

APPROVED

OCT 21 2021

BOARD OF RECREATION AND PARK COMMISSIONERS

BOARD REPORT

NO. 21-182

DATE: October 21, 2021

C.D. 13

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: BELLEVUE RECREATION CENTER – THIRD AMENDMENT TO CONTRACT NO. 3625 WITH HILLTOP NURSERY SCHOOL TO TEMPORARILY INCREASE THE ALLOWABLE MAXIMUM PERCENTAGE REQUEST FOR YEARLY INCREASE TO THE TUITION RATE AND FEE(S) FOR FISCAL YEAR 2021-2022 DUE TO COVID-19; TUITION RATE INCREASE FOR FISCAL YEAR 2021-22

AP Diaz _____ *M. Rudnick MR
H. Fujita _____ C. Santo Domingo _____
J. Kim _____ N. Williams _____

M. Stue
General Manager

Approved X Disapproved Withdrawn

RECOMMENDATIONS

- 1. Approve the proposed Third Amendment to Contract No. 3625 (Third Amendment) with Hilltop Nursery School, Inc. (HNS) in the form attached as Attachment 1 to this Report, to temporarily increase the allowable maximum percentage for requested annual tuition and fee increase under Section 6.12 of said Contract for Fiscal Year 2021-2022, from three and a half percent (3.5%) to four percent (4%) for HNS at Bellevue Recreation Center;
2. Approve a proposed HNS request for a four percent (4%) increase to tuition and fee rates for Fiscal Year 2021-22, to be effective November 1, 2021;
3. Direct the Board of Recreation and Park Commissioners (Board) Secretary to transmit the Third Amendment to the Mayor and City Council for approval, and the City Attorney for review and approval as to form; and,
4. Authorize the Board President and Secretary to execute the Third Amendment upon receipt of the necessary approvals.

SUMMARY

Under Contract No. 3625 (Contract), included with this Report as Attachment 2, HNS currently operates a recreational child development and child care center (Program) at Bellevue Recreation Center, located at 3625 Marathon Street, Los Angeles, CA 90026. Said Contract was awarded through a Request for Proposals process and was awarded to HNS by the Board

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on May 17, 2017, and executed on May 21, 2018. However, HNS' history in operating the Program at the existing location goes back to 1982.

The Contract allows HNS to request approval from the Board, through a written request that must include substantiation, for a maximum 3.5% increase to their tuition and fees page annually.

Program operations were suspended in March of 2020, due to the Covid-19 pandemic. HNS resumed operations approximately around Mid-August 2020, under Los Angeles County Department of Public Health (DPH) guidelines and group size restrictions placed on child care facilities by the California State Department of Social Services Community Care Licensing Division (State). Due to the size of the HNS facility, HNS was unable to operate the Program at its standard, licensed capacity while complying with the DPH and State requirements and restrictions. Consequently, HNS was forced to reopen with only 20 students, which is a 56% decrease from the normal enrollment of 46 students, resulting in significantly less revenues. In June of 2020, HNS requested by written correspondence to RAP, the Board's approval of a 4% tuition and fee(s) increase in order to boost revenues so they would be able to operate at a reduced enrollment. On July 16, 2020, because the circumstances leading to HNS' request were due to the COVID-19 pandemic and considered temporary in anticipation of the pandemic situation becoming better or ending all together over time, the Board approved a Second Amendment to the Contract (Report No. 20-130), authorizing a temporary tuition and fee increase of 4% for Fiscal Year 2020-2021.

HNS recently submitted written correspondence to RAP's Partnership Section, included herein as Attachment 3, dated July 20, 2021, requesting the Board's approval of a 4% tuition and fee increase for Fiscal Year 2021-2022. Through Staff's verbal discussion with HNS subsequent to receiving said written correspondence, HNS informed staff that although many of the pandemic related restrictions on business operations have been lifted or reduced, HNS is taking a precautionary approach in continuing to practice social distancing and mask wearing while indoors considering that the students are too young to be vaccinated. Indoor capacity limitations and mask mandates are no longer in effect and business operations have been allowed to resume at full capacity. However, HNS has chosen to take the discretionary action of continuing to operate at a reduced capacity due to the students being unvaccinated, and the small interior size of the HNS facility which restricts their ability (in their opinion) to maintain a safe distance between the children when they are inside napping and unmasked. The requested tuition increase is necessary in order for HNS to meet operations and maintenance costs while continuing to operate at a reduced enrollment. In the interest of safety and the benefits provided by HNS for the benefit of the students and their families, Staff agree with the discretionary actions being taken by HNS to ensure the safety and well-being of their students.

