF THE UNIVERSE**

**Section 3. Premises**

The premises to be authorized for use by CONCESSIONAIRE at the Griffith Observatory shall include The Cafe at the End of the Universe, as outlined here. The Cafe will be in an admission free area that can be accessed by visitors and the general public independently of the Observatory shows, tours, and operating hours (within the PARK operating hours of 5:30 a.m. to 10:00 p.m.)

The CONCESSIONAIRE is responsible for the full maintenance, repair, refurbishment, and utilities of The Cafe at the End of the Universe, as delineated below and specified in Section 16. Operating Responsibilities.

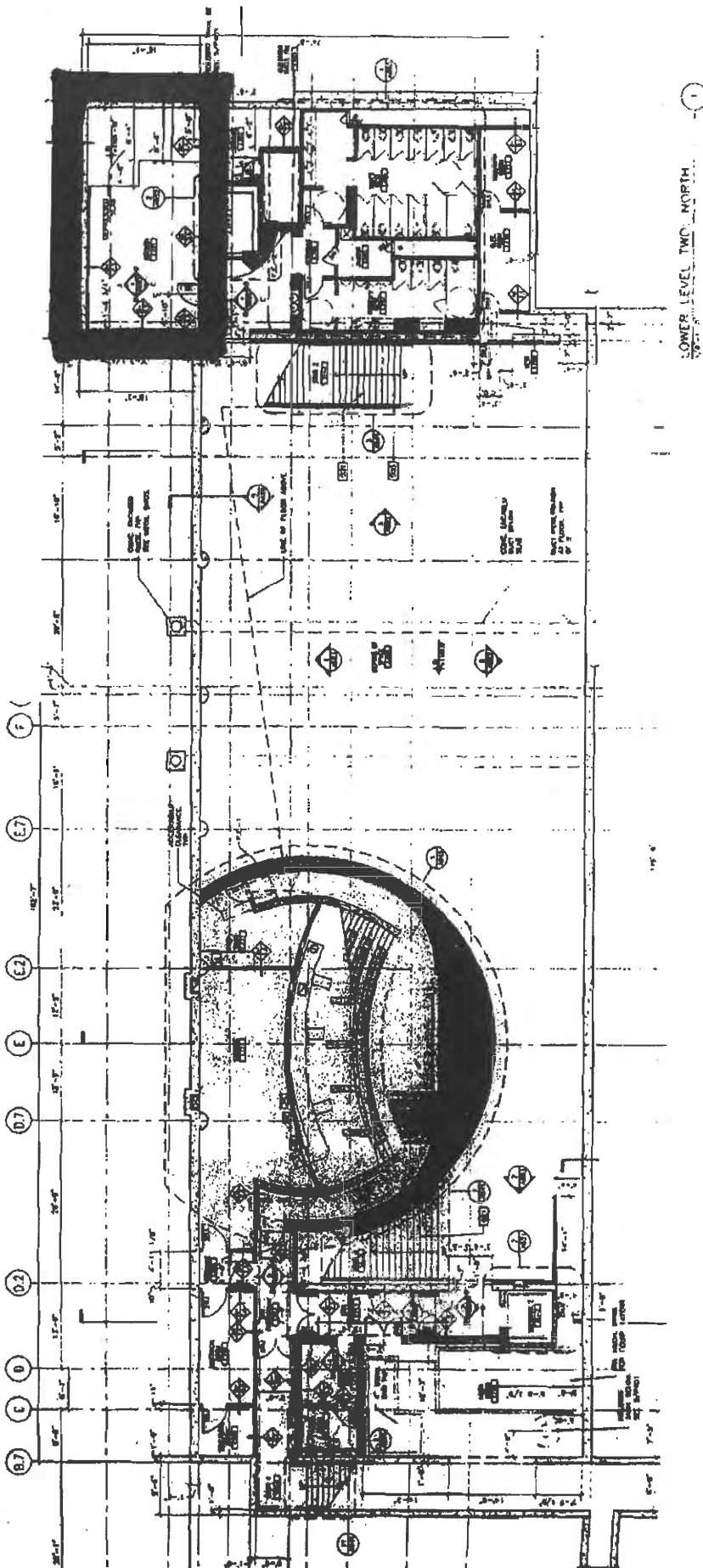


### EXHIBIT A3 PREMISES - Commissary

#### Section 3. Premises

The premises to be authorized for use by CONCESSIONAIRE at the Griffith Observatory shall include the commissary for The Cafe at the End of the Universe, as outlined below.

The CONCESSIONAIRE is responsible for the full maintenance, repair, refurbishment, and utilities of the commissary for The Cafe at the End of the Universe, as delineated below and specified in Section 16. Operating Responsibilities.



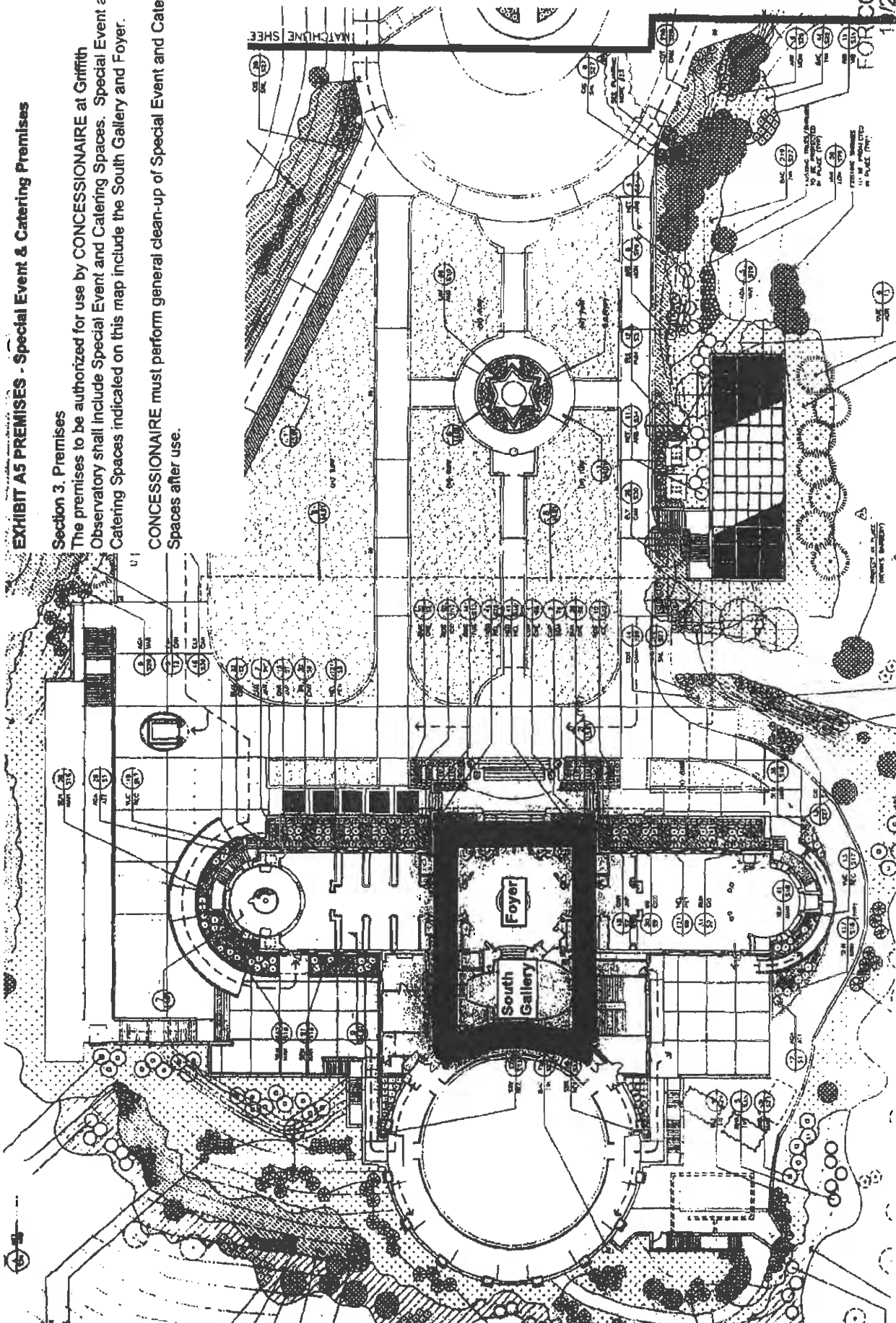


**EXHIBIT A5 PREMISES - Special Event & Catering Premises**

**Section 3. Premises**

The premises to be authorized for use by CONCESSIONAIRE at Griffith Observatory shall include Special Event and Catering Spaces. Special Event and Catering Spaces indicated on this map include the South Gallery and Foyer.

CONCESSIONAIRE must perform general clean-up of Special Event and Catering Spaces after use.



FOR CC 1/12



**EXHIBIT A6 PREMISES - Special Event & Catering Premises**

**Section 3. Premises**

The premises to be authorized for use by CONCESSIONAIRE at Griffith Observatory shall include Special Event and Catering Spaces. Special Event and Catering Spaces indicated on this map include Administration Conference Room (Admin Conference Room), Class Room, Conference Room, Terrace, Edge of Space and Richard and Lois Gunther Depths of Space and does not include the Leonard Nimoy Event Horizon theater. The total capacity or frequency of use of the Edge of Space and Richard and Lois Gunther Depths of Space is unknown due to the number of exhibits that share this space.

CONCESSIONAIRE must perform general clean-up of Special Event and Catering Spaces after use.

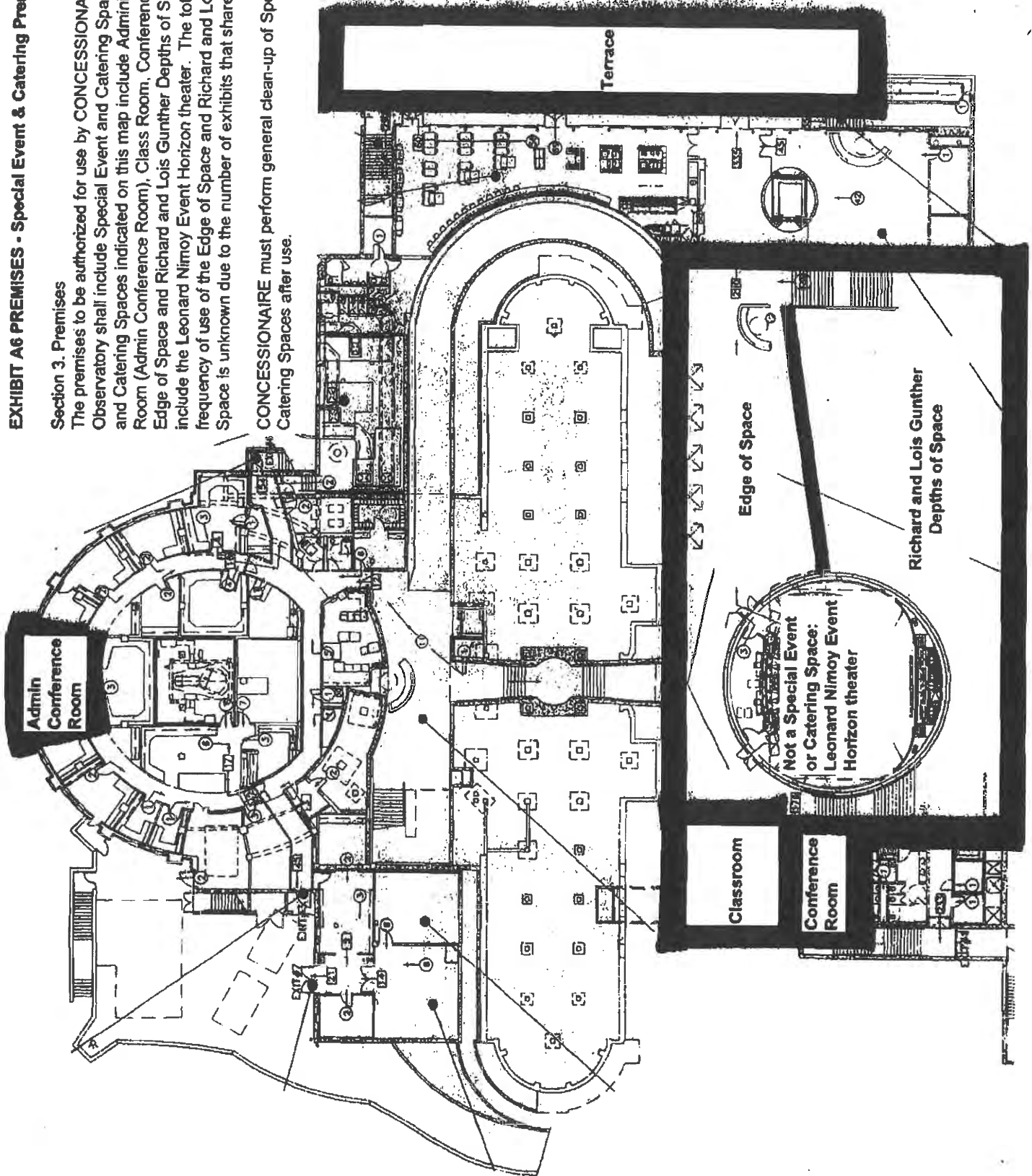
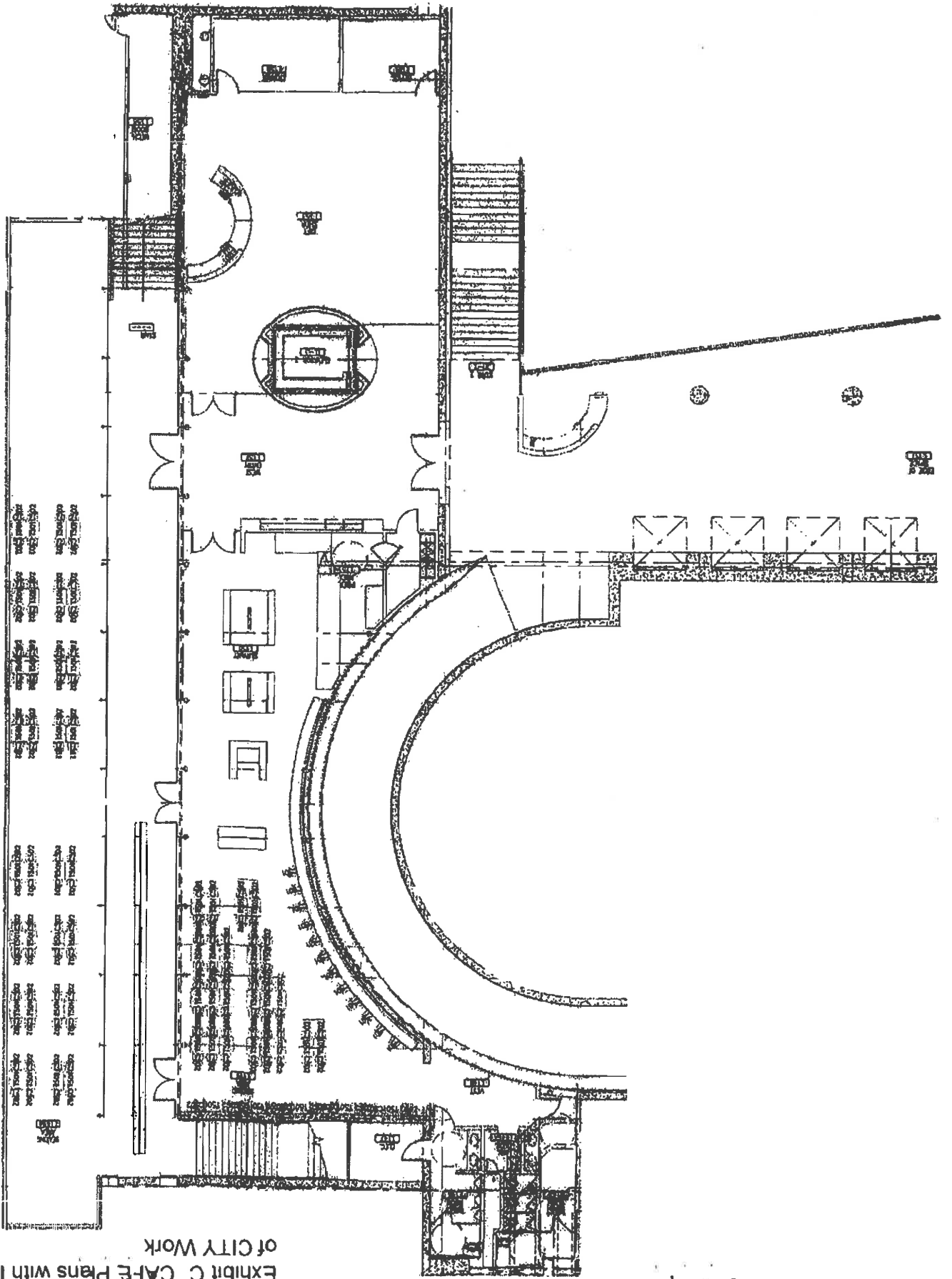


Exhibit B Transition Schedule

<b>Service Provided by CONCESSIONAIRE</b>	<b>Transition Period Required</b>
Catering for Events	2-Day Site Orientation
Café Training and Set-Up	2 Weeks following Completion of Build-Out

Exhibit C CAFÉ Plans with Indications  
of CITY Work



## C. Our Proposed Services

### Sample Menus and Pricing

<b>CAFÉ AT THE END OF THE UNIVERSE</b>	
<b>Salad</b>	
<b>Butter Lettuce Salad</b>	\$6.75
<i>Radicchio, Candied Walnuts, Oranges, Roquefort &amp; Balsamic</i>	
<b>Traditional Caesar</b>	\$5.75
<i>Hearts Of Romaine, Shaved Reggiano, Sun Dried Tomatoes &amp; Herb Croutons</i>	
<b>Chinois Chicken Salad</b>	\$5.25
<i>Crispy Wontons &amp; Ginger-Sesame Vinaigrette</i>	
<b>Thai Spiced Shrimp Salad</b>	
<i>Chilled Noodles, Bean Sprouts, Carrots, Cucumbers &amp; Peanut-Lime Vinaigrette</i>	
<b>Turkey Cobb Salad</b>	\$5.75
<i>Tomatoes, Egg, Beans, Bacon &amp; Creamy Buttermilk Blue Cheese</i>	
<b>Puck's Chef Salad</b>	\$6.25
<i>Salami, Mortadella, Chili, Garlic and Herbs</i>	
<b>Farmer's Market Salad Bar</b>	\$6.25
<b>Sandwich</b>	<i>with lettuce, tomato, dressing, choice of chips</i>
<b>Chicken Caesar Wrap</b>	\$5.00
<b>Chinois Chicken Wrap</b>	\$5.00
<b>Puck's Mufalata</b>	\$5.50
<b>Turkey &amp; Cranberry</b>	\$5.00
<b>Ham &amp; Swiss</b>	\$5.00
<b>"Rare" Roast Beef</b>	\$5.00
<b>Tuna Salad</b>	\$5.25
<b>Grilled Vegetable</b>	\$5.00
<b>Boxed Lunch:</b>	<i>add</i> \$3.50
<i>any sandwich plus whole fruit, pasta or tuna salad, chips, cookie, juice or water</i>	
<b>Seasonal Entree Specials</b>	\$6.25
<i>Includes starch, vegetable, protein, roll and butter</i>	
<b>Roasted Salmon With Tomato Vinaigrette</b>	
<b>Fresh Carved Turkey Breast</b>	
<b>Sautéed Vegetables</b>	<b>Roasted Rosemary Potatoes</b>
<b>Soup</b>	<i>Seasonal variations</i>
<b>Roasted tomato-basil with parmesan</b>	\$2.25
<b>Chicken with vegetables and noodles</b>	\$2.25

**City of Los Angeles  
Department of Recreation and Parks  
Administrative Resources Division – Concessions**

**Exhibit G Sample Monthly  
CONCESSION Remittance Advice**

P. O. Box 5385  
Glendale, CA 91221-5385

(818) 243-6488  
Fax (818) 243-1459

**CONCESSION REMITTANCE ADVICE**

Name: \_\_\_\_\_ Period Covered From \_\_\_\_\_ To \_\_\_\_\_

Concession Name: \_\_\_\_\_

Location: \_\_\_\_\_

Category of Rentals	Gross Sales	Minus Sales Tax	Net Sales
1)			
2)			
3)			
4)			

Total Net Sales	Rent Percentage	Rent Due on Sales
1)	%	\$
2)	%	\$
3)	%	\$
4)	%	\$
<b>Total Sales</b>		\$

Additions (Specify):

Utilities \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

Adjustments (Specify):

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

**Total Due This Report: \$ \_\_\_\_\_**

I hereby certify that this is a true and correct copy of the receipts for the period stated above.

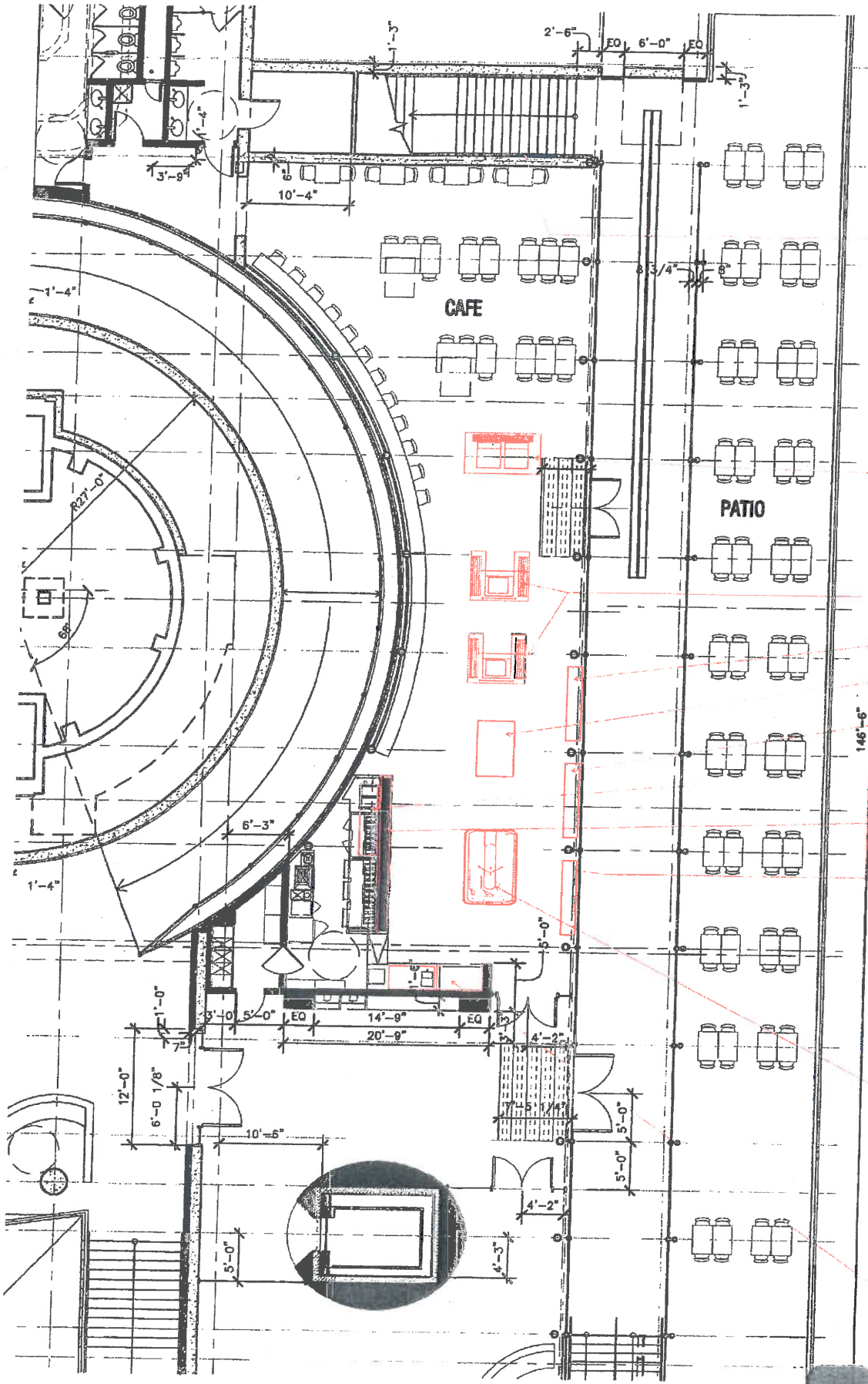
Signed: \_\_\_\_\_ Date: \_\_\_\_\_

## SCOPE of WORK

Objective: increase variety of fresh offerings, speed of service, visibility of product, guest flow.

Café: Schematic and timeline attached.

- Demo display island
- Move soda fountain dispensers to west glass wall in enclosed millwork
- Move coffee machines to right window
- Create millwork to provide streamlined shelving along window
- Install self-service salad bar and soup wells
- Replace hot line sneeze guard to become self-service
- Install new air-screen coolers for grab and go and bottled beverage along front left wall



Potential art piece

Relocate soda dispensers to here

2 New POS stations one with capability for 2nd terminal

New condiment and display cart

New dry food merchandiser

Turn this counter into coffee and hot drink station - will require plumbing

Rework hot food station ala NBCU

Rework sneeze guard and new skin on counter face

New condiment and display cart



New salad bar

2 New 5' Q&Q cases

W  
P

Griffith Park Cafe	
Scope of Work Plan	
11/11/15	Page 1 of 1

**BOARD REPORT**

NO. 16-153

DATE July 13, 2016

C.D. 3

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: 50 PARKS INITIATIVE – LOS ANGELES RIVER AND ALISO CREEK CONFLUENCE PARK PROJECT – FINAL ACCEPTANCE

<i>for</i> AP Diaz	<u>                    </u>	V. Israel	<u>                    </u>
*R. Barajas	<u>CSD</u>	K. Regan	<u>                    </u>
H. Fujita	<u>                    </u>	N. Williams	<u>                    </u>

  
 \_\_\_\_\_  
 General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Accept the work performed by the Trust for Public Land (TPL), under Contract No. C-117818, for the Los Angeles River and Aliso Creek Confluence Park Project as outlined in the Summary of this Report;
2. Adopt the Resolution, herein included as Attachment 1, authorizing the acceptance of the donation of the subject property and funds; and,
3. Authorize the Board Secretary to furnish TPL with a Letter of Acceptance.

SUMMARY

The Los Angeles River and Aliso Creek Confluence Park Project (Project) is a multi-phased project for the development of a 1.8 acre park located adjacent to the Aliso Creek and Los Angeles River confluence in the community of Reseda. The Project is located on lands owned by the Los Angeles County Flood Control and the Department of Water and Power, which is currently leased to the Department of Recreation Parks (RAP) for public recreational purposes.

On May 17, 2010, the Board of Recreation and Park Commissioners (Board) approved a Donation Agreement (Contract No. C-117818 herein included as Attachment 2) between RAP and the Trust for Public Land (TPL), a non-profit organization, for the acquisition, development, and construction of new parks in Los Angeles (Report No. 10-121). On November 20, 2013, the Board approved the conceptual plan for the Project and the Third Amendment to the Donation Agreement (Report No. 13-291). The Third Amendment to the Donation Agreement (Attachment 3) included the revised Exhibit A of Contract No. C-117818 which effectively added the Project to the list of prospective park projects to be implemented by TPL. On January 21, 2015, the Board approved the final plans and specifications for the Project (Report No. 15-024).



## BOARD REPORT

PG. 2 NO. 16-153

The approved scope of work for the Project included an approximately one half-mile of decomposed granite walking path, benches, shaded picnic areas, a low-maintenance and water-efficient demonstration garden, decorative gates, and educational and interpretive signs.

TPL started construction on the Project, on November 17, 2015. Construction is now one hundred percent (100%) complete. The total cost of the Project, inclusive of costs related to the design of the Project, was approximately One Million, Seven Hundred Five Thousand, Five Hundred Dollars (\$1,705,500.00). The design of the Project was funded by a Two Hundred Fifty-Five Thousand Dollar (\$255,000.00) grant to TPL from the Community Development Block Grant Program. The construction of the Project was funded by a One Million, Five Hundred Thousand Dollar (\$1,500,000.00) grant to TPL from the State of California Proposition 84 Urban Greening Grant Program.

Upon approval of this Report, RAP will furnish TPL with a Letter of Acceptance and TPL will furnish RAP with the all permits, drawings, operation and maintenance manuals, warranties and guarantees, and final as-built plan(s) for the Project.

An estimated Six Thousand, Six Hundred Seventy (6,670) City residents live within a one-half mile walking distance of the Project. Of those Six Thousand, Six Hundred Seventy (6,670) City residents, an estimated Two Hundred Ninety-Four (294) City residents did not previously have access to any improved green spaces or neighborhood parks within a one-half mile walking distance of their residence.

### TREES AND SHADE

As a part of the Project, three 12-foot wide by 14-foot tall free-standing shade towers were installed. The shade towers are constructed of laser cut "Corten steel" trellis and galvanized steel posts and beams.

In addition, a total of forty-two (42) new trees were planted as a part of the Project. The specifics regarding the additional trees and shade are as follows:

- Nine (9) Coast Live Oak (*Quercus agrifolia*)
- Four (4) California Bay Laurel (*Umbellularia Californica*)
- Two (2) Mexican Elderberry (*Sambucus Mexicana*)
- Fifteen (15) Western Sycamore (*Platanus racemose*)
- Five (5) White Alder (*Alnus rhombifolia*)
- Two (2) Black Walnut (*Juglans californica*)
- Five (5) Toyon (*Heteromeles arbutifolia*)

## BOARD REPORT

PG. 3 NO. 16-153

### FISCAL IMPACT STATEMENT

The estimated annual maintenance costs for the park, including the costs for part-time staff, materials and supplies, will be approximately Thirty-Six Thousand, Five Hundred Ninety-Six Dollars (\$36,596.00).

This Report was prepared by Darryl Ford, Senior Management Analyst I, Planning, Construction and Maintenance Branch, Department of Recreation and Parks.

### LIST OF ATTACHMENTS

- 1) Proposed Resolution
- 2) Contract No. C-117818 (Donation Agreement)
- 3) Third Amendment to Donation Agreement
- 4) EPADSS Park Analysis Report
- 5) Photos of Completed Project

RESOLUTION NO. \_\_\_\_\_

WHEREAS, on May 17, 2010, the Board of Recreation and Park Commissioners approved a Donation Agreement, executed as Contract No. C-117818, between the Department of Recreation and Parks and the Trust for Public Land, a non-profit organization, for the acquisition, development, and construction of new parks in Los Angeles (Report No. 10-121); and,

WHEREAS, on November 20, 2013, the Board of Recreation and Park Commissioners approved a Third Amendment to the Donation Agreement between the Department of Recreation and Parks and the Trust for Public Land for the acquisition, development, and construction of new parks in Los Angeles (Report No. 13-291); and,

WHEREAS, one of the prospective park projects identified in Third Amendment to the Donation Agreement was the Los Angeles River and Aliso Creek Confluence Park Project, which proposed the development of a new 1.8 acre park adjacent to the Aliso Creek and Los Angeles River confluence in the community of Reseda area of the City; and,

WHEREAS, the Trust for Public Land successfully secured funding from the Community Development Block Grant Program and from the State of California Proposition 84 Urban Greening Grant Program for development of the Los Angeles River and Aliso Creek Confluence Park Project; and,

WHEREAS, the Trust for Public Land has completed construction of the Los Angeles River and Aliso Creek Confluence Park Project and has furnished the Department of Recreation and Parks with the required permits, drawings, operation and maintenance manuals, warranties and guarantees; and,

WHEREAS, the Department of Recreation and Parks has completed a final inspection of the landscape and recreational improvements installed as a part of the Los Angeles River and Aliso Creek Confluence Park Project and has approved the acceptance of the improvements;

NOW, THEREFORE, BE IT RESOLVED by the Board of Recreation and Park Commissioners of the City of Los Angeles, that it accepts the landscape and recreational improvements installed adjacent to the Aliso Creek and Los Angeles River confluence in the community of Reseda pursuant to the Donation Agreement between the Department of Recreation and Parks and the Trust for Public Land as a gift in place from Trust for Public Land; and,

BE IT FURTHER RESOLVED that the Department of Recreation and Parks is authorized to install any necessary or required park signage detailing the proper use of recreational improvements, the contributions of the Trust for Public Land, and the funding provided by Proposition 84 Urban Greening Grant Program; and,

BE IT FURTHER RESOLVED that the Board Secretary is authorized to furnish the Trust for Public Land with a Letter of Acceptance.

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of a Resolution adopted by the Board of Recreation and Park Commissioners of the City of Los Angeles at its Meeting held on \_\_\_\_\_, 20\_\_\_\_ (Report. No. \_\_\_\_\_).

\_\_\_\_\_  
Armando X. Bencomo, Secretary

Resolution No. \_\_\_\_\_

DONATION AGREEMENT  
FOR ACQUISITION, DEVELOPMENT AND CONSTRUCTION  
OF  
NEW PARKS IN CITY OF LOS ANGELES

This Donation Agreement for Acquisition, Development and Construction of New Parks in City of Los Angeles ("Agreement") is entered as of September 1, 2010 by and between The Trust for Public Land ("TPL"), a California non-profit public benefit corporation, and the City of Los Angeles acting by and through its Board of Recreation and Park Commissioners (RAP, and together with TPL, the "Parties" and each a "Party"), a California municipal corporation.

RECITALS

1. Whereas, TPL, through its Parks for People initiative seeks to build great parks which strengthen communities and which increase park access and related health benefits, particularly in areas which are under-served by existing parks and recreation facilities.
2. Whereas, RAP wants to see new parks (each a "Prospective Park") built by TPL, particularly in areas which are under-served by existing parks and recreation facilities, and RAP commits to maintaining such Prospective Parks and Improvements (defined below) once built, for the benefit of the community.
3. Whereas, this Agreement shall be subject to, and contingent upon, successful grant application(s) resulting in one or more grant agreements (each a "Grant Agreement") to award grant funds in support of the development and construction of recreational facilities and other improvements ("Improvements") to be built upon the prospective properties which are described in Exhibit A (each a "Prospective Property"), attached hereto, which list may be amended over time by the mutual written agreement of the Parties. The terms of this Agreement shall apply to each Prospective Property.

Where sufficient grants are successfully awarded, TPL shall coordinate the acquisition, development and construction of a Prospective Park on each Prospective Property. As indicated on Exhibit A, it is anticipated that certain of the Prospective Properties will be acquired by RAP or TPL who will acquire from the current landowner utilizing Quimby funds (each a "Quimby Funded Property") under the terms of this Agreement. For "Quimby Funded Properties," any Quimby funds being used for the acquisition of a Prospective Property will be deposited directly to

escrow. In the case of other Prospective Properties, Quimby funds would not be used for the prospective acquisition (each a "Non-Quimby Funded Property").

4. Whereas, TPL has been asked to partner with RAP to perform two distinct phases of work on the Property. Phase One, or the "Acquisition Phase," shall consist of RAP and/or TPL (i) performing due diligence on the Prospective Property, which may include title review, environmental assessment, and an appraisal (all due diligence will be shared between the two Parties); (ii) TPL negotiating and entering into an Option Agreement with the landowner ("Seller") for the acquisition of the Prospective Property; (iii) TPL identifying and applying for grant funding necessary, for acquisition, development and construction of the Prospective Property based upon the Prospective Property's appraised valuation and estimated cost of Improvements; and (iv) TPL exercising the Option and conveying the Prospective Property to RAP whether using Quimby or other grant funding sources to fund the Prospective Park's acquisition.

Phase Two, or the "Park Development Phase," shall consist of TPL (i) developing a conceptual plan for the Improvements, using the results of outreach to be performed by TPL in partnership with local community organizations and RAP; (ii) contracting for and overseeing the construction of the Improvements; and (iii) identifying and applying for any additional funding necessary for construction of Improvements to the Prospective Property. Should the Acquisition Phase not be successful then the Park Development Phase shall not be undertaken by TPL or RAP.

5. Whereas, upon execution of this Agreement, TPL shall seek to enter into an Option Agreement with Seller (the "Option") for each Prospective Property, which will give TPL the right to purchase the Prospective Property from Seller on the terms and conditions stated in the Option. TPL and RAP both recognize that the Prospective Property is not currently under option to TPL and that TPL cannot acquire the Prospective Property unless the Seller is willing to sell the Prospective Property for a purchase price that is no more than the Prospective Property's market value as determined by a funder-approved Appraisal (defined below).
6. Whereas, if TPL and Seller execute the Option and TPL is in position to exercise the Option, then RAP will take title to the Property. In no event will TPL be the owner or long - term steward of the Prospective Park. RAP shall take title immediately upon TPL's exercise of the Option and close of escrow on any Prospective Park, but shall allow TPL a right of entry to that Prospective Property to construct the Improvements.
7. Whereas, TPL expects that the Statewide Park Development and Community Revitalization Program of 2008 ("Proposition 84 Statewide Park Program") may be the best source of grant funds for the development and construction of the Improvements (and also for acquisition of Non-Quimby Funded Properties as indicated on Exhibit A), and RAP is aware of and willing to commit to the land tenure requirements of the program (as described in Exhibit B).

8. Whereas, this Agreement is intended to summarize the primary roles and responsibilities of TPL and the RAP towards the shared goal of getting Prospective Parks built. This Agreement also intends to highlight some of the contingencies that need to be satisfied in order to fulfill that objective. And TPL and RAP wish to enter into this Agreement to establish the terms whereby TPL and the RAP shall work together on both the Acquisition Phase and, if the Acquisition Phase is successful, the Park Development Phase.

Now therefore, in consideration of the mutual promises contained herein the parties agree as follows:

1. Grant Agreement(s). The Parties acknowledge that TPL's ability to acquire Prospective Properties, and to install the Improvements and to otherwise carry out its role as set forth in this Agreement is contingent upon grant money being awarded for the acquisition of Prospective Properties and installation of the Improvements. Accordingly, TPL will initially use its good faith efforts to apply for grants, and RAP shall use its good faith efforts to cooperate with TPL in the grant application process. TPL's present intention is to apply for those grants identified on Exhibit A opposite the respective Prospective Properties; if those grants are not awarded TPL will determine if other prospective funding sources may be available.
  - (a) Grant Applications. TPL shall lead the grant application process. RAP shall cooperate in the grant application process and shall have an opportunity to review and comment upon grant applications. RAP (subject to approval by the Board of Recreation and Park Commissioners) shall accept an assignment of any Grant Agreement related to the acquisition and development of the Prospective Properties and accept the Improvements. The grant applications shall make clear that RAP is or shall be the owner of the Prospective Property and will be the long-term steward of the Improvements after they are completed by TPL and the Contractor (defined below).
  - (b) Incorporation by Reference. The terms of TPL's acquisition of any Prospective Property and installation of the Improvements and payment therefore, shall be governed by the terms of this Agreement and any Grant Agreement for a Prospective Property. The terms of any such Grant Agreement are specifically incorporated into this Agreement by this reference. In the event of any conflict between the terms of any such Grant Agreement and the terms of this Agreement, the terms of the Grant Agreement shall control, then this Agreement.
  - (c) Land Tenure Requirement. RAP will be the long-term steward of the park site once the Improvements are built on the Prospective Property. RAP understands that grant funding will be sought from the Proposition 84 Statewide Park Program. Consistent with the remainder of this Section 1,

RAP explicitly recognizes that TPL will be relying upon RAP, as owner or future owner of the Prospective Property, to fulfill the twenty or thirty year land tenure requirement of long term stewardship of the Prospective Property and Improvements (if more than \$1,000,000 in Proposition 84 Statewide Park Program grant funds are awarded for a Prospective Property then the land tenure requirement is thirty years, otherwise it is twenty years). This twenty or thirty year land tenure requirement may be renewed by TPL or RAP, however this renewal clause shall be non-binding upon RAP unless RAP is willing to renew at the conclusion of the initial land tenure term requirement. Both Parties are willing to separately provide resolutions to the Proposition 84 Statewide Park Program to confirm their respective commitments under this Agreement. Specimens of the respective resolutions of TPL and RAP are attached hereto as Exhibits D and E, and each will be adopted by the respective board in substantially that form before the Proposition 84 Statewide Park Program grant applications are submitted for any Prospective Park. The land tenure form and details of the land tenure requirement are attached hereto as Exhibit B. More information is set forth online at: [http://www.parks.ca.gov/?Page\\_id=26025](http://www.parks.ca.gov/?Page_id=26025) and [http://www.parks.ca.gov/pages/1008/files/spp\\_application\\_guide\\_2009.pdf](http://www.parks.ca.gov/pages/1008/files/spp_application_guide_2009.pdf).

2. Term. The term ("Term") of this Agreement shall commence upon full execution and delivery hereof by the parties hereto ("Effective Date"). Except those provisions which are explicitly stated survive the termination of this Agreement, the Term, with respect to any particular Prospective Property, shall expire on the date upon which RAP, subject to final acceptance and approval of the Improvements by the Board of Recreation and Park Commissioners, executes a letter accepting the Improvements as described in Section 18 below, or upon such earlier date as RAP or TPL terminates this Agreement in accordance with Section 22 below. RAP is aware that, pursuant to the terms of the Grant Agreement, the Improvements must be completed by TPL and accepted by RAP prior to expiration of any performance period specified in any Grant Agreement, and RAP shall cooperate with TPL in fulfilling its review, approval and acceptance obligations under this Agreement in a timely fashion in order to allow construction and acceptance of the Improvements to be completed within any performance period specified in any Grant Agreement. The Term may also effectively end, with respect to any particular Prospective Property where either (i) the Seller is not willing to sell, or (ii) for which TPL, despite its good faith efforts, is unable to secure adequate grant funding. So long as the Parties are pursuing at least one Prospective Property (including any Prospective Property subsequently added to Exhibit A by the mutual written agreement of the Parties), the Term shall continue with respect to such Prospective Property.
3. Environmental Assessment. Assuming an Option is executed, TPL or RAP shall select, hire, and instruct an environmental site assessor, who is acceptable to RAP, to prepare an environmental assessment of the soils, waters, and any improvements on the Prospective Property. Each Party will provide the other Party with a copy of any Environmental Assessment such Party contracts for and each



Party will be contractually entitled to rely upon any Environmental Assessment that the other Party obtains.

4. Appraisal. Assuming an Option is executed, TPL or RAP will select, hire, and instruct a private state-licensed appraiser, who is acceptable to RAP and to any public agency or third party providing funding to Buyer or the Public Agency ("Funding Parties"), to prepare a full narrative report appraisal ("Appraisal") of the Property's fair market value. Each Party will provide the other Party with a copy of any Appraisal such Party contracts for and each Party will be contractually entitled to rely upon any Appraisal that the other Party obtains.
5. Purchase of the Property and Transfer to RAP. In accordance with the terms of the Option Agreement and the Grant Agreements, TPL shall purchase the Property from Seller at its appraised market valuation using Grant Agreement funds and then immediately convey the Property to RAP.
6. Grant-writing. TPL will coordinate grant-writing responsibilities with RAP to attempt to raise the funds necessary to cover the full cost of the Acquisition Phase and Park Development Phase for each Prospective Property.
7. Outreach. TPL, working closely with RAP and local community based organizations, shall conduct public workshops and/or other community outreach efforts designed to ascertain the needs of community members in the area surrounding the Property ("Outreach"). TPL shall use the results of the Outreach to develop a conceptual plan for the Improvements.
8. Development of Plans and Specifications. TPL, at its own expense and at no cost to RAP, shall develop a conceptual plan for the Improvements that is consistent with both (i) the terms of the Grant Agreement(s) and (ii) the desires of RAP, local community-based organizations, and the community as a whole as gleaned through TPL-sponsored public workshops and other community outreach efforts. Following RAP's review and TPL's receipt of written approval of the conceptual plan, TPL shall prepare detailed final plans and specifications ("Plans and Specifications"), for RAP's review and approval. TPL will provide two (2) sets of the Plans and Specifications to RAP signed by a licensed landscape architect. TPL shall submit the Plans and Specification for approval by the Board of Recreation and Parks Commissioners.
9. Right of Entry. During the Term, as soon as RAP owns the Prospective Property, RAP shall allow TPL, its employees and agents, full and unrestricted access to the Prospective Property at no cost to TPL to install the Improvements. During the Term, RAP gives TPL full authority to construct, operate, and maintain the project of installing the Improvements on the Prospective Property in accordance with the Plans and Specifications and the terms of any Grant Agreements.

10. Selection of a Contractor; Installation of the Improvements. TPL will select a contractor ("Contractor") to construct and install the Improvements in accordance with the Plans and Specifications and the terms of any Grant Agreement, including any performance period for installation of the Improvements specified in any Grant Agreement. TPL shall require its contractor to provide a performance bond in the amount of 100% of the contract amount and in a form acceptable to RAP to ensure the completion of the Improvements.
11. Payments. TPL will be fully responsible for all payments to the Contractor and all other contractors and subcontractors at no cost to RAP, in accordance with the terms of any Grant Agreement. During the Term of this Agreement, the real property underlying each Prospective Property shall not be used as security for any loans or mortgages or otherwise have any liens, encumbrances, or stop notices placed on it. By way of specification without limitation, TPL shall keep each Prospective Property free from any liens, encumbrances, or stop notices arising out of work performed, materials furnished, or obligations incurred by TPL and shall indemnify, hold harmless and defend RAP from any liens, encumbrances, and stop notices arising out of any work performed or materials furnished by or at the direction of TPL. In the event that TPL shall not, within thirty (30) calendar days following the imposition of any such lien, cause such lien, encumbrance, or stop notice to be released of record by payment or posting of a proper bond, RAP shall have in addition to all other remedies provided herein and by law, the right, but no obligation to cause, upon five (5) business days prior written notice to TPL, the same to be released by such means as it shall deem proper, including payment in satisfaction of the claim giving rise to such lien encumbrance, or stop notice. All such sums paid by RAP and all expenses incurred by it in connection therewith, including costs and attorneys' fees, shall be paid by TPL to RAP on demand
12. Construction Management. If no professional construction management firm is hired, TPL and Contractor will provide general management of construction activity, including but not limited to scheduling construction activity, insuring construction meets Plans and Specifications, conducting progress meetings, providing meeting minutes and coordinating communications between all parties. RAP staff will participate in the scheduled progress meetings to keep abreast of construction activity and to ensure that work follows approved Plans and Specifications.
13. Construction Inspections. RAP or its designee will conduct on-site construction inspections and approvals, per a pre-determined schedule of critical work, to ensure that construction of the Improvements is in conformance with the Plans and Specifications. Upon substantial completion, RAP or its designee's staff will prepare a punch list ("Punch List"), which will need to be completed by Contractor prior to receiving Final Acceptance pursuant to Section 17.
14. Permits and Fees for Construction Events. Whenever permits, permit fees or any other fees (collectively, "Fees") are due to be paid to any agency of the City or County of Los Angeles in connection with the construction or opening celebration of

the Improvements, TPL shall pay (and/or obtain a waiver from the City or County of Los Angeles) of all such Fees. TPL shall respond to all requests for Fees by obtaining the permits and paying and/or obtaining a waiver of the Fees within fifteen (15) calendar days of receipt of such requests.

15. Indemnification.

- (a) During the Term of this Agreement, with respect to each Prospective Park which RAP owns, until the issuance by RAP of the Acceptance Letter pursuant to Section 17 of this Agreement, TPL shall indemnify and save harmless RAP, its officers, agents and employees from any and all loss, expense, damage, injury, liability and claims thereof for injury to or death of a person or loss of or damage to property, resulting directly or indirectly from any activity or use under this Agreement, regardless of the negligence of RAP or whether liability without fault is imposed or sought to be imposed on RAP, except to the extent that such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of RAP, its officers, agents or employees. The indemnity obligations described in this Section 15(a) shall survive expiration of this Agreement. In addition to TPL's obligation to indemnify RAP, TPL specifically acknowledges and agrees that it has an immediate and independent obligation to defend RAP from any claim that actually or potentially falls within this indemnification provision.
- (b) Following issuance by RAP of the Acceptance Letter pursuant to Section 17 of this Agreement, RAP shall indemnify and save harmless TPL and its officers, agents and employees from any and all loss, expense, damage, injury, liability and claims thereof for injury to or death of a person or loss of or damage to property, resulting directly or indirectly from any activity or use under this Agreement, regardless of the negligence of TPL or whether liability without fault is imposed or sought to be imposed on TPL, except to the extent that such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of TPL, its officers, agents or employees. The indemnity obligations described in this Section 15(b) shall survive expiration of this Agreement. In addition to RAP's obligation to indemnify TPL, RAP specifically acknowledges and agrees that it has an immediate and independent obligation to defend TPL from any claim that actually or potentially falls within this indemnification provision.

16. Insurance. During the Term, TPL shall maintain the insurance coverage required under any of the Grant Agreements. In addition the general liability and automobile liability policies of such coverage shall contain, or be endorsed to contain, the following provisions:

- (a) The RAP, its officers, agents and employees shall be covered as additional insured with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of TPL during the Term; and with respect

to liability arising out of work or operations performed by or on behalf of the TPL during the Term, including materials, parts or equipment furnished in connection with such work or operations.

- (b) For any claims related to this agreement, TPL's insurance coverage shall be primary insurance with respect to RAP, its officers, agents and employees.
  - (c) Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.
  - (d) TPL shall in all instances require its contractors to name RAP as additionally insured.
17. Final Acceptance. Upon notice from TPL that the Improvements on any Prospective Park have been installed in accordance with the Plans and Specifications, RAP or its designee shall, within fifteen (15) working days of such notice, perform a final inspection; provided, however, that TPL shall not deliver such notice to RAP until TPL has: (1) obtained all necessary regulatory approvals, (2) submitted to RAP the completed Punch List prepared by RAP or its designee pursuant to Section 13, (3) submitted to RAP the waivers and releases and assignments required under Sections 18 and 19 of this Agreement. If RAP's final inspection discloses any deficiencies, RAP shall prepare a new Punchlist for completion by TPL and Contractor. Upon RAP's inspection and decision to accept the work, RAP will submit the project to the Board of Recreation and Park Commissioners for final approval and acceptance. Upon this approval, RAP shall prepare a letter of final acceptance (the "Acceptance Letter") addressed to TPL. Upon receipt of the Acceptance Letter, TPL shall immediately remove all of its property from the Prospective Property and shall repair, at TPL's cost, any damage to the Prospective Property caused by such removal or caused by TPL's construction activities on the Prospective Property. Following delivery of the Acceptance Letter, RAP shall provide TPL with a Resolution from RAP the Board of Recreation and Parks Commissioners accepting the Improvements as a "gift-in-place" from TPL. Prior to delivery by RAP of (1) the Acceptance Letter to TPL, and (2) the Assignment and Assumption of Grant Agreement(s) detailed in Section 19 below, RAP shall not allow public use of the Prospective Property or Improvements.
18. Assignment and Assumption of Grant Agreement(s). Some obligations of the Grant Agreement(s), e.g., provisions pertaining to accepted uses and maintenance of the Prospective Property, extend beyond installation of the Improvements by TPL and acceptance thereof by RAP. Accordingly, RAP's delivery of the Acceptance Letter shall also constitute RAP's assumption and acceptance of TPL's obligations as grantee of any Grant Agreement. Specifically, and without limitation, RAP shall thereupon assume and accept the obligations of any Grant Agreement pertaining to use and maintenance of the Prospective Property and Improvements and the land

tenure requirements discussed in Section 1(c) above, if a Proposition 84 Statewide Park Program Grant Agreement is awarded for installing Improvements on the Prospective Property. TPL and RAP each agree to execute any assignment and assumption of any Grant Agreement once RAP has delivered the Acceptance Letter to TPL.

19. Delivery of Improvements. Following Final Acceptance by RAP, TPL shall deliver the Improvements free of all liens, easements or potential claims and shall provide RAP fully executed waivers and releases from the Contractor and all other contractors and subcontractors of all claims against RAP, its employees and agents. TPL shall assign to RAP any warranties or guaranties attendant or concomitant to its contracts with the Contractor and any other contractors and subcontractors. TPL shall also assign to RAP the right to any available remedies for latent defects. TPL shall deliver as-built drawings that are marked-up on hard copy of construction drawings, operating manuals, all warranties and any additional requirements as outlined in the Plans and Specifications.
20. Signage. RAP agrees that TPL shall have the right to erect informational plaques or signs on the Prospective Property, detailing proper use of Improvements and acknowledging the contributions of TPL, the grantors under any Grant Agreements, and community based organizations, subject to the prior approval of RAP and contingent upon the receipt of all necessary approvals pursuant to normal RAP procedures. Signage shall be installed by TPL during installation of the Improvements or by RAP following Final Acceptance, in accordance with the requirements of any Grant Agreement. The Board of Recreation and Park Commissioners shall have the sole right to name the Prospective Parks according to its naming policy.
21. Publicity. RAP and TPL agree to cooperate and coordinate with respect to the nature, text, and timing of any press release or public announcement(s) concerning the existence of this Agreement, the acquisition of any Prospective Park, or construction of any Improvements except as may be legally required by applicable laws, regulations, or judicial order. RAP agrees to notify TPL in writing of any press release, public announcement, or marketing of the Prospective Parks. Moreover, to the extent stipulated in any Grant Agreement, RAP shall duly notify any grantors prior to any public or media events publicizing the accomplishments funded by any Grant Agreement, and provide the opportunity for attendance and participation by grantors representatives. Similarly, any document, written report, or brochure prepared in whole or in part pursuant to installation of the Improvements shall contain any acknowledgements required under any Grant Agreement.
22. Termination. Any failure to perform or comply with any of the terms, covenants, obligations, conditions or representations made under this Agreement shall constitute an event of default ("Event of Default"), provided that TPL shall have a period of 15 business days from the date of written notice from RAP of such failure within which to cure such default under this Agreement, or, if such default is not

capable of cure within such 15-day period, TPL shall have a reasonable period of time to complete such cure if TPL promptly undertakes action to cure such default within such 15-day period and uses its best efforts to complete such cure within 60 calendar days after receipt of notice of default. Upon occurrence of an Event of Default by TPL, RAP shall have the right, in its sole discretion, to seek enforcement of the terms and conditions of this Agreement, to terminate this Agreement or to exercise any of its rights or remedies available at law or in equity.

TPL shall have the right to terminate this Agreement, with respect to any Prospective Property, if, despite TPL's good faith efforts, (i) TPL is unable to secure grant funding for the installation of the development and construction of the Improvements on the Prospective Property; or (ii) the Seller is unwilling to sell the Prospective Party.

If TPL successfully completes the installation of the Improvements on a Prospective Property and receives the Acceptance Letter from RAP then this Agreement shall specifically not be terminable by RAP with respect to any continuing obligations of RAP, as successor grantee, under any Grant Agreements, including the land tenure requirement if a Proposition 84 Statewide Park Program Grant Agreement is in place.

23. Use and Maintenance of Prospective Property and Improvements. RAP may only use the Prospective Property and Improvements in a manner which is consistent with the terms of any Grant Agreement, and RAP assumes the obligations for use and maintenance of the Prospective Property and the Improvements for the time and in the manner specified in any Grant Agreement. RAP shall make no other use or sale or other disposition of the Prospective Property, except as authorized by any Grant Agreement. This Agreement shall not prevent the transfer of the property from RAP to another public agency, if the successor public agency assumes the obligations imposed by any Grant Agreement to the satisfaction of the grantor.
24. Memorandum of Grant Agreement. To the extent required under the terms of any Grant Agreement, RAP agrees to execute (with notarized signatures) and deliver to TPL an original memorandum or notice of any such Grant Agreement. TPL may record any such memorandum or notice of Grant Agreement in the Official Records of Los Angeles County, California.
25. CEQA Compliance. RAP shall work with TPL to provide an Environmental Compliance Certification Form, in the form of Exhibit C, which certifies the Project is exempt or in compliance with the California Environmental Quality Act (CEQA) and/or the National Environmental Policy Act (NEPA). TPL shall be responsible for all costs associated with the completion of said process.

26. Miscellaneous.

- (a) This Agreement may be amended or modified only in a writing signed by TPL and RAP. This Agreement may be signed in counterparts.
- (b) This Agreement (including the Exhibits hereto, which are incorporated herein by reference) contains the entire understanding between the parties as of the date of this Agreement, and all prior written or oral negotiations, discussions, understandings and agreements are superseded by this Agreement.
- (c) All actions described herein including but not limited to the construction of the Improvements on the Prospective Property as permitted herein, are subject to and must be conducted and accomplished in accordance with the applicable requirements of the City and County of Los Angeles's charter, its municipal code and applicable state and federal laws, building codes and regulations.

Except as expressly provided to the contrary, all approvals, consents and determinations to be made by RAP hereunder may be made by General Manager of RAP or his or her designee in his or her sole and absolute discretion.

IN WITNESS WHEREOF, the parties have caused this Donation Agreement for Acquisition, Development and Construction of the New Parks in City of Los Angeles to be executed as of the date first written above.

APPROVED AS TO FORM:

DATE: 9-1-10  
Carmen A. Trutanich,  
City Attorney

By: [Signature]  
Senior Assistant City Attorney

CITY OF LOS ANGELES, a municipal corporation, acting by and through its BOARD OF RECREATION AND PARK COMMISSIONERS:

By: [Signature]  
President

By: [Signature]  
Secretary

DATE: 9-1-10

ATTEST:

DATE: 9-2-10  
June Lagmay,  
City Clerk

By: [Signature]  
Deputy

THE TRUST FOR PUBLIC LAND

By: [Signature]  
For: Roger Hoesterey,  
Director Western Division

DATE: \_\_\_\_\_

C-117878





Exhibit A

Description of Prospective Properties and Funding Sources to be Pursued

(List may be amended by mutual written consent of the parties)

Quimby Funded Property

- Carlton Way (Hollywood) - acquisition with Quimby funds / Proposition 84 Statewide Park Program funded development and construction
- Patton Street (Boys and Girls Club) - acquisition with Quimby funds / Proposition 84 Statewide Park Program funded development and construction

Non-Quimby Funded Property

- El Sereno - Proposition 84 Statewide Park Program funded development and construction
- Monitor (Watts) - Proposition 84 Statewide Park Program funded acquisition, development and construction

## Exhibit B Land Tenure Requirements

### Land Tenure Requirement

For PROJECT property that is owned by or leased to the APPLICANT, either #1, #2, #3, or #4 below must be provided to meet the land tenure requirement.

The purpose of the land tenure requirement in #1 below is to verify that the APPLICANT owns the PROJECT SITE. If the APPLICANT does not have ownership, adequate tenure is verified by meeting the requirements in #2, #3, or #4 below.

The land tenure requirements below are not required for ACQUISITION.

1. If the PROJECT site is owned in fee simple by the APPLICANT:
  - Provide a copy of the deed, or the deed recordation number, or a title search, or a current county assessor's parcel map showing that the APPLICANT is the land owner.
2. If the PROJECT site is not owned in fee simple by the APPLICANT, and the APPLICANT and land owner have a land tenure agreement that meets all of the requirements shown on the Land Tenure Form (page 23):
  - A. Provide the Land Tenure Form (page 23). The Form lists the land tenure agreement requirements between the APPLICANT and the land owner.
  - B. Provide a copy of the land tenure agreement between the APPLICANT and the land owner, such as the lease, joint powers agreement, easement, memorandum of understanding, or other document, and highlight the sections that meet the requirements listed in the Land Tenure Form.
3. If the PROJECT site is not owned in fee simple by the APPLICANT and the APPLICANT cannot meet the 20 or 30 year term requirement as described in the "Term of Agreement" item in the Land Tenure Form (page 23).

If an APPLICANT cannot meet the 20 or 30 year term requirement at the time of APPLICATION, provide:

- A and B as explained in #2 above, and the following:
- a letter from the landowner which:
  - States the landowner's policy prohibiting long term land tenure agreements.
  - Describes the long standing use of the property by the APPLICANT.
  - States a commitment to continue to renew the land tenure agreement with the APPLICANT in incremental periods to satisfy the 20 or 30 year land tenure term requirement, absent any unforeseen circumstances.
- A letter from the APPLICANT signed by its AUTHORIZED REPRESENTATIVE which:

- Agrees to renew the land tenure agreement with the landowner in incremental periods to satisfy the 20 or 30 year land tenure term requirement.

DPR expects the GRANTEE to fully comply with the Use of Facilities terms of the CONTRACT (see the CONTRACT provisions in the GRANT ADMINISTRATION GUIDE). If the landlord does not renew a lease, and the GRANTEE cannot comply with the time period stated in the CONTRACT, DPR may hold the GRANTEE in breach of CONTRACT.

**4. If the PROJECT site is not owned in fee simple by the APPLICANT and the land tenure agreement is not signed at the time of APPLICATION:**

When an APPLICANT does not have a signed land tenure agreement at the time of APPLICATION, provide:

- A and B as explained in #2 above, and letters from the APPLICANT and the landowner in which each commits to sign the proposed land tenure agreement should the GRANT be awarded.

If OGALS sends a letter at the end of the competitive process stating that the GRANT will be awarded, the APPLICANT must send a signed land tenure agreement to OGALS before the GRANT CONTRACT can be signed by DPR.

**Land Tenure Form**

APPLICANTS must complete this form when the PROJECT does not involve ACQUISITION and the site is not owned by the APPLICANT in fee simple. Indicate the page numbers where the following information can be found in the agreement.

- Type of agreement:** \_\_\_\_\_
  - Identify the type of agreement, such as a lease, joint powers agreement, easement, memorandum of understanding, etc.
  
- Parties to the signed agreement** ..... Found on page(s) \_\_\_\_\_
  - Highlight the sections which identify the parties to the agreement.
  - The agreement must be signed by all parties.
  
- Term of the agreement**..... Found on page(s) \_\_\_\_\_
  - All GRANT amounts up to \$1,000,000 require at least 20 years of land tenure.
  - All GRANT amounts greater than \$1,000,000 require at least 30 years of land tenure.
  - OGALS will start counting the 20 or 30 year land tenure requirement from the APPROPRIATION DATE.
  
- Renewal clause** ..... Found on page(s) \_\_\_\_\_
  - The renewal clause must include an option (which can be non-binding) for the APPLICANT/GRANTEE to renew the agreement beyond the original 20 or 30 year term requirement.
  
- Termination (revocability)**..... Found on page(s) \_\_\_\_\_
 

Any of the following is acceptable:

  - No termination clause - the agreement is non-revocable.
  - The termination clause may specify that the agreement is revocable for breach of the agreement/for cause.
  - The termination clause may specify that the agreement is revocable by mutual consent.

The following is not acceptable: A termination clause that allows the land owner to revoke the agreement without cause (at will) will not be approved.
  
- Site Control Roles and Responsibilities** ..... Found on page(s) \_\_\_\_\_
  - The APPLICANT must have the authority to construct, operate, and maintain the PROJECT in accordance with the CONTRACT provisions.
  
- Roles and responsibilities**..... Found on page(s) \_\_\_\_\_
  - The agreement must authorize the APPLICANT to proceed with the construction PROJECT. The APPLICANT may delegate construction to other entities.
  - The agreement gives APPLICANT permission to operate the PROJECT site (such as scheduling recreational programs). The APPLICANT may delegate operational roles to other entities.
  - The agreement identifies which entity is responsible for maintenance of the PROJECT site. Entities other than the APPLICANT may have this role.

## Exhibit C

Environmental Compliance Certification Form  
California Environmental Quality Act (CEQA) and/or  
National Environmental Policy Act (NEPA)

Grantee/Applicant: City of Los Angeles Project Name: \_\_\_\_\_

Project Address: \_\_\_\_\_

When was CEQA/NEPA analysis completed for this project? Date \_\_\_\_\_

What document(s) was filed for this project's CEQA analysis: (check all that apply)

- Initial Study    Notice of Exemption    Negative Declaration    Mitigated  
Negative Declaration  
 Environmental Impact Report    Other: \_\_\_\_\_

Please attach the Notice of Exemption or the Notice of Determination as appropriate. If these forms were not completed please attach a letter from the Lead Agency explaining why, certifying the project has complied with CEQA and noting the date that the project was approved by the Lead Agency.

What document(s) was filed for this project's NEPA analysis: (check all that apply)

- Categorical Exclusion Determination    Environmental Assessment/Finding of  
no Significant Impact (EA/FONSI)    Environmental Impact Statement  
(EIS)/Notice of Availability  
 Other: \_\_\_\_\_

Please attach the Categorical Exclusion Determination or the FONSI or a Notice of Availability. If these forms were not completed please attach a letter from the Lead Agency explaining why, certifying the project has complied with NEPA and noting the date that the project was approved by the Lead Agency.

Lead Agency Contact Information:

Agency Name: \_\_\_\_\_ Contact Person: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ Email: \_\_\_\_\_

Certification:

I hereby certify that the Lead Agency listed above has determined that it has complied with the California Environmental Quality Act (CEQA) and/or the National Environmental Policy Act (NEPA) for the project identified above and that the project is described in adequate and sufficient detail to allow the project's construction.

I certify that the CEQA/NEPA analysis for this project encompasses all aspects of the work to be completed with grant funds.

---

Authorized Representative  
(Signature)

---

Authorized Representative  
(Printed Name and Title)

---

Date

---

Date

## Exhibit D

RESOLUTION OF THE PROJECT REVIEW COMMITTEE  
OF THE TRUST FOR PUBLIC LAND

## Approving The Application For STATEWIDE PARK PROGRAM GRANT FUNDS

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Statewide Park Program, setting up necessary procedures governing the Application; and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the applicant to certify by resolution the approval of application(s) before submission of said application(s) to the State; and

WHEREAS, the applicant will enter into a contract with the State of California to complete the grant scope project;

NOW, THEREFORE, BE IT RESOLVED that the Project Review Committee of The Trust for Public Land under authority delegated to it by the Board of Directors and the President of The Trust for Public Land;

1. Certifies that the City of Los Angeles, as title owner, will provide operational site control to applicant, The Trust for Public Land, for the completion of the Park Project, pursuant to the grant scope;
2. Certifies that The Trust for Public Land has or will have available, prior to commencement of any work on the project included in this application, the sufficient funds to complete the project;
3. Certifies that The Trust for Public Land intends to transfer the grant contract obligations to the City of Los Angeles upon the State of California's approval of the transfer of these grant obligations and The Trust for Public Land's successful completion of the development project, should the grant be awarded;
4. Certifies that The Trust for Public Land will comply with all land tenure rules until the State approves the transfer of title and/or grant contract obligations to the City of Los Angeles;
5. Certifies that The Trust for Public Land has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Grant Administration Guide;
6. Delegates the authority to its California State Director to conduct all negotiations,

sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the grant scope; and,

7. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

Approved and adopted the \_\_\_\_\_ day of \_\_\_\_\_, 2010. I, the undersigned and a duly elected and acting Assistant Secretary of The Trust for Public Land, a nonprofit corporation organized under the laws of the State of California and classified thereunder as a public benefit corporation, hereby certify that the foregoing resolution was duly adopted in accordance with the Bylaws of The Trust for Public Land by the Project Review Committee, under delegation to it by the Board of Directors and the President of The Trust for Public Land, at a special meeting of said Project Review Committee, and that said resolution has not been modified or rescinded.<sup>355</sup>

---

Bonita J. Morgan, Assistant Secretary



CERTIFIED COPY OF A RESOLUTION  
ADOPTED BY  
THE PROJECT REVIEW COMMITTEE  
OF THE TRUST FOR PUBLIC LAND

RECREATION AND PARK AGREEMENT  
Approving the Application for STATEWIDE PARK PROGRAM GRANT FUNDS

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Statewide Park Program, setting up necessary procedures governing the Application; and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the applicant to certify by resolution the approval of application(s) before submission of said application(s) to the State; and

WHEREAS, the applicant will enter into a contract with the State of California to complete the grant scope project;

NOW, THEREFORE, BE IT RESOLVED that the Project Review Committee of The Trust for Public Land under authority delegated to it by the Board of Directors and the President of The Trust for Public Land:

1. Certifies that the City of Los Angeles, as title owner, will provide operational site control to applicant, The Trust for Public Land, for the completion of the **Carlton Way Park Project**, pursuant to the grant scope;
2. Certifies that The Trust for Public Land has or will have available, prior to commencement of any work on the project included in this application, the sufficient funds to complete the project;
3. Certifies that The Trust for Public Land intends to transfer the grant contract obligations to the City of Los Angeles upon the State of California's approval of the transfer of these grant obligations and The Trust for Public Land's successful completion of the development project, should the grant be awarded;
4. Certifies that The Trust for Public Land will comply with all land tenure rules until the State approves the transfer of title and/or grant contract obligations to the City of Los Angeles;
5. Certifies that The Trust for Public Land has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Grant Administration Guide;
6. Delegates the authority to its California State Director to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the grant scope; and
7. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

I, Bonita J. Morgan, hereby certify that I am a duly elected and acting Assistant Secretary of The Trust for Public Land, a nonprofit corporation organized under the laws of the State of California and classified thereunder as a public benefit corporation. I further certify that the resolution set forth above was adopted in accordance with the Bylaws of The Trust for Public Land by the Project Review Committee, under authority delegated to it by the Board of Directors and the President of The Trust for Public Land, at a regular meeting of said Project Review Committee on February 24, 2010, and that said resolution has not been modified or rescinded.

Executed at San Francisco, California, this 24<sup>th</sup> day of February 2010.

  
 \_\_\_\_\_  
 Bonita J. Morgan  
 Assistant Secretary

## Exhibit E

ATTACHMENT NO. 4

## RESOLUTION

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ANGELES  
 COMMITMENT TO ACCEPT DESIGNATED COMPLETED PROJECTS FOR THE  
 PROPOSITION 84 STATEWIDE PARK PROGRAM GRANT PROGRAM SUBMITTED BY THE  
 TRUST FOR PUBLIC LAND

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Statewide Park Program, setting up necessary procedures governing the Application; and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the applicant to certify by resolution the approval of application(s) before submission of said application(s) to the State; and

WHEREAS, the applicant, Trust For Public Land (TPL), will enter into a contract with the State of California to complete their grant funded project scopes;

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby:

Supports the filing of a grant application by the TPL for those projects listed in Attachment No. 1, and, subject to approval by the Recreation and Parks Board of Commissioners, should the grant funds be awarded:

1. Certifies that upon satisfactory completion of the designated projects, including all accounting and project close out activities, the TPL will transfer all grant contract obligations to the City of Los Angeles through its Department of Recreation and Parks (RAP), including operation and maintenance responsibilities for the project, in accordance with the Grant Administration Guide, subject to the terms and conditions outlined in the draft Donation Agreement included in their grant application package, upon its execution; and
2. Delegates the authority to the General Manager, Department of Recreation and Parks, to sign and submit the amended grant contract naming the Department of Recreation and Parks as the new Grantee; and
3. Certifies that that the City has, or will have, sufficient funds to operate and maintain the projects listed in Attachment No 1; and
4. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

Approved and adopted the 12<sup>th</sup> day of February, 20 10

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by the City Council of the City of Los Angeles at its meeting of FEB 12 2010.

June Lagmay, City Clerk

By: Sharon Bruce



## THIRD AMENDMENT TO DONATION AGREEMENT

THIS THIRD AMENDMENT TO DONATION AGREEMENT ("Third Amendment") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between the City of Los Angeles ("CITY"), a municipal corporation, acting by and through its Board of Recreation and Park Commissioners ("Board") and the TRUST FOR PUBLIC LAND ("TPL"), a California non-profit public benefit corporation, (herein collectively referred to as the "Parties" and each a "Party").

## RECITALS

- A. Whereas, the Parties have entered into that certain Donation Agreement dated September 1, 2010 ("Donation Agreement") pursuant to which the Parties summarized the primary roles and responsibilities of TPL and RAP towards their shared goal of getting Prospective Parks built, as more particularly described in the Donation Agreement. (All capitalized terms not otherwise defined herein shall have the same meaning ascribed to them in the Donation Agreement, as amended.)
- B. Whereas, the Parties have entered into that certain Amendment dated as of October 24, 2012 ("Amendment") pursuant to which the Parties revised Exhibit A of the Donation Agreement in order to add two (2) additional park acquisition and/or development projects to the list of prospective properties.
- C. Whereas, the Parties have entered into that certain Second Amendment dated as of October 24, 2012 ("Second Amendment") pursuant to which the Parties revised Exhibit A of the Donation Agreement in order to add one (1) additional park acquisition and/or development project to the list of prospective properties.
- D. Whereas, Parties now desire to amend the Donation Agreement a third time to revise Exhibit A in order to add the Aliso and Los Angeles Confluence Park Project in the list of Prospective Park Project to be implemented by TPL under the Donation Agreement.
- E. Whereas, this Third Amendment shall modify the Donation Agreement but only with respect to the addition of the Aliso and Los Angeles Confluence Park Project to the Donation Agreement as an additional Prospective Property as defined in the Donation Agreement even though the funding for that park is neither uncertain, nor coming from the sources contemplated in the Donation Agreement (i.e., Quimby and Proposition 84 Statewide Park Program a/k/a AB31 funding), and even though RAP will not ultimately own fee title to Aliso and Los Angeles Confluence Park Project. In other words, the relationship between TPL and RAP with respect to their respective responsibilities shall be as similar as possible to what is contemplated in the Donation Agreement, despite the differences which are specific to the Aliso and Los Angeles Confluence Park Project.

- F. Whereas, there shall be no Acquisition Phase, rather RAP intends to enter into a twenty-five (25) year "Lease Agreement" with the Los Angeles Department of Water and Power ("LADWP") and a twenty-five (25) year "Use Agreement" with the Los Angeles County Flood Control District ("LACFCD"). Collectively, LADWP and LACFCD own all of the underlying Aliso and Los Angeles Confluence Park property (collectively, the "Confluence Property").
- G. Whereas, RAP is aware of and willing to undertake the Land Tenure requirements for the maintenance of the Improvements which TPL installs on the Confluence Property, to the extent that they are required by the funding sources identified to date.
- H. Whereas, the Park Development Phase for the Aliso and Los Angeles Confluence Park Project shall consist of TPL (i) developing a conceptual plan for the Improvements, using the results of outreach to be performed by TPL in partnership with local community organizations, funders, and RAP; (ii) contracting for and overseeing the construction of the Improvements; and (iii) identifying and applying for any additional funding necessary for construction of Improvements to the Confluence Property.
- I. Whereas, this Third Amendment is intended to place the Aliso and Los Angeles Confluence Park project within the well-established framework of the Donation Agreement within which the primary roles and responsibilities of TPL and the RAP are well-defined towards meeting the shared goal of getting all Prospective Parks built and maintained and TPL and RAP wish to enter into this Third Amendment.

NOW, THEREFORE, in consideration of the foregoing, and of the conditions, terms, covenants and agreements set forth herein and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree that the Donation Agreement is amended as follows:

1. Exhibit A. Exhibit A of the Donation Agreement is hereby amended and restated with the following which both adds a new project for which funding has already been secured and also updates the status of the original projects for which funding was sought in 2010, 2011, and 2012:
2. Intention to Read Agreement Broadly re Aliso and Los Angeles Confluence Park Project. The parties further agree that the Donation Agreement, as amended by this Third Amendment, shall be interpreted in a broad and fluid fashion in order to incorporate Aliso and Los Angeles Confluence Park Project into the list of Prospective Parks under the Donation Agreement despite the differences between that Prospective Park and other Prospective Parks both as set forth above and otherwise. The intention is that the broad responsibilities set forth in the Donation Agreement be applied to the Aliso

and Los Angeles Confluence Park Project meaning in short that TPL shall seek funding and install Improvements, and RAP shall subsequently maintain those Improvements.

3. Counterparts. This Third Amendment may be executed in several counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument when each party has signed one such counterpart. This Third Amendment may be executed and delivered to the other party by facsimile transmission and a facsimile signature shall have the same legal effect as an original signature.
4. Entire Agreement. The Donation Agreement, as amended by this Third Amendment, constitutes the full and complete agreement and understanding between the Parties and shall supersede all prior communications, representations, understandings or agreements, if any, whether oral or written, concerning the subject matter contained in the Donation Agreement, as so amended, and no provision of the Donation Agreement, as so amended, may be modified, amended, waived or discharged, in whole or in part, except by a written instrument executed by the Parties.
5. Force and Effect. Except as modified by this Third Amendment, the terms and provisions of the Donation Agreement are hereby ratified and confirmed and are and shall remain in full force and effect. Should any inconsistency arise between this Third Amendment and the Donation Agreement as to the specific matters which are the subject of this Third Amendment, the terms and conditions of this Third Amendment shall control. This Third Amendment shall be construed to be a part of the Donation Agreement and shall be deemed incorporated in the Donation Agreement by this reference.

IN WITNESS WHEREOF, the Parties have executed this Third Amendment as of the date first set forth above.

Executed this 23<sup>rd</sup> day  
of April, 2014

THE CITY OF LOS ANGELES, a municipal  
corporation, acting by and through its BOARD  
OF RECREATION AND PARK  
COMMISSIONERS

By [Signature]  
President

By [Signature]  
Secretary

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

THE TRUST FOR PUBLIC LAND

By [Signature]  
Director, Western Division

By \_\_\_\_\_  
Gilman Miller, Senior Counsel

Approved as to Form:

Date: 4/25/2014

MICHAEL N. FEUER,  
City Attorney

By [Signature]  
DEPUTY CITY ATTORNEY

Attest: Holly Wolcott, Interim City Clerk

By [Signature]  
Deputy 05/05/14  
C-117818-3



## Exhibit A

Description of Prospective Properties and Funding Sources to be Pursued (list may be amended by mutual written consent of the parties)

## Quimby-Funded Property

- Carlton Way (Hollywood) – Property was acquired with Quimby Funds; Development and construction of this site has been funded through a grant from the Proposition 84 Statewide Park Program, which has already been awarded.
- Patton Street (Boys and Girls Club) - Property was acquired with Quimby Funds; Development and construction of this site has been funded through a grant from the Proposition 84 Statewide Park Program, which has already been awarded.

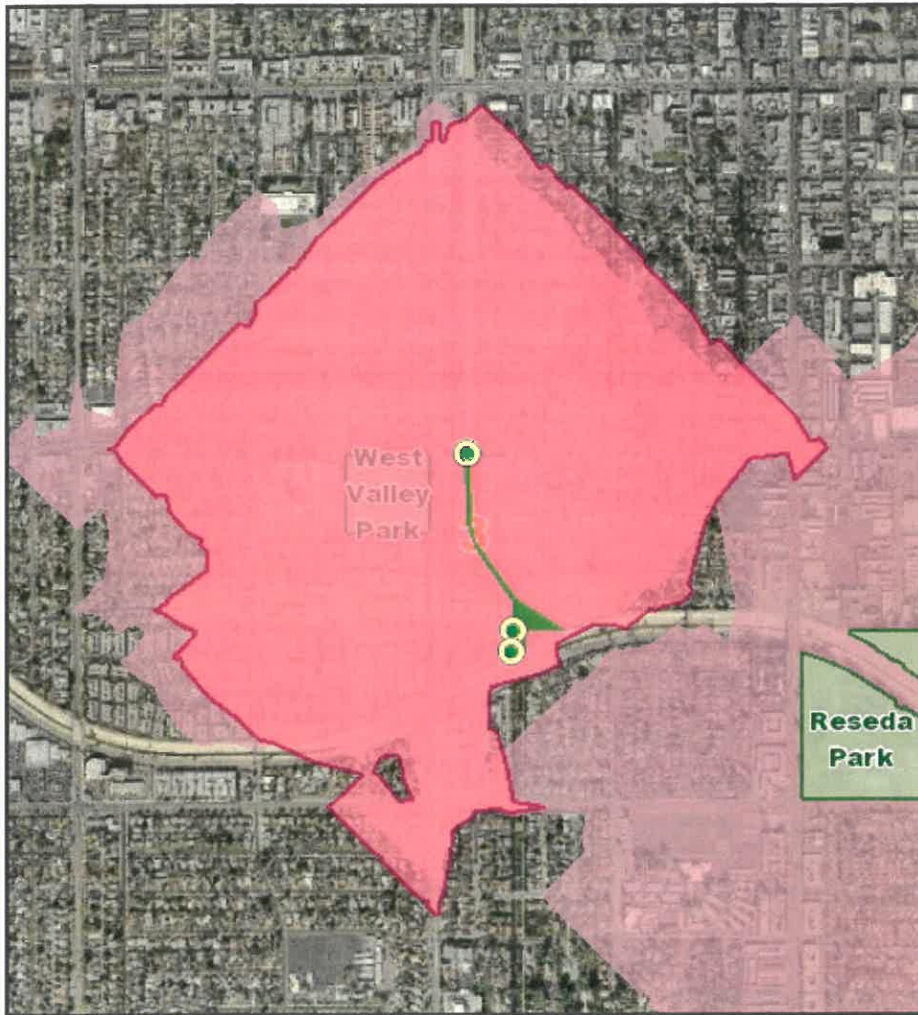
## Non-Quimby Funded Property

- Monitor (Watts) – Property was acquired with Proposition 84 Statewide Park Program grant funds; Development and construction of this site has been funded through a grant from the Proposition 84 Statewide Park Program, which has already been awarded.
- El Sereno Arroyo Playground (Concord and Lowell) – Property lease has been executed with CalTrans; Development and construction of this site was funded through a combination of grants, donations, and funding provided by City.
- Colden Avenue Pocket Park - No grant funds have yet been identified for acquisition, development, and construction of this site.
- South Victoria Avenue Park - Property was acquired with Proposition 84 Statewide Park Program grant funds; Development and construction of this site has been funded through a grant from the Proposition 84 Statewide Park Program, which has already been awarded.
- Madison Avenue Park - Development and construction of this site has been funded through a grant from the Proposition 84 Statewide Park Program.
- Aliso and Los Angeles Confluence Park Project - Development and construction of this site has been funded through grants from Proposition 84 Urban Greening Grant Program and the Community Development Block Grant Program.



**EQUITABLE PARKS & AMENITIES  
DECISION SUPPORT SYSTEM**

# Park Analysis Report



## Scenario Information

**Scenario Name:**

Aliso Creek

**Description:**

Opening FY 15/16  
To be built by TPL

**Scenario Type:**

New Park

**Park Class:**

Improved

**Baseline Dataset\*:**

All Parks (RAP and Non-RAP)

*\*The baseline dataset is the existing parks dataset whose service areas are used to calculate the currently non-served metrics given below in blue. These residents and households, which would be served by the proposed park, are not currently served by any existing park in the baseline dataset.*

## Population and Age Breakdown

## Household and Income Breakdown

	Total Residents Served:	Currently Non-Served Residents Served:
Residents Served:	6,670	294

	Total Households Served:	Currently Non-Served Households Served:
Households Served:	2,059	78

### Residents Served by Age

Under Age 5:	347	12
Age 5 to 9:	376	19
Age 10 to 14:	422	26
Age 15 to 17:	260	20
Age 18 to 64:	4,120	193
Age 65 and Over:	1,145	24

### Households Served by Annual Income

Under \$25,000:	633	23
\$25,000 to \$34,999:	134	3
\$35,000 to \$49,999:	288	20
\$50,000 to \$74,999:	456	3
\$75,000 and Over:	548	29

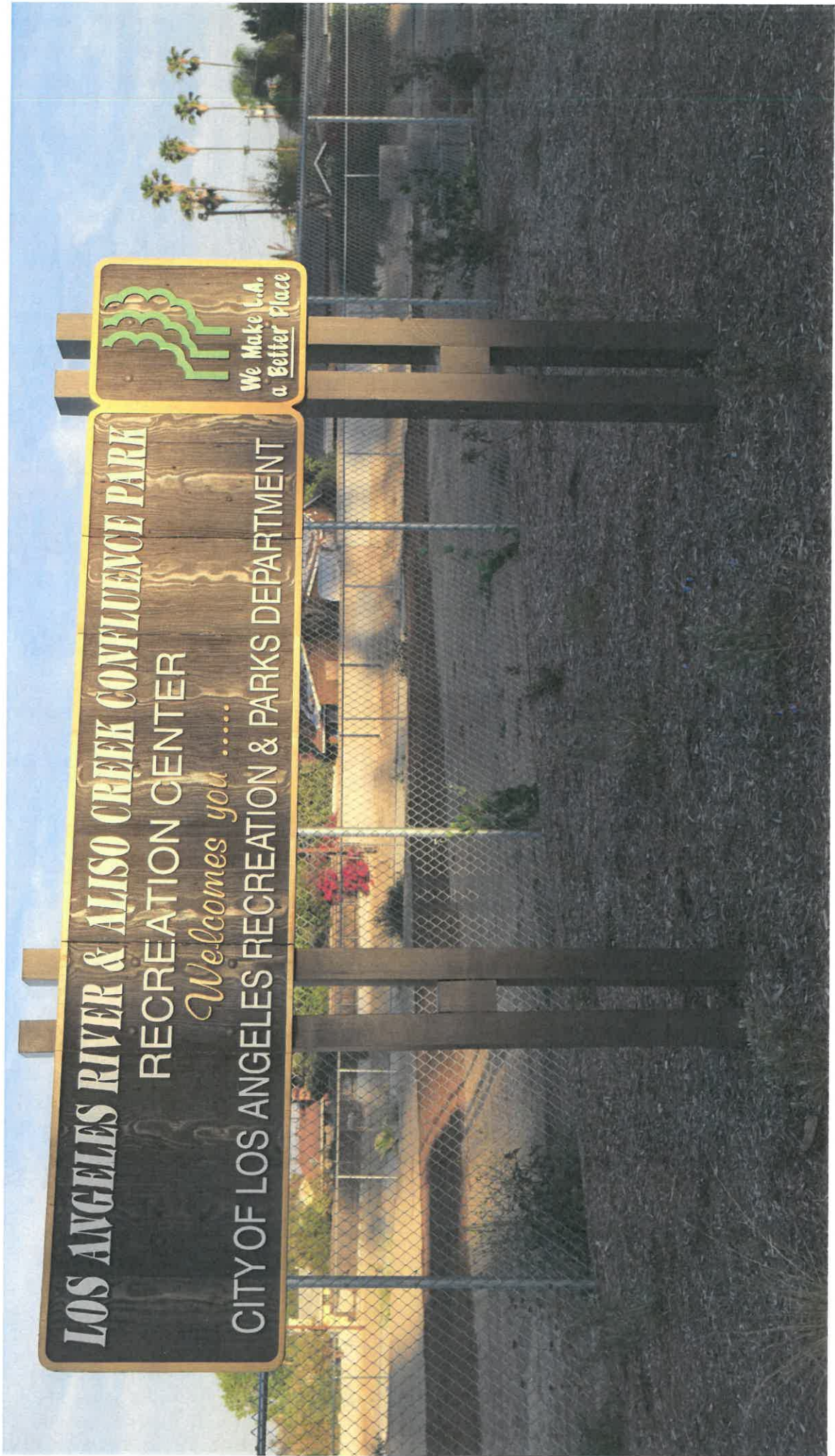
Source: Census/ACS 2010



**LOS ANGELES RIVER & ALISO CREEK CONFLUENCE PARK**  
**RECREATION CENTER**  
*Welcomes you .....*  
**CITY OF LOS ANGELES RECREATION & PARKS DEPARTMENT**



**We Make L.A.  
a Better Place**





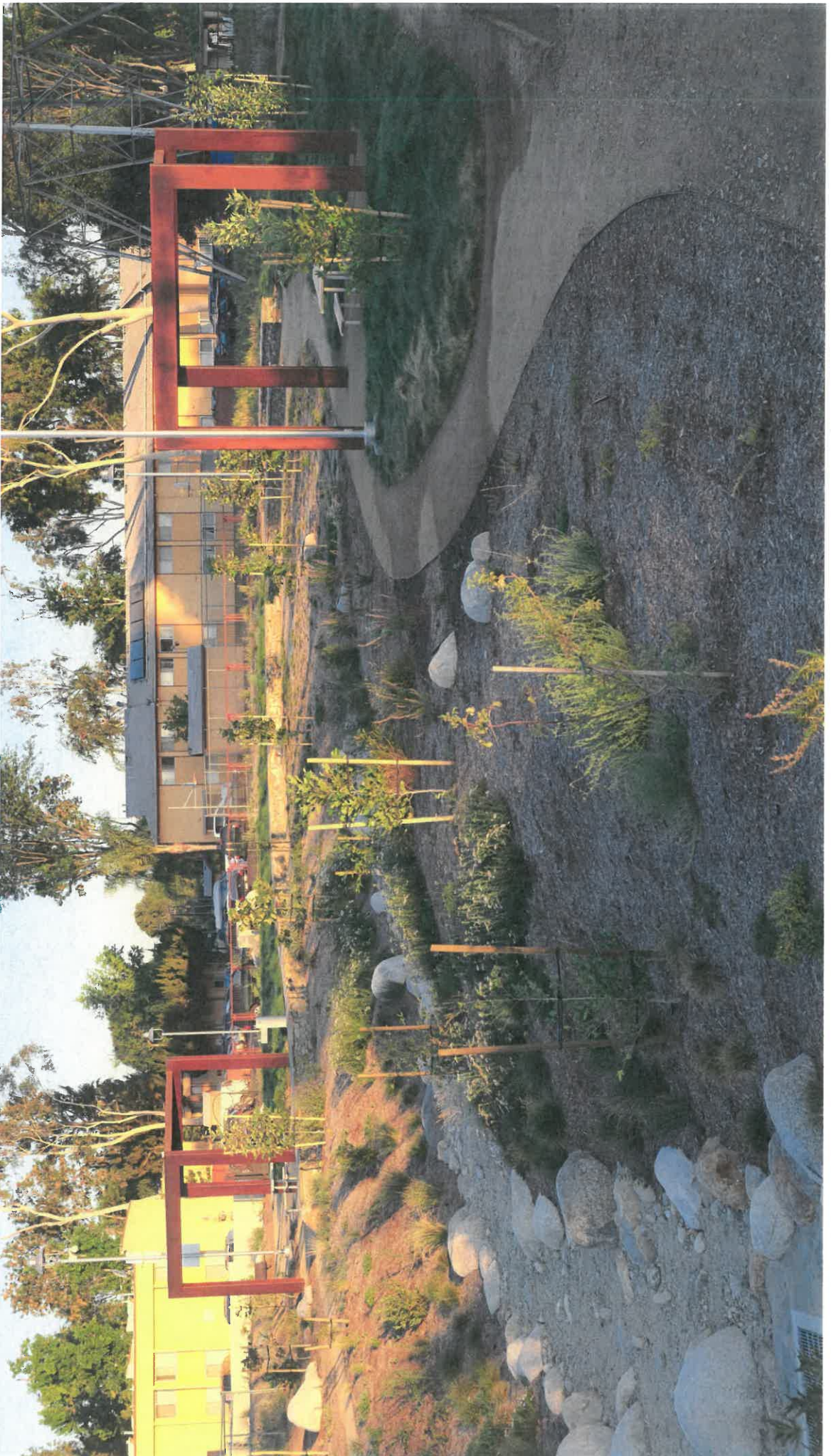


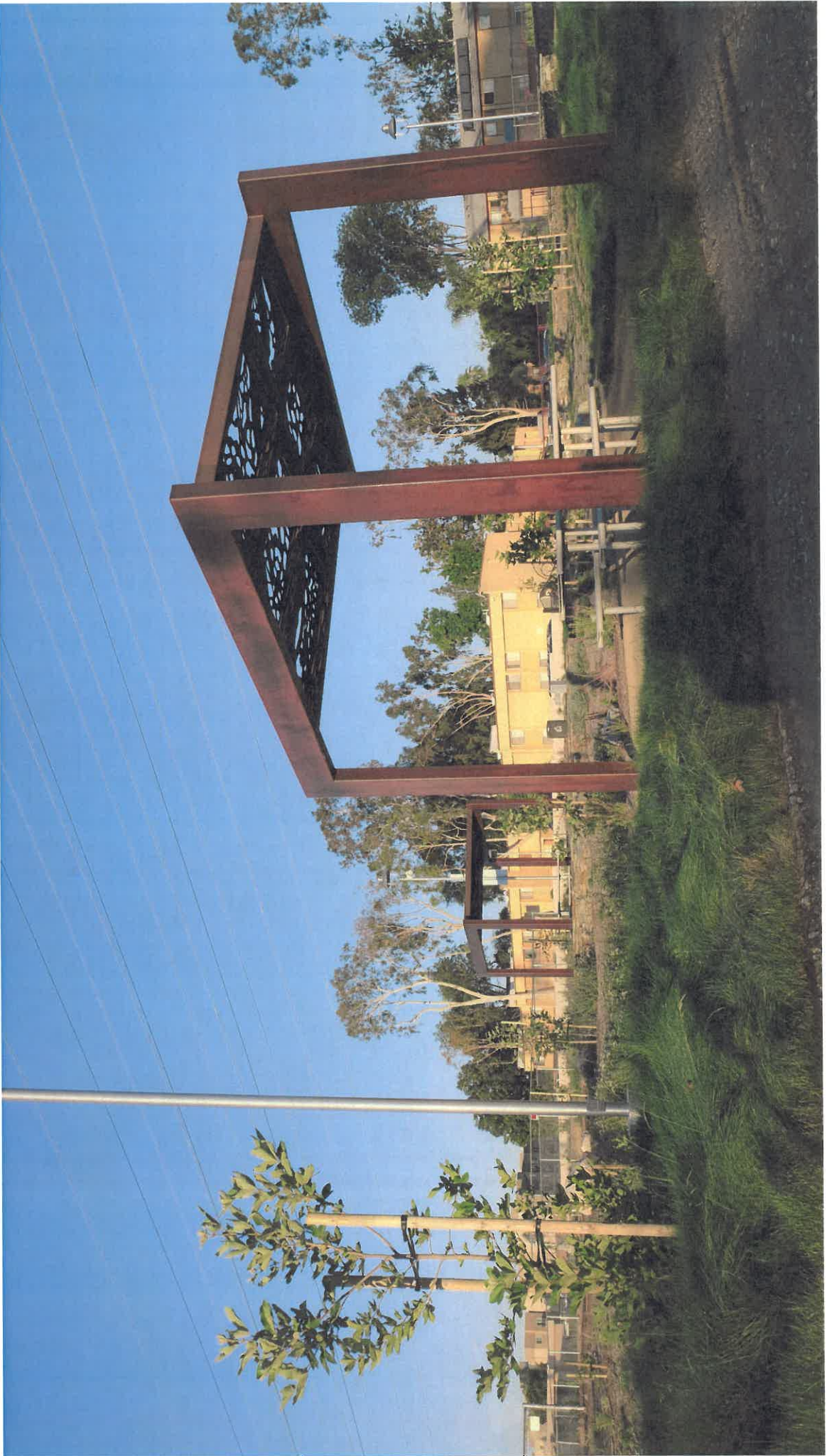






**PLANT TAG**  
1. *Quercus*  
2. *Quercus*  
3. *Quercus*  
4. *Quercus*  
5. *Quercus*  
6. *Quercus*  
7. *Quercus*  
8. *Quercus*  
9. *Quercus*  
10. *Quercus*









**BOARD REPORT**

DATE July 13, 2016

NO. 16-154

C.D. ALL

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: **PERSHING SQUARE PARK AND GARAGE - ESTABLISHMENT OF A SPECIAL FUND AND TRANSFER OF APPROPRIATIONS**

AP Diaz	_____	V. Israel	_____
*R. Barajas	_____	K. Regan	_____
H. Fujita	_____	N. Williams	<u>NbW</u>



General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Adopt a Resolution, herein included as Attachment 1, to establish an interest bearing Special Fund for Pershing Square Park and Garage to be effective August 1, 2016;
2. Authorize the Department of Recreation and Parks' (RAP) Chief Accounting Employee to establish new Pershing Square Park and Garage appropriation accounts and transfer appropriations within the fund on an as-needed basis for operation of Pershing Square Park and Garage;
3. Authorize RAP's Chief Accounting Employee to transfer existing funds from various accounts as detailed in Attachment 2 to the newly established Special Fund for Pershing Square Park and Garage; and,
4. Authorize the Department's Chief Accounting Employee to make technical corrections necessary to implement the intent of this Report.

SUMMARY

Pershing Square Park is one of the City of Los Angeles RAP's oldest parks. Park operations are funded by parking garage revenues. The Pershing Square Parking Garage (Garage) is a three-story underground public parking facility, located directly under Pershing Square Park. The Garage, constructed in 1950, was leased for fifty (50) years to a private operator. In September 2000, at the end of the long-term lease, RAP assumed self-operation of the Garage.