In discussions between HNS Family Membership and the HNS Board, it was agreed that the Program would necessitate another tuition increase for Fiscal Year 2021-2022. HNS is therefore requesting authorization from the Board to increase the tuition rate by 4%, effective upon the Board's approval, which would cover the operation of the Program from November 1, 2021 to June 30, 2022. To approve such an increase would require amending the Contract again. If approved by the Board, the proposed Third Amendment would increase the allowable

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maximum percentage for the annual tuition rate increase from 3.5% to 4.0%, for Fiscal Year 2021-2022 only. HNS has also asked that a provision be placed in the Contract to allow the HNS Board flexibility to reduce tuition rates without a corresponding decrease in the level of services. The Third Amendment is attached hereto as Attachment 1. The tuition amount after the proposed increase equates to \$1,430.00 per month from November 1, 2021 to June 30, 2022, thereby allowing HNS to cover basic operational costs such as payroll, insurance, utilities, and educational materials, as well as safety and maintenance supplies as required under DPH and State guidelines. This would reflect an increase of \$55.00 from the Fiscal Year 2020-21 monthly rate of \$1,375.00.

In accordance with Section 6.12 of the Contract, HNS submitted a letter to RAP as mentioned above, requesting authorization for said rate increase of 4%. If approved, the new tuition rate of \$1,430.00 per month will become effective November 1, 2021. The new tuition rate would still be competitive with other childcare providers nearby, as indicated by the HNS letter attached to this Report.

Based on the written request from HNS outlining the reasons for the tuition increase, and the verbal discussion between Staff and HNS regarding the impacts of COVID-19 on their operations, resulting in decreased enrollment and reduced revenues, RAP recommends the Board approve the requested 4% increase to HNS current tuition rates and the Third Amendment allowing for such increase.

FISCAL IMPACT

Approving the Third Amendment and the request by HNS to increase tuition rates has no fiscal impact on RAP's General Fund.

STRATEGIC PLAN INITIATIVES AND GOALS

Approval of this Report advances RAP's Strategic Plan by supporting:

Goal No. 6: Build innovative collaborations to help improve L.A. City parks and programs

Outcome No. 2: Improved management of facilities

This Report was prepared by Joel Alvarez, Sr. Management Analyst II, and Raymond Chang, Management Analyst, Partnership Section.

LIST OF ATTACHMENTS

- 1) Third Amendment to Contract No. 3625
- 2) Contract No. 3625
- 3) Request Letter for Tuition Increase (July 20, 2021)

THIRD AMENDMENT TO CONTRACT NO. 3625
BETWEEN
THE CITY OF LOS ANGELES
AND
HILLTOP NURSERY SCHOOL, INC.
FOR THE
MANAGEMENT AND OPERATION OF A
RECREATIONAL CHILD DEVELOPMENT AND CHILDCARE CENTER
AT BELLEVUE RECREATION CENTER

THIS THIRD AMENDMENT TO CONTRACT NO. 3625 ("THIRD AMENDMENT") is made this _____, 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 Hilltop Nursery School, Inc., a California non-profit corporation ("CONTRACTOR"). CITY and CONTRACTOR may be referred to herein individually as "PARTY" or collectively as "PARTIES".

WHEREAS, CITY, through its Department of Recreation and Parks ("RAP"), owns and operates real property commonly known as Bellevue Recreation Center ("CENTER"), located at 826 North Lucile Avenue, Los Angeles, CA 90026; and

WHEREAS, on May 17, 2017, the Board of Recreation and Park Commissioners ("BOARD") approved Contract No. 3625 ("CONTRACT"), between CITY and CONTRACTOR for the management and operation of a recreational child development and childcare center ("Childcare Center") at CENTER (Report No. 17-113); and,

WHEREAS, CONTRACT was executed on May 21, 2018, for a seven (7) year term with the option to extend an additional five (5) years; and,

WHEREAS, on September 18, 2019, the BOARD approved an amendment to CONTRACT to change the financial reporting schedule under Contract No. 3625 from quarterly reporting to semi-annual reporting (Report No. 19-182); and,

WHEREAS, on July 16, 2020, the BOARD approved the Second Amendment to CONTRACT to temporarily increase the maximum allowable percentage for tuition and fee rate increase requests to four percent (4.0%) for Fiscal Year 2020-21, subject to a reduction for such rates and fees at any time at the sole discretion of HNS with notification to RAP, provided such reduction does not correspond to any reduction in the CONTRACTOR's services as set forth in the CONTRACT; and

WHEREAS, the CONTRACT currently allows CONTRACTOR to submit, on an annual basis, a written request to the Department of Recreation and Parks ("RAP") for authorization to increase the current tuition rate and schedule of fees, subject to approval

by the BOARD, with the rate of increase not to exceed a maximum three and a half percent (3.5%) per year; and,