The Department of General Services (GSD), under a Memorandum of Understanding with RAP, carries out daily garage management and operations. In addition to funding Garage operations, Garage revenues (Revenues) provide enhanced funding for park maintenance, park programs, and special events, security in the Downtown/Metro area and capital improvements. Revenues also provide funding for youth programming for youth and families within a five-mile radius of Pershing

## BOARD REPORT

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NO. 16-154

### Square Park.

RAP staff is proposing to establish a new Special Fund for Pershing Square Park and Garage in order to capture all financial transactions in one separate fund. Currently, revenue and expenditures are recorded in separate funds. The establishment of this Special Fund will allow RAP to more clearly monitor the financial performance of the Pershing Square Park and Garage.

A description of the new accounts is outlined below:

1. Pershing Square Park Operations – A Pershing Square Park Operations Account will be established to deposit all revenue generated by the Pershing Square Park. Salaries, supplies, services and other related expenses will be expended from this account for Pershing Square Park operations and programming.
2. Pershing Square Parking Garage Operations – A Pershing Square Parking Garage Operations Account will be established to deposit all revenues generated by the Pershing Square Parking Garage. Salaries, supplies, services and other related expenses will be expended from this account for Pershing Square Parking Garage operations.
3. Pershing Square Parking Garage and Park Operations Emergency Contingency – A Pershing Square Parking Garage and Park Operations Emergency Contingency Account will be established to provide interim funding for both Garage and Park operations in the event of unexpected needs, problems and emergencies.
4. Pershing Square Capital Improvements – A Pershing Square Capital Improvement Account will be established to collect and record transactions related to capital improvements for both the Pershing Square Park and the Garage.
5. Pershing Square Project Renew – Environmental, Design, and Construction – A Pershing Square Project Renew Account will be established to collect and record transactions related to Pershing Square Project Renew.

Sub-Accounts will be established to capture more detailed information on an as-needed basis.

### FISCAL IMPACT STATEMENT

Establishment of this Special Fund will have no negative impact on RAP's General Fund.

This Report was prepared by Noel Williams, Chief Financial Officer, Finance Division.

### LIST OF ATTACHMENTS

- 1) Proposed Resolution
- 2) List of Transfers Between Funds and New Accounts

RESOLUTION NO. \_\_\_\_\_

WHEREAS, Pershing Square Parking Garage revenues provide funding for park operations and maintenance, park programs, special events, security services in the Downtown/Metro area, and capital improvements;

WHEREAS, Pershing Square Parking Garage revenues also provide funding for youth programming for youth and families within a five-mile radius of Pershing Square Park;

WHEREAS, the establishment of a new Special Fund would capture all financial transactions to clearly monitor the financial performance of the Pershing Square Park and Garage;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Recreation and Park Commissioners, authorizes the establishment of an interest-bearing Special Fund for Pershing Square Park and Garage to be effective August 1, 2016;

BE IT FURTHER RESOLVED, that the Board of Recreation and Park Commissioners authorizes the Chief Accounting Employee to establish the following Pershing Square Park and Garage appropriation accounts, and transfer appropriations within the Special Fund on an as-needed basis for operation of the Pershing Square Park and Garage;

1. Pershing Square Park Operations – A Pershing Square Park Operations Account shall be established to deposit all revenue generated by the Pershing Square Park. Salaries, supplies, services and other related expenses shall be expended from this account for Pershing Square Park operations and programming.
2. Pershing Square Parking Garage Operations – A Pershing Square Parking Garage Operations Account shall be established to deposit all revenues generated by the Pershing Square Parking Garage. Salaries, supplies, services and other related expenses shall be expended from this account for Pershing Square Parking Garage operations.
3. Pershing Square Parking Garage and Park Operations Emergency Contingency – A Pershing Square Parking Garage and Park Operations Emergency Contingency Account will be established to provide interim funding for both Garage and Park operations in the event of unexpected needs, problems and emergencies.
4. Pershing Square Capital Improvements – A Pershing Square Capital Improvement Account will be established to collect and record transactions related to capital improvements for both the Pershing Square Park and the Garage.
5. Pershing Square Project Renew – Environmental, Design, and Construction – A Pershing Square Project Renew Account will be established to collect and record transactions related to Pershing Square Project Renew.

BE IT FURTHER RESOLVED, that Sub-Accounts within the Special Fund for the Pershing Square Park and Garage shall be established to capture more detailed information on an as-needed basis;

RESOLUTION NO. \_\_\_\_\_

BE IT FURTHER RESOLVED, that the Board of Recreation and Park Commissioners authorizes the Chief Accounting Employee to transfer existing funds from the following various accounts to the newly established Special Fund for Pershing Square Park and Garage:

FROM:

• Fund 301-88, Account 88012M	\$1,000,000.00
• Fund 302-89, Account 89810M	2,425,000.00
• Fund 302-89, Account 89810M	2,500,000.00
• Fund 302-89, Account 89811M	917,607.00
• Fund 302-89, Account 89812M	1,300,000.00
• Fund 302-89, Account 89704H	<u>297,338.00</u>
Total Transfers:	\$8,439,945.00

TO:

• Fund 302-88, Account 4147 – Metro Ranger Program	\$1,000,000.00
• New Pershing Square Operations Account	2,425,000.00
• New Pershing Square Parking Garage Operations Account	2,500,000.00
• New Pershing Square Parking Garage and Park Operations Emergency Contingency Account	917,607.00
• New Pershing Square Capital Improvements Account	1,300,000.00
• New Pershing Square Project Renew – Environmental, Design and Construction Account	<u>297,338.00</u>
Total Transfers:	\$8,439,945.00

BE IT FURTHER RESOLVED, that the Board of Recreation and Park Commissioners authorizes the Chief Accounting Employee to make technical corrections as necessary to those transactions referenced herein to carry out the intent of the transfers and establishment of the new Special Fund.

I HEREBY CERTIFY, that the foregoing is a full, true and correct copy of a Resolution adopted by the Board of Recreation and Park Commissioners of the City of Los Angeles at its Regular Meeting held on \_\_\_\_\_ (Board Report No. \_\_\_\_\_).

\_\_\_\_\_  
ARMANDO X. BENCOMO, BOARD SECRETARY

RESOLUTION NO. \_\_\_\_\_

ATTACHMENT 2

Department of Recreation and Parks (RAP)  
 Transfers Between Funds and New Accounts  
 Pershing Square Park and Garage Special Fund

From Account	To Account	Amount	Description
Fund 301-88-88012M	302-88-4147	\$ 1,000,000	Metro Ranger Program
Fund 302-89-89810M	Fund XXX-89-89XXXXX	\$ 2,425,000	Pershing Square Park Operations
Fund 302-89-89810M	Fund XXX-89-89XXXXX	\$ 2,500,000	Pershing Square Parking Garage Operations
Fund 302-89-89811M	Fund XXX-89-89XXXXX	\$ 917,607	Pershing Square Parking Garage and Park Operations Emergency Contingency
Fund 302-89-89812M	Fund XXX-89-89XXXXX	\$ 1,300,000	Pershing Square Capital Improvements
Fund 302-89-89704H	Fund XXX-89-89XXXXX	\$ 297,338	* Pershing Square Project Renew-Environmental, Design and Construction
Total Transfers		\$ 8,439,945	

\*These funds were transferred from Council District 14 to a RAP interim account until a new Pershing Square Park Fund could be established.

**BOARD REPORT**

NO. 16-155

DATE July 13, 2016

C.D. ALL

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: SUMMER NIGHT LIGHTS PROGRAM AND OTHER VARIOUS PROGRAMS - ARTIST/INSTRUCTOR SERVICES; APPROPRIATIONS WITHIN FUND 302 IN THE DEPARTMENT OF RECREATION AND PARKS

AP Diaz	_____	V. Israel	_____
*R. Barajas	_____	K. Regan	_____
H. Fujita	_____	N. Williams	<u>NDW</u>



\_\_\_\_\_

General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

**RECOMMENDATIONS**

1. Adopt a Resolution authorizing the use of the services of special artists/instructors for the Summer Night Lights Program and other various Programs.
2. Authorize the Department of Recreation and Parks' (RAP) Chief Accounting Employee to appropriate \$1,688,000 (from the General City Purpose Fund) to the following accounts:

<u>Fund</u>	<u>Department</u>	<u>Account</u>	<u>Account Description</u>	<u>Amount</u>
302	88	001070	Salaries-As-Needed	\$1,433,500.00
302	88	006020	Operating Expense	\$74,500.00
302	88	0094XX	SNL-Vendor Only	<u>\$180,000.00</u>
Total				\$1,688,000.00

3. Authorize RAP's Chief Accounting Employee to encumber funds for the payment of specialized artists/instructors for the Summer Night Lights Program and other various programs in the amount not to exceed \$180,000 for the service period from April 1, 2016 to June 30, 2017.
4. Authorize RAP's Chief Accounting Employee to make technical corrections as necessary to carry out the intent of this Report.

## BOARD REPORT

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### SUMMARY

For the last several years, RAP has played a supportive role in the implementation of the Summer Night Lights Program (SNL) as developed and overseen by the Office of the Mayor (Mayor). SNL provides enhanced programming for economically disadvantaged neighborhoods during the summer months. RAP has largely provided maintenance services, opened up our facilities for use by SNL and performed other supportive tasks. In preparation for the SNL program during the Summer of 2015, the Mayor requested that RAP assume the duties of "the Fiscal Agent" for SNL. This involved assisting in the hiring and payment of all the part-time staff to be used in SNL, purchasing of materials and procuring the services of specialized artists/instructors to offer classes to patrons at SNL sites. RAP will continue in its role as Fiscal Agent for SNL for the Fiscal Year 2016-17.

For Fiscal Year 2016-17, funds in the amount of \$1,688,000 were placed in the General City Purposes (GCP) Account, to reimburse RAP for performing its Fiscal Agent duties. This Report requests that the Board approve the appropriation of the funds from the GCP into various accounts, and authorize RAP staff to encumber and pay specialized artists/instructors for services provided to the SNL and other various programs.

### FISCAL IMPACT STATEMENT

Establishment of this special fund will have no negative impact on RAP's General Fund.

This Report was prepared by Noel Williams, Chief Financial Officer, Finance Division.



**BOARD REPORT**

NO. 16-156

DATE July 13, 2016

C.D. Various

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: ENCUMBRANCE OF FUNDS AND PAYMENTS TO KNORR SYSTEMS, INC. AND WATERLINE TECHNOLOGIES, INC. FOR SUMMER POOL MAINTENANCE SERVICES

AP Diaz \_\_\_\_\_  
R. Barajas \_\_\_\_\_  
H. Fujita \_\_\_\_\_

V. Israel \_\_\_\_\_  
K. Regan \_\_\_\_\_  
\*N. Williams NPW



General Manager

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Authorize an encumbrance of funds and payments in the amount of not to exceed Ninety-Five Thousand Dollars (\$95,000.00) to Knorr Systems, Inc. from Fund 302, Department 88, Contractual Services Account 3040 for summer season pool maintenance services retroactive from July 1, 2016 through September 30, 2016;
2. Authorize an encumbrance of funds and payments in the amount of not to exceed Ninety-Five Thousand Dollars (\$95,000.00) to Waterline Technologies, Inc. from Fund 302, Department 88, Contractual Services Account 3040 for summer season pool maintenance services retroactive from July 1, 2016 through September 30, 2016; and
3. Authorize the Department of Recreation and Parks' Chief Accounting Employee to make technical corrections as necessary to carry out the intent of this Report.

SUMMARY

The Department of Recreation and Parks (RAP) has an urgent need for outsourced pool maintenance services during the summer season from July 1, 2016 through September 30, 2016 as a result of shortage of department mechanical staff. RAP has lost 50% of its full-time pool maintenance staff, primarily Mechanical Repairers, due to retirements, promotions and transfers. RAP has not been able to fill the vacant positions pending City's eligible list for the Mechanical Repairer Class. A test for this class was given by the Personnel Department in May 2016. Until RAP is able to recruit and train the mechanical staff, RAP needs to outsource the necessary services in order to properly maintain public swimming pools for the preservation of public health and safety and for providing relief to the public. The need is pressing particularly during the summer season when the public pools are in high demand.

RAP traditionally uses in-house crew for pool maintenance and does not have existing contracts for these types of services. As time is of the essence, staff recommends the following two vendors to provide the temporary as-needed pool maintenance services:

## BOARD REPORT

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Knorr Systems, Inc.  
2221 Standard Avenue  
Santa Ana, California 92707

Waterline Technologies, Inc.  
620 North Santiago Street  
Santa Ana, California 92701.

Knorr Systems, Inc. and Waterline Technologies, Inc. both have a history with RAP's pool maintenance crew performing sub-contracted services and repairs for swimming pools and splash pads including circulation systems, filtering systems, heating, and chemical controllers. Both have performed maintenance and repairs to equipment with satisfactory results. Additionally, both vendors have worked on multiple RAP's capital projects as sub-contractors with the Department of Public Works, Bureau of Engineering. Both have the capacity to provide the needed services immediately that include, but not limited to the following:

- Maintain, test and balance chemicals and water quality in accordance to Los Angeles County guidelines.
- Monitor, inspect, trouble shoot and maintain pool related equipment.
- Report status, repairs, part failures and related findings to RAP staff.
- Provide after hour emergency responses.
- Provide any other pool maintenance related services as requested by RAP.

All vendors' work will be assigned and approved by RAP staff on an as-needed basis during the summer season from July 1, 2016 through September 30, 2016. The compensation ceiling is Ninety-Five Thousand Dollars (\$95,000.00) for each vendor. Both must have valid City Business Tax Registration Certificate, provide sufficient insurance coverage, and be in compliance with other applicable City requirements.

### FISCAL IMPACT STATEMENT

Funding for the pool maintenance services is available in Fund 302, Department 88, Contractual Services Account 3040 for Fiscal Year 2016-17.

This report was prepared by Noel Williams, Chief Financial Officer, Finance Division.

**BOARD REPORT**

NO. 16-157

DATE July 13, 2016

C.D. ALL

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: ATHLETIC SURFACE INSPECTION, TESTING AND RELATED PROFESSIONAL SERVICES- AWARD OF CONTRACT

* AP Diaz	_____	V. Israel	_____
R. Barajas	_____	K. Regan	_____
H. Fujita	_____	N. Williams	<u>NDW</u>



\_\_\_\_\_

General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

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RECOMMENDATIONS

1. Find, in accordance with Charter Section 1022, that the Department of Recreation and Parks (RAP) does not have, available in its employ, personnel with sufficient time or necessary expertise to perform athletic surface inspections, testing and other related services, and it is more feasible, economical and in the RAP's best interest, to secure these services by contract to perform this work as-needed and on an occasional, but frequent basis, without engaging in a new open competitive bidding process for each individual project to be performed;
2. Find, in accordance with Charter Section 371(e)(2) and Los Angeles Administrative Code Section 10.15(a)(2), that a competitive bidding is not practicable or advantageous as it is necessary for RAP to be able to call on contractors to perform this work as-needed and on an occasional, but frequent, basis without engaging in a new competitive process for each individual project to be performed; however, from among as-needed contractors each individual project is assigned on the basis of availability of an as-needed contractor to perform the work, the price to be charged and the unique expertise of the as-needed contractor;
3. Find, in accordance with Charter Section 371(e)(10), that use of competitive bidding would be undesirable, impractical or impossible or is otherwise excused by the common law and the Charter because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by RAP to provide athletic surface inspections, testing and other related services;
4. Find, in accordance with Charter Section 372, that obtaining competitive proposals or bids for each individual project for which work may be performed pursuant to this is not

## BOARD REPORT

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reasonably practicable or compatible with RAP's interests of having available as-needed contractors who are assigned various projects on the basis of availability, price, and expertise, and that it is therefore necessary to have several as-needed contractors for this type of service available when called upon by RAP to perform services;

5. Approve the selection process for the selection of qualified firms;
6. Approve the proposed contract (Contract), herein included as Attachment 3, between the City of Los Angeles and DMA Sports Design Group, L.L.C, for as-needed athletic surface inspection, testing and related professional services for a three-year contract, specifying the terms and conditions, subject to approval of the Mayor and the City Attorney as to form;

### Contractor:

- 1) DMA Sports Design Group, L.L.C.  
31566 Railroad Canyon Rd., Suite 2  
Canyon Lake, California 92587-9446
7. Direct the Board Secretary to transmit the Contract to the Mayor in accordance with Executive Directive No. 3 and concurrently, to the City Attorney for review and approval as to form; and,
8. Authorize the Board President and Secretary to execute the Contract upon receipt of the necessary approvals.

### SUMMARY

On April 6, 2016, the Board approved a Request for Bid (RFB) for Athletic Surface Inspection, Testing and Related Professional Services (Report No. 16-088), which was released April 12, 2016. On May 10, 2016, the Department received one (1) bid in response to the RFB. The responder was:

- 1) DMA Sports Design Group, L.L.C.

Athletic Surface Inspections include, but are not limited to, the assessment and inspection of new and existing natural grass turf, all weather turf (synthetic), basketball courts (indoor/ outdoor), volleyball courts (indoor/ outdoor), racquetball courts (indoor/ outdoor), tennis courts, running tracks, playground surfacing and golf greens.

The following list specifies all tests that may be required under the terms and conditions of this Contract. Each test listed is defined under Exhibit B:

- GMAX (ASTM F1936 and F355A)
- Shock Absorption and Vertical Deformation:
- Rotational Resistance (Traction):

## BOARD REPORT

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- Slip Resistance Scale and Deceleration:
- Vertical Ball Rebound:
- Ball Roll:
- Off Site Plant Material Inspections:
- Permeability of Synthetic Turf Sports Field Base Stone and Surface System (ASTM F2898):
- Compaction (ASTM D-1557 or D-698):

Related Professional Services may include, but are not limited to, submittal review and approvals, sub-base and final athletic surface inspection and approvals in accordance to the City's scope of work, performance specifications, material inspection, approval and certification (on and off site), athletic surface installation inspection, certification and/or project design/engineering as it relates to athletic surface installation.

The Bidder underwent two levels of reviews. The Level I review focused on whether the Bidder submitted a completed bid package as required. All required forms were reviewed for content and required signatures. The Bidder submitted a completed bid package and was deemed responsive for the Level I review. The Level II review focused on the Bidder's actual qualifications and experience in performing the required athletic surface inspection, testing and related professional services as detailed in the RFB package. The following is the minimum qualifications that the Bidder was required to meet:

- 1) Bidder must have ten years of experience self-performing third party athletic field testing, which includes but is not limited to *GMAX, Shock Absorption and Vertical Deformation, Rotational Resistance (Traction), Slip Resistance Scale and Deceleration, Vertical Ball Rebound and Ball Roll Tests*. Bidder must provide a job history reflecting work performed going back to April 1, 2011 to current, description of test/s performed, type of equipment used for test (Deltec, Clegg, etc.), valid contact person/s and contact phone numbers who can verify work performed.
- 2) Bidder must currently have Professional Liability Insurance of One Million Dollars (\$1,000,000.00) or more.
- 3) Bidder must own and self-operate independent manufactured equipment not associated to any testing company. No conflict of interest will be allowed as it relates to the Tester's association with the Testing Equipment Manufacture.
- 4) Work Experience: Bidder must provide a list of ten synthetic field projects in the State of California, within the last five years. The Bidder must have performed the following tasks for all listed projects:
  - a) Off Site Plant Material Inspections: Bidder must provide evidence that they have performed a plant material inspection for each project listed. The plant material inspection must have included yarn type verification, determining average yarn denier, verifying manufacturing yarn uniformity and pile height and coloration throughout the manufacturing "run", verifying primary backing, perforation requirements and verifying

## BOARD REPORT

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the urethane coating is consistently applied and the turf and tuft binding is strong. Bidders must provide actual reports generated for client.

- b) Field Testing, which includes GMAX, Shock Absorption and Vertical Deformation, Rotational Resistance (Traction), Slip Resistance Scale and Deceleration, Vertical Ball Rebound and Ball Roll Tests for each project. Bidder must provide copies of at least five (5) reports associated with the listed projects.
  - c) Bidder must have inspected and provided a final report certifying that all ten field projects were safe for play.
- 5) Bidder must be a current member of the Sports Turf Managers Association (STMA). Bidder must provide evidence of their current membership affiliation.

The bidder was required to provide bid prices on the "Bid Sheet" located on pages 19 and 20 of the RFB package. These bid prices are provided on Exhibit "A" of this Report. Because there was only one bid provided in this bid process, Staff does not have a low bidder determination. Because there is only one bid submittal, Staff needed to performed a market research analysis to determine whether the current bid met market pricing for the same services provided. Based on Staff's market research, the bid prices for line items 1-8 were equal or below market pricing. Bid line items 9-13 were more difficult to determine due to the complexity of the bundled services requested (i.e. various testing, inspections, plans and specification review/ approvals and attendance of five or more project meetings), complicated the market analysis. Most testing laboratories do not provide point of sale material inspection and testing, plans/ specification and submittal review and approvals. We based our market analysis for line items 9-13 on what the City has paid historically for similar services. Based on the Staff's market analysis, the bidder's prices for bid line items 1-13 are acceptable and in line with current market rates.

The selected Bidder is recommended to the Board for a three-year contract, in an amount not to exceed Five Hundred Thousand Dollars (\$500,000.00) per year. The contract amount is an estimate and RAP does not guarantee that the contract maximum amount will be reached. The professional services that RAP is requesting shall be on an as-needed basis; RAP, in entering into an agreement, guarantees no minimum amount of business or compensation. Contracts awarded through this RFB shall be subject to funding availability and early termination by RAP, as provided in the Standard Provisions for City Contracts.

### FISCAL IMPACT STATEMENT

Funding for projects will be provided from various funding sources including to but not limited to Proposition K, Quimby, and Proposition 40.

This Report was prepared by Jim Newsom, Sr. Management Analyst I, Finance Division.

BOARD REPORT

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LIST OF ATTACHMENTS/EXHIBITS

- 1) Exhibit A – Bid Sheet
- 2) Exhibit B – Athletic Surface Testing Services
- 3) Proposed Contract

EXHIBIT A  
BID SHEET

<u>Line Item</u>	<u>Bid Price</u>
1) GMAX Test of a field size 0-117,000 sf.	<u>\$900.00</u>
2) Shock Absorption and Vertical Deformation Test: Fields 0-117,000 sf.	<u>\$1,200.00</u>
3) Rotational Resistance (Traction) Test for field size 0-117,000 sf.	<u>\$900.00</u>
4) Slip Resistance Scale and Deceleration Test for field size 0-117,000 sf.	<u>\$1,200.00</u>
5) Vertical Ball Rebound Test for field size 0-117,000 sf.	<u>\$200.00</u>
6) Ball Roll Test for field size 0-117,000 sf.	<u>\$200.00</u>
7) Permeability of Synthetic Turf Sports Fields (ASTM F-2898) for field Size of 0-117,000 sf.	<u>\$1,800.00</u>
8) Compaction (ASTM D-1557 or D-698) for field size of 0-117,000 sf.	<u>\$2,400.00</u>
9) Off Site Plant Material Inspection (Per Visit)	<u>\$2,500.00</u>



EXHIBIT A (CONTINUED)

BID SHEET

Bid Price

- 10) Inspection and testing of one (1) new field Construction project (0-117K sf) which will include all testing (bid items 1-9), off/on site material inspection, submittal review/ approval of athletic field material and attendance of at least five (5) construction meetings. \$17,000.00
- 11) Inspection and testing of two (2) to four (4) new Field Construction projects (0-117K sf each), which will include all testing (bid items 1-9), off/on site material inspection, submittal review/ approval of athletic field material and attend up to five (5) construction meetings related to the project. \$25,000.00
- 12) Inspection and testing of one (1) field retrofit project (0-117K sf) which will include the testing listed on (bid items 1-6, 9), off/on site material inspection, submittal review/ approval of athletic field material and attendance of at least five (5) construction meetings. \$11,000.00
- 13) Inspection and testing of two (2) to four (4) field retrofit projects (0-117K sf) which, will include the testing listed on (bid items 1-6, 9), off/on site material inspection, submittal review/ approval of athletic field material and attendance of at least five (5) construction meetings. \$16,000.00

EXHIBIT B  
ATHLETIC SURFACE TESTING SERVICES

- 1) *GMAX* (ASTM F1936 and F355A) – Gives an indication of high impact shock absorption.
- 2) *Shock Absorption and Vertical Deformation*: Measures the impact absorption provided by synthetic turf to a player running (lower extremity impact) or falling on as well as the foot stability of the surface as a player runs across it. Excess deformation of a surface could lead to over strained joints and fatigue.
- 3) *Rotational Resistance* (Traction): Measures the interaction between the shoe sole and the surface of artificial grass relating to the ability of a player to change direction.
- 4) *Slip Resistance Scale and Deceleration*: Measures the ability of studs to slide through the surface without causing the player to slip over. Slip resistance deceleration measures the deceleration experienced by the player's shoe as it makes contact with the surface. If the deceleration is too high, damages to joints and ligaments may occur.
- 5) *Vertical Ball Rebound*: Measures how high the ball bounces when falling vertically onto a synthetic turf field. (Although a method for soccer, this also gives an indication of consistent infill levels throughout the playing surface in a low cost tool).
- 6) *Ball Roll*: Measures how far the ball rolls onto synthetic grass compared to natural grass. (Although a method for soccer, this also gives an indication whether or not grass piles are standing up in a low cost tool).
- 7) *Off Site Plant Material Inspections*: This site inspection will include yarn type verification, determining average yarn denier, verifying manufacturing yarn uniformity, pile height, coloration throughout the manufacturing "run", verifying primary backing, perforation requirements, verification that the urethane coating is consistently applied and the turf and tuft binding is strong.

## EXHIBIT B (Continued)

- 8) *Permeability of Synthetic Turf Sports Field Base Stone and Surface System (ASTM F2898)*: Measures the permeability of synthetic turf systems through a simple method, requiring no special testing apparatus, that would decrease the potential for user technique and assumption errors while at the same time providing intuitive and observable results. The method uses a predetermined flow rate from a water source, two (2) simple ball valves, sections of hose, a five (5) gallon container of measured volume, stopwatch, markers to mark the extent of water migration on the surface, and a tape measure. Water source flow rate is calculated using the time it takes to fill the five gallon container of measured volume as the basis of flow for each individual test.
  
- 9) *Compaction (ASTM D-1557 or D-698)*: Measures compaction to a dense state to obtain satisfactory engineering properties such as shear strength, compressibility, or permeability. In addition, foundation soils are often compacted to improve their engineering properties. Laboratory compaction tests provide the basis for determining the percent compaction and molding water content needed to achieve the required engineering properties, and for controlling construction to assure that the required compaction and water contents are achieved.

**CONTRACT**  
**BETWEEN**  
**THE CITY OF LOS ANGELES**  
**AND**

**DMA SPORTS DESIGN GROUP, L.L.C.**

**ATHLETIC SURFACE INSPECTION, TESTING AND RELATED PROFESSIONAL SERVICES**

This CONTRACT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between the City of Los Angeles, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners (hereinafter referred to as CITY), and DMA Sports Design Group, L.L.C., hereinafter referred to as CONTRACTOR.

**RECITALS**

WHEREAS, CITY owns various facilities and infrastructure throughout the City of Los Angeles and is responsible for the maintenance and improvements for such facilities and infrastructure; and

WHEREAS, the Department of Recreation and Parks (DEPARTMENT) requires the services of an experienced and responsible CONTRACTOR to perform athletic surface inspections, testing and related professional services for the DEPARTMENT; and

WHEREAS, a Request for Bid (RFB) for athletic surface inspection, testing and related professional services was released on April 12, 2016, and one (1) bid to the RFB was received on May 10, 2016; and

WHEREAS, the CONTRACTOR'S bid met the minimum requirement for athletic surface inspections, testing and related professional services requirements as specified in the RFB; and

WHEREAS, CONTRACTOR has the necessary equipment and staff who possess sufficient knowledge, expertise, and experience required to provide the necessary services and has indicated its willingness to perform such services; and

WHEREAS, CITY, pursuant to Charter Section 371(e)(2), finds that competitive bidding is not practicable or advantageous as it is necessary for the DEPARTMENT to be able to call on contractors to perform this technical and expert work as-needed and on an occasional, but frequent, basis without engaging in a new competitive process for each individual project to be performed; however, from among as-needed contractors each individual project is assigned on the basis of availability of an as-needed contractor to perform the work, the price to be charged and the unique expertise of the as-needed contractor; and,

WHEREAS, CITY, pursuant to Charter Section 372 and Los Angeles Administrative Code Section 10.15(a)(2), finds that obtaining competitive proposals or bids for each individual project for which work may be performed pursuant to this agreement is not reasonably practicable or compatible with the DEPARTMENT's interests of having available as-needed contractors who are assigned various projects on the basis of availability, price and expertise and that it is therefore necessary to have several as-needed contractors for this type of service available when called upon by the DEPARTMENT to perform services; and,

WHEREAS, CITY, pursuant to Charter Section 371(e)(10), finds that use of competitive bidding would be undesirable, impractical or impossible or is otherwise excused by the common law and the Charter because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by DEPARTMENT to provide as-needed athletic surface inspections, testing and related professional services;

WHEREAS, CITY, pursuant to Charter Section 1022, finds that DEPARTMENT does not have sufficient or adequate personnel in its employ to undertake this task on an emergency basis and it is more feasible and economical to secure said services by contract.

NOW, THEREFORE, CITY AND CONTRACTOR, in consideration of the recitals above and of the terms, covenants, and conditions contained herein, agree as follows:

## SECTION 1 - PARTIES TO CONTRACT, REPRESENTATIVES AND NOTICE

### 1.1 Parties

The parties to this CONTRACT are:

CITY - The City of Los Angeles, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners, having its principal office located at 221 North Figueroa Street, Suite 300, Los Angeles, California, 90012.

CONTRACTOR – DMA Sports Design Group, L.L.C., having its principal office located at 31566 Railroad Canyon Road, Suite 2, Canyon Lake, CA 92587.

1.2 Representatives

The representatives of the parties who are authorized to administer this CONTRACT and to whom formal notices, demands and communications will be given for as follows:

CITY's representative will be:

Michael A. Shull, General Manager  
Department of Recreation and Parks  
221 N. Figueroa St., Suite 350  
Los Angeles, CA 90012

With copies to:

Jim Newsom, Senior Management Analyst I  
Department of Recreation and Parks  
221 N. Figueroa St., Suite 200  
Los Angeles, CA 90012

Telephone Number: (818) 756-9294  
Fax Number: (818) 908-9786

CONTRACTOR'S representative will be:

Joseph DiGeronimo, Principle  
DMA Sports Design Group, L.L.C.  
31566 Railroad Canyon Road, Suite 2  
Canyon Lake, CA 92587-9446

Telephone Number: (508) 579-8015  
Email: dgeronimo@aol.com

1.3 Notices

Formal notices, demands and communications to be given hereunder by either party will be made in writing and may be effected by personal delivery or certified mail, return receipt requested, and will be deemed communicated as of the date of receipt.

If the person designated to receive the notices, demands or communications or the address of such person is changed, written notice shall be given, in accord with this ARTICLE, within five (5) working days of the change.

## SECTION 2 - TERM OF CONTRACT

The term of this contract shall be three (3) years from the date of execution between the CONTRACTOR and CITY, subject to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts (Rev. 3/09).

## SECTION 3 - SERVICES TO BE PERFORMED BY THE CONTRACTOR

### 3.1 Conduct of Operations

- A. At all times, work must conform to all current, relevant Federal, State and Local Charter and Municipal Codes and Regulations.
- B. CONTRACTOR shall endeavor to maintain good public relations at all times. The work shall be conducted in a manner that will cause the least possible interference with or annoyance to park patrons or employees.
- C. A qualified supervisor shall be present and readily available to City personnel and the public during hours of operation at each work site. The site supervisor shall be available to the Contract Inspector at all times during normal working hours. Avoiding contact with the Contract Inspector may result in suspension of work without extension.
- D. CONTRACTOR's working hours must coincide with those of DEPARTMENT (Monday through Friday, 7:00 a.m. – 3:30 p.m., excluding City holidays). DEPARTMENT must approve in advance any deviation from these hours and/or work on weekends and/or holidays.
- E. CONTRACTOR shall carefully protect from damage all existing trees, shrubs, plants, fences, and other features. The CONTRACTOR shall be liable for any and all damage(s) caused by contract operations to such trees, shrubs, plants, other growth and features or property. All damaged trees, shrubs, plants, other growth and features, and property shall be replaced or restored to their original condition to the satisfaction of the Contract Inspector at CONTRACTOR's expense.
- F. Contractor will be responsible for all safety requirements and certifications in accordance with CAL-OSHA rules and regulations. It will be the CONTRACTOR's responsibility to assess the work location and implement safety controls and procedures that are compliant with Title 8 of the California Code of Regulations. All projects will be awarded to CONTRACTOR as a "Single Employer" in accordance with CAL OSHA classifications. CONTRACTOR will be responsible and have full control over all activities as well as safety requirements thereof, for each as-need project awarded.

- G. All work shall be completed to the satisfaction of the Department of Recreation and Parks Contract Inspector. Work will be considered complete only when signed off by the Contract Inspector. Work shall be performed to the specifications as determined by DEPARTMENT.
- H. Failure to comply with any requirement contained herein may result in suspension of work without extension.
- I. The Contract Inspector must approve any request for subcontracting of work prior to such subcontracting.
- J. CONTRACTOR shall provide equipment and personnel for all tasks.

### 3.2 SERVICES TO BE PROVIDED BY CONTRACTOR:

Athletic surface inspection, testing and related professional services includes but is not limited to:

3.2.1 Athletic Surface Inspection: Surface inspections include but are not limited to the assessment and inspection of new and existing natural grass turf, all weather turf (synthetic), basketball courts (indoor/ outdoor), volleyball courts (indoor/ outdoor), racquetball courts (indoor/ outdoor), tennis courts, running tracks, playground surfacing and golf greens.

3.2.2 Testing: Testing of athletic surfaces includes:

1. GMAX (ASTM F1936 and F355A) – Gives an indication of high impact shock absorption.
2. Shock Absorption and Vertical Deformation: Measures the impact absorption provided by synthetic turf to a player running (lower extremity impact) or falling on as well as the foot stability of the surface as a player runs across it. Excess deformation of a surface could lead to over strained joints and fatigue.
3. Rotational Resistance (Traction): Measures the interaction between the shoe sole and the surface of artificial grass relating to the ability of a player to change direction.
4. Slip Resistance Scale and Deceleration: Measures the ability of studs to slide through the surface without causing the player to slip over. Slip resistance deceleration measures the deceleration experienced by the players shoe as it makes contact with the surface. If the deceleration is too high, damages to joints and ligaments may occur.



5. Vertical Ball Rebound: Measures how high the ball bounces when falling vertically onto a synthetic turf field. (Although a method for soccer, this also gives an indication of consistent infill levels throughout the playing surface in a low cost tool).
  6. Ball Roll: Measures how far the ball rolls onto synthetic grass compared to natural grass. (Although a method for soccer, this also gives an indication whether or not grass piles are standing up in a low cost tool).
  7. Off Site Plant Material Inspections: This site inspection will include yarn type verification, determining average yarn denier, verifying manufacturing yarn uniformity, pile height, coloration throughout the manufacturing "run", verifying primary backing, perforation requirements, verification that the urethane coating is consistently applied and the turf and tuft binding is strong.
  8. Permeability of Synthetic Turf Sports Field Base Stone and Surface System (ASTM F2898): Measures the permeability of synthetic turf systems through a simple method, requiring no special testing apparatus, that would decrease the potential for user technique and assumption errors while at the same time providing intuitive and observable results. The method uses a predetermined flow rate from a water source, two (2) simple ball valves, sections of hose, a five (5) gallon container of measured volume, stopwatch, markers to mark the extent of water migration on the surface, and a tape measure. Water source flow rate is calculated using the time it takes to fill the five gallon container of measured volume as the basis of flow for each individual test.
  9. Compaction (ASTM D-1557 or D-698): Measures compaction to a dense state to obtain satisfactory engineering properties such as shear strength, compressibility, or permeability. In addition, foundation soils are often compacted to improve their engineering properties. Laboratory compaction tests provide the basis for determining the percent compaction and molding water content needed to achieve the required engineering properties, and for controlling construction to assure that the required compaction and water contents are achieved.
- 3.2.3 Related Professional Services: may include but are not limited to, submittal review and approval, sub-base and final athletic surface inspection and approval in accordance to the City's scope of work and performance specifications, material inspection, approval and certification (on and off site), athletic surface installation inspection, certification, project design/ engineering as it relates to athletic surface installation.

#### SECTION 4 - SERVICES TO BE PROVIDED BY DEPARTMENT

- 4.1 DEPARTMENT personnel will work cooperatively with the CONTRACTOR to ensure timely approvals of all items required under this contract.

- 4.2 DEPARTMENT will promptly act, review, and make decisions as necessary to permit the orderly progress of this work.

## SECTION 5 - INSPECTION

- 5.1 CONTRACTOR must request final inspection from DEPARTMENT representative for work completed at each site.
- 5.2 CONTRACTOR will receive written notification for any services and/or delivery determined by the Project Manager (or his/her designee) to be below an acceptable level. This notification shall be in the form of a "Notice to Correct Unacceptable Service."
- 5.3 CONTRACTOR shall respond in writing to the Project Manager indicating the steps taken to correct the unacceptable service. If unacceptable service is not corrected after CONTRACTOR receives the "Notice to Correct Unacceptable Service," payment may be withheld by DEPARTMENT until corrections are made.
- 5.4 If unacceptable service continues, or if CONTRACTOR receives three (3) or more such notices, CITY may terminate the contract as described in PSC-10-Termination, of the Standard Provisions for City Contracts (Rev. 3/09), attached hereto and incorporated herein by reference as Appendix A.

## SECTION 6 - COMPENSATION AND INVOICING

### 6.1 Compensation

DEPARTMENT will pay CONTRACTOR an amount for service outlined in the "Notice to Proceed" for each individual project. The total for this contract will not exceed Five Hundred Thousand Dollars (\$500,000.00) annually. CITY will monitor this not-to-exceed aggregate total.

- 6.2 CONTRACTOR shall inform DEPARTMENT of any additional project costs due to unforeseen delays and unexpected changes to the scope of work. Additional project costs shall be itemized by CONTRACTOR and approved by DEPARTMENT before payment is made to CONTRACTOR.
- 6.3 CONTRACTOR must provide a report for each service line item that is awarded to the CONTRACTOR. These reports should reflect all pertinent information as it relates to the test and/or inspection performed. The Report should have the CONTRACTOR's business name, address, contract number and contact phone, email and location where the service was performed. All billings must reflect the line item pricing listed in Section 7 of this contract document. No payments shall be made by City accounting staff without an authorized signature from City Staff.

6.4 Partial Payments may be requested by CONTRACTOR provided that the City approves such request.

6.4 Invoicing

CONTRACTOR shall invoice upon completion of job by submitting two (2) copies of the invoice, which details the work performed in accordance with the original scope of services and any approved amendments to the scope, within thirty (30) days of completion of service.

CONTRACTOR shall submit invoices to:

Department of Recreation and Parks  
Attention: Jim Newsom  
Finance Division, Contract Administration Section  
6335 Woodley Ave, Contract Administration Building  
Van Nuys, CA 91406

All invoices shall be submitted on CONTRACTOR'S letterhead, containing CONTRACTOR'S official logo, or other unique and identifying information such as the name and address of CONTRACTOR. Evidence that the task has been completed, in the form of a report, brochure or photographs, shall be attached to all invoices.

Invoices and supporting documentation shall be prepared at the sole expense and responsibility of CONTRACTOR. CITY will not compensate CONTRACTOR for costs incurred in invoice preparation. DEPARTMENT may request changes to the content and format of the invoice and supporting documentation at any time. DEPARTMENT reserves the right to request additional supporting documentation to substantiate costs at any time.

Tasks that are completed by subcontractors shall be supported by subcontractor invoices, copies of pages from reports, brochures, photographs, or other unique documentation that substantiates their charges.

Failure to adhere to these policies may result in nonpayment pursuant to Charter Section 262(a), which requires the City Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any City office or Department, and to approve demands before they are drawn on the Treasury.

SECTION 7 – CONTRACT SERVICE LINE ITEMS AND PRICES

Contract Line Items

- 1) GMAX Test of a field size  
0-117,000 sf. \*\*\*\*\* \$ 900.00
  
- 2) Shock Absorption and Vertical  
Deformation Test: Fields 0-117,000 sf. \*\*\*\*\* \$ 1,200.00
  
- 3) Rotational Resistance (Traction)  
Test for field size 0-117,000 sf. \*\*\*\*\* \$ 900.00
  
- 4) Slip Resistance Scale and Deceleration  
Test for field size 0-117,000 sf. \*\*\*\*\* \$ 1,200.00
  
- 5) Vertical Ball Rebound Test  
for field size 0-117,000 sf. \*\*\*\*\* \$ 200.00
  
- 6) Ball Roll Test for field size  
0-117,000 sf. \*\*\*\*\* \$ 200.00
  
- 7) Permeability of Synthetic Turf Sports  
Fields (ASTM F-2898) for field  
Size of 0-117,000 sf. \*\*\*\*\* \$ 1,800.00
  
- 8) Compaction (ASTM D-1557 or D-698)  
for field size of 0-117,000 sf. \*\*\*\*\* \$ 2,400.00
  
- 9) Off Site Plant Material Inspection  
(Per Visit) \*\*\*\*\* \$ 2,500.00
  
- 10) Inspection and testing of one (1)  
new field Construction project (0-117K sf)  
which will include all testing (bid items 1-9),  
off/on site material inspection, submittal

review/ approval of athletic field material  
and attendance of at least five (5)  
construction meetings. \*\*\*\*\* \$ 17,000.00

Contract Line Items Continued

11) Inspection and testing of two (2) to  
four (4) new Field Construction projects  
(0-117K sf each), which will include all  
testing (bid items 1-9), off/on site material  
inspection, submittal review/ approval  
of athletic field material and attend up  
to five (5) construction meetings related  
to the project. \*\*\*\*\* \$ 25,000.00

12) Inspection and testing of one (1) field  
retrofit project (0-117K sf) which will  
include the testing listed on (bid items 1-6, 9),  
off/on site material inspection, submittal  
review/ approval of athletic field material  
and attendance of at least five (5 )  
construction meetings. \*\*\*\*\* \$ 11,000.00

13) Inspection and testing of two (2) to  
four (4) field retrofit projects (0-117K sf)  
which, will include the testing listed on  
(bid items 1-6, 9), off/on site material  
inspection, submittal review/ approval  
of athletic field material and attendance  
of at least five (5) construction meetings. \*\*\*\*\* \$ 16,000.00

SECTION 8 - INCORPORATION OF DOCUMENTS

This CONTRACT and Exhibits represent the entire integrated agreement of the parties and supersedes all prior written or oral representations, discussions, and agreements. The following documents are incorporated and made a part hereof by reference:

Appendix A. Standard Provisions for City Contracts (Rev. 3/09)

(Signature Page to Follow)

IN WITNESS WHEREOF, the parties hereto have caused this CONTRACT to be executed by their respective duly authorized representatives.

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

THE CITY OF LOS ANGELES, a municipal corporation, Department of Recreation and Parks, acting by and through its Board of Recreation and Park Commissioners

By \_\_\_\_\_  
PRESIDENT

By \_\_\_\_\_  
SECRETARY

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

DMA Sports Design Group, L.L.C.

By \_\_\_\_\_  
PRINCIPAL

By \_\_\_\_\_  
SECRETARY

Approved as to Form:

MICHAEL N. FEUER  
City Attorney

Date: \_\_\_\_\_

By: \_\_\_\_\_

**Appendix A**

**STANDARD PROVISIONS FOR CITY CONTRACTS**

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## STANDARD PROVISIONS FOR CITY CONTRACTS

### PSC-1. CONSTRUCTION OF PROVISIONS AND TITLES HEREIN

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" herein in this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one **CONTRACTOR** herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

### PSC-2. NUMBER OF ORIGINALS

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the **CITY'S** option, one or more additional original texts of this Contract may also be retained by the City.

### PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Contract.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of the Contract shall not be affected thereby.

**PSC-4. TIME OF EFFECTIVENESS**

Unless otherwise provided, this Contract shall take effect when all of the following events have occurred:

- A. This Contract has been signed on behalf of **CONTRACTOR** by the person or persons authorized to bind **CONTRACTOR** hereto;
- B. This Contract has been approved by the City Council or by the board, officer or employee authorized to give such approval;
- C. The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and
- D. This Contract has been signed on behalf of the **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

**PSC-5. INTEGRATED CONTRACT**

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in paragraph PSC-6 hereof.

**PSC-6. AMENDMENT**

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-4.

**PSC-7. EXCUSABLE DELAYS**

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

**PSC-8. BREACH**

Except for excusable delays as described in PSC-7, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights

and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

**PSC-9. WAIVER**

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

**PSC-10. TERMINATION**

**A. TERMINATION FOR CONVENIENCE**

The **CITY** may terminate this Contract for the **CITY'S** convenience at any time by giving **CONTRACTOR** thirty days written notice thereof. Upon receipt of said notice, **CONTRACTOR** shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The **CITY** shall pay **CONTRACTOR** its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by **CONTRACTOR** to affect such termination. Thereafter, **CONTRACTOR** shall have no further claims against the **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon the date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

**B. TERMINATION FOR BREACH OF CONTRACT**

1. Except for excusable delays as provided in PSC-7, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, the **CITY** may give **CONTRACTOR** written notice of such default. If **CONTRACTOR** does not cure such default or provide a plan to cure such default which is acceptable to the **CITY** within the time permitted by the **CITY**, then the **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then the **CITY** may immediately terminate this Contract.
3. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates the

**CITY'S** lobbying policies, then the **CITY** may immediately terminate this Contract.

4. In the event the **CITY** terminates this Contract as provided in this section, the **CITY** may procure, upon such terms and in such manner as the **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to the **CITY** for all of its costs and damages, including, but not limited, any excess costs for such services.
5. All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.
6. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-10(A) Termination for Convenience.
7. The rights and remedies of the **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

**PSC-11. INDEPENDENT CONTRACTOR**

**CONTRACTOR** is acting hereunder as an independent contractor and not as an agent or employee of the **CITY**. **CONTRACTOR** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the **CITY**.

**PSC-12. CONTRACTOR'S PERSONNEL**

Unless otherwise provided or approved by the **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. The **CITY** shall have the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** agrees to remove personnel from performing work under this Contract if requested to do so by the **CITY**.

**CONTRACTOR** shall not use subcontractors to assist in performance of this Contract without the prior written approval of the **CITY**. If the **CITY** permits the use of subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of

this Contract. The **CITY** has the right to approve **CONTRACTOR'S** subcontractors, and the **CITY** reserves the right to request replacement of subcontractors. The **CITY** does not have any obligation to pay **CONTRACTOR'S** subcontractors, and nothing herein creates any privity between the **CITY** and the subcontractors.

**PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION**

**CONTRACTOR** may not, unless it has first obtained the written permission of the **CITY**:

- A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

**PSC-14. PERMITS**

**CONTRACTOR** and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance hereunder and shall pay any fees required therefor. **CONTRACTOR** certifies to immediately notify the **CITY** of any suspension, termination, lapses, non- renewals, or restrictions of licenses, permits, certificates, or other documents.

**PSC-15. CLAIMS FOR LABOR AND MATERIALS**

**CONTRACTOR** shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any **CITY** property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), against **CONTRACTOR'S** rights to payments hereunder, or against the **CITY**, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**PSC-16. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED**

If applicable, **CONTRACTOR** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this Contract, **CONTRACTOR** shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

**PSC-17. RETENTION OF RECORDS, AUDIT AND REPORTS**

**CONTRACTOR** shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form, in accordance with

requirements prescribed by the **CITY**. These records shall be retained for a period of no less than three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. Said records shall be subject to examination and audit by authorized **CITY** personnel or by the **CITY'S** representative at any time during the term of this Contract or within the three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. **CONTRACTOR** shall provide any reports requested by the **CITY** regarding performance of this Contract. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

**PSC-18. FALSE CLAIMS ACT**

**CONTRACTOR** acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the **CITY** under the False Claims Act (Cal. Gov. Code §§ 12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

**PSC-19. BONDS**

All bonds which may be required hereunder shall conform to **CITY** requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

**PSC-20. INDEMNIFICATION**

Except for the active negligence or willful misconduct of the **CITY**, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, **CONTRACTOR** undertakes and agrees to defend, indemnify and hold harmless the **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by **CONTRACTOR** or its subcontractors of any tier. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-20 shall survive expiration or termination of this Contract.

**PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION**

**CONTRACTOR**, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the **CITY**, and any of its Boards, Officers, Agents, Employees, Assigns,



and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information right (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its subcontractors of any tier, in performing the work under this Contract; or (2) as a result of the **CITY'S** actual or intended use of any Work Product furnished by **CONTRACTOR**, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-21 shall survive expiration or termination of this Contract.

**PSC-22. INTELLECTUAL PROPERTY WARRANTY**

**CONTRACTOR** represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

**PSC-23. OWNERSHIP AND LICENSE**

Unless otherwise provided for herein, all Work Products originated and prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract shall be and remain the exclusive property of the **CITY** for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas matters and combinations thereof, and all forms of intellectual property. **CONTRACTOR** hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by **CONTRACTOR** under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

For all Work Products delivered to the **CITY** that are not originated or prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract, **CONTRACTOR** hereby grants a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

**CONTRACTOR** shall not provide or disclose any Work Product to any third party without prior written consent of the **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subcontractors performing work under this Contract such that the **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

**PSC-24. INSURANCE**

During the term of this Contract and without limiting **CONTRACTOR'S** indemnification of the **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by **CONTRACTOR**, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form General 146 in Exhibit 1 hereto), covering its operations hereunder. Such insurance shall conform to **CITY** requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto) and shall otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

**PSC-25. DISCOUNT TERMS**

**CONTRACTOR** agrees to offer the **CITY** any discount terms that are offered to its best customers for the goods and services to be provided hereunder and apply such discount to payments made under this Contract which meet the discount terms.

**PSC-26. WARRANTY AND RESPONSIBILITY OF CONTRACTOR**

**CONTRACTOR** warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within **CONTRACTOR'S** profession, doing the same or similar work under the same or similar circumstances.

**PSC-27. NON-DISCRIMINATION**

Unless otherwise exempt, this Contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the **CITY**. In performing this Contract, **CONTRACTOR** shall not

discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

**PSC-28. EQUAL EMPLOYMENT PRACTICES**

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **CONTRACTOR** and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of **CITY** contracts. On their or either of their request **CONTRACTOR** shall provide evidence that he or she has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of **CITY** contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has failed to comply with the Equal Employment Practices provisions of a **CITY** contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until **CONTRACTOR** shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the **CITY**, or when an individual bid or proposal is submitted, **CONTRACTOR** shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of **CITY** Contracts.

- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Hiring practices;
  2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  3. Training and promotional opportunities; and
  4. Reasonable accommodations for persons with disabilities.
- L. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR'S** Contract with the **CITY**.

**PSC-29. AFFIRMATIVE ACTION PROGRAM**

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
  2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  3. **CONTRACTOR** shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to

their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, **CONTRACTOR** shall certify on an electronic or hard copy form to be supplied, that **CONTRACTOR** has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of **CITY** contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Affirmative Action Program provisions of **CITY** contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has breached the Affirmative Action Program provisions of a **CITY** contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that **CONTRACTOR** has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a **CITY** contract, there may be deducted from the amount payable to **CONTRACTOR** by the **CITY** under the contract, a penalty of ten dollars

(\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a **CITY** contract.

- H. Notwithstanding any other provisions of a **CITY** contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in **CITY** contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. **CONTRACTOR** shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the **CITY**. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre- award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, **CONTRACTOR** may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, **CONTRACTOR** must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
  - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
  - 2. **CONTRACTOR** may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the **CITY** with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and **CONTRACTOR**.

- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  2. Classroom preparation for the job when not apprenticeable;
  3. Pre-apprenticeship education and preparation;
  4. Upgrading training and opportunities;
  5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
  6. The entry of qualified women, minority and all other journeymen into the industry; and
  7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the **CITY'S** Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the **CITY** and may be used at the discretion of the **CITY** in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.



- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the **CITY** and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the **CITY**.

**PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS**

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, **CONTRACTOR** will fully comply with all applicable State and Federal employment reporting requirements for **CONTRACTOR'S** employees. **CONTRACTOR** shall also certify (1) that the Principal Owner(s) of **CONTRACTOR** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that **CONTRACTOR** will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, *et seq.* of the California Family Code; and (3) that **CONTRACTOR** will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to obtain compliance of its subcontractors shall constitute a default by **CONTRACTOR** under this Contract, subjecting this Contract to termination where such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

**CONTRACTOR** certifies that, to the best of its knowledge, it 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 Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

PSC-31. LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE

A. Unless otherwise exempt, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:

1. **CONTRACTOR** assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.
2. **CONTRACTOR** further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. **CONTRACTOR** shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. **CONTRACTOR** shall deliver the executed pledges from each such subcontractor to the **CITY** within ninety (90) days of the execution of the subcontract. **CONTRACTOR'S** delivery of executed pledges from each such subcontractor shall fully discharge the obligation of **CONTRACTOR** with respect to such pledges and fully discharge the obligation of **CONTRACTOR** to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
3. **CONTRACTOR**, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the **CITY** with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. **CONTRACTOR** shall post the Notice of Prohibition Against Retaliation provided by the **CITY**.
4. Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of PSC-31 and shall incorporate the provisions of the LWO and the SCWRO.

5. **CONTRACTOR** shall comply with all rules, regulations and policies promulgated by the **CITY'S** Designated Administrative Agency which may be amended from time to time.
- B. Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR** has violated provisions of either the LWO or the SCWRO, or both.
- C. Where under the LWO Section 10.37.6(d), the **CITY'S** Designated Administrative Agency has determined (a) that **CONTRACTOR** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the **CITY** in such circumstances may impound monies otherwise due **CONTRACTOR** in accordance with the following procedures. Impoundment shall mean that from monies due **CONTRACTOR**, **CITY** may deduct the amount determined to be due and owing by **CONTRACTOR** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether **CONTRACTOR** is to continue work following an impoundment shall remain in the sole discretion of the **CITY**. **CONTRACTOR** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.
- D. **CONTRACTOR** shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). **CONTRACTOR** shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from **CONTRACTOR**.

PSC-32. **AMERICANS WITH DISABILITIES ACT**

**CONTRACTOR** hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations. **CONTRACTOR** will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. **CONTRACTOR** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by **CONTRACTOR**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

**PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time, which requires **CONTRACTOR** to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect **CONTRACTOR'S** fitness and ability to continue performing this Contract.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this Contract, **CONTRACTOR** pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. **CONTRACTOR** further agrees to:

(1) notify the **CITY** within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that **CONTRACTOR** is not in compliance with all applicable federal, state and local laws in performance of this Contract; (2) notify the **CITY** within thirty calendar days of all findings by a government agency or court of competent jurisdiction that **CONTRACTOR** has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance; (3) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the **CITY**; and

(4) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the **CITY** within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

**PSC-34. MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM**

**CONTRACTOR** agrees and obligates itself to utilize the services of Minority, Women and Other Business Enterprise firms on a level so designated in its proposal, if any. **CONTRACTOR** certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Personal Services Contracts Greater than \$100,000, if applicable. **CONTRACTOR** shall not change any of these designated subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of the **CITY**, provided that such approval shall not be unreasonably withheld.

**PSC-35. EQUAL BENEFITS ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of the Contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** will comply with the EBO.
- B. The failure of **CONTRACTOR** to comply with the EBO will be deemed to be a material breach of this Contract by the **CITY**.
- C. If **CONTRACTOR** fails to comply with the EBO the **CITY** may cancel, terminate or suspend this Contract, in whole or in part, and all monies due or to become due under this Contract may be retained by the **CITY**. The **CITY** may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.
- E. If the **CITY'S** Designated Administrative Agency determines that a **CONTRACTOR** has set up or used its contracting entity for the purpose of evading the intent of the EBO, the **CITY** may terminate the Contract. Violation of this provision may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

**CONTRACTOR** shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

“During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles’ Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922.”

**PSC-36. SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this Contract.

**EXHIBIT 1**

**INSURANCE CONTRACTUAL REQUIREMENTS**

**CONTACT** For additional information about compliance with City Insurance and Bond requirements, contact the Office of the City Administrative Officer, Risk Management at (213) 978-RISK (7475) or go online at [www.lacity.org/cao/risk](http://www.lacity.org/cao/risk). The City approved Bond Assistance Program is available for those contractors who are unable to obtain the City-required performance bonds. A City approved insurance program may be available as a low cost alternative for contractors who are unable to obtain City-required insurance.

**CONTRACTUAL REQUIREMENTS**

**CONTRACTOR AGREES THAT:**

**1. Additional Insured/Loss Payee.** The CITY must be included as an Additional Insured in applicable liability policies to cover the CITY'S liability arising out of the acts or omissions of the named insured. The CITY is to be named as an Additional Named Insured and a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.

**2. Notice of Cancellation.** All required insurance will be maintained in full force for the duration of its business with the CITY. By ordinance, all required insurance must provide at least thirty (30) days' prior written notice (ten (10) days for non-payment of premium) directly to the CITY if your insurance company elects to cancel or materially reduce coverage or limits prior to the policy expiration date, for any reason except impairment of an aggregate limit due to prior claims.

**3. Primary Coverage.** CONTRACTOR will provide coverage that is primary with respect to any insurance or self-insurance of the CITY. The CITY'S program shall be excess of this insurance and non-contributing.

**4. Modification of Coverage.** The CITY reserves the right at any time during the term of this Contract to change the amounts and types of insurance required hereunder by giving CONTRACTOR ninety (90) days' advance written notice of such change. If such change should result in substantial additional cost to CONTRACTOR, the CITY agrees to negotiate additional compensation proportional to the increased benefit to the CITY.

**5. Failure to Procure Insurance.** All required insurance must be submitted and approved by the Office of the City Administrative Officer, Risk Management prior to the inception of any operations by CONTRACTOR.

CONTRACTOR'S failure to procure or maintain required insurance or a self-insurance program during the entire term of this Contract shall constitute a material breach of this Contract under which the CITY may immediately suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect the CITY'S interests and pay any and all premiums in connection therewith and recover all monies so paid from CONTRACTOR.

**6. Workers' Compensation.** By signing this Contract, CONTRACTOR hereby certifies that it is aware of the provisions of Section 3700 *et seq.*, of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake

self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all time during the performance of the work pursuant to this Contract.

**7. California Licensee.** All insurance must be provided by an insurer admitted to do business in California or written through a California-licensed surplus lines broker or through an insurer otherwise acceptable to the CITY. Non-admitted coverage must contain a **Service of Suit** clause in which the underwriters agree to submit as necessary to the jurisdiction of a California court in the event of a coverage dispute. Service of process for this purpose must be allowed upon an agent in California designated by the insurer or upon the California Insurance Commissioner.

**8. Aggregate Limits/Impairment.** If any of the required insurance coverages contain annual aggregate limits, CONTRACTOR must give the CITY written notice of any pending claim or lawsuit which will materially diminish the aggregate within thirty (30) days of knowledge of same. You must take appropriate steps to restore the impaired aggregates or provide replacement insurance protection within thirty (30) days of knowledge of same. The CITY has the option to specify the minimum acceptable aggregate limit for each line of coverage required. No substantial reductions in scope of coverage which may affect the CITY'S protection are allowed without the CITY'S prior written consent.

**9. Commencement of Work.** For purposes of insurance coverage only, this Contract will be deemed to have been executed immediately upon any party hereto taking any steps that can be considered to be in furtherance of or towards performance of this Contract. The requirements in this Section supersede all other sections and provisions of this Contract, including, but not limited to, PSC-4, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

**BOARD REPORT**

NO. 16-158

DATE July 13, 2016

C.D. ALL

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: AS-NEEDED GENERAL PARK BUILDING CONSTRUCTION –SUPPLEMENTAL AGREEMENTS TO VARIOUS CONTRACTS

AP Diaz	_____	V. Israel	_____
R. Barajas	_____	K. Regan	_____
H. Fujita	_____	*N. Williams	<u>now</u>

  
\_\_\_\_\_  
General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Approve a proposed Supplemental Agreement to each of the four contracts listed in Attachment 1, herein included as Attachment 2, between the City of Los Angeles Department of Recreation and Parks (RAP) and each of the listed contractors for as-needed general park building construction services, which include:
  - 1) general park building construction
  - 2) pre-fabricated concrete buildings
  - 3) pre-fabricated buildings
  - 4) shade structures

to extend the term of each contract from three years to six years, subject to approval of the Mayor in accordance with Executive Directive No. 3, of the City Council, and of the City Attorney as to form;
2. Find, in accordance with Charter Section 1022, that RAP does not have personnel available in its employ with sufficient time and expertise to undertake these specialized professional tasks and that it is more economical and feasible to secure these services by contract;
3. Direct the Board Secretary to transmit forthwith each proposed Supplemental Agreement to the Mayor in accordance with Executive Directive No. 3 and, concurrently to the City Attorney, for review and approval as to form; and
4. Authorize the Board President and Secretary to execute each Supplemental Agreement upon receipt of the necessary approvals.

SUMMARY:

RAP continues to have a need for general park building construction services that staff cannot



## BOARD REPORT

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provide; therefore, one or more general park building construction service contracts are required. Currently, RAP has contracts with four contractors in place for 1) general park building construction, 2) pre-fabricated concrete buildings, 3) pre-fabricated buildings, and 4) shade structures.

On April 3, 2013, the Board approved a Request for Qualifications (RFQ) for General Park Building Construction, which was released April 5, 2013 (Report No. 13-088). On May 14, 2013, RAP received seven proposals in response to the RFQ for General Park Building Construction. Of those seven proposals, only three were deemed responsive to the RFQ. Award of contracts to each of the three contractors was approved by the Board on June 5, 2013 (Report No. 13-145).

Although, RAP has awarded each of the three contractors a contract, RAP desired to have more than three General Park Building Construction contractors on the pre-qualified list. On September 11, 2013, the Board approved the re-release of the RFQ for General Park Building Construction (Report No. 13-229), which was released on November 1, 2013. On January 14, 2014, RAP received nine proposals. Only one of the nine contractors was deemed responsive to the RFQ. On May 7, 2014, the Board approved the award to the responsive contractor (Report No. 14-111) for a total of four contractors on the As-Needed General Park Building Construction pre-qualified list.

The current contracts for the firms listed on Attachment 1 are set to expire on August 15, 2016. RAP requests that the Board approve the proposed Supplemental Agreements to extend the term of the contracts by three years to lengthen the total contract term to six (6) years with the expiration date of August 15, 2019. The contract amount will remain a not-to-exceed annual expenditure of Ten Million Dollars (\$10,000,000) per contract, and will permit the City of Los Angeles Public Works/Bureau of Engineering to piggyback.

Amending the term of these contracts will allow RAP to continue using the contractors' expertise and resources that otherwise cannot be performed by City staff for 1) general park building construction, 2) pre-fabricated concrete buildings, 3) pre-fabricated buildings, and 4) shade structures. There are several projects that are currently encumbered and will not be completed if all four contracts expire.

Because the contracts are set to expire August 15, 2016, RAP does not have sufficient time to complete Level I and Level II evaluations for the award of contracts pursuant to the Request for Qualifications (RFQ) that the Board approved and released on April 4, 2016 (Report No. 16-087). The As-Needed General Park Building Construction RFQ closed on June 21, 2016, and the Level I evaluation is currently being conducted by RAP staff.

RAP is seeking authorization to prepare Supplemental Agreements for each of the four contracts, and authorize the Board President and Secretary to execute these contracts, subject to approval of the Mayor, City Council, and City Attorney. Because the three-year extension increases the total term of each contract to six years, City Council approval is required. All other terms and conditions of the contracts remain unchanged.

Funding for projects will be provided from various funding sources including, but not limited to, Proposition K, Quimby, and Proposition 40.

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FISCAL IMPACT STATEMENT:

Executing these Supplemental Agreements has no impact to the RAP's General Fund.

This Report was prepared by Kai Wong, Management Analyst II, Finance Division.

LIST OF ATTACHMENTS/EXHIBITS

- 1) General Park Building Construction Contract List
- 2) Supplemental Agreements for:
  - a. CXT, Incorporated
  - b. Design Space Modular Buildings, Inc.
  - c. United Riggers & Erectors, Inc.
  - d. USA Shade & Fabric Structures, Inc.

CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
FINANCE DIVISION  
GENERAL PARK BUILDING CONSTRUCTION CONTRACT LIST

CONTRACTOR	ADDRESS	CONTRACT NO.	START DATE	END DATE
CXT, Incorporated	3808 N. Sullivan Road, Building 7 Spokane, WA 99216	3463	8/16/2013	8/15/2016
Design Space Modular Buildings, Inc.	10631 Banana Avenue Fontana, CA 92337	3497	8/16/2013	8/15/2016
United Riggers & Erectors, Inc.	4188 Valley Blvd. Walnut, CA 91789	3464	8/16/2013	8/15/2016
USA Shade & Fabric Structures, Inc.	1085 N. Main Street, Suite C Orange, CA 92867	3465	8/16/2013	8/15/2016

**SUPPLEMENTAL AGREEMENT TO CONTRACT NO. 3463  
BETWEEN  
THE CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
AND  
CXT, INCORPORATED  
FOR  
GENERAL PARK BUILDING CONSTRUCTION**

This SUPPLEMENTAL AGREEMENT to Contract No. 3463 is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 201\_, by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners, hereinafter referred to as "CITY", and CXT, INCORPORATED, a corporation, hereinafter referred to as "CONTRACTOR".

RECITALS

WHEREAS, on August 16, 2013, CITY and CONTRACTOR entered into Contract No. 3463 ("CONTRACT") for General Park Building Construction services at various Department of Recreation and Parks ("DEPARTMENT") facilities; and,

WHEREAS, the CONTRACT will expire on August 15, 2016, and the expertise of CONTRACTOR is still required and it is the desire of CITY to continue services with the CONTRACTOR who has demonstrated its capability to perform quality General Park Building Construction services; and,

WHEREAS, the principal purpose of CITY entering into this SUPPLEMENTAL AGREEMENT is to continue to utilize the expertise and services of CONTRACTOR in ongoing and future DEPARTMENT projects; and,

WHEREAS, in accordance with a Charter 1022 determination, the CITY finds that the Department does not have sufficient personnel available in its employ to undertake these specialized professional tasks and that it is more feasible to secure these services by contract;

NOW, THEREFORE, in consideration of the terms, covenants and conditions hereinafter contained to be kept and performed by the respective parties hereto,

IT IS MUTUALLY AGREED that the CONTRACT be amended as follows:

1. **FULL FORCE AND EFFECT:** Except as specifically modified by this Supplemental Agreement, the terms and conditions contained in Contract No. 3463 between the CITY and CONTRACTOR, executed on August 16, 2013, are incorporated herein by this reference and shall remain in effect.
  
2. SECTION 2. TERM OF CONTRACT

Delete the Section in its entirety and replace with:

"The term of this contract shall be six (6) years from August 16, 2013 through August 15, 2019, subject however to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts."

3. SECTION 8. RATIFICATION

Add Section 8, "Ratification," as follows:

"At the request of the DEPARTMENT, and because of the need therefor, CONTRACTOR began performance of the services required hereunder prior to the execution hereof. By its execution hereof, City hereby accepts such service subject to all the terms, covenants, and conditions of this agreement, and ratifies its agreement with CONTRACTOR for such services."

All other terms and conditions of the CONTRACT shall remain unchanged.

*(Signature Page to Follow)*

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to CONTRACT No. 3497 to be executed by their duly authorized representatives.

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners.

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

CXT, INCORPORATED, a Corporation

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

APPROVED AS TO FORM:  
MICHAEL N. FEUER, City Attorney

BY: \_\_\_\_\_  
Deputy City Attorney

DATE: \_\_\_\_\_

**SUPPLEMENTAL AGREEMENT TO CONTRACT NO. 3497  
BETWEEN  
THE CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
AND  
DESIGN SPACE MODULAR BUILDINGS, INC.  
FOR  
GENERAL PARK BUILDING CONSTRUCTION**

This SUPPLEMENTAL AGREEMENT to Contract No. 3497 is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_, by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners, hereinafter referred to as "CITY", and DESIGN SPACE MODULAR BUILDINGS, INC., a corporation, hereinafter referred to as "CONTRACTOR".

RECITALS

WHEREAS, on August 16, 2013, CITY and CONTRACTOR entered into Contract No. 3497 ("CONTRACT") for General Park Building Construction services at various Department of Recreation and Parks ("DEPARTMENT") facilities; and,

WHEREAS, the CONTRACT will expire on August 15, 2016, and the expertise of CONTRACTOR is still required and it is the desire of CITY to continue services with the CONTRACTOR who has demonstrated its capability to perform quality General Park Building Construction services; and,

WHEREAS, the principal purpose of CITY entering into this SUPPLEMENTAL AGREEMENT is to continue to utilize the expertise and services of CONTRACTOR in ongoing and future DEPARTMENT projects; and,

WHEREAS, in accordance with a Charter 1022 determination, the CITY finds that the Department does not have sufficient personnel available in its employ to undertake these specialized professional tasks and that it is more feasible to secure these services by contract;

NOW, THEREFORE, in consideration of the terms, covenants and conditions hereinafter contained to be kept and performed by the respective parties hereto,

IT IS MUTUALLY AGREED that the CONTRACT be amended as follows:

1. **FULL FORCE AND EFFECT:** Except as specifically modified by this Supplemental Agreement, the terms and conditions contained in Contract No. 3497 between the CITY and CONTRACTOR, executed on August 16, 2013, are incorporated herein by this reference and shall remain in effect.
  
2. SECTION 2. TERM OF CONTRACT

Delete the Section in its entirety and replace with:

"The term of this contract shall be six (6) years from August 16, 2013 through August 15, 2019, subject however to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts."

3. SECTION 8. RATIFICATION

Add Section 8, "Ratification," as follows:

"At the request of the DEPARTMENT, and because of the need therefor, CONTRACTOR began performance of the services required hereunder prior to the execution hereof. By its execution hereof, City hereby accepts such service subject to all the terms, covenants, and conditions of this agreement, and ratifies its agreement with CONTRACTOR for such services."

All other terms and conditions of the CONTRACT shall remain unchanged.

*(Signature Page to Follow)*



IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to CONTRACT No. 3497 to be executed by their duly authorized representatives.

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners.

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

DESIGN SPACE MODULAR BUILDINGS, INC., a Corporation

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

APPROVED AS TO FORM:  
MICHAEL N. FEUER, City Attorney

BY: \_\_\_\_\_  
Deputy City Attorney

DATE: \_\_\_\_\_

**SUPPLEMENTAL AGREEMENT TO CONTRACT NO. 3464  
BETWEEN  
THE CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
AND  
UNITED RIGGERS & ERECTORS, INC.  
FOR  
GENERAL PARK BUILDING CONSTRUCTION**

This SUPPLEMENTAL AGREEMENT to Contract No. 3464 is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 201\_, by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners, hereinafter referred to as "CITY", and UNITED RIGGERS & ERECTORS, INC., a corporation, hereinafter referred to as "CONTRACTOR".

RECITALS

WHEREAS, on August 16, 2013, CITY and CONTRACTOR entered into Contract No. 3464 ("CONTRACT") for General Park Building Construction services at various Department of Recreation and Parks ("DEPARTMENT") facilities; and,

WHEREAS, the CONTRACT will expire on August 15, 2016, and the expertise of CONTRACTOR is still required and it is the desire of CITY to continue services with the CONTRACTOR who has demonstrated its capability to perform quality General Park Building Construction services; and,

WHEREAS, the principal purpose of CITY entering into this SUPPLEMENTAL AGREEMENT is to continue to utilize the expertise and services of CONTRACTOR in ongoing and future DEPARTMENT projects; and,

WHEREAS, in accordance with a Charter 1022 determination, the CITY finds that the Department does not have sufficient personnel available in its employ to undertake these specialized professional tasks and that it is more feasible to secure these services by contract;

NOW, THEREFORE, in consideration of the terms, covenants and conditions hereinafter contained to be kept and performed by the respective parties hereto,

IT IS MUTUALLY AGREED that the CONTRACT be amended as follows:

1. **FULL FORCE AND EFFECT:** Except as specifically modified by this Supplemental Agreement, the terms and conditions contained in Contract No. 3464 between the CITY and CONTRACTOR, executed on August 16, 2013, are incorporated herein by this reference and shall remain in effect.
  
2. SECTION 2. TERM OF CONTRACT

Delete the Section in its entirety and replace with:

"The term of this contract shall be six (6) years from August 16, 2013 through August 15, 2019, subject however to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts."

3. SECTION 8. RATIFICATION

Add Section 8, "Ratification," as follows:

"At the request of the DEPARTMENT, and because of the need therefor, CONTRACTOR began performance of the services required hereunder prior to the execution hereof. By its execution hereof, City hereby accepts such service subject to all the terms, covenants, and conditions of this agreement, and ratifies its agreement with CONTRACTOR for such services."

All other terms and conditions of the CONTRACT shall remain unchanged.

*(Signature Page to Follow)*

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to CONTRACT No. 3464 to be executed by their duly authorized representatives.

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners.

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

UNITED RIGGERS & ERECTORS, INC., a Corporation

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

APPROVED AS TO FORM:  
MICHAEL N. FEUER, City Attorney

BY: \_\_\_\_\_  
Deputy City Attorney

DATE: \_\_\_\_\_

**SUPPLEMENTAL AGREEMENT TO CONTRACT NO. 3465  
BETWEEN  
THE CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
AND  
USA SHADE & FABRIC STRUCTURES, INC.  
FOR  
GENERAL PARK BUILDING CONSTRUCTION**

This SUPPLEMENTAL AGREEMENT to Contract No. 3465 is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 201\_, by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners, hereinafter referred to as "CITY", and USA SHADE & FABRIC STRUCTURES, INC., a corporation, hereinafter referred to as "CONTRACTOR".

RECITALS

WHEREAS, on August 16, 2013, CITY and CONTRACTOR entered into Contract No. 3465 ("CONTRACT") for General Park Building Construction services at various Department of Recreation and Parks ("DEPARTMENT") facilities; and,

WHEREAS, the CONTRACT will expire on August 15, 2016, and the expertise of CONTRACTOR is still required and it is the desire of CITY to continue services with the CONTRACTOR who has demonstrated its capability to perform quality General Park Building Construction services; and,

WHEREAS, the principal purpose of CITY entering into this SUPPLEMENTAL AGREEMENT is to continue to utilize the expertise and services of CONTRACTOR in ongoing and future DEPARTMENT projects; and,

WHEREAS, in accordance with a Charter 1022 determination, the CITY finds that the Department does not have sufficient personnel available in its employ to undertake these specialized professional tasks and that it is more feasible to secure these services by contract;

NOW, THEREFORE, in consideration of the terms, covenants and conditions hereinafter contained to be kept and performed by the respective parties hereto,

IT IS MUTUALLY AGREED that the CONTRACT be amended as follows:

1. **FULL FORCE AND EFFECT:** Except as specifically modified by this Supplemental Agreement, the terms and conditions contained in Contract No. 3465 between the CITY and CONTRACTOR, executed on August 16, 2013, are incorporated herein by this reference and shall remain in effect.

2. SECTION 2. TERM OF CONTRACT

Delete the Section in its entirety and replace with:

"The term of this contract shall be six (6) years from August 16, 2013 through "August 15, 2019, subject however to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts."

3. SECTION 8. RATIFICATION

Add Section 8, "Ratification," as follows:

"At the request of the DEPARTMENT, and because of the need therefor, CONTRACTOR began performance of the services required hereunder prior to the execution hereof. By its execution hereof, City hereby accepts such service subject to all the terms, covenants, and conditions of this agreement, and ratifies its agreement with CONTRACTOR for such services."

All other terms and conditions of the CONTRACT shall remain unchanged.

*(Signature Page to Follow)*

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to CONTRACT No. 3465 to be executed by their duly authorized representatives.

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners.

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

USA SHADE & FABRIC STRUCTURES, INC., a Corporation

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

APPROVED AS TO FORM:  
MICHAEL N. FEUER, City Attorney

BY: \_\_\_\_\_  
Deputy City Attorney

DATE: \_\_\_\_\_

**BOARD REPORT**

NO. 16-159

DATE July 13, 2016

C.D. ALL

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: AS-NEEDED PARK FACILITY CONSTRUCTION – SUPPLEMENTAL AGREEMENTS TO VARIOUS CONTRACTS

AP Diaz	_____	V. Israel	_____
R. Barajas	_____	K. Regan	_____
H. Fujita	_____	*N. Williams	<u>NDW</u>



\_\_\_\_\_  
General Manager

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Approve a proposed Supplemental Agreement to each of the seven contracts listed in Attachment 1, herein included as Attachment 2, between the City of Los Angeles Department of Recreation and Parks (RAP) and each of the listed contractors for as-needed park facility construction services, to extend the term of each contract from three years to six years, subject to approval of the Mayor in accordance with Executive Directive No. 3, of the City Council, and of the City Attorney as to form; and
2. Find, in accordance with Charter Section 1022, that RAP does not have personnel available in its employ with sufficient time and expertise to undertake these specialized professional tasks and that it is more economical and feasible to secure these services by contract; and
3. Direct the Board Secretary to transmit forthwith each proposed Supplemental Agreement to the Mayor in accordance with Executive Directive No. 3 and, concurrently to the City Attorney, for review and approval as to form; and
4. Authorize the Board President and Secretary to execute each Supplemental Agreement upon receipt of the necessary approvals.

SUMMARY

RAP continues to have a need for park facilities construction services that staff cannot provide; therefore, one or more park facility contractors are required. Currently, RAP has seven contracts in place for park facility construction.

On April 3, 2013, the Board approved a Request for Qualifications (RFQ), which was released April 5, 2013 (Report No. 13-089). On May 14, 2013, RAP received five proposals in response to the



## BOARD REPORT

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NO. 16-159

RFQ for Park Facility Construction. Of those eight proposals, only five were deemed responsive to the RFP. Award of contracts to each of the five contractors was approved by the Board on June 5, 2013 (Report No. 13-146).

Although, RAP has awarded each of the five contractors a contract, RAP desired to have more than five Park Facility Construction contractors on the pre-qualified list. On September 13, 2013, the Board approved the re-release of the RFQ for Park Facility Construction (Report No. 13-229), which was released on November 1, 2013. On January 14, 2014, RAP received thirteen (13) proposals. Only two of the thirteen (13) contractors were deemed responsive to the RFQ. On April 23, 2014, the Board approved the award to the responsive contractors (Report No. 14-087) which makes the total of seven contractors on the As-Needed Park Facility Construction pre-qualified list.

The current contracts for the firms listed on Attachment 1 are set to expire on August 15, 2016. RAP requests that the Board approve the proposed Supplemental Agreements to extend the term of the contracts by three years to lengthen the total contract term to six years with the expiration date of August 15, 2019. The contract amount will remain a not-to-exceed annual expenditure of ten million dollars (\$10,000,000) per contract, and will permit the City of Los Angeles Public Works/Bureau of Engineering to piggyback.

Amending the term of these contracts will allow RAP to continue using the contractors' expertise and resources that otherwise cannot be performed by City staff for 1) asphalt paving, 2) flatwork concrete, 3) athletic field construction-renovation, and 4) new park construction. There are several projects that are currently encumbered and will not be completed if all seven contracts expire.

Because the contracts are set to expire August 15, 2016, RAP does not have sufficient time to complete Level I and Level II evaluation for the contract award of the Request for Qualifications (RFQ). The As-Needed Park Facilities Construction RFQ closed on June 7, 2016, and Level I review is currently being conducted by RAP staff.

RAP is seeking authorization to prepare Supplemental Agreements for each of the seven contracts, and authorize the Board President and Secretary to execute these contracts, subject to approval of the Mayor, City Council, and City Attorney. Because the three-year extension increases the total term of each contract to six years, City Council approval is required. All other terms and conditions of the contracts remain unchanged.

Funding for projects will be provided from various funding sources including, but not limited to, Proposition K, Quimby, Community Development Block Grant, and Proposition 84.

### FISCAL IMPACT STATEMENT

Executing these Amendments has no impact to RAP's General Fund.

This Report was prepared by Kai Wong, Management Analyst II, Finance Division.

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NO.

16-159

LIST OF ATTACHMENTS/EXHIBITS

- 1) Park Facility Construction Contract List
- 2) Supplemental Agreements for:
  - a. California Landscape and Design dba California Skateparks
  - b. Chris Kelley Inc., dba Childs Play
  - c. Commercial Paving and Coating
  - d. Evergreen Environment Inc.
  - e. Ohno Construction Company
  - f. Ross Trama dba R. Trama Construction
  - g. United Riggers & Erectors, Inc.

**CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
FINANCE DIVISION  
PARK FACILITY CONSTRUCTION CONTRACT LIST**

ATTACHMENT 1

<b>CONTRACTOR</b>	<b>ADDRESS</b>	<b>CONTRACT NO.</b>	<b>START DATE</b>	<b>END DATE</b>
California Landscape and Design dba California Skateparks	273 N. Benson Avenue Upland, CA 91786	3468	8/16/2013	8/15/2016
Chris Kelley Inc., dba Childs Play	1852 Langley Ave Irvine, CA 92614	3466	8/16/2013	8/15/2016
Commercial Paving and Coating	2809 W. Avenue 37 Los Angeles, CA 90065	3467	8/16/2013	8/15/2016
Evergreen Environment Inc.	8609 Mission Blvd. Riverside, CA 92509	3500	8/16/2013	8/15/2016
Ohno Construction Company	16398 Boyle Avenue Fontana, CA 92337	3469	8/16/2013	8/15/2016
Ross Trama dba R. Trama Construction	742 Legary Place San Pedro, CA 90732	3501	8/16/2013	8/15/2016
United Riggers & Erectors, Inc.	4188 Valley Boulevard Walnut, CA 91789	3470	8/16/2013	8/15/2016

**SUPPLEMENTAL AGREEMENT TO CONTRACT NO. 3468  
BETWEEN  
THE CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
AND  
CALIFORNIA LANDSCAPE & DESIGN DBA CALIFORNIA SKATEPARKS  
FOR  
PARK FACILITY CONSTRUCTION**

This SUPPLEMENTAL AGREEMENT to Contract No. 3468 is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 201\_, by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners, hereinafter referred to as "CITY", and CALIFORNIA LANDSCAPE & DESIGN DBA CALIFORNIA SKATEPARKS, a corporation, hereinafter referred to as "CONTRACTOR".

RECITALS

WHEREAS, on August 16, 2013, CITY and CONTRACTOR entered into Contract No. 3468 ("CONTRACT") for Park Facility Construction services at various Department of Recreation and Parks ("DEPARTMENT") facilities; and,

WHEREAS, the CONTRACT will expire on August 15, 2016, and the expertise of CONTRACTOR is still required and it is the desire of CITY to continue services with the CONTRACTOR who has demonstrated its capability to perform quality Park Facility Construction services; and,

WHEREAS, the principal purpose of CITY entering into this SUPPLEMENTAL AGREEMENT is to continue to utilize the expertise and services of CONTRACTOR in ongoing and future DEPARTMENT projects; and,

WHEREAS, in accordance with a Charter 1022 determination, the CITY finds that the Department does not have sufficient personnel available in its employ to undertake these specialized professional tasks and that it is more feasible to secure these services by contract;

NOW, THEREFORE, in consideration of the terms, covenants and conditions hereinafter contained to be kept and performed by the respective parties hereto,

IT IS MUTUALLY AGREED that the CONTRACT be amended as follows:

1. **FULL FORCE AND EFFECT:** Except as specifically modified by this Supplemental Agreement, the terms and conditions contained in Contract No. 3468 between the CITY and CONTRACTOR, executed on August 16, 2013, are incorporated herein by this reference and shall remain in effect.
2. SECTION 2. TERM OF CONTRACT

Delete the Section in its entirety and replace with:

"The term of this contract shall be six (6) years from August 16, 2013 through August 15, 2019, subject however to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts."

3. SECTION 8. RATIFICATION

Add Section 8, "Ratification," as follows:

"At the request of the DEPARTMENT, and because of the need therefor, CONTRACTOR began performance of the services required hereunder prior to the execution hereof. By its execution hereof, City hereby accepts such service subject to all the terms, covenants, and conditions of this agreement, and ratifies its agreement with CONTRACTOR for such services."

All other terms and conditions of the CONTRACT shall remain unchanged.

*(Signature Page to Follow)*

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to CONTRACT No. 3468 to be executed by their duly authorized representatives.

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners.

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

CALIFORNIA LANDSCAPE & DESIGN DBA CALIFORNIA SKATEPARKS, a Corporation

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

APPROVED AS TO FORM:  
MICHAEL N. FEUER, City Attorney

BY: \_\_\_\_\_  
Deputy City Attorney

DATE: \_\_\_\_\_

**SUPPLEMENTAL AGREEMENT TO CONTRACT NO. 3466  
BETWEEN  
THE CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
AND  
CHRIS KELLEY INC. DBA CHILDS PLAY  
FOR  
PARK FACILITY CONSTRUCTION**

This SUPPLEMENTAL AGREEMENT to Contract No. 3466 is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 201\_, by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners, hereinafter referred to as "CITY", and CHRIS KELLEY INC. DBA CHILDS PLAY, a corporation, hereinafter referred to as "CONTRACTOR".

RECITALS

WHEREAS, on August 16, 2013, CITY and CONTRACTOR entered into Contract No. 3466 ("CONTRACT") for Park Facility Construction services at various Department of Recreation and Parks ("DEPARTMENT") facilities; and,

WHEREAS, the CONTRACT will expire on August 15, 2016, and the expertise of CONTRACTOR is still required and it is the desire of CITY to continue services with the CONTRACTOR who has demonstrated its capability to perform quality Park Facility Construction services; and,

WHEREAS, the principal purpose of CITY entering into this SUPPLEMENTAL AGREEMENT is to continue to utilize the expertise and services of CONTRACTOR in ongoing and future DEPARTMENT projects; and,

WHEREAS, in accordance with a Charter 1022 determination, the CITY finds that the Department does not have sufficient personnel available in its employ to undertake these specialized professional tasks and that it is more feasible to secure these services by contract;

NOW, THEREFORE, in consideration of the terms, covenants and conditions hereinafter contained to be kept and performed by the respective parties hereto,

IT IS MUTUALLY AGREED that the CONTRACT be amended as follows:

1. **FULL FORCE AND EFFECT:** Except as specifically modified by this Supplemental Agreement, the terms and conditions contained in Contract No. 3466 between the CITY and CONTRACTOR, executed on August 16, 2013, are incorporated herein by this reference and shall remain in effect.
2. SECTION 2. TERM OF CONTRACT

Delete the Section in its entirety and replace with:

"The term of this contract shall be six (6) years from August 16, 2013 through August 15, 2019, subject however to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts."

3. SECTION 8. RATIFICATION

Add Section 8, "Ratification," as follows:

"At the request of the DEPARTMENT, and because of the need therefor, CONTRACTOR began performance of the services required hereunder prior to the execution hereof. By its execution hereof, City hereby accepts such service subject to all the terms, covenants, and conditions of this agreement, and ratifies its agreement with CONTRACTOR for such services."

All other terms and conditions of the CONTRACT shall remain unchanged.

*(Signature Page to Follow)*



IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to CONTRACT No. 3466 to be executed by their duly authorized representatives.

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners.

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

CHRIS KELLEY INC. DBA CHILDS PLAY, a Corporation

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

APPROVED AS TO FORM:  
MICHAEL N. FEUER, City Attorney

BY: \_\_\_\_\_  
Deputy City Attorney

DATE: \_\_\_\_\_

**SUPPLEMENTAL AGREEMENT TO CONTRACT NO. 3467  
BETWEEN  
THE CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
AND  
COMMERCIAL PAVING & COATING  
FOR  
PARK FACILITY CONSTRUCTION**

This SUPPLEMENTAL AGREEMENT to Contract No. 3467 is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 201\_, by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners, hereinafter referred to as "CITY", and COMMERCIAL PAVING & COATING, a corporation, hereinafter referred to as "CONTRACTOR".

RECITALS

WHEREAS, on August 16, 2013, CITY and CONTRACTOR entered into Contract No. 3467 ("CONTRACT") for Park Facility Construction services at various Department of Recreation and Parks ("DEPARTMENT") facilities; and,

WHEREAS, the CONTRACT will expire on August 15, 2016, and the expertise of CONTRACTOR is still required and it is the desire of CITY to continue services with the CONTRACTOR who has demonstrated its capability to perform quality Park Facility Construction services; and,

WHEREAS, the principal purpose of CITY entering into this SUPPLEMENTAL AGREEMENT is to continue to utilize the expertise and services of CONTRACTOR in ongoing and future DEPARTMENT projects; and,

WHEREAS, in accordance with a Charter 1022 determination, the CITY finds that the Department does not have sufficient personnel available in its employ to undertake these specialized professional tasks and that it is more feasible to secure these services by contract;

NOW, THEREFORE, in consideration of the terms, covenants and conditions hereinafter contained to be kept and performed by the respective parties hereto,

IT IS MUTUALLY AGREED that the CONTRACT be amended as follows:

1. **FULL FORCE AND EFFECT:** Except as specifically modified by this Supplemental Agreement, the terms and conditions contained in Contract No. 3467 between the CITY and CONTRACTOR, executed on August 16, 2013, are incorporated herein by this reference and shall remain in effect.
2. SECTION 2. TERM OF CONTRACT

Delete the Section in its entirety and replace with:

"The term of this contract shall be six (6) years from August 16, 2013 through August 15, 2019, subject however to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts."

3. SECTION 8. RATIFICATION

Add Section 8, "Ratification," as follows:

"At the request of the DEPARTMENT, and because of the need therefor, CONTRACTOR began performance of the services required hereunder prior to the execution hereof. By its execution hereof, City hereby accepts such service subject to all the terms, covenants, and conditions of this agreement, and ratifies its agreement with CONTRACTOR for such services."

All other terms and conditions of the CONTRACT shall remain unchanged.

*(Signature Page to Follow)*

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to CONTRACT No. 3467 to be executed by their duly authorized representatives.

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners.

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

COMMERCIAL PAVING & COATING, a Corporation

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

APPROVED AS TO FORM:  
MICHAEL N. FEUER, City Attorney

BY: \_\_\_\_\_  
Deputy City Attorney

DATE: \_\_\_\_\_

**SUPPLEMENTAL AGREEMENT TO CONTRACT NO. 3500  
BETWEEN  
THE CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
AND  
EVERGREEN ENVIRONMENT, INC.  
FOR  
PARK FACILITY CONSTRUCTION**

This SUPPLEMENTAL AGREEMENT to Contract No. 3500 is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 201\_, by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners, hereinafter referred to as "CITY", and EVERGREEN ENVIRONMENT, INC., a corporation, hereinafter referred to as "CONTRACTOR".

RECITALS

WHEREAS, on August 16, 2013, CITY and CONTRACTOR entered into Contract No. 3500 ("CONTRACT") for Park Facility Construction services at various Department of Recreation and Parks ("DEPARTMENT") facilities; and,

WHEREAS, the CONTRACT will expire on August 15, 2016, and the expertise of CONTRACTOR is still required and it is the desire of CITY to continue services with the CONTRACTOR who has demonstrated its capability to perform quality Park Facility Construction services; and,

WHEREAS, the principal purpose of CITY entering into this SUPPLEMENTAL AGREEMENT is to continue to utilize the expertise and services of CONTRACTOR in ongoing and future DEPARTMENT projects; and,

WHEREAS, in accordance with a Charter 1022 determination, the CITY finds that the Department does not have sufficient personnel available in its employ to undertake these specialized professional tasks and that it is more feasible to secure these services by contract;

NOW, THEREFORE, in consideration of the terms, covenants and conditions hereinafter contained to be kept and performed by the respective parties hereto,

IT IS MUTUALLY AGREED that the CONTRACT be amended as follows:

1. **FULL FORCE AND EFFECT:** Except as specifically modified by this Supplemental Agreement, the terms and conditions contained in Contract No. 3500 between the CITY and CONTRACTOR, executed on August 16, 2013, are incorporated herein by this reference and shall remain in effect.
  
2. SECTION 2. TERM OF CONTRACT

Delete the Section in its entirety and replace with:

"The term of this contract shall be six (6) years from August 16, 2013 through August 15, 2019, subject however to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts."

3. SECTION 8. RATIFICATION

Add Section 8, "Ratification," as follows:

"At the request of the DEPARTMENT, and because of the need therefor, CONTRACTOR began performance of the services required hereunder prior to the execution hereof. By its execution hereof, City hereby accepts such service subject to all the terms, covenants, and conditions of this agreement, and ratifies its agreement with CONTRACTOR for such services."

All other terms and conditions of the CONTRACT shall remain unchanged.

*(Signature Page to Follow)*

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to CONTRACT No. 3500 to be executed by their duly authorized representatives.

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners.

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

EVERGREEN ENVIRONMENTAL, INC., a Corporation

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

APPROVED AS TO FORM:  
MICHAEL N. FEUER, City Attorney

BY: \_\_\_\_\_  
Deputy City Attorney

DATE: \_\_\_\_\_

**SUPPLEMENTAL AGREEMENT TO CONTRACT NO. 3469  
BETWEEN  
THE CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
AND  
OHNO CONSTRUCTION COMPANY  
FOR  
PARK FACILITY CONSTRUCTION**

This SUPPLEMENTAL AGREEMENT to Contract No. 3469 is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 201\_, by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners, hereinafter referred to as "CITY", and OHNO CONSTRUCTION COMPANY, a corporation, hereinafter referred to as "CONTRACTOR".

RECITALS

WHEREAS, on August 16, 2013, CITY and CONTRACTOR entered into Contract No. 3469 ("CONTRACT") for Park Facility Construction services at various Department of Recreation and Parks ("DEPARTMENT") facilities; and,

WHEREAS, the CONTRACT will expire on August 15, 2016, and the expertise of CONTRACTOR is still required and it is the desire of CITY to continue services with the CONTRACTOR who has demonstrated its capability to perform quality Park Facility Construction services; and,

WHEREAS, the principal purpose of CITY entering into this SUPPLEMENTAL AGREEMENT is to continue to utilize the expertise and services of CONTRACTOR in ongoing and future DEPARTMENT projects; and,

WHEREAS, in accordance with a Charter 1022 determination, the CITY finds that the Department does not have sufficient personnel available in its employ to undertake these specialized professional tasks and that it is more feasible to secure these services by contract;

NOW, THEREFORE, in consideration of the terms, covenants and conditions hereinafter contained to be kept and performed by the respective parties hereto,

IT IS MUTUALLY AGREED that the CONTRACT be amended as follows:

1. **FULL FORCE AND EFFECT:** Except as specifically modified by this Supplemental Agreement, the terms and conditions contained in Contract No. 3469 between the CITY and CONTRACTOR, executed on August 16, 2013, are incorporated herein by this reference and shall remain in effect.

2. SECTION 2. TERM OF CONTRACT

Delete the Section in its entirety and replace with:



"The term of this contract shall be six (6) years from August 16, 2013 through August 15, 2019, subject however to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts."

3. SECTION 8. RATIFICATION

Add Section 8, "Ratification," as follows:

"At the request of the DEPARTMENT, and because of the need therefor, CONTRACTOR began performance of the services required hereunder prior to the execution hereof. By its execution hereof, City hereby accepts such service subject to all the terms, covenants, and conditions of this agreement, and ratifies its agreement with CONTRACTOR for such services."

All other terms and conditions of the CONTRACT shall remain unchanged.

*(Signature Page to Follow)*

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to CONTRACT No. 3469 to be executed by their duly authorized representatives.

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners.

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

OHNO CONSTRUCTION COMPANY, a Corporation

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

APPROVED AS TO FORM:  
MICHAEL N. FEUER, City Attorney

BY: \_\_\_\_\_  
Deputy City Attorney

DATE: \_\_\_\_\_

**SUPPLEMENTAL AGREEMENT TO CONTRACT NO. 3501  
BETWEEN  
THE CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
AND  
ROSS TRAMA DBA R. TRAMA CONSTRUCTION  
FOR  
PARK FACILITY CONSTRUCTION**

This SUPPLEMENTAL AGREEMENT to Contract No. 3501 is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 201\_, by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners, hereinafter referred to as "CITY", and ROSS TRAMA DBA R. TRAMA CONSTRUCTION, a corporation, hereinafter referred to as "CONTRACTOR".

RECITALS

WHEREAS, on August 16, 2013, CITY and CONTRACTOR entered into Contract No. 3501 ("CONTRACT") for Park Facility Construction services at various Department of Recreation and Parks ("DEPARTMENT") facilities; and,

WHEREAS, the CONTRACT will expire on August 15, 2016, and the expertise of CONTRACTOR is still required and it is the desire of CITY to continue services with the CONTRACTOR who has demonstrated its capability to perform quality Park Facility Construction services; and,

WHEREAS, the principal purpose of CITY entering into this SUPPLEMENTAL AGREEMENT is to continue to utilize the expertise and services of CONTRACTOR in ongoing and future DEPARTMENT projects; and,

WHEREAS, in accordance with a Charter 1022 determination, the CITY finds that the Department does not have sufficient personnel available in its employ to undertake these specialized professional tasks and that it is more feasible to secure these services by contract;

NOW, THEREFORE, in consideration of the terms, covenants and conditions hereinafter contained to be kept and performed by the respective parties hereto,

IT IS MUTUALLY AGREED that the CONTRACT be amended as follows:

1. **FULL FORCE AND EFFECT:** Except as specifically modified by this Supplemental Agreement, the terms and conditions contained in Contract No. 3501 between the CITY and CONTRACTOR, executed on August 16, 2013, are incorporated herein by this reference and shall remain in effect.

2. SECTION 2. TERM OF CONTRACT

Delete the Section in its entirety and replace with:

"The term of this contract shall be six (6) years from August 16, 2013 through August 15, 2019, subject however to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts."

3. SECTION 8. RATIFICATION

Add Section 8, "Ratification," as follows:

"At the request of the DEPARTMENT, and because of the need therefor, CONTRACTOR began performance of the services required hereunder prior to the execution hereof. By its execution hereof, City hereby accepts such service subject to all the terms, covenants, and conditions of this agreement, and ratifies its agreement with CONTRACTOR for such services."

All other terms and conditions of the CONTRACT shall remain unchanged.

*(Signature Page to Follow)*

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to CONTRACT No. 3501 to be executed by their duly authorized representatives.

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners.

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

ROSS TRAMA DBA R. TRAMA CONSTRUCTION, a Corporation

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

APPROVED AS TO FORM:  
MICHAEL N. FEUER, City Attorney

BY: \_\_\_\_\_  
Deputy City Attorney

DATE: \_\_\_\_\_

**SUPPLEMENTAL AGREEMENT TO CONTRACT NO. 3470  
BETWEEN  
THE CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
AND  
UNITED RIGGERS & ERECTORS, INC.  
FOR  
PARK FACILITY CONSTRUCTION**

This SUPPLEMENTAL AGREEMENT to Contract No. 3470 is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 201\_, by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners, hereinafter referred to as "CITY", and UNITED RIGGERS & ERECTORS, INC., a corporation, hereinafter referred to as "CONTRACTOR".

RECITALS

WHEREAS, on August 16, 2013, CITY and CONTRACTOR entered into Contract No. 3470 ("CONTRACT") for Park Facility Construction services at various Department of Recreation and Parks ("DEPARTMENT") facilities; and,

WHEREAS, the CONTRACT will expire on August 15, 2016, and the expertise of CONTRACTOR is still required and it is the desire of CITY to continue services with the CONTRACTOR who has demonstrated its capability to perform quality Park Facility Construction services; and,

WHEREAS, the principal purpose of CITY entering into this SUPPLEMENTAL AGREEMENT is to continue to utilize the expertise and services of CONTRACTOR in ongoing and future DEPARTMENT projects; and,

WHEREAS, in accordance with a Charter 1022 determination, the CITY finds that the Department does not have sufficient personnel available in its employ to undertake these specialized professional tasks and that it is more feasible to secure these services by contract;

NOW, THEREFORE, in consideration of the terms, covenants and conditions hereinafter contained to be kept and performed by the respective parties hereto,

IT IS MUTUALLY AGREED that the CONTRACT be amended as follows:

1. **FULL FORCE AND EFFECT:** Except as specifically modified by this Supplemental Agreement, the terms and conditions contained in Contract No. 3470 between the CITY and CONTRACTOR, executed on August 16, 2013, are incorporated herein by this reference and shall remain in effect.

2. SECTION 2. TERM OF CONTRACT

Delete the Section in its entirety and replace with:

“The term of this contract shall be six (6) years from August 16, 2013 through August 15, 2019, subject however to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts.”

3. SECTION 8. RATIFICATION

Add Section 8, “Ratification,” as follows:

“At the request of the DEPARTMENT, and because of the need therefor, CONTRACTOR began performance of the services required hereunder prior to the execution hereof. By its execution hereof, City hereby accepts such service subject to all the terms, covenants, and conditions of this agreement, and ratifies its agreement with CONTRACTOR for such services.”

All other terms and conditions of the CONTRACT shall remain unchanged.

*(Signature Page to Follow)*

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to CONTRACT No. 3470 to be executed by their duly authorized representatives.

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners.

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

UNITED RIGGERS & ERECTORS, INC, a Corporation

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

APPROVED AS TO FORM:  
MICHAEL N. FEUER, City Attorney

BY: \_\_\_\_\_  
Deputy City Attorney

DATE: \_\_\_\_\_



BOARD REPORT

NO. 16-160

DATE July 13, 2016

C.D. 15

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: GAFFEY STREET POOL — POOL AND NEW BATHHOUSE RESTORATION (PRJ20726) (W.O. #E1907453F) PROJECT — ACCEPTANCE OF STOP PAYMENT NOTICES AND RELEASE OF STOP PAYMENT NOTICES ON CONSTRUCTION CONTRACT NO. 3514

 R. Barajas	<u>CSP</u>	V. Israel	_____
AP Diaz	_____	K. Regan	_____
H. Fujita	_____	N. Williams	_____

  
 \_\_\_\_\_  
 General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Direct Department of Recreation and Parks (RAP) staff to withhold the amounts claimed in the following Stop Payment Notices, plus an additional sum equal to 25% thereof, to defray any costs of litigation in the event of court action, if said amount of said funds are available, and to notify contractors, sureties, and other interested parties that the amount of said claims plus 25% will be withheld; and,
2. Accept the Release of Stop Payment Notices.

STOP PAYMENT NOTICES

RAP is in receipt of three legal notices to withhold construction funds, pursuant to California Civil Code Sections 8044, 8100 et seq., 8500 et seq., 9350 et seq. on the following contract:

<u>Contract 3514</u>	CD 15	
Gaffey Street Pool — Pool And New Bathhouse Restoration (PRJ20726) (W.O. #E1907453F)	General Contractor:	AWI Builders, Inc.
Construction Status: 61% Complete	Claimant:	DD Reinforcing
Project Impact: none	Amount:	\$92,062.40 (Attachment 1)

BOARD REPORT

PG. 2 NO. 16-160

Claimant: Adkison Engineers, Inc.  
dba Adkan Engineers  
Amount: \$8,865.00  
(Attachment 2)

Claimant: Rodriguez Bros  
Engineering, Inc.  
Amount: \$10,518.33  
(Attachment 3)

RELEASE OF STOP PAYMENT NOTICES:

RAP is in receipt of a Release of Stop Notice Bond filed by the General Contractor below, which releases the Board from any and all liability for withholding funds from the general contractors or the sureties:

Contract 3514 CD 15

Gaffey Street Pool — Pool And New Bathhouse  
Restoration (PRJ20726) (W.O. #E1907453F)

General Contractor: AWI Builders, Inc.

Construction Status: 61% Complete

Claimant: DD Reinforcing

Project Impact: none

Amount: \$92,062.40  
(Attachment 4)

RAP is in receipt of Release of Stop Payment Notice filed by the claimant below, which releases the Board from any and all liability for withholding funds from the general contractors or the sureties:

Contract 3514 CD 15

Gaffey Street Pool — Pool And New Bathhouse  
Restoration (PRJ20726) (W.O. #E1907453F)

General Contractor: AWI Builders, Inc.

Construction Status: 61% Complete

Claimant: Adkison Engineers, Inc.  
dba Adkan Engineers

Project Impact: none

Amount: \$8,865.00  
(Attachment 5)

BOARD REPORT

PG. 3 NO. 16-160

FISCAL IMPACT STATEMENT:

Acceptance of the Stop Payment Notices, the Release of Stop Notice Bond, and the Release of Stop Payment Notice has no impact on RAP's General Fund.

This Report was prepared by Paul Liles, Administrative Clerk.

LIST OF ATTACHMENTS

- 1) Stop Payment Notice filed by DD Reinforcing
- 2) Stop Payment Notice filed by Adkison Engineers, Inc. dba Adkan Engineers
- 3) Stop Payment Notice filed by Rodriguez Bros Engineering, Inc.
- 4) Release of Stop Notice Bond filed by AWI Builders, Inc.
- 5) Release of Stop Payment Notice filed by Adkison Engineers, Inc. dba Adkan Engineers

3514

# Stop Notice

CALIFORNIA CIVIL CODE SECTION 3103

NOTICE TO: City of Los Angeles Board of Recreation and Parks 221 North Figueroa Street, Suite 1510, LA, California, 90012  
(If Private Job - file with responsible officer or person at office or branch of construction lender administering the construction funds or with the owner - CIVIL CODE SECTIONS 3156 - 3175)  
(If Public Job - file with office of controller, auditor, or other public disbursing officer whose duty it is to make payments under provisions of the contract - CIVIL CODE SECTIONS 3179 - 3214)

Prime Contractor: AWI Builders 7831 Paramount Blvd. Pico Rivera CA 90660  
Sub Contractor: (If Any): \_\_\_\_\_  
Owner or Public Body City of Los Angeles Board of Recreation and Parks  
Improvement known as Gaffey Street Pool (Pool and New Bathhouse) Restoration Project  
County of Los Angeles, State of California.

DD Reinforcing PO Box 5026 Crestline, CA 92325 (909)226-3331 Claimant, a Sole Proprietorship  
furnished certain labor, service, equipment or materials used in the above described work of improvement. The name of the person or company by whom claimant was employed or to whom claimant furnished labor, service, equipment, or materials is AWI Builders 7831 Paramount Blvd. Pico Rivera CA 90660


The kind of labor, service, equipment, or materials furnished or agreed to be furnished by claimant was:  
Install reinforcing steel on a hourly basis

Total value of labor, service, equipment, or materials agreed to be furnished.....	\$ <u>per hour basis</u>
Total value of labor, service, equipment, or materials actually furnished is.....	\$ <u>92,062.40</u>
Credit for materials returned, if any.....	\$ <u>0.00</u>
Amount paid on account, if any.....	\$ <u>0.00</u>
Amount due after deducting all just credits and offsets.....	\$ <u>92,062.40</u>

**YOU ARE HEREBY NOTIFIED** to withhold sufficient monies held by you on the above described project to satisfy claimant's demand in the amount of \$ 92,062.40 and in addition thereto sums sufficient to cover interest, court costs and reasonable costs of litigation, as provided by law.

A bond (CIVIL CODE SECTION 3083) \_\_\_\_\_ attached. (Bond required with Stop Notice served on construction lender on private jobs - bond not required on public jobs or on Stop Notice served on owner on private jobs).

Date: April 20, 2016 Name of Claimant: DD Reinforcing

By:   
Dan DeWeese / Owner

### VERIFICATION

I, the undersigned, state: I am the Owner of the claimant named in the foregoing Stop Notice; I have read said claim of Stop Notice and know the contents thereof, and I certify that the same is true of my own knowledge. I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 20, 2016 at Crestline, State of California.  


### REQUEST FOR NOTICE OF ELECTION (Private Works Only)

If an election is made not to withhold funds pursuant to this Stop Notice by reason of a payment bond having been recorded in accordance with Sections 3235 or 3162, please send notice of such election and a copy of the bond within 30 days of such election in the enclosed preaddressed stamped envelope to the address of the claimant shown above. This information must be provided by you under Civil Code Sections 3159, 3161 or 3162.

Signed: \_\_\_\_\_

BOARD OF RECREATION  
AND PARK COMMISSIONERS

2016 APR 25 AM 8:42

STOP NOTICE

LEGAL NOTICE TO WITHHOLD CONSTRUCTION FUNDS  
(Public or Private Work)  
(Per California Civil Code Section 3103)

To: CITY OF LOS ANGELES - Board of Recreation &  
Park Commissioners  
221 North Figueroa, Suite #1510  
Los Angeles CA 90012

Project: Gaffey Street Pool and Bath House  
3351 South Gaffey Street  
Project# E1907453  
San Pedro CA 90731

ADKAN JOB # 8844

TAKE NOTICE THAT Adkison Engineers, Inc. dba Adkan Engineers

whose address is 6879 Airport Drive, Riverside, CA 92504

has performed labor and furnished materials for a work of improvement described as follows: Surveying


The labor and materials furnished by claimant are of the following general kind: Civil Engineering/Land Surveying Services

The labor and materials were furnished to the following party: AWI Builders, Inc.  
1027 Sherlock Drive, Burbank CA 91501

Total value of the whole amount of labor and materials agreed to be furnished is: .....	<u>\$38,750.00</u>
The value of the labor and materials furnished to date is: .....	<u>\$36,515.00</u>
Claimant has been paid the sum of: .....	<u>\$27,650.00</u>
and there is due, owing and unpaid the sum of: .....	<u>\$8,865.00</u>

You are required to set aside sufficient funds to satisfy this claim with interest, court costs and reasonable costs of litigation, as provided by law. You are also notified that claimant claims and equitable lien against any construction funds for this project which are in your hands.

FIRM NAME: Adkison Engineers, Inc. dba Adkan Engineers  
By: E Adkison, President

<b>VERIFICATION</b>	
I, the undersigned, say: I am the	<u>President</u>
the claimant named in the foregoing Stop Notice; I have read said Stop Notice and know the contents thereof; the same is true of my own knowledge. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.	
Executed on	<u>April 19, 2016</u> , at <u>Riverside, California.</u>
	 <u>Ed Adkison, President</u>

3514

**PUBLIC WORK STOP PAYMENT NOTICE  
LEGAL NOTICE TO WITHHOLD CONSTRUCTION FUNDS  
AND  
REQUEST FOR NOTICE OF FILING OF NOTICE OF  
ACCEPTANCE, COMPLETION OR CESSATION  
CIVIL CODE §8044, 8520, 8530, & 9350 et seq.**

ARJ OF RECREATION  
AND PARKS COMMISSION  
2016 JUN 20 PM 1:18

TO: City of Los Angeles Dept. of Rec & Parks Commission Offc./Attn: Armando Bencomo  
221 West Figueroa Street, #300  
Los Angeles, CA 90012

PROJECT: Gaffey Street Pool Restoration  
3351 South Gaffey Street  
San Pedro, CA

TAKE NOTICE THAT Rodriguez Bros Engineering, Inc. whose address is 2023 South Bon View Avenue, #H, Ontario, CA 91761 has performed labor and/or furnished materials for a work of improvement described as follows: Gaffey Street Pool Restoration, 3351 South Gaffey Street, San Pedro, CA.

The labor and/or materials furnished by claimant are of the following general kind: Underground site utilities. Direct contractor is AWI Builders, Inc., 7831 Paramount Boulevard, Pico Rivera, CA 90660.

The labor and/or materials were furnished to or for the following party: AWI Builders, Inc., 7831 Paramount Boulevard, Pico Rivera, CA 90660. The relationship of the Claimant to the other parties is: Subcontractor.

The value of the whole amount of labor and/or materials agreed to be furnished is \$10,518.33. The value of the labor and/or materials furnished to date is \$10,518.33. Claimant has been paid the sum of \$0.00, and there is due, owing and unpaid the sum of \$10,518.33 together with interest at the rate of 2.00 percent per month from April 1, 2016.

You are required to set aside sufficient funds to satisfy this claim with interest, court costs and reasonable costs of litigation as provided by law. You are also notified that claimant claims an equitable lien against any construction funds for this project which are in your hands.

You are also required to give Notice of Acceptance, Completion or Cessation to the undersigned as required by Civil Code §9362. Attached hereto is the \$10.00 fee as required by Civil Code §9362.

Firm Name: Rodriguez Bros Engineering, Inc.

By: 

Naomi Pele / Authorized Agent

**VERIFICATION**

I, the undersigned, say: I am the Authorized Agent of the claimant of the foregoing Stop Payment Notice; I have read said Stop Payment Notice and know the contents thereof: the same is true of my own knowledge.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 16, 2016, at San Diego, California.



Naomi Pele / Authorized Agent

ONE ORIGINAL COPY

RELEASE OF STOP NOTICE BOND  
(Public Works)

BOND NO: 1020419  
\$ 2,301.56 premium is for  
a term of ONE (1) year(s)

KNOW ALL MEN BY THESE PRESENTS:

That we, AWI BUILDERS, INC., as Principal,  
and THE HANOVER INSURANCE COMPANY, a corporation organized and doing business  
under and by virtue of the laws of the State of NEW HAMPSHIRE and duly licensed to conduct  
a general surety business in the State of California as Surety, are held and firmly bound unto  
CITY OF LOS ANGELES BOARD OF RECREATION AND PARKS

as Obligee, in the sum of ONE HUNDRED FIFTEEN THOUSAND SEVENTY EIGHT NO/100

(\$ 115,078.00) Dollars, for which payment, well and truly to be made, we bind ourselves, our heirs,  
executors and successors, jointly and severally firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT, WHEREAS, the above named Principal has been  
furnished labor and/or materials by DD REINFORCING

against which there is still unpaid the sum of NINETY TWO THOUSAND SIXTY TWO 40/100

(\$ 92,062.40) Dollars, in connection with construction of GAFFEY STREET POOL  
(POOL AND NEW BATHHOUSE) RESTORATION PROJECT

WHEREAS, DD REINFORCING, claimant, has filed a verified claim  
and Stop Notice covering labor and/or materials, and has requested said Obligee to withhold funds and whereas said

Principal desires to have funds released, said Principal is required to file an undertaking in the sum of  
ONE HUNDRED FIFTEEN THOUSAND SEVENTY EIGHT NO/100

(\$ 115,078.00) Dollars, being one and one quarter (1 1/4) times the amount of the said claim as required  
under Section 9364, of the Civil Code of the State of California.

NOW, THEREFORE, the condition of this obligation is such, that if the Claimant in this matter shall receive  
judgement in any action brought on said claim, the Principal shall pay said judgement and costs to Claimant, in  
an amount not exceeding the sum specified in this undertaking, then this obligation shall be null and void; otherwise  
to remain in full force and effect.

IN WITNESS WHEREOF, the seal and signature of said Principal is hereto affixed and the corporate seal and the  
name of the said Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact at

COVINA, California, this 29TH day of JUNE, 2016

AWI BUILDERS, INC.  
Principal

THE HANOVER INSURANCE COMPANY  
Surety

By: \_\_\_\_\_

By: PHILIP E. VEGA  Attorney-in-Fact

3514

BOARD OF RECREATION  
AND PARKS COMMISSIONER

2016 MAY 31 AM 9:10

AWI Construction, Inc.

RELEASE OF STOP NOTICE OR NOTICE TO WITHHOLD

FOR GOOD AND VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the undersigned does hereby release from the effect of that certain Stop Notice or Notice to Withhold filed in the office of CITY OF LOS ANGELES BOARD OF RECREATION AND PARKS on April 19, 2016, against AWI Builders, Inc. as General Contractor, on job known as GAFFEY STREET POOL AND NEW BATH HOUSE in the amount of \$8,865.00.

Firm: Adkison Engineers, Inc. dba Adkan Engineers

By:   
Ed Adkison, President

Dated: 5/25/16

\*\*\*\*\* This release must be notarized\*\*\*\*\*



**BOARD REPORT**

NO. 16-161

DATE July 13, 2016

C.D. 3

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: DANIELS FIELD SPORTS CENTER – RENOVATE RESTROOMS (PRJ20534) (W.O. #E170104F) PROJECT – AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF RECREATION AND PARKS, THE DEPARTMENT OF PUBLIC WORKS, BUREAU OF ENGINEERING, AND THE DEPARTMENT OF GENERAL SERVICES, CONSTRUCTION FORCES

AP Diaz	_____	V. Israel	_____
<i>Jay</i> R. Barajas	<u>        </u>	K. Regan	_____
H. Fujita	_____	N. Williams	_____

  
 \_\_\_\_\_  
 General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Approve a proposed Amendment to the Memorandum of Understanding (MOU), substantially in the form on file in the Board Office, between the Department of Recreation and Parks (RAP), the Department of Public Works, the Bureau of Engineering (BOE), and the Department of General Services (GSD), Construction Forces to increase the total construction funding for the Daniels Field Sports Center – Renovate Restrooms (PRJ20534) (W.O. #E170104F) project by Forty Five Thousand One Hundred Seventy Five Dollars (\$45,175.00), for a total construction cost not-to-exceed Five Hundred Seventy Five Thousand One Hundred Seventy Five Dollars (\$575,175.00), subject to approval of the City Attorney as to form;
2. Direct the Board Secretary to transmit the proposed Amendment to the City Attorney for review and approval as to form;
3. Authorize the General Manager to execute the Amendment, subsequent to the approval of the City Attorney as to form; and,
4. Authorize RAP to make technical corrections, as necessary, to the transactions included in this Report to implement RAP's intentions.

BOARD REPORT

PG. 2 NO. 16-161

SUMMARY

The Daniels Field Sports Center – Renovate Restrooms (PRJ20534) (W.O. #E170104F) project (Project) is located at 845 West 12<sup>th</sup> Street, San Pedro, CA 90731. The Project scope consists of remodeling the existing restrooms to comply with the American Disabilities Act (ADA).

On June 6, 2012, the Board approved a MOU to establish responsibilities between RAP, BOE, and GSD for the construction of the Project, for a not-to-exceed amount of Five Hundred Thirty Thousand Dollars (\$530,000.00) (Report No. 12-176). Under the authority of the approved Report No. 12-176, the Project was included in the First Construction Projects Report (CPR) for Fiscal Year 2014-15, prepared by the Office of the City Administrative Officer (CAO), for approval by the City Council and Mayor to transfer fund appropriations to GSD. The CPR was approved by the City and the Mayor on October, 2015 (Council File No. 14-1284). GSD has completed all Contract Work to date.

Additional miscellaneous construction work, which was not part of the original scope of work, was necessary to complete the Project. This additional miscellaneous construction work includes asbestos and lead abatement, replacement of glazing in windows, replacement of light fixtures, and graffiti removal. Lead and asbestos was found within the frames, paint and putty surrounding the window glazing inside the restroom building. Vandalism to the building prior to construction commencement included graffiti as well as broken window glazing and light fixtures. It was determined that issuing this miscellaneous construction work to GSD would be more cost effective and will expedite completion, since GSD has successfully completed similar work on other City-owned buildings in the past and GSD is currently on-site performing construction work.

It is therefore recommended that the Amendment to the MOU which increases the not-to-exceed construction funding from Five Hundred Thirty Thousand (\$530,000.00) to Five Hundred Seventy Five Thousand One Hundred Seventy Five Dollars (\$575,175.00) be approved. This will increase the MOU amount by Forty Five Thousand One Hundred Seventy Five Dollars (\$45,175.00) and will be consistent with the revised construction funding amount, as stated in the 3<sup>rd</sup> CPR of Fiscal Year 2015-2016, which approves transferring Sixty Four Thousand Dollars (\$64,000.00) to GSD. The Project change order log is shown in Attachment 1. The Funds are available in the following fund and account:

<u>Funding Source</u>	<u>Fund No./Dept. No./Acct. No.</u>	<u>Funding for Proposed MOU Amendment</u>	<u>Total Project Funding</u>
Sites and Facilities	209/88/88LAB5	\$45,175.00	\$575,175.00

TREES AND SHADE

This project consists of the interior renovation and Americans with Disabilities' Act (ADA) upgrade of a restroom and bathhouse and does not include trees or shade.

## BOARD REPORT

PG. 3 NO. 16-161

### ENVIRONMENTAL IMPACT STATEMENT

In compliance with the (CEQA), Staff has determined that the underlying project associated with the MOU, as amended, has been previously evaluated for environmental significance and processed in accordance with the City CEQA Guidelines on May 18, 2012. Therefore, the amendment to the MOU is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Article II, Section 2(i) of the City CEQA Guidelines.

### FISCAL IMPACT STATEMENT

The estimated costs for the design, development, and construction of the proposed park improvements are anticipated to be funded by Sites and Facilities therefore will not impact the RAP's General Fund.

This Report was prepared by Meghan Aldrich, Project Manager, BOE, Recreational and Cultural Facilities Division. Reviewed by Neil Drucker, Program Manager, Recreational and Cultural Facilities Division, BOE; Deborah Weintraub, Chief Deputy City Engineer, BOE; and Cathie Santo Domingo, Superintendent, Planning, Construction and Maintenance Division.

### Attachments

1. Amendment Memorandum of Understanding
2. Change Order Log

AMENDMENT

TO THE

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE DEPARTMENT OF RECREATION AND PARKS

THE DEPARTMENT OF PUBLIC WORKS  
BUREAU OF ENGINEERING

AND

THE DEPARTMENT OF GENERAL SERVICES  
CONSTRUCTION FORCES

FOR THE CONSTRUCTION OF THE

DANIELS FIELD SPORTS CENTER – RENOVATE RESTROOMS  
(PRJ20534) (W.O. #E170104F)

845 West 12<sup>th</sup> Street  
San Pedro, CA 90731

## AMENDMENT TO MEMORANDUM OF UNDERSTANDING

This Amendment to Memorandum of Understanding (MOU) for the construction of the Daniels Field Sports Center – Renovate Restrooms (PRJ20534) (W.O. #E170104F) project is made and entered into by and between the Department of Recreation and Parks, hereinafter referred to as RAP; the Department of Public Works, the Bureau of Engineering, hereinafter referred to as BOE; and the Department of General Services, the Construction Forces, hereinafter referred to as GSD.

### WITNESSETH

WHEREAS, the parties entered into an MOU for the construction of the Daniels Field Sports Center – Renovate Restrooms (PRJ20534) (W.O. #E170104F) project, located at 845 West 12<sup>th</sup> Street San Pedro, California 90731, on June 28, 2012, for the construction work of the proposed project; and

WHEREAS, BOE and GSD have reviewed and negotiated the final price submitted by GSD, and the parties hereby agree to revise the construction funding amount necessary to complete the construction of the project; and

WHEREAS, there is adequate available funding to fund this increase in construction funding amount with the funds from the project's contingency account; and

NOW, THEREFORE, RAP, BOE, and GSD agree to enter into and abide by the terms and conditions of the MOU, as amended herein. The following section is hereby amended as follows:

### ARTICLE VII – PAYMENT

#### A. COMPENSATION

1. GSD agrees to do all the work for a not-to-exceed total construction funding amount of Five Hundred Seventy Five Thousand One Hundred Seventy Five Dollars (\$575,175.00). Any cost incurred in excess of the base price amount without prior written authorization shall not be eligible for reimbursement. With the approval of the City Council and the Mayor, BOE shall authorize the expenditure of an amount not to exceed Five Hundred Seventy Five Thousand, One Hundred Seventy Five Dollars (\$575,175.00) for the complete and satisfactory performance of the terms of this MOU.

The funds are available in the following account:

<u>Funding Source</u>	<u>Fund No./Dept. No./Acct. No.</u>	<u>Funding for Proposed MOU Amendment</u>	<u>Total Project Funding</u>
Sites and Facilities	209/88/88LAB5	\$45,175.00	\$575,175.00

The transfer of cash to GSD shall be on an as-needed basis, upon review and approval of expenditure reports submitted by GSD and approval of these reports by the BOE Project Manager.

All other terms and conditions of the MOU shall remain unchanged.

Signature Page to Follow

IN WITNESS WHEREOF, RAP, GSD and BOE have caused this Amendment to the MOU to be executed by their duly authorized representatives.

For: Department of Recreation and Parks

\_\_\_\_\_  
Michael A. Shull, General Manager

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

For: Bureau of Engineering, Department of Public Works

\_\_\_\_\_  
Gary Lee Moore, PE, ENV SP, City Engineer

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

For: Department of General Services

\_\_\_\_\_  
Tony M. Royster, General Manager

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Approved as to form:  
MICHAEL N. FEUER, City Attorney

By: \_\_\_\_\_  
Strefan E. Fauble, Deputy City Attorney

Date: \_\_\_\_\_

DANIEL'S FIELD - RESTROOM RENOVATION PROJECT  
Change Order Log

ATTACHMENT 1

NO	SCOPE OF OF WORK	CHANGE ORDER AMOUNT	TYPE
1	Permit Fees	\$ 2,485.00	Change in Scope
2	Replace Existing Non-Load Bearing Exterior Wall	\$ 6,400.00	Unforeseen Condition
3	Additional Ceiling Replacement	\$ 7,643.00	Unforeseen Condition
4	Install New Drain Lines at 105 and 106	\$ 3,500.00	Unforeseen Condition
5	Vent Piping Changes to rooms 101 and 102	\$ 3,600.00	Unforeseen Condition
6	Gas Earthquake Valve	\$ 3,383.00	Category 4
7	Asbestos Lead Abatement, Glazing and Light Fixture Replacement, Graffiti Removal	\$ 64,000.00	Change in Scope
	<i>Total:</i>	\$ 91,011.00	

SUMMARY BY TYPE	AMOUNT	Percentage
Unforeseen Condition	\$21,143.00	4%
Error and Omission	\$0.00	0%
Change in Scope	\$66,485.00	14%
Category 4 - items under estimated or excluded by GSD	\$3,383.00	1%
Total Amount:	\$91,011.00	19%



**BOARD REPORT**

NO. 16-162

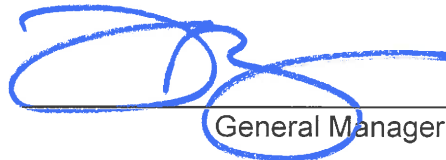
DATE July 13, 2016

C.D. 12

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: CHATSWORTH PARK SOUTH – REHABILITATION PROJECT (PRJ20361)  
(W.O. #E170331F) – AUTHORITY TO NEGOTIATE AND ISSUE CHANGE  
ORDERS TO CONTRACT NO. 3528

AP Diaz	_____	V. Israel	_____
<i>for</i> R. Barajas	<i>CSD</i>	K. Regan	_____
H. Fujita	_____	N. Williams	_____

  
\_\_\_\_\_

General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Authorize the General Manager or Designee to negotiate and issue Change Order No.4, for an amount not-to-exceed Two Hundred Twenty Thousand Dollars (\$220,000.00), to Contract No. 3528 with American Integrated Services, Inc. for the work outlined in the Summary of this Report; and,
2. Authorize the General Manager or Designee to negotiate and issue Change Order No.5, for an amount not-to-exceed Two Hundred Thousand Dollars (\$200,000.00), to Contract No. 3528 with American Integrated Services, Inc. for the work outlined in the Summary of this Report.

SUMMARY

On June 18, 2015, the Board of Recreation and Park Commissioners awarded Contract No. 3528 to American Integrated Services, Inc. (Contractor) (Report No. 15-141), in the amount of Six Million, Two Hundred Ninety-Five Thousand Dollars (\$6,295,000.00) for the Chatsworth Park South – Rehabilitation (PRJ20361) (W.O.#E170331F) project, located at 22360 West Devonshire Street Los Angeles, CA 91311. Construction started on April 4, 2016 and is currently 28% complete.

The Remedial Action Plan and remedial design documents that form the basis of the construction contract generally characterized the project site as both hazardous and non-hazardous. So, specific areas within the project site could not be categorized or quantified as either hazardous or non-hazardous. Because the project was designed as remedial cap that would leave the majority of the soil in-site, the entire project site was preliminarily categorized as non-hazardous with the provision that some excess soils to be disposed off-site could be classified as hazardous. During the excavation at the project site, it was determined through

## BOARD REPORT

PG. 2 NO. 16-162

testing that the excess soil set for removal from the site contained high levels of lead and arsenic. The tested soil failed the toxicity characteristic leaching procedure (TCLP) test, thereby classifying this waste stream as Resource Conservation and Recovery Act (RCRA) hazardous waste under Federal Regulations. As a result, this soil cannot go directly to a Class I landfill without first stabilizing the soluble lead. Treating the excess soil was not included in the contractor's scope of work; therefore, a change order must be issued to properly dispose of the contaminated soil. The change order work will include hauling and treating approximately 750 tons of hazardous soil. The difference between non-hazardous soil trucking and hazardous soil trucking will also require additional driving distance for dumping at US Ecology in Nevada, dust mitigation, and traffic control measures. The Contractor is also required to submit daily manifest and dump tickets signed by the project inspector.

The Contractor bid the project assuming the standard trucking times of 8:00 am to 4:00 pm; however, the haul route approval, which was obtained after award of the project, requires the trucking hours to be from 9:00 am to 2:00 pm. This change affects the number of trips each truck can make per day and increases the number of trucking days from 25 to 35 days. Each day, approximately 25 trucks will access the site in order to accommodate the limited haul route trucking hours; however, the full daily rate per truck is charged regardless of the hauling hour requirements. In order to pay for the additional trucking days, a change order must be issued to the Contractor.

The Contractor has submitted a change order proposal, in the amount of Four Hundred Twenty Seven Thousand, Eight Hundred and Ninety-Seven Dollars (\$427,897.00) for a portion of the change order work described above. Bureau of Engineering (BOE) staff is reviewing the change order proposal and recommends that staff requests authority to negotiate the change order, in an amount to not-to-exceed Four Hundred Twenty Thousand Dollars (\$420,000.00).

To date, three change orders (Attachment No. 1) have been executed, for a total amount of Twenty-Nine Thousand, Seven Hundred Twenty-Four Dollars (\$29,724.00) or 0.47% of the original awarded contract amount. These change orders include the addition of a project sign, demolition of the existing playgrounds, and vegetation removal around the community center, which were scope changes requested by the Department of Recreation and Parks (RAP).

With the issuance of the two aforementioned change orders (Change Order Nos. 4 and 5), the total arithmetic value of change orders approved to date would not exceed Four Hundred Forty-Nine Thousand, Seven Hundred Twenty-Four Dollars (\$449,724.00). This would bring the total percent of change orders, in comparison to the original contract value, to 7.1%. BOE staff is reviewing additional change order requests submitted by the Contractor (Potential Change Order Nos. 6 through 11), and anticipates that the total change order exposure will not exceed Five Hundred Eighty Thousand, Seven Hundred Twenty-Four Dollars (\$586,724.00) or 9.3% of the original contract award amount, as listed in Attachment No. 1.

BOARD REPORT

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FISCAL IMPACT STATEMENT

The change order authority requested in this Report is funded by the project contingency. There is no immediate fiscal impact to RAP's General Fund.

This Report was prepared by Meghan Aldrich, Project Manager, BOE Recreational and Cultural Facilities Program. Reviewed by Neil Drucker, Program Manager, BOE Recreational and Cultural Facilities Division; Jose Fuentes for Deborah Weintraub, BOE, Chief Deputy City Engineer; and Cathie Santo Domingo, Superintendent, Planning, Construction and Maintenance Branch, Department of Recreation and Parks.

LIST OF ATTACHMENTS

- 1) Change Order Log

CHATSWORTH PARK SOUTH REHABILITATION PROJECT  
Change Order Log

NO	SCOPE OF WORK	CHANGE ORDER AMOUNT	TYPE	STATUS
<b>EXECUTED CHANGE ORDERS:</b>				
1	Project Credit Sign	\$ 3,243.00	Change in Scope	Executed
2	Demolition of Playground	\$ 15,190.00	Change in Scope	Executed
3	Vegetation Removal Around Community Center	\$ 11,291.00	Change in Scope	Executed
<b>CHANGE ORDERS REQUESTED BY THIS REPORT:</b>				
4	Transportation and Disposal of Hazardous Waste	\$ 220,000.00	Unforeseen Condition	Unresolved
5	Additional Trucking Costs from Haul Route Restrictions	\$ 200,000.00	Change in Scope	Unresolved
<b>POTENTIAL CHANGE ORDERS UNDER REVIEW:</b>				
6	Main Waterline Break	\$ 6,000.00	Unforeseen Condition	Unresolved
7	New 6" Water Line	\$ 30,000.00	Change in Scope	Unresolved
8	Conduit for Low Voltage Irrigation Wires	\$ 20,000.00	Change in Scope	Unresolved
9	Electrical Wiring and LED upgrade to existing lights	\$ 25,000.00	Change in Scope	Unresolved
10	Concrete Walkway to Recreation Center and WMD Road	\$ 6,000.00	Change in Scope	Unresolved
11	Additional Planting and Trees	\$ 50,000.00	Error and Omission	Unresolved
		<b>Total: \$</b>	<b>586,724.00</b>	

SUMMARY BY TYPE	AMOUNT	Percentage
Unforeseen Condition	\$226,000.00	3.6%
Error and Omission	\$50,000.00	0.8%
Change in Scope	\$310,724.00	4.9%
Category 4 - items under estimated or excluded by GSD	\$0.00	0.0%
<b>Total Amount:</b>	<b>\$586,724.00</b>	<b>9.3%</b>

DEPARTMENT OF PUBLIC WORKS/BUREAU OF ENGINEERING  
RECREATIONAL AND CULTURAL FACILITIES DIVISION

**BOARD REPORT**

NO. 16-163

DATE July 13, 2016

C.D. 4

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: WEST WILSHIRE (PAN PACIFIC) PARK – IMPROVEMENTS TO ATHLETIC FIELDS (SOCCER AND BASEBALL FIELDS) (PRJ20579) (W.O. #E170496F) PROJECT – APPROVAL OF FINAL PLANS AND CALL FOR BIDS; EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO ARTICLE III, SECTION 1, CLASS 1(1, 4) AND CLASS 3(6) OF THE CITY CEQA GUIDELINES

AP Diaz	_____	V. Israel	_____
*R. Barajas	<u>CBP</u>	K. Regan	_____
H. Fujita	_____	N. Williams	_____

  
 \_\_\_\_\_  
 General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Approve final plans (RP 300087 and RP 300088) and specifications for the West Wilshire (Pan Pacific) Park – Improvements to Athletic Fields (Soccer and Baseball Fields) (PRJ20579) (W.O. #E170496F) project;
2. Approve the reduction in the value of the work that the specifications require to be performed by the prime contractor from thirty percent to twenty percent (30% to 20%) of the base bid price;
3. Approve the date to be advertised for receipt of bids as Tuesday, August 23, 2016, 3:00 P.M. in the Board Office;
4. Find that the project is categorically exempt from CEQA; and,
5. Direct the Chief Financial Officer to prepare a check to the Los Angeles County Clerk in the amount of Seventy-Five Dollars (\$75.00) for the fee to file the Notice of Exemption within five working days of project approval.

SUMMARY

Originally, West Wilshire Memorial Park, at 141 South Gardner Street, Los Angeles, California 90036, and Pan Pacific Park, at 7600 Beverly Boulevard, Los Angeles, California 90036, were two independent, though adjacent, parks, operated respectively by the City and the State of California. In 1997, as they were both to be operated by the City, the Board authorized West

## BOARD REPORT

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Wilshire Memorial Park to be renamed as Pan Pacific Park (Report No. 347-97). The Proposition K Ballot measure listed these two parks separately and funded specified scope of work at each of the parks.

The Department of Recreation and Parks (RAP) and the Department of Public Works, Bureau of Engineering (BOE) propose to construct the West Wilshire (Pan Pacific) Park - Improvements to Athletic Fields (Soccer and Baseball Fields) (PRJ20579) (W.O. #E170496F) project (Project). This Project is designed to improve the aged and dilapidated baseball field and construct an official synthetic soccer field where an open area has been utilized as a soccer field for approximately the last two decades at Pan Pacific Park. The Project combines residual funds from two separate projects that were specified in the Proposition K ballot measure:

- 1) West Wilshire – Improvements to Athletic Fields, Swimming Pools, or Recreation Center; and
- 2) Pan Pacific – Gym & Perimeter Fencing, Irrigation, Sports Field Improvements, Walk and Jog Paths, Child Play Area.

Over the span of several years in the past, the scope for each of the two projects had been completed. As part of the Proposition K Program Reconciliation Report prepared in 2014, it was determined that each project had unexpended funds remaining (residual funds) that could be applied toward additional work under each project scope.

Residual funds from these two specified projects will be used to cover the cost of permits, fees, design and construction to improve existing softball/baseball field. A synthetic turf soccer field will be constructed using Quimby funds, resulting in the combined "Soccer and Baseball Fields" Project.

Plans and specifications provide for the following scope:

1. Soccer field: The existing open space, currently being utilized informally as a soccer field, will be officially replaced with a synthetic turf multi-use sports field. It is configured to accommodate four different sizes of soccer fields: U10 size (1); U8 (2); U6 (1); and flag football field (1). The field will integrate 42,500 square foot of water shedding features, which will allow the field to drain quickly after rain events, and improve overall drainage in the park. It will also have sports field lighting, with security level lighting, trash receptacles (6), sports apparatus and turf maintenance equipment storage bins (2), and storm drains. Furthermore, the following amenities will be considered at the proposed soccer field as additive alternates, should adequate funding be available:
  - a. Two Picnic tables
  - b. Six Bleachers
  - c. Six Shade structures over bleachers
  - d. Score board electric wireless operation

## BOARD REPORT

PG. 3 NO. 16-163

- e. Americans with Disabilities Act (ADA) compliant drinking water fountain with bottle filler
  - f. Fence guard and wind breaker fabric
  - g. Litter receptacle with solar compactor
2. Baseball/Softball Field: The existing field will be re-graded to minimize erosion and improve drainage. A "Smart" irrigation system will be provided to sustain the new lawn and the field. The inner field will have three alternative bases settings to accommodate various age levels of baseball and softball games. The outer field perimeter fence will be raised to thirty feet of height to protect the patrons and soccer players on the adjacent soccer field. The sports field lighting will be fitted with energy efficient fixtures and have remote or internet operating capabilities. The following additive alternates will be considered for the baseball/softball field, provided that adequate funding is available.
- a. Two Shade structures over dugouts
  - b. Two Shade structures over spectators' areas
  - c. New wind breaker fabric
  - d. Extend left field
  - e. Concrete block retaining/sluff wall
  - f. Score board - electric wireless operation

The City Engineer's estimate for the construction cost of the baseball/softball field improvements portion of the project is Two Hundred Ninety-Seven Thousand, Six Hundred Dollars (\$297,600.00), and One Million, Three Hundred Sixteen Thousand, Two Hundred Dollars (\$1,316,200.00) for the soccer fields portion, including ten percent (10%) construction contingency, for a total project cost estimate of One Million, Six Hundred Thirteen Thousand, Eight Hundred Dollars (\$1,613,800.00). For the Additive Alternates, the City Engineer's estimate is One Hundred Seventy-Three Thousand, Eight Hundred Dollars (\$173,800.00) for the baseball/softball field improvements and Two Hundred Thirty-Eight Thousand, Four Hundred Dollars (\$238,400.00) for the soccer field, including contingency. The contract will be awarded based on the lowest base bid.

Funding will be from the funding sources listed below:

<u>Funding Source</u>	<u>Fund/Dept./Acct No.</u>
Proposition K Year 11	43K/10/10C570
Proposition K Year 17	43K/10/10K570
Quimby	302/89/460K-WV

It has been the Board's policy to require that the prime contractor on construction projects perform a minimum of thirty percent (30%) of the work for the respective project, as measured by the base bid price. It is proposed that the Board reduce the prime contractor's participation requirement from thirty percent to twenty percent (30% to 20%) on this Project due to the number

## BOARD REPORT

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of specialty subcontractors required. This should help attract a broader range of prime contractors, thus creating a more inviting and competitive bidding environment for this project. In addition, it should create a more competitive pricing among the specialty subcontractors providing bids to the prime contractors.

There are seven and six additive alternates for the soccer and baseball fields, respectively. These alternates will provide competitive prices for the betterment of the fields. The total estimated cost of these additive alternates is Four Hundred Twelve Thousand, Two Hundred Dollars (\$412,200.00), which exceeds the funds available. Thus, additive alternates that can be afforded by the budget will be considered including bleachers and the shade structures at the time of awarding the contract. If not awarded at the time the contract is awarded, any one of these additive alternates can be added at a later date if funding becomes available and will not impede soccer and/or baseball games.

### TREES AND SHADE

For the open site shade near the soccer field, there will be five California Sycamore trees planted around the soccer field. The trees are expected to be about twenty-five (25) feet high (when matured), with drip line of twenty feet. In addition, two shade structures are planned over the baseball/softball field dugouts and eight over the bleachers area.

The bid package has been reviewed and approved by the City Attorney's Office.

### ENVIRONMENTAL IMPACT STATEMENT

The Project consists of the remodeling of exterior structure (a baseball field), the upgrade of a space currently used to provide a safe playing area, and the upgrade of the soccer field. Therefore, the Project has been determined to be categorically exempt without exception from the provisions of the California Environmental Quality Act (CEQA) pursuant to Article III, Section 1, Class 1(1, 4) and Class 3(6) of the City CEQA Guidelines

### FISCAL IMPACT STATEMENT

Funding for the project is provided by Proposition K – L.A. for Kids Program Specified funds, as well as RAP Quimby funding.



## BOARD REPORT

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This Report was prepared by Shashi Bhakta, Project Manager, BOE Recreational and Cultural Facilities Program. Reviewed by Neil Drucker, Program Manager, BOE Recreational and Cultural Facilities Program; Deborah Weintraub, Chief Deputy City Engineer, Bureau of Engineering; and Cathie Santo Domingo, Superintendent, Planning, Construction and Maintenance Branch.

**BOARD REPORT**

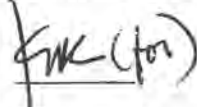
NO. 16-164

DATE JULY 13, 2016

C.D. ALL

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: CITYWIDE PUBLIC ART INITIATIVE – PROPOSAL BY THE LOS ANGELES DEPARTMENT OF CULTURAL AFFAIRS FOR THE INSTALLATION OF TEMPORARY PUBLIC ART AT PARK LOCATIONS; ADDITION OF TWO LOCATIONS; ISSUANCE OF RIGHT-OF-ENTRY PERMITS; EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO ARTICLE III, SECTION 1, CLASS 4(6) OF THE CITY CEQA GUIDELINES

AP Diaz _____	V. Israel _____	
* R. Barajas _____	K. Regan _____	_____
H. Fujita _____	N. Williams _____	_____

 (for)  
 \_\_\_\_\_  
 General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Accept and approve the proposal by the Los Angeles Department of Cultural Affairs (DCA) for the installation of temporary public art at two Department of Recreation and Parks (RAP) properties, in addition to the eleven (11) RAP properties approved under Board Report No. 16-145, as part of a Citywide public art initiative;
2. Authorize the General Manager or Designee to issue Right-of-Entry (ROE) Permits to the DCA for the two additional park sites as described in the Summary of this Report;
3. Find that the proposed projects are categorically exempt from the California Environmental Quality Act (CEQA), and direct staff to file a Notice of Exemption; and,
4. Direct RAP's Chief Financial Officer to prepare a check to the Los Angeles County Clerk in the amount of \$75.00 for the purpose of filing a Notice of Exemption.

SUMMARY

On June 15, 2016, the Board of Recreation and Parks Commissioners (Board) approved a proposal by DCA for the installation of temporary public art at eleven (11) park locations and authorized the issuance of revocable ROE Permits for each respective site through Board Report No. 16-145 (Attachment 1).

## BOARD REPORT

PG 2            NO. 16-164

At this time, RAP staff is recommending the Board accept and approve a proposal by the DCA for the installation of temporary public art at the following two additional park locations as part of the Citywide public art initiative (Initiative), and provide authorization for the issuance of revocable ROE permits for these sites:

- Del Rey Lagoon (CD 11);
- Griffith Park – Adjacent to L.A. SHARES Leased Building (CD 4);

At Del Rey Lagoon, an interpretive signage project is proposed that portrays the story of the Tongva burial site along Ballona Creek. At the Griffith Park site, located on Riverside Drive, a 'HUB' location is proposed for the Initiative to provide a central place for visitors and volunteers to gather and find information. Renderings and a brief description for each of the proposed locations are provided in Attachment 2.

### BACKGROUND

DCA has worked closely with RAP staff to review and consider the addition of two selected park sites. After numerous on-site meetings with relevant RAP staff and event organizers, and after review of access, site security and other logistical considerations, RAP staff recommends that the Board approve the installation of temporary public art installations at subject park sites and authorize the General Manager or his designee to issue Right of Entry (ROE) Permits to DCA for each of the sites.

**CURRENT:** LA Water will explore and address issues related to water through the activation of fifteen (15) sites throughout the City by presenting outdoor, site-specific temporary installations by international and Los Angeles-based artists. These projects and programs will be located across the City, one in each Council District, at sites with natural and/or manmade bodies of water.

The Initiative is being directed by an independent curatorial team of distinguished arts professionals with experience in issues-based public art. In collaboration with DCA, the curatorial team has invited artists and arts collectives to propose temporary public art projects to explore the issue of water and Los Angeles. On April 12, 2016, Mayor Eric Garcetti announced the roster of ten artists and three artists' teams for **CURRENT: LA Water**. Each selected artist will be required to develop a specific community engagement component as part of their project.

About half of the exhibition will take place along the Los Angeles River in an effort to contribute to the City's broad and long-term support for the River to be revitalized and reimagined as a public corridor for recreation, culture and community. DCA, in consultation with RAP management, identified approximately 61 park sites for consideration, conducted tours to 33 sites, and selected the aforementioned eleven (11) City of Los Angeles park locations for **CURRENT: LA Water** public art installations.

All temporary installations at these locations will comply with access requirements and site-security as recommended by RAP. A volunteer corps will serve as on-site docents and will coordinate with assigned maintenance and/or recreation staff for each location. The Location

## BOARD REPORT

PG 3      NO. 16-164

Manager, Los Angeles River Revitalization Corporation, has developed and finalized technical and operational site plans in consultation with appropriate RAP staff. In addition, all projects and programs are being installed by Los Angeles City contractors carrying general liability insurance policies.

### TREES AND SHADE

No trees will be removed or affected by the temporary installation of the public art work. It is anticipated that no tree shade will be affected as well.

### ENVIRONMENTAL IMPACT STATEMENT

RAP Staff has determined that the proposed art projects at the two aforementioned additional sites consist of minor alterations to the condition of public lands that are temporary uses, having no permanent effects on the environment and do not involve removal of mature, scenic trees. Therefore, the proposed projects are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article III, Section 1, Class 4(6) of the City CEQA Guidelines. A Notice of Exemption will be filed with the Los Angeles City Clerk and Los Angeles County Clerk.

### FISCAL IMPACT STATEMENT

Approval of the temporary public art work and the issuance of the ROE Permit(s) will have no fiscal impact to the RAP's General Fund. All costs for the fabrication, installation and removal of the public artwork will be the responsibility of DCA.

This Report has been prepared by Mathew Rudnick, Chief Sustainability Officer.

### LIST OF ATTACHMENTS

- 1) Board Report No. 16-145
- 2) Renderings and Brief Description of Proposed Art Installations

APPROVED  
06-15-2016

BOARD REPORT

BOARD OF RECREATION  
& PARK COMMISSIONERS

NO. 16-145

DATE June 15, 2016

C.D. ALL

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: CITYWIDE PUBLIC ART INITIATIVE – PROPOSAL BY THE LOS ANGELES DEPARTMENT OF CULTURAL AFFAIRS FOR THE INSTALLATION OF TEMPORARY PUBLIC ART AT ELEVEN PARK LOCATIONS; ISSUANCE OF RIGHT OF ENTRY PERMIT(S); EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO ARTICLE III, SECTION 1, CLASS 4(6) OF THE CITY CEQA GUIDELINES

AP Diaz	_____	V. Israel	_____
*R. Barajas	<u>CSD</u>	K. Regan	_____
H. Fujita	_____	N. Williams	_____

  
 \_\_\_\_\_  
 General Manager

Approved  \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Accept and approve the proposal by the Los Angeles Department of Cultural Affairs (DCA) for the installation of temporary public art at eleven (11) Department of Recreation Parks (RAP) properties, as described in the Summary of this Report, as part of a City-wide public art initiative;
2. Authorize the General Manager or Designee to issue Right-of-Entry (ROE) Permits to the DCA for each of the eleven (11) park sites as described in the Summary of this Report, subject to the approval of the United States Army Corps of Engineers, where applicable;
3. Find that the proposed projects are categorically exempt from the California Environmental Quality Act (CEQA), and direct staff to file a Notice of Exemption; and,
4. Direct the RAP's Chief Financial Officer to prepare a check to the Los Angeles County Clerk in the amount of \$75.00 for the purpose of filing a Notice of Exemption.

SUMMARY

In June 2015, the Los Angeles Department of Cultural Affairs (DCA) was awarded a One Million Dollar (\$1,000,000.00) Bloomberg Philanthropies Public Art Challenge grant to present a city-wide public art biennial. On May 1, 2015, DCA received approval from the Los Angeles City Council to accept the One Million Dollar (\$1,000,000.00) award and match the grant funding with private arts development fees and other philanthropic support.

## BOARD REPORT

PG 2 NO. 16-145

The CURRENT: LA Water initiative (Initiative) will be a free arts and cultural event featuring temporary public art (installations, video, performance) and public programs (workshops, conversations) presented at fifteen (15) outdoor sites across the City of Los Angeles. Eleven (11) of the fifteen (15) sites are on RAP property. The Initiative is scheduled to take place from July 16, 2016 through August 13, 2016.

DCA has worked closely with RAP staff to review and consider the eleven (11) selected park sites. After numerous on-site meetings with relevant RAP staff and event organizers, and after review of access, site security and other logistical considerations, RAP staff recommends that the Board approve the installation of temporary public art installations at subject park sites and authorize the General Manager or his designee to issue Right of Entry (ROE) Permits to DCA for each of the sites.

The eleven (11) selected sites are as follows:

- South Weddington Park (CD 2);
- Sunnynook River Park (CD 4);
- Cheviot Hills Recreation Center (CD 5);
- Sepulveda Basin (CD 6);
- Hansen Dam (CD 7);
- Norman O. Houston Park (CD 8);
- South LA Wetland Park (CD 9);
- Westside Neighborhood Park (CD10);
- Bee Canyon Park (CD 12);
- Echo Park (CD 13); and,
- Point Fermin Park (CD 15).

Renderings and a brief description for each of the proposed art work are provided in Attachment A.

CURRENT: LA Water will explore and address issues related to water through the activation of fifteen (15) sites throughout the City by presenting outdoor, site-specific temporary installations by international and Los Angeles-based artists. These projects and programs will be located across the City, one in each Council District, at sites with natural and/or manmade bodies of water.

## BOARD REPORT

PG 3 NO. 16-145

The Initiative is being directed by an independent curatorial team of distinguished arts professionals with experience in issues-based public art. In collaboration with DCA, the curatorial team has invited artists and arts collectives to propose temporary public art projects to explore the issue of water and Los Angeles. On April 12, 2016, Mayor Eric Garcetti announced the roster of ten (10) artists and three artists' teams for CURRENT: LA Water. Each selected artist will be required to develop a specific community engagement component as part of their project.

DCA also has a dedicated staff person serving as the Community Coordinator for CURRENT: LA Water who has conducted grassroots research and compiled contact information on arts organizations, social service and environmental organizations, and schools located within a three-mile radius of each site. DCA has also engaged a public relations firm to develop an overall communications strategy for the biennial, including a dedicated website CurrentLA.org, which launched on May 4, 2016 to a mailing list of over 12,000 email addresses. RAP's public relations staff is working with the event organizers to promote the Initiative by distributing printed materials and via RAP's social media platforms.

Additionally, the Public Program providers have been selected through a competitive Request for Proposal process and will be announced in June along with the biennial locations.

About half of the exhibition will take place along the Los Angeles River in an effort to contribute to the City's broad and long-term support for the River to be revitalized and reimagined as a public corridor for recreation, culture and community. DCA, in consultation with RAP management, identified approximately 61 park sites for consideration, conducted tours to 33 sites, and selected the eleven (11) City of Los Angeles park locations referenced above for CURRENT: LA Water public art installations.

All temporary installations at these locations will comply with access requirements and site-security as recommended by RAP. A volunteer corps will serve as on-site docents and will coordinate with assigned maintenance and/or recreation staff for each location. The Location Manager, Los Angeles River Revitalization Corporation, has developed and finalized technical and operational site plans in consultation with appropriate RAP staff. In addition, all projects and programs are being installed by Los Angeles City contractors carrying general liability insurance policies.

The temporary public art installations proposed for two of the parks referenced above, Sepulveda Basin and Hansen Dam, require approval from the U.S. Army Corp of Engineers (USACE). DCA has requested USACE to provide a Letter of Non-Objection for these proposed temporary projects. Staff recommends approval of the ROE Permit(s) related to these respective locations, subject to USACE approval.

### TREES AND SHADE

As described above, no trees will be removed or affected by the temporary installation of the public art work. It is anticipated that no tree shade will be affected as well.

BOARD REPORT

PG 4            NO. 16-145

ENVIRONMENTAL IMPACT STATEMENT

Staff has determined that the proposed art projects at the eleven separate sites consist of minor alterations to the condition of public lands that are temporary uses, having no permanent effects on the environment and do not involve removal of mature, scenic trees. Therefore, the proposed projects are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article III, Section 1, Class 4(6) of the City CEQA Guidelines. A Notice of Exemption will be filed with the Los Angeles City Clerk and Los Angeles County Clerk

FISCAL IMPACT STATEMENT

Approval of the temporary public art work and the issuance of the ROE Permit(s) will have no fiscal impact to the RAP's General Fund. All costs for the fabrication, installation and removal of the public art work will be the responsibility of DCA.

This Report has been prepared by Mathew Rudnick, Chief Sustainability Officer.

LIST OF ATTACHMENTS

- 1) Attachment A – Renderings and Brief Description of Proposed Art Installations



## South Weddington Park (Council District 2)

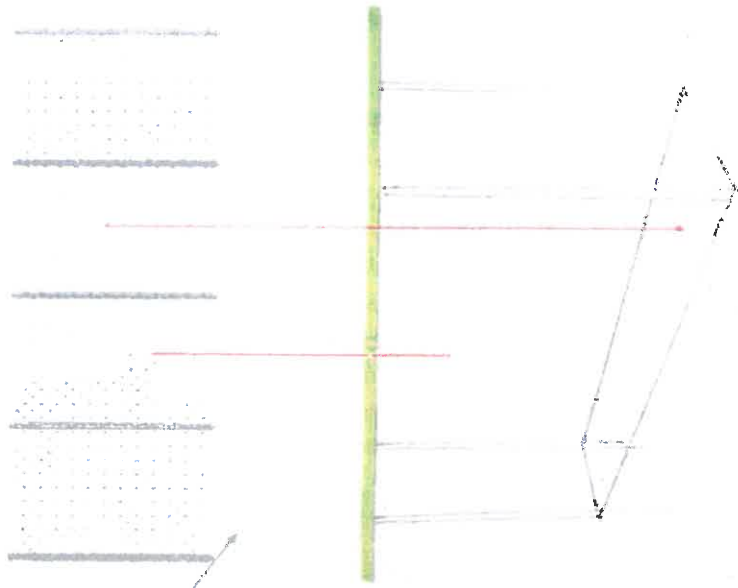
As a part of the Current: LA Water Biennial, DCA has commissioned artist Kori Newkirk for a sculptural installation on the north side of the park. The sculpture will be approximately 8' tall at its highest point, and have a circular footprint approximately 20' in diameter. Referencing the long tradition of horse imagery in public fountains and sculpture around the world, three life-sized colored casts/blanks of horses will be standing in a tight circle, each facing outward, connected at the tails. Chain-link fencing reaching at least 10' high will enclose the complete sculpture. Although water will be referenced through the overall reference of a fountain, no water will be used in the sculpture. The base of the sculpture will be built out of landscape edging about 1½' high. This pre-fabricated edging will be made of concrete. The floor of the base will be made of flat landscape pavers, also pre-fabricated. The installation process requires the artist to dig into the ground so that its concave base is sunken into the landscaping, approximately 2-3' below grade.



# MONUMENT TO THE LAST DROP

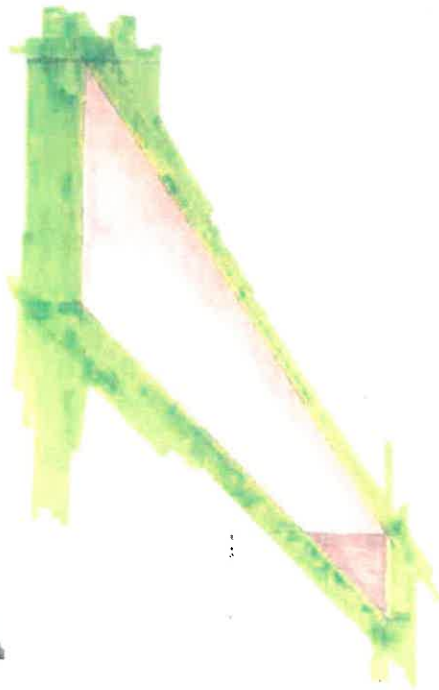
## Visuals

This work is intended to be situated in a long trench dug out of South Weddington Park. This trench will be 20-25 feet in length, and 7-8 feet wide and dug to a depth of 7-8 feet. Example Image 1-2.



Horse to be placed inside the trench

Gate to be placed around sculpture

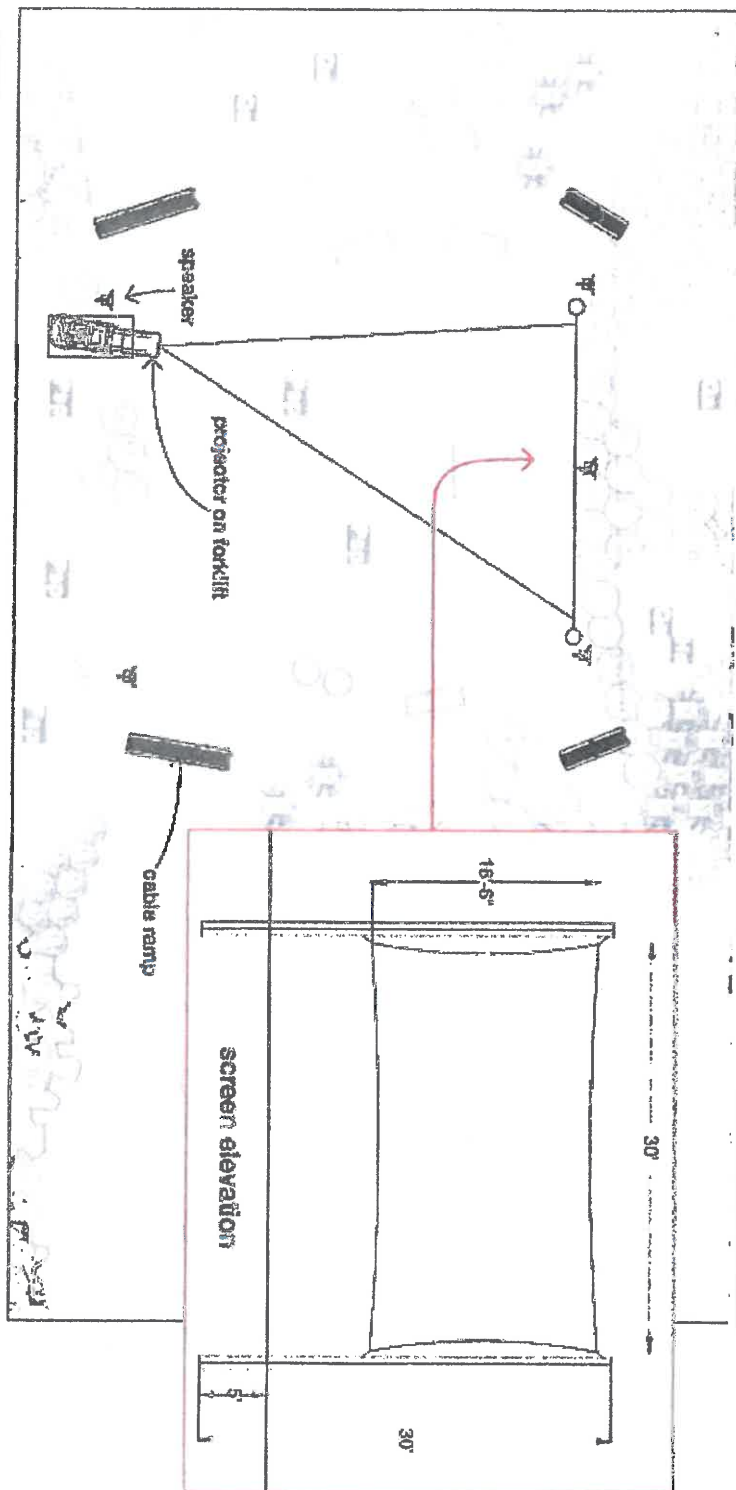


Sunnynook River Park (Council District 4)

As a part of the Current: LA Water Biennial, DCA has commissioned artist Kerry Tribe. Her piece, "Exquisite Corpse" is a nightly open air screening of a new, feature-length experimental film about the LA River. The 51-minute film will accompany the 51 mile body of water from its origins in the flood basins and water reclamation facilities of the San Fernando Valley to its terminus in the estuaries of Long Beach. The nightly screenings include digging into the ground for the installation of the projection screen.

EXQUISITE CORPSE

The Installation



NOTES

- 30' x 16.5' screen is made of draw-through, UV-safe, waterproof, fire-rated material.
- 30' telephone poles are sunk 5' below grade and positioned to avoid landscape features, irrigation and plants
- Projector is mounted to fork lift
- Speakers are set up in a 5.1 stye system
- Projector, fork lift and speakers are stored between screenings

**EXQUISITE CORPSE**

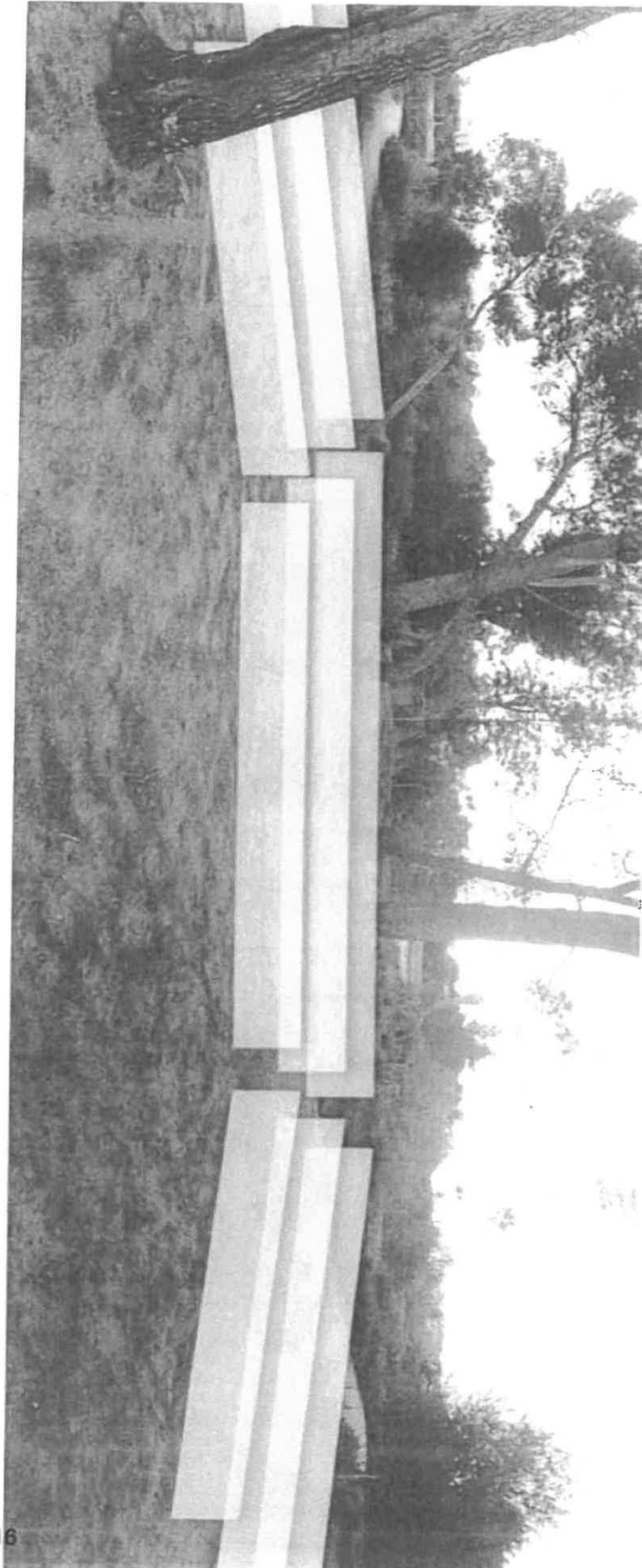
**The Screen**



Attachment A

**EXQUISITE CORPSE**

**Seating**

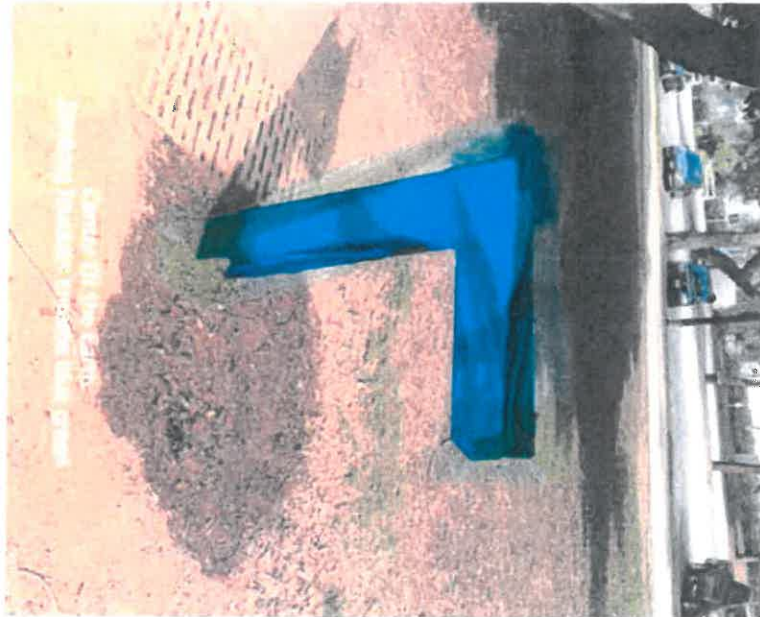


Cheviot Hills Recreation Center (Council District 5)

As a part of the Current: LA Water Biennial, DCA has commissioned artist Edgar Arceneaux. His piece, "The Center of the Earth" will replicate drinking fountains in Cheviot Hills and chrome plate them in a variety of different colors. On one side of the fountain will be inscribed, The Center of the Earth. He will also be interviewing Rec and Park staff to record stories about the life, changes and maintenance of the parks overtime. In order to install temporary footings for the 2 water fountains, some digging will occur.



CENTER OF THE EARTH



CONCEPTUAL RENDERING





## Sepuveda Basin (Council District 6)

As a part of the Current: LA Water Biennial, DCA has commissioned artist Rirkrit Tiravanija for a sculptural installation south of Lake Balboa and north of the Los Angeles River. His piece, named "Waterfall Pavilion" is a relational space that socializes and activates this otherwise forgotten area. The Waterfall Pavilion takes the form of a small timber-frame pavilion that allows visitors to take in the nature around them under the cooling shade of a humble plywood roof. The pavilion can accommodate 8-10 people at a time and will be spanning the creek. The piece will require the artist dig into the soil on either side of the creek to install temporary footings for the structure. The artist will also be hosting a tea ceremony, two community cookouts, an educational workshop and a Buddhist chanting ceremony on the opening and closing weekend of the biennial.



THE WATERFALL  
PAVILION

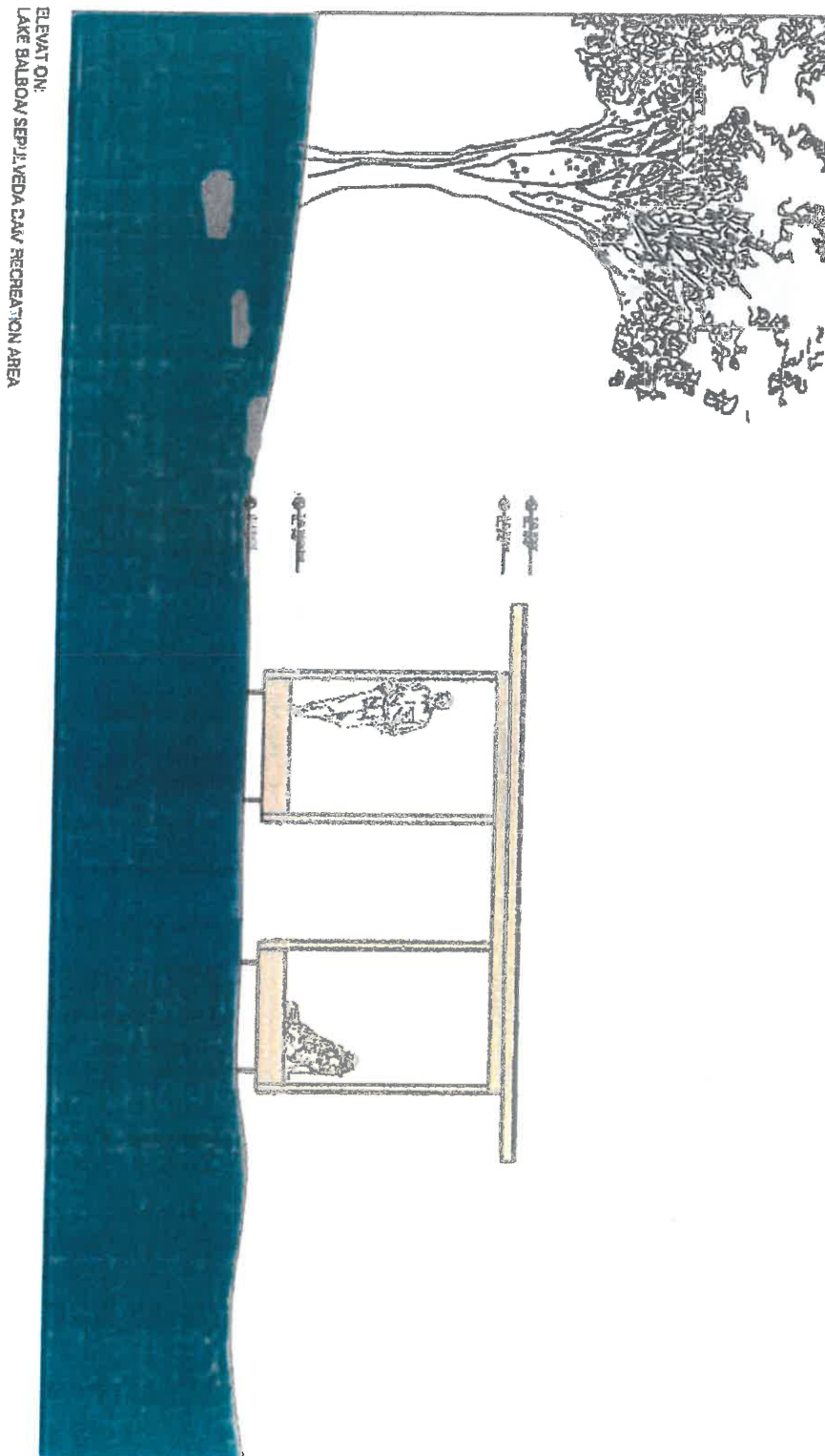


Site Map

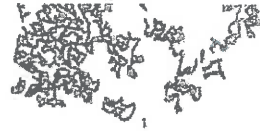
Attachment A



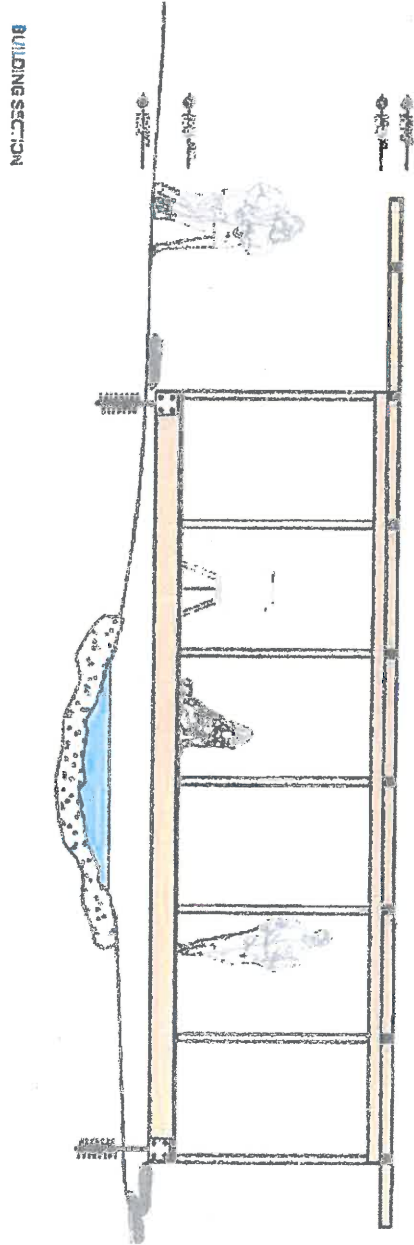
**THE WATERFALL  
PAVILION**



ELEVATION:  
LAKE BALBOAN/SEPIJVEDA DAM RECREATION AREA



# MODULAR PANELIZED OFF-SITE CONSTRUCTION



Hansen Dam (Council District 7)





As a part of the Current: LA Water Biennial, DCA has commissioned the artist collective Lucky Dragons, to do a processional performance entitled "Spreading Grounds." The commission consists of 3-4 rehearsals and 1 final performance starting at the Campground Pavilion and ending at the terminus of the Hansen Dam Bike Path. The artist will be installing a low-frequency transmitter on site at the USACE facility on top of the Hansen Dam to broadcast the rehearsals and the final performance. Current:LA Signage will also be installed on site.

Attachment A



Hansen Dam  
INGRESS / EGRESS

Key

-  Public Ingress
-  Public Egress
-  Goods Ingress
-  Goods Egress

Client: City of Los Angeles Project: LUSRENT LA 2016 Date: May 20, 2016	Map:
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**DYSON & WONACK**  
 2750 WILSON AVENUE, SUITE 1000  
 LOS ANGELES, CA 90024  
 TEL: (310) 477-4684

Attachment A



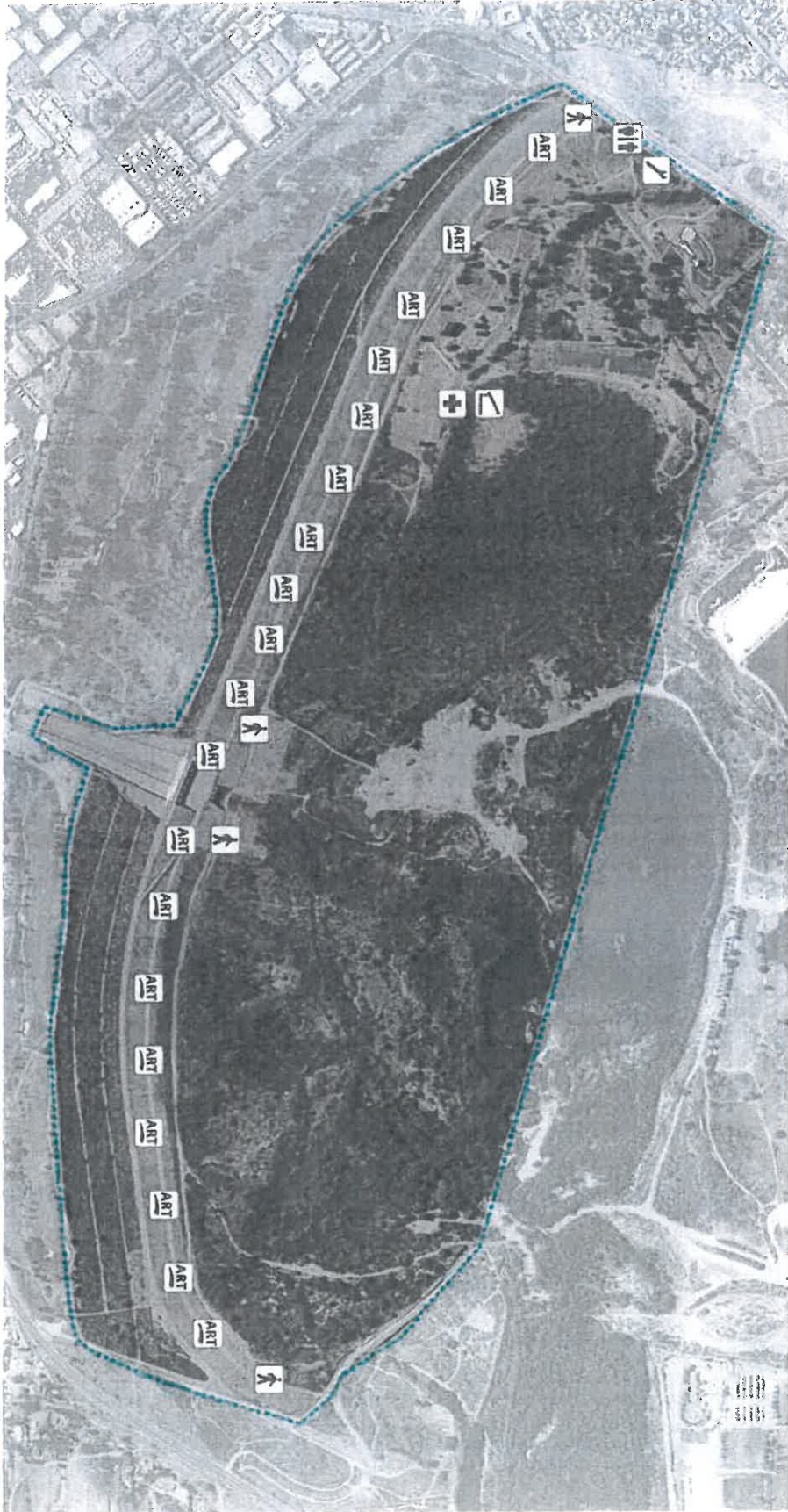
Hansen Dam  
SIGNAGE

- Key
- Direction
  - Branding/Logo
  - Information

	Client: City of Los Angeles Project: CURRENT LA 2016 Date: May 20, 2016 Notes
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**DYSON & WOHACK**  
 dysonwohack@gmail.com  
 5665 S Atlantic Blvd  
 Los Angeles, 90022  
 Tel: (323) 627-9994

Hansen Dam  
LOCATIONS



- Key
- Walking
  - Parking
  - Dining
  - Information
  - Artwork
  - Crosswalk
  - Restrooms
  - Rastroom
  - CURRENT Bike
  - Checkpoint
  - Shade
  - First Aid
  - Generator
  - Drinking Water
  - Storage
  - Staging
  - Golf Cart

	Client: City of Los Angeles Project: CURRENT - LA 2016 Date: 4/29/2016 Notes
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**DYSON & WONACK**  
 dysonwonack@gmail.com  
 646 S. Atlantic Blvd  
 Los Angeles, 90022  
 Tel: (323) 677-8994



Norman O Houston Park (Council District 8)

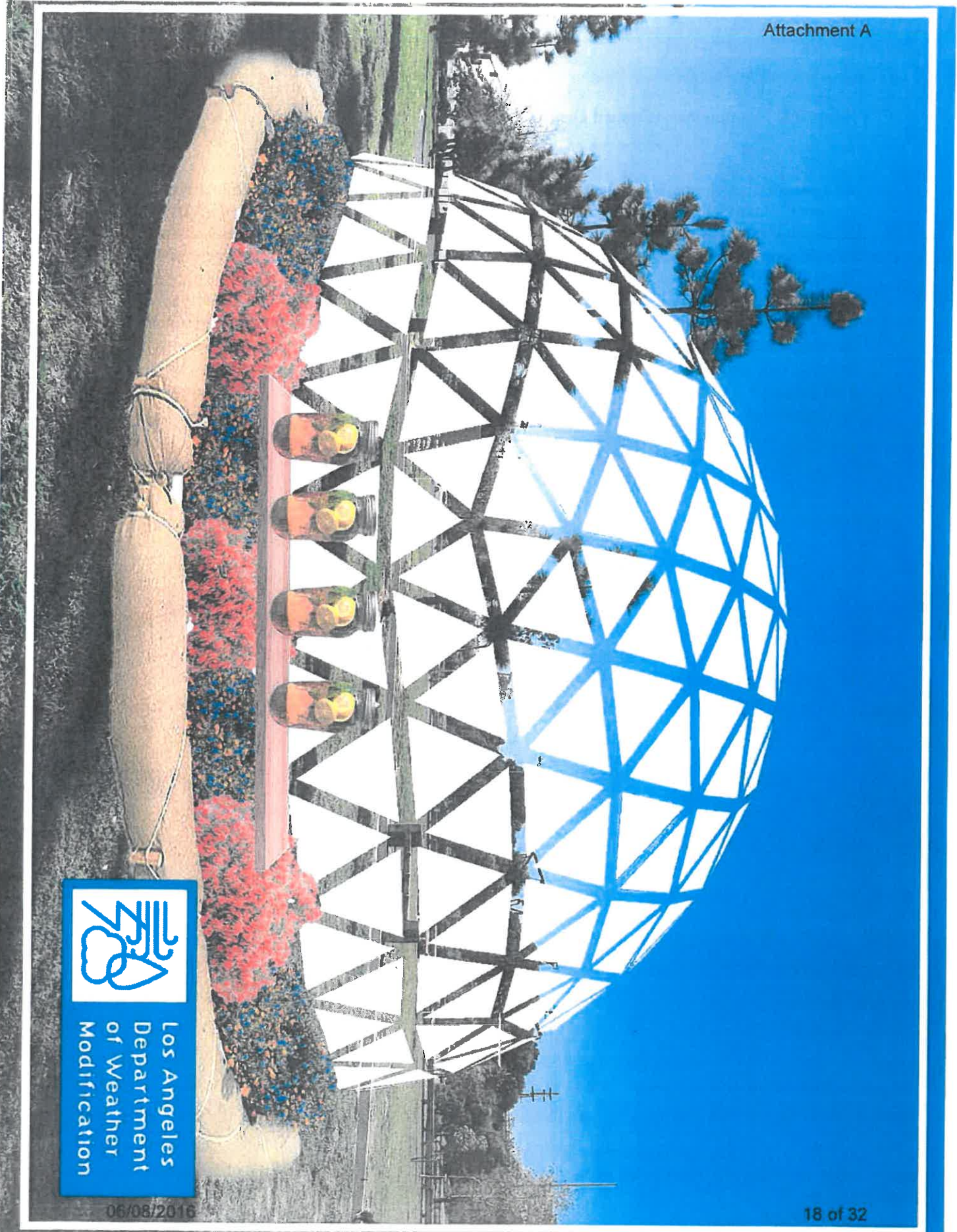
As a part of the Current: LA Water Biennial, DCA has commissioned the artist Chris Kallymer. The commission, entitled The Los Angeles Department of Weather Modification (LADWM) is a performing group that invites people to get together to address the weather, water, and the idea of the arid western city. They will create six events throughout the 30 day run that engage visitors. These concerts, talks, and actions will point to LA's long and complicated history with weather modification and water. The events will feature LA-based artists, designers, historians, urbanists, and thinkers who will explore the intersection of weather and water through their discipline. The weather station is a 20 foot open-air geodesic dome that will serve as the center of operations, research hub, and performance venue. The dome will be an inviting and porous space for visitors with elements such as a functioning weather station, hanging plants, sun tea, and omnipresent inviting sound. The dome will be bolted into the ground.

Attachment A



Los Angeles  
Department  
of Weather  
Modification

06/08/2016



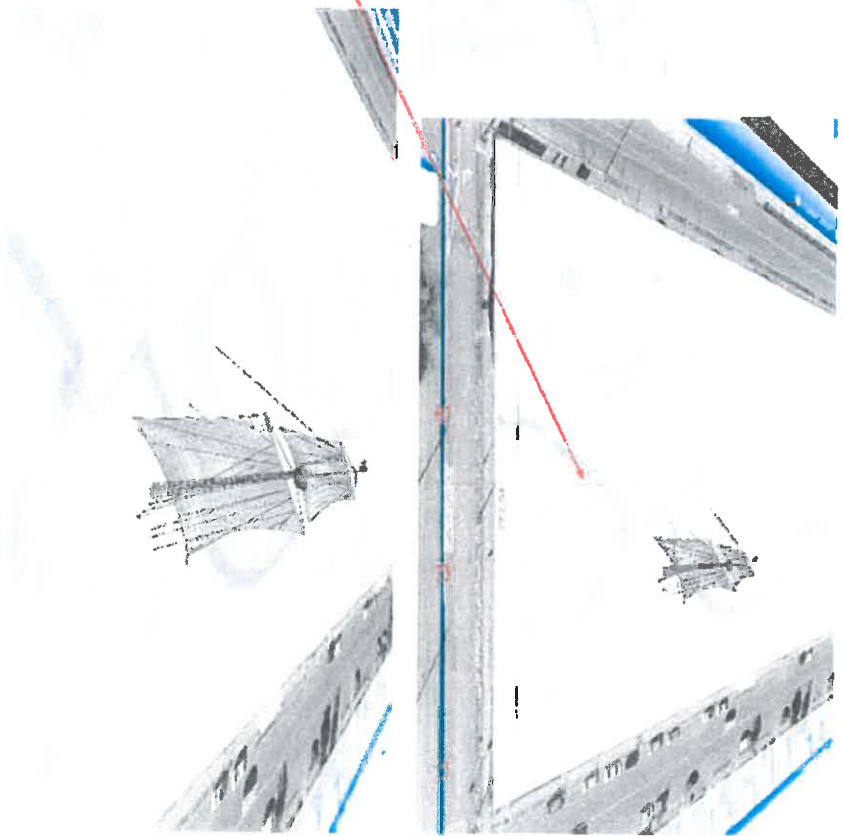
South LA Wetlands (Council District 9)

As a part of the Current: LA Water Biennial, DCA has commissioned the artists Joshua Callaghan and Daveed Kapoor. The commission, entitled Mothership, is a sculptural piece. The mast will rise 45' out of the ground, with sails as big as 25 X 25' with 2000' of rope. The intention is to make an approximation of a historical sail. In place of the wooden they will use a tapered steel utility pole that will go into the ground. Hemp ropes, like those used on historical ships, will create the intricate linear network that will raise and lower the sails. From a distance the distinct sail silhouette, far removed from the sea, will create an unexpected disruption in the Los Angeles landscape. Up close, the historical technology of the sail rigging will become a spatial composition of lines and shadows playing against the natural environment. The artists will be digging into the ground in order to install the pole, there will be 3-4 yards of dirt that will need to be stored on site.



Site Map

The site has been identified as the open decomposed granite area in the southwest corner of South Los Angeles Wetland Park

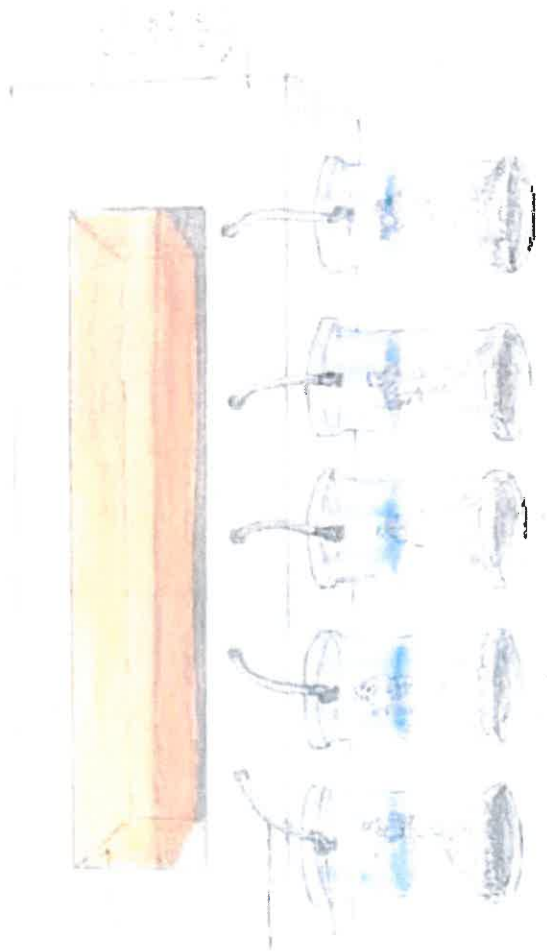


Westside Neighborhood Park (Council District 10)

As a part of the Current: LA Water Biennial, DCA has commissioned the artist Candice Lin. The commission is a sculpture that consists of 5 cylindrical glass vessels in a row, each holding an upside-down porcelain figure inside of it; these five acrylic cylinders will be resting on a waterproof pedestal, feeding water into an aquarium embedded inside the pedestal. Within the aquarium is Kombucha, a live, edible, bacterial culture that uses the water (and other ingredients) to grow. The artist will be hosting 2-3 events to engage the community in her work.



CANDICE LIN



CONCEPTUAL RENDERINGS



CANDICE LIN

CONCEPTUAL RENDERINGS



## Bee Canyon Park (Council District 12)

As a part of the Current: LA Water Biennial, DCA has commissioned the artist collective Lucky Dragons. The commission entitled “ $\Delta$ ” (“*Delta*”), is the character of a site-specific performance designed to take place in Bee Canyon Park over the course of one month. A predetermined schedule will guide visitors to the time and location of “ $\Delta$ ”—a role to be performed daily by a solo, duo, or trio of performers.

Each day, for a regularly scheduled duration, a new performer or group of performers assumes the  $\Delta$  persona anonymously. Like a pool of water being treated—flowing in, changing state, flowing out— $\Delta$  signifies difference, a changing state, dislocation, in process and in dispute. Each performer or set of performers assuming the role of  $\Delta$  will make use of a “toolkit” that lives on-site—a specially-designed container made to hold scores, objects, and materials for use in tasks, interactions and meditations to be performed daily.



Attachment A

Bee Canyon  
INGRESS / EGRESS



- Key
- Public Ingress
  - Public Egress
  - ⋯ Goods Ingress
  - ⋯ Goods Egress

	Client: City of Los Angeles Project: CURRENT LA 2016 Date: June 2, 2015 Notes
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**DYSON & WOMACK**  
 dysonwomack@gmail.com  
 648 S. Atlantic Blvd  
 Los Angeles, 90027  
 Tel: (323) 627-9484

06/08/2016

Attachment A

Bee Canyon  
LOCATIONS



- Key**
- Walking
  - Parking
  - Dining
  - Information
  - Artwork
  - Crosswalk
  - Restrooms
  - Restroom
  - CURRENT Bike
  - Checkpoint
  - Shade
  - First Aid
  - Generator
  - Drinking Water
  - Storage
  - Staging
  - Golf Cart

	Project: City of Los Angeles Project: CLIFFPARK A 2016 Date: JUN 2, 2016 44443
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**DYSON & WOMACK**  
 dymw@comcast.net  
 544 S. Atlantic Blvd  
 Los Angeles, 90022  
 Tel: (323) 427-9194

Echo Park (Council District 13)

As a part of the Current: LA Water Biennial, DCA has commissioned the artist Teresa Margolles. The commission, includes a performance and sculptural piece. The artist will be installing a structure made of steel clad in wood and a plaster render. Digging will occur to install the footings for the piece.

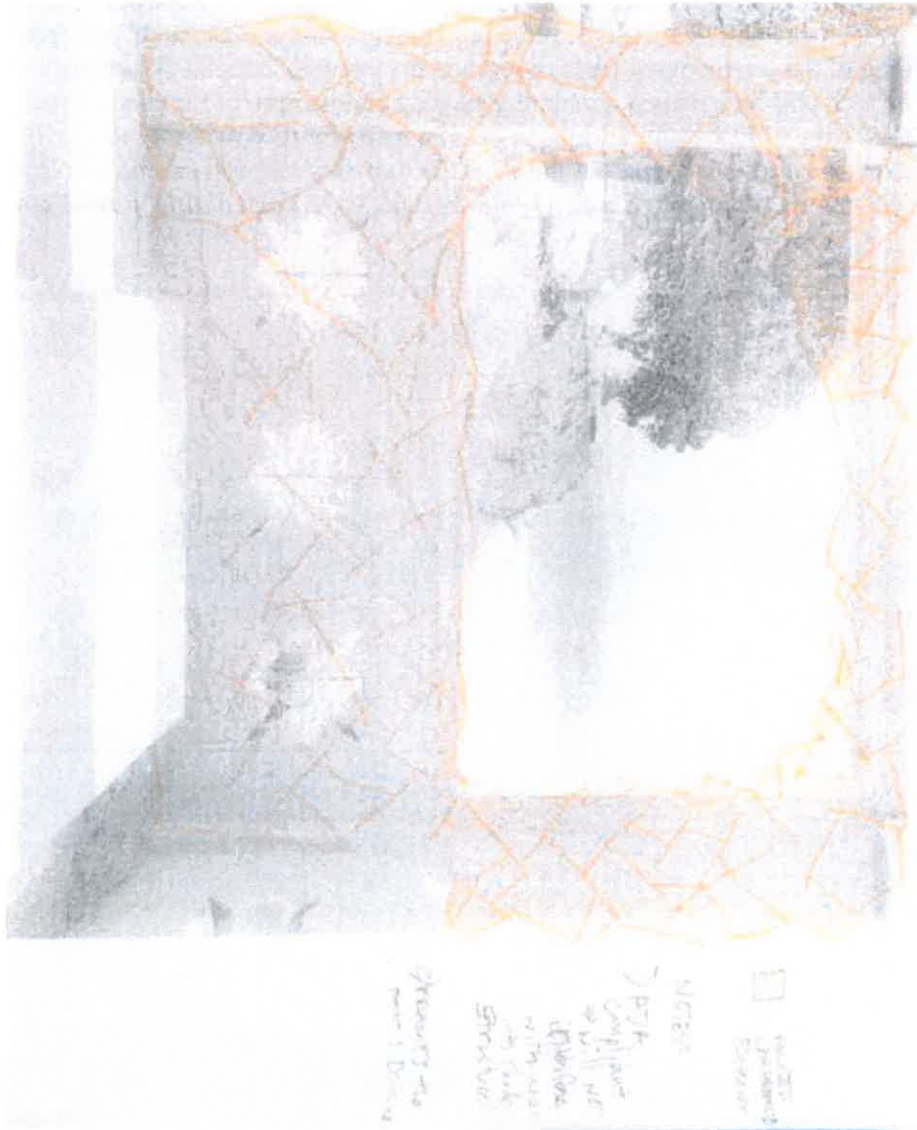


**Conceptual Renderings**



Point Fermin Park (Council District 15)

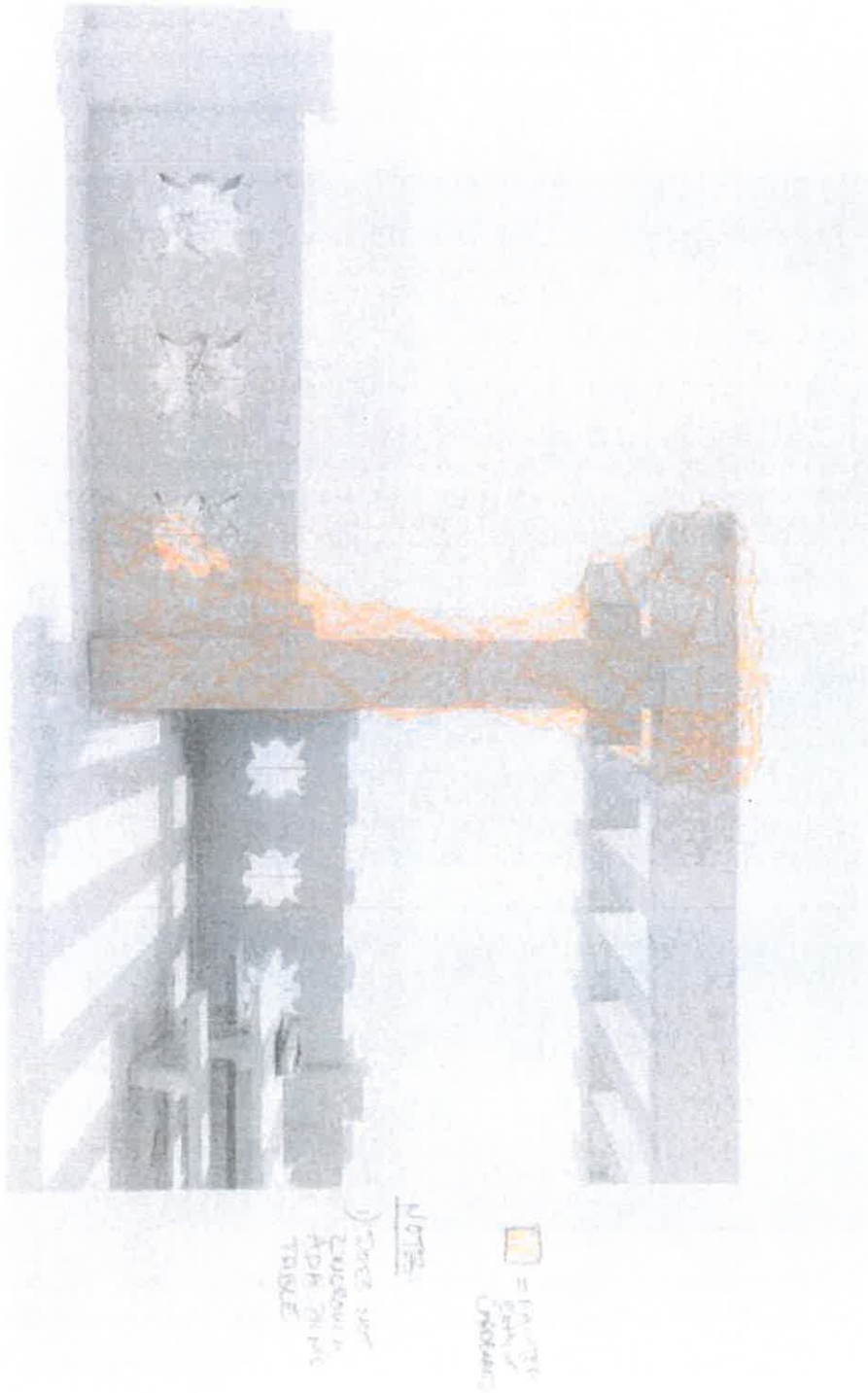
As a part of the Current: LA Water Biennial, DCA has commissioned the artist Michael Parker. The commission, entitled THE IDES OF ARCH DU TRIUMPH, will be a sculptural object. Through a series of systems-based translations starting from gestural clay models, the final public manifestation will be a large scale “arch” sculpture. This form will have both geometric and geologic qualities and will be roughly twelve feet dimensionally. The “arch” will provide a temporary framing of the international trade routes and the complex erosion of human monuments. The arch will be wrapped around the existing architecture of the shade structure in front of the eastern edge of Pt Fermin’s Lighthouse. The arch will face the entry to The Port capturing the point of egress and ingress of the ships. The artist would also like to display the small clay models in the Community Room at Point Fermin, to be open during normal hours of operation.



Conceptual Renderings



**Conceptual Renderings**

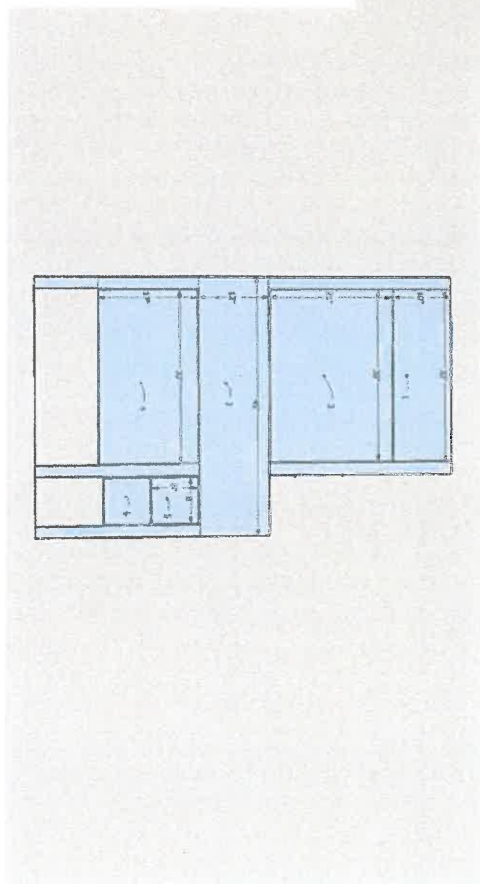
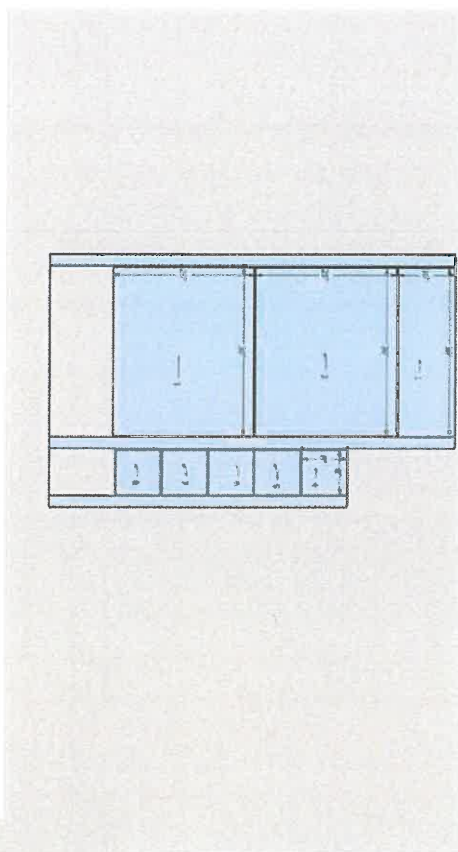


Conceptual Renderings



**Del Rey Lagoon (Council District 11)**

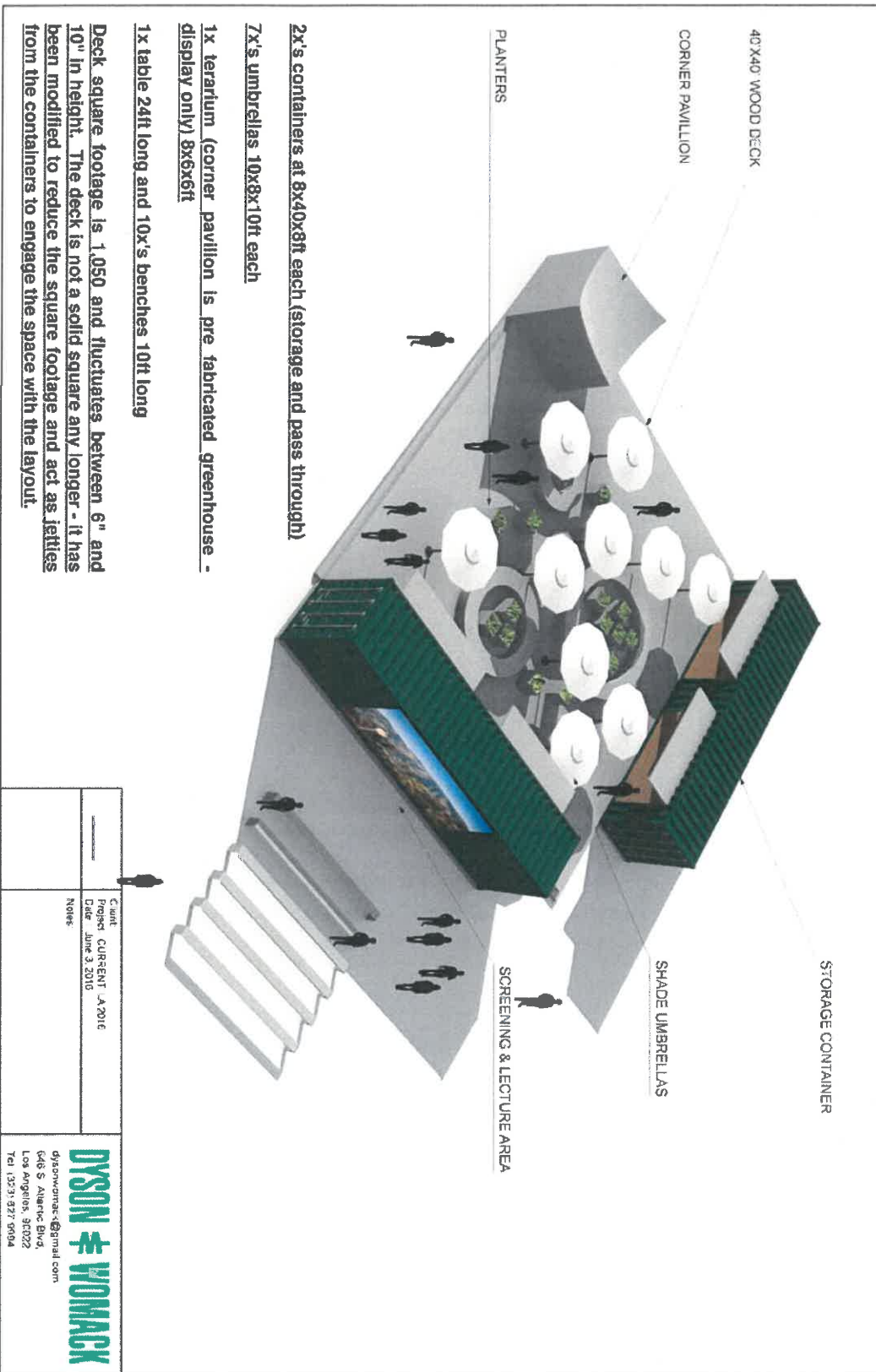
As a part of the Current: LA Water Biennial, DCA has commissioned the artist Gala Porras Kim. The commission, is an interpretive signage project that tells the story of the Tongva burial site along the Ballona Creek. The information would follow the remains and see where they ended up and how development, government, archeologists and the Tongva descendants have determined their displacement. The signs would follow the Tongva remains as a sort of timeline, from the time they were found to when they were reburied and address the different forces that have influenced the movement of the bones. The artist will use newspaper articles and first person interviews as the source for the text in these interpretive signs as a dramatic narration of the events that took place at the site. The viewer will learn about issues that affect current day Tongva members and not just about their ancient history. The signs will be fastened into the ground at Del Rey Lagoon Park. The artist will dig 2' deep and 12" diameter for each "foot". The footing will be made of pre poured concrete with a metal sleeve in it that will receive the sign posts.



CONCEPTUAL RENDERINGS

**Griffith Park – Adjacent to L.A. SHARES Leased Building (CD4)**

As a part of the Current: LA Water Biennial, DCA will have a ‘HUB’ to provide a central place for visitors and volunteers to find information and to start or enhance their Current:LA Water experience. The HUB will be open daily throughout the biennial to provide information to visitors and provide support services for Current:LA volunteers and artists. HUB provides visitors a specific location to gather information and more in depth knowledge about artists, sites and CURRENT partners. The HUB is designed and managed by the Production Managers, Dyson and Womack. It will consist of a pre-fab trailer and 6-inch deck that would be placed between a parking lot and the L.A. SHARES leased building on Riverside Drive.



- 2x's containers at 8x40x6ft each (storage and pass through)
- 7x's umbrellas 10x8x10ft each
- 1x terarium (corner pavillion is pre fabricated greenhouse - display only) 8x6x6ft
- 1x table 24ft long and 10x's benches 10ft long
- Deck square footage is 1,050 and fluctuates between 6" and 10" in height. The deck is not a solid square any longer - it has been modified to reduce the square footage and act as fillies from the containers to engage the space with the layout.

	<p>Count Project: CURRENT - A 2016 Date: June 3, 2016</p>
	<p>Notes</p>
<p><b>DYSON &amp; WOMACK</b>          6150 Vermont Street          Suite S Atlantic Blvd.          Los Angeles, 90022          Tel: (323) 937-9094</p>	

**BOARD REPORT**

NO. 16-165

DATE JULY 13, 2016

C.D. 1 and 13

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: ELYSIAN PARK — MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF RECREATION AND PARKS AND THE LOS ANGELES DEPARTMENT OF WATER AND POWER FOR THE ELYSIAN RESERVOIR WATER QUALITY IMPROVEMENT PROJECT; ACCEPTANCE OF TRANSFER OF FUNDS TO THE COMMUNITY PARKS ENHANCEMENT FUND

<i>[Signature]</i> AP Diaz _____	V. Israel _____
*R. Barajas <i>[Signature]</i> _____	K. Regan _____
H. Fujita _____	N. Williams _____

*[Signature]*  
 \_\_\_\_\_  
 General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Approve a proposed Memorandum of Understanding (MOU) between the Department of Recreation and Parks (RAP) and Los Angeles Department of Water and Power (LADWP), substantially in the form on file in the Board Office, specifying the terms and conditions for the use of funding provided by the LADWP for RAP operation of the Community Parks Enhancement program, subject to the approval of the Mayor and of the City Attorney as to form;
2. Authorize RAP to receive Twelve Million, Five Hundred Thousand Dollars (\$12,500,000.00) from LADWP for the Community Parks Enhancement Fund;
3. Authorize RAP's Chief Accounting Employee to establish a new account in Fund No. 205, Department No. 88, Account No. To Be Determined, with the Account name as Community Parks Enhancements Fund; and appropriate Twelve Million, Five Hundred Thousand Dollars (\$12,500,000.00) upon inter-departmental transfer from LADWP; and
4. Direct the Board Secretary to transmit the proposed MOU to the Mayor for review and approval, pursuant to Executive Directive No. 3, and to the City Attorney for review and approval as to form.

## BOARD REPORT

PG. 2 NO. 16-165

### SUMMARY

The Board of Water and Power Commissioners (LADWP Board) Resolution No. 012 225 (Resolution), adopted on April 17, 2012, certified the Elysian Reservoir Water Quality Improvement Project (ERWQIP) Environmental Impact Report (EIR) and approved "the establishment of a Twelve Million, Five Hundred Thousand Dollars (\$12,500,000.00) Community Parks Enhancement Fund (the Fund). The proposed MOU authorizes LADWP to transfer Twelve Million, Five Hundred Thousand Dollars (\$12,500,000.00) budgeted to RAP for the Community Parks Enhancement Fund. The Community Parks Enhancement Fund will provide community park enhancements to address and improve aesthetic needs and recreational improvements; though no specific purposes are established at this time. Best efforts shall be used to locate enhancements in the Elysian Park area. However, if no suitable enhancements can be located in the Elysian Park area, best efforts shall be used to locate enhancements in a comparable urban area or areas." All projects that may result subsequent to the approval of this MOU will return to the Department of Recreation and Parks Board of Commissioners (Board) with appropriate CEQA clearance for approval following a community process and input.

The Twelve Million, Five Hundred Thousand Dollars (\$12,500,000.00) Community Parks Enhancement Fund (Fund) is accounted for in the ERWQIP budget and appropriated from the LADWP Water System Revenue Fund. A single payment will be made via interdepartmental transfer upon LADWP receipt and RAP's request for payment. The Accounts Payable Manual Voucher IT system will be used for the inter-city fund transfer and accountability.

On December 11, 2012, the Los Angeles City Council adopted LADWP action through Council File Number 12-0761, as amended with the goal to a prioritize enhancements to the Elysian Park Area and as identified in the proposed master plan. It is to be noted that the Resolution also established the Elysian Reservoir and Park Enhancement Fund with Three Million, One Hundred Sixty Thousand Dollars (\$3,160,000.00), and that on June 27, 2013, the Board approved an MOU with LADWP (Report No. 13-178) for the transfer of funds from that Fund to RAP for improvements in Elysian Park consisting of landscaping and road modifications on the Avenue of the Palms and Phase 1 irrigation pipeline replacement in the Park.

Further City Council Action is not required.

### PARK RESIDENTS SERVED

The number of park residents served will be reported to the Board, on a project by project basis, for Board approval.

### TREE AND SHADE

Tree and shade issues will be reported to the Board, on a project by project basis, for Board approval.

## BOARD REPORT

PG. 3 NO. 16-165

### ENVIRONMENTAL IMPACT STATEMENT

Future proposed appropriations from Fund will be fully evaluated under California Environmental Quality Act (CEQA) before any projects funded by such appropriations are approved. All future projects will return to the Board with appropriate CEQA clearance for approval following community input.

As adopted in Resolution No. 012 225 by LADWP Board of Commissioners on April 17, 2012, the LADWP Board found the establishment of the Fund will not create any different or substantially more severe environmental impacts from those examined in the EIR, does not constitute "significant new information" as that term is defined under CEQA Guidelines Section 15088.5, and would not otherwise require recirculation of EIR.

### FISCAL IMPACT STATEMENT

The approval of the MOU will transfer Twelve Million, Five Hundred Thousand Dollars (\$12,500,000.00) from LADWP to RAP.

The costs for the design, development, and construction of future projects resulting from the MOU are anticipated to be covered by the funds provided by the MOU. Any additional funding sources that future projects may require will be brought to the Board for approval. A statement on the maintenance impacts of projects to RAP will be made to the Board as each project is brought to the Board for approval.

This Report was prepared by Thomas Gibson, Landscape Architect II, Planning, Construction, and Maintenance Branch.

### ATTACHMENTS:

- City Council File 12-0761 Action History
- City Council File 12-0761-ca-12-11-12
- Resolution 012 225 (ERWQIP)

FINAL REVISED MARCH 17, 2016 – PENDING SIGNATURES

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE LOS ANGELES DEPARTMENT OF  
RECREATION AND PARKS  
AND  
THE LOS ANGELES DEPARTMENT OF WATER AND POWER  
FOR THE ESTABLISHMENT OF THE  
COMMUNITY PARKS ENHANCEMENT FUND**

2016





FINAL REVISED MARCH 17, 2016 – PENDING SIGNATURES

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**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE LOS ANGELES DEPARTMENT OF RECREATION AND PARKS  
AND THE LOS ANGELES DEPARTMENT OF WATER AND POWER  
FOR THE ESTABLISHMENT OF THE  
COMMUNITY PARKS ENHANCEMENT FUND**

This Memorandum of Understanding (MOU) is made and entered into by and between the Los Angeles Department of Recreation and Parks, hereinafter referred to as “LARAP,” and the Los Angeles Department of Water and Power, hereinafter referred to as “LADWP,” and is set forth as follows:

WITNESSETH

WHEREAS, LADWP proposed the Elysian Reservoir Water Quality Improvement Project (ERWQIP), in order to ensure the quality, reliability, and stability of the City of Los Angeles (City) drinking water supply and comply with updated United States Environmental Protection Agency (EPA) water quality standards;

WHEREAS, the ERWQIP proposed a new, buried, concrete-covered reservoir along with two alternative projects (floating cover and aluminum cover) to replace the existing uncovered Elysian Reservoir; and

WHEREAS, LADWP Board of Commissioners (Board) certified the Environmental Impact Report (EIR) for the ERWQIP and approved the floating cover alternative, in compliance with the California Environmental Quality Act (CEQA); and

WHEREAS, Board established a Community Parks Enhancement Fund in the amount of \$12,500,000 (\$12.5 million) in conjunction with the ERWQIP; and

WHEREAS, the goal of the Community Parks Enhancement Fund is to provide community park enhancements for public purposes within the Elysian Park area or comparable urban areas; and

WHEREAS, on December 11, 2012, the City Council adopted Elysian Reservoir Water Quality Improvement Project in Council File Number 12-0761; and

WHEREAS, an amendment to Council File Number 12-0761 was also approved, which stated that the Community Parks Enhancement Fund was not incorporated into the ERWQIP mitigation measures, but that it would be used to provide community park enhancements for public purposes to improve aesthetic and recreational opportunities within the Elysian Park area or comparable urban areas;

**FINAL REVISED MARCH 17, 2016 – PENDING SIGNATURES**

WHEREAS, LARAP will provide informational reports on all proposed and ongoing projects to the LADWP's Board of Water and Power Commissioners ("Board") on a quarterly basis until the Community Parks Enhancement Fund is exhausted.

NOW, THEREFORE, in consideration of the foregoing and of the benefits which will accrue to the parties hereto in carrying out the terms and conditions of this MOU, it is understood and agreed, by and between the parties hereto, as follows:

**ARTICLE 1 – SECTION HEADINGS**

All titles, subtitles, and/or section headings appearing herein have been inserted for convenience and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning, intent or construction of any of the terms or provisions hereof. The singular shall include the plural; use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

**ARTICLE 2 – DEFINITIONS**

<b>CPEF</b>	Community Parks Enhancement Fund, as adopted by LADWP Board of Commissioners on April 17, 2012
<b>ERWQIP</b>	Elysian Reservoir Water Quality Improvement Project, passed on December 11, 2012, in Council File Number 12-0761, in addition to any amendments.
<b>LADWP</b>	City of Los Angeles Department of Water and Power
<b>LARAP</b>	City of Los Angeles Department of Recreation and Parks
<b>MOU</b>	Memorandum of Understanding
<b>MOU Date</b>	Date when this MOU is fully executed

**ARTICLE 3 – PURPOSE**

The goal of this Community Parks Enhancement Fund (CPEF) is to provide community park enhancements for public purposes within the Elysian Park area or comparable urban areas to address and improve certain aesthetic needs and recreational opportunities. Initiated in conjunction with ERWQIP, CPEF will provide needed park enhancements through LARAP. A paragraph from associated LADWP Resolution No. 012 225 states the following:

“BE IT FURTHER RESOLVED that, the Board hereby approves the establishment of a \$12.5 million Community Parks Fund (the Fund). The Fund will be used of the public purposes related to community parks, though no specific purposes are established at this time. Best efforts shall be used to located (sic) enhancements in the Elysian Park area. However, if no suitable enhancements can be located in the Elysian Park area, best efforts shall be used to locate enhancements in a comparable urban area or areas. Future proposed appropriations from the Fund will be fully evaluated under CEQA before any projects funded by such appropriations are approved. The Board hereby finds that the establishment of the Fund will not create any different or substantially more severe environmental impacts for those examined in the EIR, does not constitute “significant new information” as that term is defined under CEQA Guidelines Section 15088.5 and would not otherwise require recirculation of the EIR.”

LADWP will transfer funds to LARAP pursuant to its authorizing Resolution No. 012 225 requesting LADWP to transfer \$12.5 million for the Community Parks Funds with the goal of prioritizing opportunities identified in the Draft Elysian Park Master Plan.

All CPEF funds shall be expended in accordance with LADWP Resolution No. 012 225.

All CPEF projects shall consider and implement water conservation features, to the extent appropriate and feasible.

The CPEF amount will be obtained from the LADWP Water System Revenue Fund, specifically the ERWQIP. It will be made available upon approval of this MOU and appropriate payment processing procedures.

### **3.1 Payment**

LADWP shall provide LARAP funds according to the following terms and conditions:

#### **3.1.1 Single Payment**

A single payment in the amount noted above will be made via interdepartmental transfer upon LADWP’s receipt and approval of LARAP’s request for payment. The Accounts Payable Manual Voucher IT system will be used for the inter-city fund transfer and accountability.

### **3.2 Limitations on Use of Funds**

Funds will be utilized for community park enhancement projects for a public purpose within the Elysian Park area or comparable urban areas under the

FINAL REVISED MARCH 17, 2016 – PENDING SIGNATURES

discretion of LARAP. LARAP will consult with appropriate city council districts to select CPEF projects, determine necessary budgets, and estimate delivery schedules.

**ARTICLE 4 – SCOPE OF SERVICES**

**4.1 Responsibilities and Tasks to be Performed by LADWP**

**4.1.1 Transfer of Funds**

LADWP's sole responsibility under this MOU shall be to transfer funds to LARAP, as requested by Los Angeles City Council and as authorized by the Board of Water and Power Commissioners. The transfer of funds will occur as soon as possible, following execution of this MOU. A current estimate for fund availability is approximately March 31, 2016.

**4.2 Responsibilities and Tasks to be Performed by LARAP**

**4.2.1 Project Development**

LARAP resources shall be used to develop and accomplish the identified enhancement projects in a timely manner. LARAP shall initially select projects and shall then consult with appropriate city council districts to select additional and/or replacement projects.

**4.2.2 Management of Funds**

LARAP shall be fully responsible for the management of funds and accountability of expenditures. LARAP shall provide annual accounting to LADWP that fully describes all projects and expenditures.

**4.2.3 Use of Funds**

Funds shall be expended as defined in this MOU and as intended and approved by Resolution No. 012 225.

**4.2.4 Duty to Provide Maintenance**

All CPEF projects and/or enhancements shall be maintained in accordance with LARAP maintenance standards.

**4.2.5 Progress Reporting**

LARAP shall provide informational reports on all proposed and ongoing projects to the LADWP's Board on a quarterly basis, beginning July 1, 2016 and

**FINAL REVISED MARCH 17, 2016 – PENDING SIGNATURES**

continuing until the projects are completed, funds are exhausted or this MOU is terminated. All informational reports shall be agendaized and presented during regular public Board meetings. All reports shall include project descriptions, location maps, schedules, completion dates, and expenditures. LARAP shall coordinate all presentation of all informational reports with LADWP staff.

**4.2.6 CEQA**

LARAP shall be responsible for all CEQA compliance for any CPEF projects.

**ARTICLE 5 – TERM OF MEMORANDUM OF UNDERSTANDING**

The parties' obligation hereunder shall commence on the MOU Date.

**ARTICLE 6 – TERMINATION**

LADWP will commence termination of this MOU should LARAP fail to abide by any of the terms in this MOU, or should LARAP fail to create the agreed upon enhancements, in conformity with this MOU. In the event this MOU is terminated, LARAP shall immediately refund any unused CPEF funds to LADWP.

**ARTICLE 7 – COMPENSATION AND PAYMENTS**

**7.1 No MOU Fees and Adjustments**

LARAP shall not compensate LADWP for services rendered under this MOU, or in accordance with any prior agreement. LADWP shall not compensate LARAP for the services rendered under this MOU, or in accordance with any prior agreement.

**ARTICLE 8 – CHANGES OR MODIFICATION**

Changes or modifications to MOU terms may be made at any time by mutual written agreement between the parties hereto with approval of LARAP and LADWP.

**ARTICLE 9 – CONTACT PERSONS - PROPER ADDRESSES - NOTIFICATION**

**9.1 Representatives of the Parties**

The representatives of the parties to administer this MOU and to whom all notices and communications shall be given are as follows:

**LARAP:**

**Planning, Construction, and Maintenance Branch**

Cathie Santo Domingo, Superintendent  
221 North Figueroa Street, 4th Floor  
Los Angeles, California 90012  
(213) 202-2668  
cathie.santodomingo@lacity.org

**Legal**

Anthony-Paul Diaz, Deputy City Attorney  
200 North Main Street, 7<sup>th</sup> Floor  
Los Angeles, California 90012  
(213) 978-8156  
ap.diaz@lacity.org

**LADWP:**

**Water Engineering & Technical Services Division**

Susan Rowghani, Director  
111 North Hope Street, Room 1336  
Los Angeles, California 90012  
(213) 367-0866  
Susan.Rowghani@LADWP.com

**Legal**

David Edwards, Deputy City Attorney  
111 North Hope Street, Room 340  
Los Angeles, California 90012  
(213) 367-4496  
David.Edwards@LADWP.com

**9.2 Notices**

All notices shall be made in writing or by e-mail transmission and sent to the designated contact persons for each party identified in Section 9.1 of this MOU. If the name or address of the person designated to receive notice changes, written notice shall be forwarded to the appropriate agency section and contact person of equal responsibility.

**ARTICLE 10 – SEVERABILITY**

Should any portion of this MOU be determined to be void or unenforceable, such shall be severed from the whole and the MOU will continue as modified.

**ARTICLE 11 – ENTIRE MEMORANDUM OF UNDERSTANDING**

This MOU contains all of the agreements, representations, and understandings of the parties hereto and supersedes and/or incorporates any previous understandings, proposals, commitments or agreements, whether oral or written, and may be modified or amended only as herein before provided.

**ARTICLE 12 – GOVERNING LAW**

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and City of Los Angeles. This MOU shall be governed by, enforced, and interpreted under the laws of the State of California and City of Los Angeles. Each party shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this MOU.

If any part, term of provision of this MOU shall be held void, illegal, unenforceable, or in conflict with any law of a federal, state, or local government having jurisdiction over this MOU, the validity of the remaining portions of provisions shall not be affected thereby.

**ARTICLE 13 - WAIVER**

A waiver of a default of any part, term or provision of this MOU shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

**ARTICLE 14 - INDEMNIFICATION**

It is understood and agreed that the Los Angeles City Council, by action of Council File 12-0761, as amended, stated in part that the LADWP, a proprietary department of the City of Los Angeles, shall be indemnified from and against any loss or liability arising from acts or omissions of a non-proprietary department, including the LARAP, its employees or contractors, while the non-proprietary department is performing services for the proprietary department, when such loss or liability would not have occurred or accrued absent the non-proprietary department's performance of such services on the proprietary department's premises.



FINAL REVISED MARCH 17, 2016 – PENDING SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this MOU on the date below their signatures.

DEPARTMENT OF WATER AND POWER  
OF THE CITY OF LOS ANGELES BY  
BOARD OF WATER AND POWER COMMISSIONERS  
OF THE CITY OF LOS ANGELES

By: \_\_\_\_\_  
MARCIE L. EDWARDS  
General Manager

Date: \_\_\_\_\_

And: \_\_\_\_\_  
BARBARA E. MOSCHOS  
Secretary

LOS ANGELES DEPARTMENT OF  
RECREATION AND PARKS

By: \_\_\_\_\_  
MICHAEL A. SHULL  
General Manager

Date: \_\_\_\_\_

\*\*\*\*\*  
Office of the City Clerk, City of Los Angeles

This report was generated by the Council File Management System on 01/09/2013

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**Council File Number**

12-0761

**Title**

Elysian Reservoir Water Quality Improvement Project

**Last Change Date**

12/17/2012

**Expiration Date**

11/26/2014

**Reference Numbers**

State Clearinghouse 2008061109

**Initiated by**

The Citizens Committee to Save Elysian Park

**Action History for Council File 12-0761**

**Date            Activity**

12/17/2012 Council Action.

12/11/2012 Council adopted item, as amended, forthwith.

11/26/2012 City Clerk scheduled item for Council on December 11, 2012 .

11/07/2012 Energy and Environment Committee denied appeal(s).

11/02/2012 Energy and Environment Committee scheduled item for committee meeting on November 7, 2012.

10/17/2012 Energy and Environment Committee continued item to/for a date to be determined.

10/12/2012 Energy and Environment Committee scheduled item for committee meeting on October 17, 2012.

06/20/2012 Board of Water and Power Commissioners document(s) referred to Energy and Environment Committee.

06/15/2012 Document(s) submitted by Board of Water and Power Commissioners, as follows:

Board of Water and Power Commissioners report, dated June 8, 2012, relative to the Elysian Reservoir Water Quality Improvement Project, including Environmental Impact Report.

05/24/2012 The Citizens Committee to Save Elysian Park document(s) referred to Energy and Environment Committee.

05/24/2012 Document(s) submitted by Chatten-Brown and Carstens, as follows:

The Citizens Committee to Save Elysian Park communication, dated April 23, 2012, relative to an appeal of certification of the Final Environmental Report for the Elysian Reservoir Water Quality Improvement Project, from the Board of Water and Power Commissioners.

CITY OF LOS ANGELES  
CALIFORNIA

JUNE LAGMAY  
City Clerk

HOLLY L. WOLCOTT  
Executive Officer

When making inquiries relative to  
this matter, please refer to the  
Council File No.



ANTONIO R. VILLARAIGOSA  
MAYOR

Office of the  
CITY CLERK

Council and Public Services  
Room 395, City Hall  
Los Angeles, CA 90012  
General Information - (213) 978-1133  
Fax: (213) 978-1040

SHANNON HOPPES  
Council and Public Services  
Division

[www.cityclerk.lacity.org](http://www.cityclerk.lacity.org)

December 17, 2012

To All Interested Parties:

The City Council adopted the action(s), as attached, under Council File  
No. 12-0761, at its meeting held December 11, 2012.

City Clerk  
OS

COMMUNICATION

TO: LOS ANGELES CITY COUNCIL

FILE NO. 12-0761

FROM: COUNCILMEMBER JOSE HUIZAR, CHAIR  
COUNCILMEMBER DENNIS ZINE, VICE CHAIR  
ENERGY AND ENVIRONMENT COMMITTEE

ENVIRONMENTAL IMPACT REPORT (EIR) and COMMUNICATION FROM CHAIR and VICE CHAIR, ENERGY AND ENVIRONMENT COMMITTEE relative to the consideration of and recommendation to the City Council on the California Environmental Quality Act (CEQA), Section 21151(c) appeal by the Citizens Committee to Save Elysian Park (CCSEP) represented by Chatten-Brown and Carstens relative to the EIR certification by the Board of Commissioners of the Los Angeles Department of Water and Power for the Elysian Reservoir Water Quality Improvement Project.

Recommendations for Council action:

1. DENY the APPEAL filed by the CCSEP represented by Chatten-Brown and Carstens relative to the Environmental Impact Report certification by the Board of Water and Power Commissioners' for the Elysian Reservoir Water Quality Improvement Project.
2. ADOPT the April 17, 2012 action of the City of Los Angeles, Board of Water and Power Commissioners, as the action of the Council to:
  - a. Certify that the EIR for the Elysian Reservoir Water Quality Improvement Project has been completed in compliance with CEQA, reflects the City's independent judgment and analysis, and was presented to and considered and reviewed by the Council before approving the Project.
  - b. Require implementation of the mitigation measures and adopt the Mitigation Monitoring and Reporting Plan.
  - c. Adopt the findings of Fact and Statement of Overriding Considerations for impacts that remain significant after implementation of the mitigation measures.
  - d. Approve the floating cover alternative with additional enhancements to the reservoir area and park instead of the proposed buried reservoir for the Project after consideration of the EIR and budget.

Fiscal Impact Statement: Neither the City Administrative Officer nor the Chief Legislative Analyst has completed a financial analysis of this report.

Community Impact Statement: None submitted.

Summary:

On November 7, 2012, the Energy and Environment Committee Chair and Vice Chair considered a Board of Water and Power Commissioners (Board) report relative to the Elysian Reservoir Water Quality Improvement Project including the EIR for the Elysian Reservoir Water Quality Improvement Project. Pursuant to Public Resources Code Section 21151, a CEQA appeal has been filed with the City Council on behalf of the CCSEP regarding this project.

The EIR for this Project was approved by the Board on April 17, 2012. The Board's specific action is as follows:

- Certify the EIR for the Elysian Reservoir Water Quality Improvement Project which was prepared in order to comply with the CEQA.
- Require implementation of the mitigation measures and adopt the Mitigation Monitoring and Reporting Plan.
- Adopt the Finding of Fact and Statement of Overriding Considerations for impacts that remain significant after implementation of the mitigation measure.;
- Approve the floating cover alternative with additional enhancements to the reservoir area and park instead of the proposed buried reservoir for the Project after consideration of the EIR and budget.

On April 23, 2012, the CCSEP filed a CEQA appeal of the Board's action with the Council. Pursuant to Public Resources Code Section 21151, if a non-elected decision-making body of a local lead agency certifies an environmental impact report, the certification may be appealed to the agency's elected decision-making body. In this case the Board is a non-elected decision-making body therefore any appeals of its CEQA certifications are referred to the Council.

According to the Los Angeles Department of Water and Power (LADWP), the Elysian Reservoir Water Quality Improvement Project is intended to protect the quality and reliability of the City's drinking water supply and comply with the updated Federal Environmental Protection Agency (EPA) water quality standards.

Specifically, the LADWP must comply with updated Federal water quality regulations to mitigate the formation of potentially carcinogenic byproducts that may result from the chemical disinfection processes. In addition, the LADWP seeks to address local water storage capability as part of the Project. To meet this objective and the water quality requirements, the LADWP must cover the existing Elysian Reservoir and replace both the existing inlet line which connects the reservoir to the Riverside Trunk Line.

The LADWP indicates that it has worked closely with local citizen groups to address the nature and extent of facility improvements at the Elysian Reservoir. The process was an outgrowth of public meetings in the late 1980s between the LADWP and numerous citizens groups throughout the City related to the proposed physical and operational changes at the City's open reservoirs.

As part of the EIR, the LADWP presented a buried concrete-covered reservoir. Under this EIR option, the area atop the buried reservoir would be developed for recreation uses. A shallow wildlife pond of not less than 0.5 acres in size would also be created at the northern end of the project site, but not atop the buried reservoir. After completion of project construction, the site would be open to the public as part of the Elysian Park.

The other two alternatives under the EIR would not provide a publicly-accessible recreation area at the Elysian Reservoir property.

The first alternative under consideration is a floating cover. Under this alternative, a flexible membrane floating cover would be installed over the entire water surface and anchored to the edge of the reservoir basin. It is estimated that the cover option may require replacement every 15 to 20 years. Under this option, the reservoir would essentially retain its existing shape and volume. The EIR identifies the floating cover as the environmentally superior alternative.

The second alternative under consideration is an aluminum cover. Under this alternative, a lightweight aluminum cover would be installed over the entire surface of the reservoir. The aluminum cover would consist of a standing seam roof situated several feet above the water surface, resting on concrete side walls. Under this EIR option, the reservoir would essentially retain its existing shape and volume.

This second alternative also contains an option to install solar photovoltaic panels atop the aluminum cover to assist the DWP's renewable energy production goals. According to the LADWP, the project cost of the proposed buried concrete-covered reservoir is estimated to be \$110 million. The construction duration of the buried reservoir is approximately five and a half years.

In terms of the two alternatives, the floating cover is estimated at \$25 million and the aluminum cover at \$55 million. The durations for these alternatives are less than the buried reservoir - two and a half years for the floating cover and four years for the aluminum cover.

All noted costs relate to reservoir modification, including design, construction, operations, and maintenance over a 60 year life cycle. The floating cover alternative also has the lowest construction contract cost which is estimated to be \$15 million. The funding for the construction of this project will be provided from the Water System Revenue Fund.

The EIR identifies the floating cover as the environmentally superior alternative. It noted that the alternative meets the primary objectives of complying with updated water quality regulations and maintaining local drinking water storage capacity within the Elysian Reservoir service area. However, it would not meet the secondary project objective of providing publicly-accessible open space at the Elysian Reservoir property.

Environmental impacts under both the floating cover alternative and the aluminum cover alternative would be reduced compared to the buried concrete-covered reservoir because these alternatives involve less ground disturbance, truck traffic and construction time; and therefore would have reduced impacts to air quality/greenhouse gas emissions, biological resources and noise.

Further, the EIR finds that environmental impacts related to air quality/greenhouse gas emissions, noise, and transportation/traffic would be less under the floating cover alternative than under the aluminum cover alternative due to the reduced scope of construction required.

The Board's action associated with the EIR, and the approval of the floating cover alternative, includes additional enhancements/mitigations to the reservoir area and park not to exceed \$3,160,000. Construction enhancements include:

- Entry gate and landscaping;
- Dam crest and reservoir security fencing;
- Asphalt Concrete coloring;
- Wildlife pond and additional trees;
- Park trail loops; and
- Park restroom improvements.

The Board's action also included the establishment of a \$12.5 million Community Parks Fund. The Fund will be used for public purposes related to community parks. The LADWP states that best efforts will be used to locate enhancements in the Elysian Park area. However, if no suitable enhancements can be located in the area, best efforts will be used to locate enhancements in a

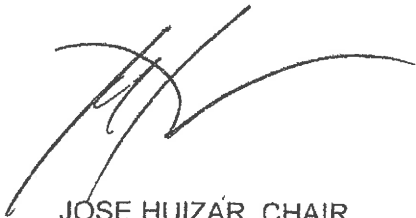
comparable urban area.

The CCSEP maintains that the selected alternative (floating cover) will have significant and unmitigated aesthetic and recreational impacts on Elysian Park and surrounding communities. The CCSEP's letter follows that its members live and recreate in Elysian Park and would be aggrieved by a loss of aesthetic and recreational opportunities in the Park. The letter concludes that the Board's selected alternative violates CEQA.

In terms of the \$12.5 million Community Parks Fund, the CCSEP states that the Fund was not incorporated into the Project's mitigation measures, and the wording creating the Fund fails to actually require its use in or near Elysian Park. The CCSEP seeks to have this matter addressed.

After consideration and having provided an opportunity for public comment, the Committee Chair and Vice Chair recommended approval of the Board's report and to deny the appeal. This matter is now submitted to Council for its consideration.

Respectfully submitted,



JOSE HUIZAR, CHAIR  
ENERGY AND ENVIRONMENT  
COMMITTEE

DENNIS ZINE, VICE CHAIR  
ENERGY AND ENVIRONMENT  
COMMITTEE

<u>MEMBER</u>	<u>VOTE</u>
HUIZAR:	YES
ZINE:	YES
CÁRDENAS:	ABSENT
ALARCÓN:	ABSENT
KORETZ:	ABSENT

EV  
12-0761\_rpt\_ee\_11-07-12

**ADOPTED**  
*As Amended*  
DEC 11 2012  
*See Attached Motion*  
**LOS ANGELES CITY COUNCIL**

**FORTHWITH**

MOTION

I MOVE that the Energy and Environment Committee Report relative to the California Environmental Quality (CEQA) appeal by the Citizens Committee to Save Elysian Park, Item No. 25 on today's Council Agenda (CF 12-0761), BE AMENDED to include the following additional recommendations:

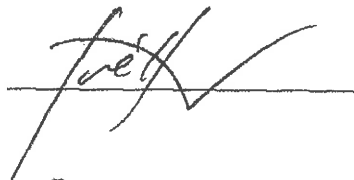
- Request the Department of Water and Power (DWP) to work with the Citizen's Committee to Save Elysian Park with respect to the expenditure of the \$3,160,000 associated with the reservoir area and park enhancements in order to meet project needs and maximize community objectives;
- Request the DWP to transfer the \$12.5 million associated with the Community Parks Fund to California Community Foundation with the goal of prioritizing opportunities identified in the Elysian Park Master Plan;
- At the time of the termination of the currently approved floating cover's lifecycle the DWP should consider other project alternatives to meet federal water quality standards in order to determine the feasibility of implementation anytime leading up to or upon the consideration of a replacement instead of automatically replacing it.

PRESENTED BY:



ED P. REYES  
Councilmember, 1<sup>st</sup> District

SECONDED BY:



**ADOPTED**

DEC 11 2012

LOS ANGELES CITY COUNCIL

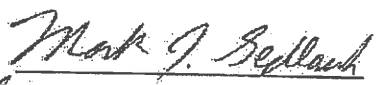
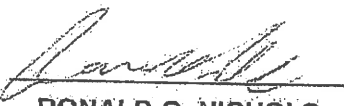
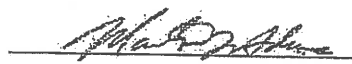
**FORTHWITH**

**ORIGINAL**

  
DEC 11 2012



LOS ANGELES DEPARTMENT OF WATER AND POWER (LADWP) BOARD APPROVAL LETTER

TO: BOARD OF WATER AND POWER COMMISSIONERS		DATE: March 14, 2012
 LORRAINE A. PASKETT Senior Assistant General Manager Sustainability Programs and External Affairs.		SUBJECT:  <b>Elysian Reservoir Water Quality          Improvement Project Including          Environmental Impact Report</b>
 RONALD O. NICHOLS General Manager		
 JAMES B. McDANIEL Senior Assistant General Manager Water System		FOR COMMISSION OFFICE USE:   RESOLUTION NO. <u>012 225</u> COPY RESO TO: <u>APR 17 2012</u> <i>1- Sr. Asst. Sustainability Programs &amp; External Affairs</i> <i>2- Sr. Asst. Water System</i>
CITY COUNCIL APPROVAL REQUIRED: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	IF YES, BY WHICH CITY CHARTER SECTION:	RESOLUTION MODIFIED AND ADOPTED AT APRIL 17, 2012 BOARD MEETING.

**PURPOSE**

Transmitted for approval by your Honorable Board is a Resolution recommending to act on the following items, which are set forth in the attached Resolution:

- Certify the Environmental Impact Report (EIR) for the Elysian Reservoir Water Quality Improvement Project, which was prepared in order to comply with the California Environmental Quality Act (CEQA);
- Require implementation of the mitigation measures and adopt the Mitigation Monitoring and Reporting Plan (MMRP);
- Adopt the Findings of Fact and Statement of Overriding Considerations for impacts that remain significant after implementation of the mitigation measures;
- Approve the floating cover alternative with additional enhancements to the reservoir area and park instead of the proposed buried reservoir for the Elysian Reservoir Water Quality Improvement Project after consideration of the EIR and budget.

The Elysian Reservoir Water Quality Improvement Project will help ensure the quality, reliability, and stability of the City of Los Angeles drinking water supply and comply with updated United States Environmental Protection Agency (EPA) water quality standards.

### COST AND DURATION

Project cost of the proposed buried concrete-covered reservoir is estimated to be \$110 million. The two feasible alternatives, the floating cover and the aluminum cover, were identified and similarly analyzed as part of the CEQA process. In comparison, project costs for these alternatives are \$25 million and \$55 million, respectively. All costs noted are primarily for reservoir modification and include design, construction, operations, and maintenance over a 60-year life cycle. Since both the floating and aluminum covers would need to be replaced during this time period, initial cost for implementation of these alternatives is less than the amounts noted. The floating cover alternative also has the lowest construction contract costs, which are estimated to be \$15 million.

The budget for the procurement and construction of this project will be provided from Water System ratepayer funds. In addition, several loans and grants may be available as the proposed project nears the construction phase. These funding opportunities would be pursued for any of the project options.

There are two primary low interest loan programs available. The largest amount may be obtained from the California Department of Public Health *Safe Drinking Water State Revolving Fund*. This program permits a maximum of \$30 million annually for the Water System, \$20 million of which may be used for a single project. The California Infrastructure and Economic Development Bank *Infrastructure State Revolving Fund* is another low interest loan which allows as much as \$10 million per year. The cost savings realized would be the difference in interest between the revolving fund and normal borrowing rates. It is estimated the total savings on a \$20 million loan would be about \$2 million due to the lower interest costs.

Additionally, there are various grants for open space or recreational park development which are administered by either the City of Los Angeles Department of Public Works (LADPW) or Department of Recreation and Parks (LADRP). Though these funds are smaller in amounts than the loans mentioned above, LADWP could work with these agencies to distinguish recreational components of the reservoir project. One such program, *Proposition K*, has identified Elysian Park as a potential recipient. Several million dollars may be available, but would require reallocation of the funds as they are currently designated for land acquisition and facility enhancements.

Construction duration of the buried reservoir is approximately five and a half years. The durations for the two alternatives are less than the buried reservoir, and are two and a half years for the floating cover and four years for the aluminum cover.

The following tables summarize costs and schedules as well as construction scenarios for the options under consideration. For comparison, the costs are for a 60-year period and include replacement of the floating and aluminum covers at the end of their expected lifespans.

<b>PROJECT COST AND SCHEDULE</b>			
<b>Category</b>	<b>Buried Reservoir</b>	<b>Floating Cover</b>	<b>Aluminum Cover</b>
Cost (In Millions)	\$110	\$25	\$55
Length of Construction	5.5 years	2.5 years	4 years (+ 7 months for solar panels)
Construction Duration	2015-2021	2014-2016	2014-2018

<b>CONSTRUCTION SCENARIOS</b>			
<b>Category</b>	<b>Buried Reservoir</b>	<b>Floating Cover</b>	<b>Aluminum Cover</b>
Total Off-Site Truck Trips	48,000	11,800	15,200
Peak Equipment	38	25	25
Peak Personnel	98	72	72
Total Volume of Earthwork	425,000 Cubic Yards	Minimal	Less than 1,000 Cubic Yards

**RESERVOIR SITE AND ELYSIAN PARK ENHANCEMENTS**

The following table summarizes the reservoir property and park enhancements associated with the Floating Cover Alternative:

<b>No</b>	<b>Description</b>	<b>Estimated Cost</b>
1	<b>Entry Gate and Landscaping</b> Vehicle gate and native landscaping at the reservoir entry	\$ 25,000
2	<b>Dam Crest Fencing</b> Vinyl clad chain-link fencing along reservoir dam crest	\$ 15,000
3	<b>Reservoir Security Fencing</b> Security fencing along reservoir perimeter wall	\$ 65,000
4	<b>Asphalt Concrete Coloring</b> Color coating of reservoir service road	\$ 140,000
5	<b>Asphalt Paving</b> Grand View Drive paving enhancements from Park Row to reservoir entry	\$ 115,000

<b>No</b>	<b>Description</b>	<b>Estimated Cost</b>
6	<b>Wildlife Pond</b> 1/2-acre pond, already included in the water quality improvement project	\$ 525,000
7	<b>Trees and Landscaping</b> Additional trees and landscaping below Point Grand View and near the wildlife pond	\$ 50,000
8	<b>Rock Fall Barrier System</b> Color-coated steel wire mesh on hillside slope above service road	\$ 370,000
9	<b>Park Trail Loops</b> New trail loops as described in the Draft Elysian Park Master Plan	\$ 255,000
10	<b>Park Pipe Replacement</b> Replace approximately 4,400 feet of 6-inch pipe along the westerly side of the Park	\$ 1,100,000
11	<b>Park Restroom Improvements</b> Repair an existing restroom facility in poor condition	\$ 500,000
	<b>TOTAL:</b>	<b>\$ 3,160,000</b>

**BACKGROUND**

**Project Description:**

LADWP must comply with updated EPA water quality standards, including the Stage 2 Disinfectants and Disinfection Byproducts Rule (D-DBPR), which establishes new regulations related to the formation of potentially carcinogenic disinfection byproducts that may result from certain drinking water chemical disinfection processes, and the Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR), which establishes new regulations related to the presence of microbial pathogens in drinking water supplies. In addition, to maintain reliability and flexibility to meet the Elysian Reservoir service area demand for drinking water at required distribution system pressures, including during emergency or planned outages of upstream supplies, local water storage capability must be preserved. To meet these objectives, LADWP must cover the existing Elysian Reservoir and replace both the existing inlet line which connects the reservoir to the Riverside Trunk Line supply, and the existing bypass line which diverts water around the reservoir when necessary.

For two decades, LADWP has worked closely with the Elysian Reservoir Subcommittee of the Coalition to Preserve Open Reservoirs (CPOR) to determine the nature and extent of facility improvements at Elysian Reservoir that would meet the required federal and state drinking water standards. This process was an outgrowth of public meetings in the late 1980s between LADWP and numerous citizens groups in communities throughout the City related to proposed physical and operational changes at the City's open reservoirs necessary to implement the

Surface Water Treatment Rule, first promulgated by the EPA in 1989. In 1990, the Los Angeles City Council directed that decisions regarding improvements at several open reservoirs (including those at Elysian) be conducted through a mediation process between LADWP and the CPOR committee associated with each reservoir. The Elysian Subcommittee of CPOR strives to preserve Elysian Park open space areas for public use, which includes recreational activities. This includes taking advantage of potential opportunities to provide additional publicly accessible areas within the park. In relation to Elysian Reservoir, CPOR has played a primary role in advocating a buried structure.

To help ensure the quality, reliability, and stability of the City of Los Angeles drinking water supply and to ensure compliance with updated water quality standards, LADWP presented a new, buried concrete-covered reservoir (buried reservoir) as the proposed project in the EIR to replace the existing uncovered Elysian Reservoir. The new buried reservoir would be constructed in essentially the same location as the existing reservoir, although with a slightly reduced footprint. The buried reservoir would provide an equal amount of potable water storage (55 million gallons [MG]) as is available in the existing reservoir. In addition to the buried reservoir, new pipelines are needed for the water distribution system capacity and reliability. This includes a new 54-inch diameter inlet supply line and correspondingly, a new 54-inch reservoir bypass pipeline. These facilities will replace existing infrastructure installed in the early 1940s. The area atop the buried reservoir would be developed for recreation uses. A shallow wildlife pond of not less than 0.5 acres in size would also be created at the northern end of the project site, but not atop the buried reservoir. After completion of project construction, the site would be open to the public as part of Elysian Park. Other than facilities related to water storage and distribution, the site would be maintained and operated by the LADWP.

Two alternatives to the buried reservoir, which would meet the primary water quality and storage objectives, are also under consideration and were fully evaluated in the EIR. These alternatives would not provide a publicly-accessible recreation area at the Elysian Reservoir property. Both alternatives include the replacement of both the existing inlet and bypass lines as well as creation of a wildlife pond at the north end of the reservoir property.

The first alternative under consideration is a floating cover. Under this alternative, a flexible membrane floating cover would be installed over the entire water surface and anchored to the edge of the reservoir basin above the top of water elevation. This cover may require replacement every 15 to 20 years. Although the reservoir liner and appurtenant facilities would be removed and replaced under this alternative, the reservoir would essentially retain its existing shape and volume. The EIR identifies the floating cover as the environmentally superior alternative.

The second alternative under consideration is an aluminum cover. Under this alternative, a lightweight aluminum cover would be installed over the entire surface of the reservoir. The aluminum cover structure would consist of a standing seam roof situated several feet above the water surface, resting on concrete side walls. Although the reservoir liner and appurtenant facilities would also be removed and replaced under this alternative, the reservoir would essentially retain its existing shape and volume. Under this alternative, there is an option to

install solar photovoltaic panels atop the aluminum cover to help meet LADWP's ongoing commitment to renewable energy production.

**Environmental Impact Report:**

- An Initial Study (IS) was prepared and made available for public review from June 23, 2008 to July 22, 2008. Copies of the IS were made available for review at the Lincoln Heights, Chinatown, and Cypress Park Branch Libraries, as well as on the LADWP website. A Notice of Preparation of an EIR was submitted to the State Clearinghouse and mailed to agencies and individuals believed to have an interest in the project. A public notice was published in the Los Angeles Times on June 23, 2008. The IS and Notice of Preparation are in Appendix A of the Draft EIR, which is included as Attachment 1. The mailing list and proofs of publication are included as Attachment 2.
- An EIR was prepared by LADWP, which analyzed the potential environmental impacts associated with the construction and operation of the proposed project and two alternatives. The proposed project consisted of a buried concrete-covered reservoir. The area atop the buried reservoir would be developed for recreation uses as part of Elysian Park. The alternatives analyzed consisted of a floating cover and an aluminum cover, which also includes an option for the installation of solar panels. All alternatives included replacement of the inlet line connecting the reservoir to the Riverside Trunk Line, and the bypass pipeline to divert water around the reservoir when necessary.
- The EIR was submitted to the State Clearinghouse and made available for public review from March 10, 2011, through April 25, 2011. Copies of the EIR were again made available for review at the Lincoln Heights, Chinatown, and Cypress Park Branch Libraries, as well as on the LADWP website. In response to a community request, additional copies were made available at the Edendale, Echo Park, and Silver Lake Branch Libraries. A Notice of Availability was prepared and mailed to agencies and individuals believed to have an interest in the project. A public notice was published in the Los Angeles Times on March 10, 2011. Copies of the Notice of Availability, Mailing Lists, and the Los Angeles Times proofs of publication are included as Attachment 3.
- The EIR concludes that there are no feasible mitigation measures to reduce the temporary air quality and noise impacts to a level of less than significant during construction of the proposed project. The aluminum cover alternative would also have significant and unavoidable air quality and noise impacts during construction. The floating cover would have significant and unavoidable air quality impacts. Neither the proposed project nor the alternatives would cause significant operational impacts.
- The EIR identifies the floating cover as the environmentally superior alternative. This alternative meets the primary objectives of complying with updated water quality regulations and maintaining local drinking water storage capacity within the Elysian Reservoir service area. It would not meet the secondary project objective of providing publicly-accessible open space at the Elysian Reservoir property.

The following table summarizes the level of environmental impacts in each issue area analyzed in the EIR. Since there are varying degrees of impact above and below the threshold of significance, a comparison of the magnitude of impacts of the alternatives to that of the proposed buried reservoir is also included, as indicated by the less, similar, or greater notations.

<b>ENVIRONMENTAL IMPACTS</b>			
<b>Issue Area</b>	<b>Buried Reservoir</b>	<b>Floating Cover</b>	<b>Aluminum Cover</b>
<i>Aesthetics</i>	Less than Significant	Less than Significant (Similar)	Less than Significant (Similar)
<i>Air Quality</i>	Significant and Unavoidable	Significant and Unavoidable (Less)	Significant and Unavoidable (Less)
<i>Biological Resources</i>	Less than Significant with Mitigation	Less than Significant with Mitigation (Less)	Less than Significant with Mitigation (Less)
<i>Cultural Resources</i>	Less than Significant with Mitigation	Less than Significant with Mitigation (Less)	Less than Significant with Mitigation (Less)
<i>Noise</i>	Significant and Unavoidable	Less than Significant with Mitigation (Less)	Significant and Unavoidable (Less)
<i>Traffic</i>	Less than Significant with Mitigation	Less than Significant with Mitigation (Less)	Less than Significant with Mitigation (Less)

**Public Comments on the EIR:**

During the public review period, a total of 11 comment letters were received by LADWP. Comments were received from:

- 1 State of California, Governor's Office of Planning and Research, State Clearinghouse  
Signed: Mr. Scott Morgan April 26, 2011
- 2 State of California, Department of Transportation, District 7  
Signed: Ms. Dianna Watson April 20, 2011

3	Valley Alliance of Neighborhood Councils <i>Signed: Ms. Jill Banks Barad</i>	April 18, 2011
4	Citizens Committee to Save Elysian Park <i>Signed: Ms. Sallie Neubauer</i>	April 20, 2011
5	Ms. Susan Borden	April 10, 2011
6	Mr. Michael O'Brien	April 13, 2011
7	Ms. Alison O'Neill	April 24, 2011
8	Mr. Peter Slutzky	April 24, 2011
9	Mr. Peter Lassen	April 25, 2011
10	Ms. Kathleen and Mr. Phillip Murphy	April 25, 2011
11	Ms. Joyce Dillard	April 25, 2011

Copies of the letters and LADWP's responses are provided in Section 2.0 of the Final EIR. A public meeting was held on April 13, 2011 to solicit comments on the Draft EIR. Approximately 20 people attended this meeting. Comments received at this meeting, both verbal and in writing, along with staff responses, are also provided in Section 2.0 of the Final EIR.

Numerous comments were received expressing support for the buried reservoir in spite of the environmental impacts of construction. Numerous comments were also received opposing the buried reservoir and supporting the floating cover alternative primarily due to the large cost differential between the options. The major environmental concerns that were expressed in the comments consist of the following:

Aesthetics

Comments: Both the floating and aluminum covers would create aesthetic visual environmental damage. Park users have almost continuous views of the reservoir from Grandview Drive and this cannot be screened. Losing the open reservoir would have a negative impact regardless of the alternative chosen, however, creating accessible parkland meadow is acceptable mitigation for losing it.

Staff response: The Draft EIR analyzed the potential aesthetic impacts using a customary approach under CEQA. Given the character of the Elysian Reservoir site and surrounding property as well as the nature of the project and alternatives, it was determined that aesthetic impacts would be less than significant.

Comment: There would be substantial glare from the solar panels if the aluminum cover with solar panels alternative was implemented.

Staff response: The protective glass panes on solar panels would be low in iron content to increase the transmission of light to the photovoltaic cells by reducing absorption, refraction, and reflection of light by the glass. The panes also include an anti-reflective coating to further reduce glare.



Climate Change

Comments: New parkland planted with shrubs, grass, and plants would help mitigate climate change.

Staff response: The Draft EIR evaluated Greenhouse Gas (GHG) emissions (the primary source of climate change) for construction and operation of the buried reservoir. Amortized over a 30-year period, the proposed project (buried reservoir), which includes a park on top, would generate approximately 586 metric tons annually of carbon dioxide equivalent, significantly more than the alternatives. Operation of a recreation facility at the site would continue to generate 849 metric tons annually. Given the limited area (six to eight acres), it is not likely that the landscaped area would offset these additional GHG emissions.

Biological Resources

Comment: All efforts should be made to save the trees in the carob grove even though they are not specifically protected by the City's Protected Tree Ordinance.

Staff response: Efforts would be made to clear only the amount of land necessary to accommodate construction staging activities. All disturbed areas would be restored during the final phase of construction.

Comment: The Draft EIR fails to recognize that Elysian Park is part of a wildlife migration corridor connected to Griffith Park. It only discusses wildlife migration relative to birds and does not address terrestrial species.

Staff response: Because it is fenced and adjacent to a freeway, the Elysian Reservoir property provides limited opportunities for wildlife migration of terrestrial species. As noted, there are mitigation measures that reduce impacts to nesting birds to a level of less than significant.

Traffic

Comment: Caltrans comments included information on all permits needed for work performed within the State right-of-way or impacting access to freeways. They recommend that truck trips on State Highways be limited to off-peak hours.

Staff response: LADWP will obtain all necessary permits. The traffic study performed for the EIR found no significant impacts so there is no need to limit truck trips to off-peak hours.

Comment: Elysian Park is used heavily and roads within the park are used for parking during the weekends. There should be no hauling through the park on Saturdays.

Staff response: The Draft EIR concluded that heavy construction vehicle traffic on interior park roads would conflict with the use of Elysian Park for recreation purposes. As a result, mitigation measures were developed and included in the Draft EIR to reduce traffic-related impacts during construction to a less than significant level.

Comment: On weekdays when there are games or other events at Dodger Stadium, there should be no hauling from two hours before to two hours afterwards rather than the one hour as specified in the Draft EIR.

Staff response: Weekday games and events at Dodger Stadium that could overlap the hours of construction activity would occur infrequently. Although the Dodger's organization has traffic officers and engineers managing traffic for the period starting two hours before a game and ending two hours after a game, the one hour prior to and after a game was found to be sufficient to manage construction traffic.

#### Land Use and Planning

Comment: The buried reservoir is the only alternative that conforms with the city's General Plan and the Elysian Park Master Plan.

Staff response: The Elysian Reservoir is zoned as Open Space so a land use variance would be required to implement the floating cover or aluminum cover. However, not all Open Space is intended primarily for scenic, recreation, or natural resource values. According to the Open Space Element of the City of Los Angeles General Plan, in order of first importance, Open Space "includes lands needed for life support systems such as the water supply, water recharge, water quality protection, wastewater disposal, solid waste disposal, air quality protection, energy production and noise prevention." The floating cover is consistent with these goals. The Elysian Park Master Plan has not been adopted by the LADRP.

#### Environmentally Superior Alternative

Comment: The buried reservoir is the only alternative that would create new parkland. This long-term benefit of additional parkland outweighs the short-term damage caused by construction of the buried reservoir. Therefore, the environmentally superior alternative is the buried reservoir, not the floating cover as identified in the Draft EIR.

Staff response: Under CEQA, the determination of environmental superiority among the alternatives is based on the degree of adverse impact to the physical environment in relation to existing conditions at and surrounding the project site. Based on the comparison of adverse impacts in relation to the existing environment among the proposed project and the alternatives to the project, the floating cover was determined to be the environmentally superior alternative. This alternative does not, however, meet the secondary objective of providing publicly accessible parkland at the Elysian Reservoir site.

The Final EIR, comprised of the Draft EIR, comments received on the Draft EIR, responses to those comments, and corrections to the Draft EIR was prepared. None of the changes to the Draft EIR necessitated recirculation of the document. The Final EIR was sent to each agency that submitted comments. It was also made available for public review on the LADWP website and at the libraries that received copies of the Draft EIR. A letter was sent to each person who submitted comments notifying them of the availability and locations of the Final EIR. The Final EIR has been included as Attachment 4. Copies of the letters and the mailing lists are included

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Department of Public Health (CDPH) on the deadline for compliance with the water quality regulations. This extension was requested to allow the community time to identify external funding options to help reduce the cost of the buried concrete reservoir to the LADWP customers. This extension was denied by CDPH. Subsequently, Mr. Lassen submitted a letter asking LADWP to request an extension of the deadline from the EPA in light of their review of the LT2ESWTR in response to requests from New York. CDPH has been in contact with the EPA regarding this review process. The EPA indicated that any revision to the requirements would not be in the near-term and that water agencies that have negotiated Compliance Agreements, as LADWP has, should continue to move forward with their projects to address existing water quality requirements. Copies of these letters are included as Attachment 7.

#### **ENVIRONMENTAL DETERMINATION**

Adoption of the Resolution will result in the certification of the EIR and the adoption of the MMRP, Findings of Fact and Statement of Overriding Considerations for the floating cover alternative and satisfies the requirements of the CEQA. In addition, the resolution will authorize funding for the reservoir site improvement projects. The MMRP for floating cover alternative is included as Attachment 8.

#### **RECOMMENDATION**

It is recommended that your Honorable Board adopt the accompanying Resolution, approved as to form and legality by the City Attorney, and certify the EIR. It is further recommended that your Honorable Board approve the floating cover alternative for the Elysian Reservoir Water Quality Improvement Project.

JVW:db

Attachments

e-c/att: Ronald O. Nichols  
Richard M. Brown  
Aram Benyamin  
James B. McDaniel  
Lorraine A. Paskett  
Philip R. Leiber  
Ann M. Santilli  
Gary Wong  
Mark J. Sedlacek  
Charles C. Holloway  
Julie Van Wagner

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RESOLUTION NO. 012 225

WHEREAS, the Los Angeles Department of Water and Power (LADWP) has an obligation to deliver a dependable supply of safe, high-quality water to customers in the City of Los Angeles in an efficient and publicly responsible manner; and

WHEREAS, the LADWP must comply with updated United States Environmental Protection Agency (EPA) water quality standards, including the Stage 2 Disinfectants and Disinfection Byproducts Rule, which establishes new regulations related to the formation of potentially carcinogenic disinfection byproducts that may result from certain drinking water chemical disinfection processes, and the Long Term 2 Enhanced Surface Water Treatment Rule, which establishes new regulations related to the presence of microbial pathogens in drinking water supplies; and

WHEREAS, the Elysian Reservoir is currently an uncovered reservoir that provides approximately 55 million gallons of potable water, supplying water to approximately 285,000 people in the greater downtown Los Angeles area; and

WHEREAS, Elysian Reservoir provides crucial emergency storage and operational capacity that allows for the flexibility necessary to meet peaks in demand that could not be satisfied long term through other sources or the use of water distribution pipelines alone; and

WHEREAS, LADWP field demonstrations have established that it is difficult in uncovered reservoirs to maintain the intended chloramine residual and optimal chlorine-to-ammonia ratio necessary to achieve compliance with the Stage 2 Disinfectants and Disinfection Byproducts Rule, and that replacing the uncovered Elysian Reservoir with a buried or covered reservoir would allow for the proper management of chloramine disinfectant levels; and

WHEREAS, the Long Term 2 Enhanced Surface Water Treatment Rule requires that downstream treated-water storage facilities, such as the Elysian Reservoir, maintain the microbial protection of the treated water they receive before the water is discharged from the storage facilities; that treated water stored in uncovered reservoirs can be contaminated from numerous sources such as incidental surface water runoff, bird and animal waste, and airborne deposition (including pollutants and bacteria); and that replacing the uncovered Elysian Reservoir with a buried or covered reservoir would mitigate these contamination risks; and

WHEREAS, LADWP has proposed the Elysian Reservoir Water Quality Improvement Project (Project) whose primary project objectives are to (1) bring the Elysian Reservoir into compliance with updated standards enacted by the EPA and, by extension, the California Department of Public Health, including the Stage 2 Disinfectants and Disinfection Byproducts Rule and the Long Term 2 Enhanced Surface Water Treatment Rule and (2) to preserve the Elysian Reservoir's existing water storage capability to

maintain reliability and flexibility to meet the Elysian Reservoir's service area demand for drinking water at required distribution system pressures, including during emergency or planned outages of upstream supplies; and

WHEREAS, LADWP stated a secondary objective of the proposed Project is to provide a publicly accessible recreation area at the Elysian Reservoir site; and

NOW, THEREFORE, BE IT RESOLVED that the City of Los Angeles Board of Water and Power Commissioners (Board) recognizes that a study was made of the environmental effects of the Project, including its construction and operation. This study is embodied in the Environmental Impact Report (EIR), which analyzed the buried reservoir (Proposed Project) and two alternatives in detail. The Proposed Project consisted of the buried reservoir, with the area atop being developed for possible recreation uses. A new water supply bypass line to replace the existing, aging bypass line would be installed to the west of the reservoir to allow unimpeded water supply operations during construction as well as greater accessibility to the line after construction is complete. A new inlet line would connect the reservoir to the existing Riverside Truck Line located within Riverside Drive to help maintain critical system reliability and provide improved distribution system capability.

BE IT FURTHER RESOLVED that the EIR also analyzed alternatives to the Proposed Project. The alternatives consisted of a floating cover and an aluminum cover, which included the option of solar panels installed on top. The floating cover alternative would not include an option of solar panels because incompatibilities between the floating cover and the solar components would hinder operations and maintenance and compromise the integrity of both the water storage and solar energy systems. Both alternatives would achieve the primary water quality and water storage objectives of the Project, however neither of the two would achieve the secondary objective of providing a publicly accessible recreation area at the Elysian Reservoir site.

BE IT FURTHER RESOLVED that the EIR, including all comment letters and responses, is on file with the Secretary of this Board and is incorporated in this Resolution, and made a part hereof.

BE IT FURTHER RESOLVED that this Board must balance the economic, legal, social, technological, or other benefits against unavoidable environmental impacts and has the discretion to approve the proposed project or either of the alternatives based on these factors.

BE IT FURTHER RESOLVED that this Board recognizes that the EIR identified the floating cover as the environmentally superior alternative as it would result in the least significant adverse impact on the physical environment among all the alternatives when analyzed in relation to the existing environmental conditions at and surrounding the project site. Impacts under both the floating cover alternative and the aluminum cover alternative would be reduced compared to the Proposed Project because these alternatives involve less ground disturbance, truck traffic and construction time, and

therefore would have reduced impacts to air quality/greenhouse gas emissions, biological resources, cultural resources, noise, and transportation and traffic compared to the Proposed Project. Impacts related to air quality/greenhouse gas emissions, noise, and transportation/traffic would be less under the floating cover alternative than under the aluminum cover alternative due to the reduced scope of construction required.

BE IT FURTHER RESOLVED that this Board recognizes that the costs for design, construction, operations, and maintenance over a 60-year project lifespan have been estimated at \$110 million for the buried reservoir, \$25 million for the floating cover, and \$55 million for the aluminum cover without the solar panels.

BE IT FURTHER RESOLVED that this Board recognizes that the staff recommendation for compliance with the updated EPA water quality standards and water storage objectives is the floating cover alternative, which meets the primary project objectives for this Project.

BE IT FURTHER RESOLVED that this Board makes the following findings and determinations with respect to the floating cover alternative for the Project.

The floating cover alternative would install an approximately 325,000-square-foot flexible membrane floating cover anchored to the edge of the Elysian Reservoir. The reservoir liner and appurtenant facilities would be removed and replaced, but the reservoir would essentially retain its existing shape and volume. A shallow wildlife pond would be created at the north end of the reservoir property.

The floating cover alternative includes the construction of a new bypass line to the west of the reservoir and a 54-inch diameter underground inlet line connecting the reservoir to the existing Riverside Trunk Line within Riverside Drive.

The floating cover alternative was found to be the environmentally superior alternative based on the analysis in the EIR.

BE IT FURTHER RESOLVED that this Board makes the following further findings and determinations with respect to the Project:

LADWP is the lead agency under the California Environmental Quality Act (CEQA) and has prepared an EIR in compliance with CEQA.

An Initial Study (IS) and a Notice of Preparation of an EIR were prepared and made available for public review from June 23, 2008, to July 22, 2008. The Notice of Preparation was filed with the Los Angeles City and County Clerks on June 23, 2008. Notices were also published in the legal section of the *Los Angeles Times* on June 23, 2008. Copies of the IS and Notice of Preparation

of an EIR were sent to the California State Clearinghouse as well as local agencies, organizations, and individuals believed to have an interest in the Proposed Project. Copies of the Notice of Preparation and IS are included in Appendix A of the Draft EIR, which is on file with the Secretary of the Board as Attachment 1 to the Board Letter. Copies of the mailing list and proof of publication are on file with the Secretary of the Board as Attachment 2 to the Board Letter.

A total of 11 comment letters were received in response to the Notice of Preparation. Comments received were considered in the preparation of the Draft EIR and have also been included in Appendix A of the Draft EIR Attachment 1 to the Board Letter.

A Draft EIR and Notice of Availability of a Draft EIR for the Project were prepared and made available for a 45-day public comment period from March 10, 2011, to April 25, 2011. The Notice of Availability of the Draft EIR was filed with the City Clerk and County Clerk on March 7, 2011, and March 10, 2011, respectively. Notice was published in the legal section of the Los Angeles Times on March 10, 2011. Copies of the Notice of Availability and Draft EIR were sent to the California State Clearinghouse as well as local agencies, organizations, and individuals commenting on the Notice of Preparation. Copies of the notice, mailing list for the Draft EIR and Proof of Publication of the notice in the Los Angeles Times are on file with the Secretary of the Board as Attachment 3 to the Board Letter.

Eleven comment letters were received on the Draft EIR. A public meeting, attended by approximately 20 individuals, was held on April 13, 2011, at the Solano Avenue Elementary School, 615 Solano Avenue, Los Angeles, CA 90012. Oral comments and written comments submitted on comment cards were received at the meeting.

The Final EIR, comprised of the Draft EIR, written comments received on the Draft EIR, a summary of oral comments received at the public meeting, responses to those comments, errata, and the Mitigation Monitoring and Reporting Program was prepared and made available on the LADWP website on September 9, 2011. Hard copies of the Final EIR were delivered to the libraries and sent to each agency that submitted comments on September 14, 2011. The Final EIR, on file with the Secretary of the Board, has been included as Attachment 4 to the Board Letter.

In response to the Final EIR, one additional comment letter was received. Responses to this comment letter were prepared by staff and provided to the commenter. The additional comment letter on the Final EIR and the responses thereto, on file with the Secretary of the Board, has been included as Attachment 6 to the Board Letter.



The Final EIR, now before this Board, identifies the following potentially significant impacts from implementation of the floating cover alternative and proposed the following mitigation measures:

Impact	Mitigation Measures
<p><b>AIR QUALITY</b></p> <p><b>AIR-1:</b> During the construction phase, nitrogen oxides emissions would exceed the South Coast Air Quality Management District's (SCAQMD) significance threshold, and therefore, the Project would contribute to an existing or projected air quality violation.</p> <p><b>AIR-2:</b> The Project would expose sensitive receptors to substantial pollutant concentrations of particulate matter less than ten microns in diameter (PM<sub>10</sub>), particulate matter 2.5 microns in diameter (PM<sub>2.5</sub>), and toxic air contaminants (TACs) during construction.</p>	<p><b>AIR-A</b> Heavy-duty equipment operations shall be suspended during first and second stage smog alerts.</p> <p><b>AIR-B</b> Equipment and vehicle engines shall be maintained in good condition and in proper tune per manufacturers' specifications.</p> <p><b>AIR-C</b> Based on a 2014 start of construction, all diesel-powered construction equipment shall meet the EPA Tier 3 or higher emissions standards according to the following:</p> <ul style="list-style-type: none"> <li>• <i>January 1, 2014 to December 31, 2014:</i> All off-road construction equipment greater than 50 horsepower (hp) shall meet Tier 3 off-road emissions standards. In addition, all construction equipment shall be outfitted with the best available control technology devices certified by the California Air Resources Board (CARB). Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a CARB-defined Level 3 diesel emissions control strategy for a similarly sized engine.</li> <li>• <i>Post-January 1, 2015:</i> All off-road construction diesel engines not registered under CARB's Statewide Portable Equipment Registration Program that have a rating of 50 hp or more shall meet, at a minimum, the Tier 4 California Emission Standards for Off-Road Compression-Ignition Engines as</li> </ul>

Impact	Mitigation Measures
	<p>specified in California Code of Regulations, Title 13, Section 2423(b)(1) unless such engine is not available for a particular item of equipment. In the event a Tier 4 engine is not available for any off-road equipment larger than 100 hp, that equipment shall be equipped with a Tier 3 engine. Equipment properly registered under and in compliance with CARB's Statewide Portable Equipment Registration Program shall be considered in compliance with this mitigation measure.</p> <p><b>AIR-D</b> Electricity shall be utilized from power supply sources rather than temporary gasoline or diesel power generators, as feasible.</p> <p><b>AIR-E</b> Heavy-duty trucks shall be prohibited from idling in excess of five minutes, both on and off site, except as follows:</p> <ul style="list-style-type: none"> <li>• When verifying that the vehicle is in safe operating condition, or</li> <li>• When the vehicle is positioning or providing a power source for equipment or operations, or</li> <li>• While operating defrosters, heaters, air conditioning, or any other device to prevent a health or safety emergency.</li> </ul>
<b>BIOLOGICAL RESOURCES</b>	
<p><b>BIO-1:</b> The Project would have a substantial adverse effect, either directly or through habitat modifications, on species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or the U.S. Fish and Wildlife Service.</p>	<p><b>BIO-A</b> Project-related activities such as tree removal or vegetation clearance that would be likely to have the potential to disturb suitable bird nesting habitat shall be prohibited from February 15 through September 15 unless a qualified biologist surveys the project sites prior to disturbance to confirm the absence of active nests. Disturbance shall be defined as any activity that physically removes and/or damages vegetation or</p>

Impact	Mitigation Measures
	<p>habitat. Surveys shall be conducted weekly, beginning no earlier than 30 days and ending no later than three days prior to the commencement of disturbance. If an active nest is discovered, disturbance within a buffer area surrounding the nest site shall be prohibited until nesting is complete; the buffer distance shall be determined by the biological monitor in consideration of species sensitivity and existing nest site conditions. Limits of the buffer area shall be demarcated with flagging or fencing. Once a flagged nest is determined to be no longer active, the biological monitor shall remove all flagging and allow construction activities to proceed.</p>
<p><b>BIO-2:</b> The Project would have a substantial adverse effect on riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or the U.S. Fish and Wildlife Service.</p>	<p><b>BIO-B</b> Prior to the start of construction, to minimize incidental impacts to adjacent vegetation, the construction contractor shall place construction fencing (chain link, silt fencing, or other fencing as appropriate) along the construction limits of work. The LADWP shall be responsible for hiring a qualified biologist to inspect the fencing upon installation and monthly thereafter for the duration of the project. The construction contractor shall be responsible for any improvements or repairs deemed necessary by the biologist.</p>
<p><b>BIO-5:</b> The Project would conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</p>	<p><b>BIO-C</b> If it is determined that trimming of coast live oak trees along Grand View Drive is necessary, the LADWP shall follow the procedures and recommendations described in the LADRP Urban Forest Program <i>Tree Care Manual</i>. The LADWP shall apply for a permit from the Board of Public Works and obtain approval prior to pruning of trees. Any pruning shall be performed in compliance with the Oak Tree Pruning</p>

Impact	Mitigation Measures
	<p data-bbox="873 331 1370 428">Standards set forth by the Western Chapter of the International Society of Arboriculture.</p> <p data-bbox="750 466 1370 802"><b>BIO-D</b> All coast live oak, western sycamore, and southern California black walnut trees that are removed shall be replaced at a minimum 2:1 ratio of the same species with a minimum 15-gallon specimen measuring one inch or more in diameter at a point one foot above the base, and not less than seven feet in height, measured from the base.</p> <p data-bbox="740 835 1357 1243"><b>BIO-E</b> Prior to removal of any toyon and holly-leaf cherry plants, the LADWP shall obtain a recommendation for action from the LADRP arborist that has been approved by the LADRP General Manager. Upon completion of construction activities, any removed toyon and holly-leaf cherry shall be replaced in accordance with Los Angeles City Landscape Policy (Urban Forest Program <i>Tree Care Manual</i>, Appendix M).</p>
<p data-bbox="181 1264 542 1297"><b>CULTURAL RESOURCES</b></p> <p data-bbox="181 1302 626 1432"><b>CR-2:</b> The Project would cause a substantial adverse change in the significance of an archaeological resource.</p>	<p data-bbox="727 1310 1354 1852"><b>CR-A</b> Because the potential to encounter archaeological resources exists within the Elysian Reservoir property, qualified archaeological and Native American monitors shall perform monitoring during all ground disturbing activities, including but not limited to, excavation, trenching, boring, and grading at the Elysian Reservoir site. In the event that potential archaeological materials are encountered during construction, all construction activity in the area of the find shall cease until the discovery can be evaluated by a qualified archaeologist in accordance with the provisions of CEQA Guidelines</p>

Impact	Mitigation Measures
	<p>Section 15064.5. The archaeological monitor shall have the authority, in coordination with the construction manager, to temporarily re-direct construction equipment in the event potential archaeological resources are encountered until appropriate action to protect the resource has occurred.</p>
<p><b>CR-3:</b> The Project would directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.</p>	<p><b>CR-B</b> Because the Elysian Reservoir site has high paleontological sensitivity, a qualified paleontological monitor shall perform monitoring during the grading and excavation phases of construction. Monitoring shall include inspection of exposed surfaces and microscopic examination of matrix. In the event that potential significant fossil localities are encountered during construction, all construction activity in the area of the find shall cease until the discovery can be evaluated by a qualified paleontologist. The paleontological monitor shall have authority, in coordination with the construction manager, to temporarily divert grading away from exposed resources until action to protect the resource has occurred. Fossils recovered shall be prepared, identified, and catalogued before donation to the federally accredited repository designated by the lead agency.</p>
<p><b>NOISE</b></p>	
<p><b>NOISE-1:</b> Construction of the Project would result in a substantial temporary increase in ambient noise levels in the vicinity of the Project site.</p>	<p><b>NOISE-A</b> All mobile construction equipment shall be equipped with properly operating mufflers or other noise reduction devices.</p> <p><b>NOISE-B</b> Grading and construction contractors shall use quieter equipment as opposed to noisier equipment (such as</p>

Impact	Mitigation Measures
	<p>rubber-tired equipment rather than metal-tracked equipment), to the extent possible.</p> <p><b>NOISE-C</b> The construction contractor shall use on-site electrical sources to power equipment rather than diesel generators where feasible.</p> <p><b>NOISE-D</b> The construction contractor shall implement sound barriers or blankets on the Riverside Drive perimeter of the Caltrans island. The sound barriers or blankets shall be capable of blocking at least 15 dB of construction noise. The barriers or blankets shall be placed to the extent possible such that the line-of-sight between ground-level construction activity and sensitive land uses is blocked.</p>
<b>TRANSPORTATION/TRAFFIC</b>	
<p><b>TRANS-1:</b> The Project would conflict with an applicable plan, ordinance, or policy for establishing measures of effectiveness for the performance of the circulation system on study street segments during construction.</p>	<p><b>TRANS-A</b> During construction when games or other events are scheduled at Dodger Stadium, the LADWP shall coordinate with the Los Angeles Department of Transportation (LADOT) to establish manual traffic control at established major intersections along the Stadium Way-Academy Road route to and from the stadium. If manual control cannot be provided, construction traffic shall not be allowed on the haul route from the hour before, through the hour after a major event at Dodger Stadium.</p> <p><b>TRANS-B</b> Traffic on non-park roads shall be controlled during construction by adhering to the guidelines contained in Standard Specifications for Public Works Construction and Caltrans' Traffic Manual, Chapter 5, "Manual of</p>

Impact	Mitigation Measures
	<p>Traffic Controls for Construction and Maintenance Work Zones" and applicable City requirements. These guidelines provide methods to minimize construction effects on traffic flow.</p>
<p><b>TRANS-3:</b> The Project would create a safety hazard during construction at Elysian Reservoir associated with incompatible uses.</p>	<p><b>TRANS-D</b></p> <p>Prior to construction, a construction traffic control plan shall be prepared by the LADWP for review and approval by the LADOT and the LADRP. The plan shall include, at a minimum, advanced signing on Stadium Way and Riverside Drive alerting motorists to construction and an increase in construction vehicle movements; signage to alert motorists to temporary or limited access points to adjacent properties; appropriate barricades for road closures; construction speed limit signage along the haul route; other appropriate signage along the haul route to warn park users of construction equipment and vehicles; flag persons at road closure locations, blind spots, other sharp turns to direct construction and other vehicle traffic; temporary crosswalks for park users; and parking restrictions during construction.</p> <p><b>TRANS-E</b></p> <p>Prior to the start of construction, and periodically during construction, as necessary, the construction contractor shall provide all construction drivers with safety training to minimize conflicts between construction activities and park users. Training shall include adherence to posted speed limits, discussion of haul routes, and explanation of the construction traffic control plan.</p>

Impact	Mitigation Measures
	<p><b>TRANS-F</b></p> <p>The LADWP shall coordinate with the LADRP and the LADOT to prohibit on-street parking during peak phases of construction on the following street segments: Academy Road (minor), Solano Canyon Drive, and Park Row Drive/Street. Parking would still be maintained for residents on the west side of Park Row Street at the Grand View Drive entrance to the reservoir Project site.</p>

BE IT FURTHER RESOLVED that this Board finds that implementation of these mitigation measures would lessen the environmental effects of the floating cover alternative to a level of less than significant with the exception of temporary construction impacts to air quality, which would remain significant.

BE IT FURTHER RESOLVED that this Board acknowledges that pursuant to CEQA and the Guidelines adopted pursuant thereto, that before it may approve a project, which has potentially significant effects on the environment, it must first make certain findings and determinations. Accordingly, the Board determines that it first find whether there are specific economic, legal, social, technological, or other considerations which make infeasible further mitigation measures or project alternatives as identified in the Final EIR and further determine whether the benefits of the project outweigh such unavoidable temporary significant effects. Accordingly, the Board herewith makes the following findings in support of a decision to approve the floating cover alternative with temporary significant effects:

There are no additional feasible mitigation measures that would reduce air emissions to a level of less than significant. Daily NOx emissions would exceed the SCAQMD regional significance thresholds during certain periods of intensive construction activities. In addition, localized construction emissions of PM2.5 and PM10 would exceed the significance thresholds at residences on Riverside Drive and Park Row Street and at Solano Avenue Elementary School and toxic air contaminants would exceed the significance thresholds at residences on Riverside Drive. Localized concentrations are directly related to the distance between the source and the sensitive receptors.

This Board further finds that the Proposed Project analyzed in the EIR, which would construct a buried reservoir, would result in greater impacts to air quality/greenhouse gas emissions, biological resources, cultural resources, noise, and transportation/traffic than the floating cover alternative. These impacts would be greater because the Proposed Project would involve substantially more ground disturbance, truck traffic and construction time. This Proposed Project



would, however, meet the secondary objective of providing publicly-accessible open space at the Elysian Reservoir property.

This Board further finds that the aluminum cover alternative, both with and without solar panels on top, would also result in somewhat greater impacts to air quality/greenhouse gas emissions, noise, and transportation/traffic than the floating cover alternative due to the larger scope of construction required.

This Board further finds that all other considered alternatives discussed in the EIR were dismissed because they did not meet the basic Project objectives, were deemed to be infeasible, or would result in similar or greater environmental impacts. These included other storage alternatives at the Elysian Reservoir site, functional relocation alternatives, treatment and filtration, distribution system upgrades and increased Metropolitan Water District Supplies, and the Proposed Project without replacement of the inlet line.

This Board further finds that the No Project Alternative is infeasible to approve for the following specific reasons: While it would eliminate the significant short-term construction-related impacts resulting from the floating cover alternative, it would not achieve any of the Project objectives. Under the No Project Alternative, Elysian Reservoir would remain an uncovered treated water reservoir. However, because this would not meet the water quality mandates, the reservoir would ultimately need to be removed from service. This would not preserve local water storage capability to maintain reliability and flexibility to meet demand for drinking water in the Elysian Reservoir service area.

BE IT FURTHER RESOLVED that this Board finds, pursuant to the requirement that it adopt a Statement of Overriding Considerations to support approval of a project with significant effects on the environment, that there are specific economic, legal, social, technological or other benefits of the floating cover alternative which outweigh the temporary significant construction effects on air quality and therefore determines to approve the floating cover alternative project for the following reasons:

The floating cover alternative would achieve compliance with updated water quality standards enacted by the EPA and, by extension, the California Department of Public Health, including the Stage 2 Disinfectants and Disinfection Byproducts Rule, which establishes new regulations related to the formation of potentially carcinogenic disinfection byproducts that may result from certain drinking water chemical disinfection processes, and the Long Term 2 Enhanced Surface Water Treatment Rule, which establishes new regulations related to the presence of microbial pathogens in drinking water supplies.

The floating cover alternative would preserve local water storage capability to maintain reliability and flexibility to meet the Elysian Reservoir service area demand for drinking water at required distribution system pressures, including during emergency or planned outages of upstream supplies.

The floating cover alternative would maintain and improve the quality, reliability, and stability of the Elysian Reservoir service area drinking water supply in order to continue to meet customer demand and fulfill the primary Project objectives in a cost effective, environmentally responsible manner.

BE IT FURTHER RESOLVED that this Board certifies that the Final EIR has been prepared in compliance with CEQA, that it has reviewed and considered the information contained in the EIR, and that the EIR reflects the independent judgment and analysis of this Board.

BE IT FURTHER RESOLVED that this Board certifies the Final EIR, requires implementation of the mitigation measures, and adopts the Mitigation Monitoring and Reporting Plan.

BE IT FURTHER RESOLVED that, based on the balance of economic, legal, social, and technological benefits against unavoidable environmental impacts, this Board approves the floating cover alternative for the Project with additional enhancements to the reservoir area and park (not to exceed \$3,160,000), authorizes its construction, and approves the payment for permit and mitigation costs associated with this Project.

BE IT FURTHER RESOLVED, that the Board hereby approves the establishment of a \$12.5 million Community Parks Fund (the Fund). The Fund will be used for public purposes related to community parks, though no specific purposes are established at this time. Best efforts shall be used to locate enhancements in the Elysian Park area. However, if no suitable enhancements can be located in the Elysian Park area, best efforts shall be used to locate enhancements in a comparable urban area or areas. Future proposed appropriations from the Fund will be fully evaluated under CEQA before any projects funded by such appropriations are approved. The Board hereby finds that the establishment of the Fund will not create any different or substantially more severe environmental impacts from those examined in the EIR, does not constitute "significant new information" as that term is defined under CEQA Guidelines Section 15088.5 and would not otherwise require recirculation of the EIR.


BE IT FURTHER RESOLVED that LADWP shall file a Notice of Determination with the Los Angeles County Clerk and the Los Angeles City Clerk within five working days after deciding to approve the project.

BE IT FURTHER RESOLVED that the Environmental Affairs Section will be the custodian of the record of proceedings for this project.

I HEREBY CERTIFY that the foregoing is a full, true, and correct copy of a Resolution adopted by the Board at its meeting held APR 17 2012

APPROVED AS TO FORM AND LEGALITY  
CARMEN A. TRUTANICH, CITY ATTORNEY

  
Secretary

APR 17 2012  
BY   
JANINA SIDLEY  
DEPUTY CITY ATTORNEY

MATTERS PENDING

Matters Pending will be carried for a maximum of six months, after which time they will be deemed withdrawn and rescheduled whenever a new staff report is received.

GENERAL MANAGER'S REPORTS:

<u>ORIGINALLY PLACED ON BOARD AGENDA</u>	<u>PLACED ON MATTERS PENDING</u>	<u>DEEMED WITHDRAWN</u>
2/3/16	2/17/16	8/17/16
16-021	City Hall Park – Joy Picus Play Area Renovation (PRJ20941) Project – Allocation of Zone Change Fees; Exemption from the California Environmental Quality Act	
2/3/16	2/17/16	8/17/16
16-025	Griffith Park – Nursery Improvement (PRJ21006) Project – Allocation of Quimby Fees; Exemption from the California Environmental Quality Act	
3/16/16	4/6/16	8/6/16
16-077	Fence Installation, Maintenance and/or Repairs – Request for Qualifications	

BIDS TO BE RECEIVED:

None

PROPOSALS TO BE RECEIVED:

None

QUALIFICATIONS TO BE RECEIVED:

None