WHEREAS, due to discretionary and precautionary actions taken by CONTRACTOR to limit enrollment and operate at a reduced capacity in response to the continuing effects of the COVID-19 pandemic, CONTRACTOR has requested that CITY approve an increase in the tuition rates and schedule of fees for enrollees at the Childcare Center by four percent (4.0%) for Fiscal Year 2021-22 (the "Increase") and the BOARD has approved such Increase (Board Report #####) to be effective November 1, 2021; and,

WHEREAS, the BOARD has approved this Third Amendment to the CONTRACT which would allow for the Increase under the CONTRACT by increasing the allowable maximum yearly tuition rate from three and a half percent (3.5%) to four percent (4.0%) for the Fiscal Year 2021-22, and which would allow for CONTRACTOR to reduce tuition rates at any time upon notification to CITY (Board Report #####).

NOW THEREFORE, in consideration of the foregoing, and the terms and conditions contained herein, and the performance thereof, PARTIES hereby agree to amend Contract No. 3625 as follows:

- I. Paragraph (c) of Section 6.12 of the Contract entitled "Tuition and Fees" is hereby amended to include the following provision in quotation marks below:

"Notwithstanding the foregoing, for the fiscal year beginning July 1, 2021 and ending June 30, 2022, the tuition rate and schedule of fees may not be increased by more than a maximum four percent (**4.0%**) per year, subject to the written approval by the BOARD."

- II. Section 6.3 of the Contract is hereby further amended to insert a Paragraph (h) as follows in quotation marks:

"h. Employees of Contractor and/or persons working on its behalf, including, but not limited to, subcontractors (collectively, "Contractor Personnel") must be fully vaccinated against the novel coronavirus 2019 ("COVID-19") prior to (1) interacting in person with City employees, contractors, or volunteers, (2) working on City property while performing services under this Agreement, and/or (3) coming into contact with the public while performing services under this Agreement (collectively, "In-Person Services"). "Fully vaccinated" means that 14 or more days have passed since Contractor Personnel has received the final dose of a two-dose COVID-19 vaccine series (Moderna or Pfizer-BioNTech) or a single dose of a one-dose COVID-19 vaccine (Johnson & Johnson/Janssen) and all booster doses recommended by the Centers for Disease Control and Prevention. Prior to assigning Contractor Personnel to perform In-Person

Services, Contractor shall obtain proof that such Contractor Personnel has been fully vaccinated. The Contractor shall retain such proof for the document retention period set forth in this Agreement. The Contractor shall grant medical or religious exemptions to Contractor Personnel as required by law.

IV. With the exception of the First Amendment, Second Amendment, and Sections 6.12(c) and 6.3(h) of the CONTRACT as amended herein, Contract No. 3625 shall remain unchanged and in full force and effect. Should any provision of Contract No. 3625 conflict with this Third Amendment, the terms and conditions of this Third Amendment shall prevail.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this THIRD AMENDMENT TO CONTRACT NO. 3625, 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

HILLTOP NURSERY SCHOOL, INC., a California non-profit organization

By: _____
President

By: _____

By: _____
Secretary

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

MICHAEL N. FEUER, City Attorney

By: _____
Deputy City Attorney

Date: _____

CONTRACT NO. 3625

BETWEEN

THE LOS ANGELES DEPARTMENT OF RECREATION AND PARKS
(RAP)

AND

HILLTOP NURSERY SCHOOL, INC.

FOR

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

**CONTRACT
BETWEEN THE CITY OF LOS ANGELES
AND
HILLTOP NURSERY SCHOOL, INC.
FOR THE MANAGEMENT AND OPERATION OF A
RECREATIONAL CHILD DEVELOPMENT AND CHILDCARE CENTER
AT BELLEVUE RECREATION CENTER**

This management and operations contract ("CONTRACT") is entered into as of this day May 21, 2018, 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 Hilltop Nursery School, Inc., a California 501(c) (3) nonprofit corporation for the management and operation of a recreational child development and childcare center at Bellevue Recreation 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 Bellevue Recreation Center ("PARK"), located at 826 North Lucile Avenue, Los Angeles, California 90026; and,

WHEREAS, CITY has allocated a portion of the PARK to be operated as a recreational child development and childcare center ("CENTER") located at 3625 Marathon Street, Los Angeles, California 90026, which has existed as such since January 1982, for the purpose of providing child care services for the benefit of the public through a private contractor; and,

WHEREAS, on July 13, 2016, the BOARD approved the release of a Request for Proposals (RFP) to identify a responsive and responsible operator to provide a recreational child development and childcare program at the CENTER (Report No. 16-148); and,

WHEREAS, on September 13, 2016, Hilltop Nursery School, Inc. ("CONTRACTOR") submitted a responsive proposal to manage and operate the CENTER as described in the RFP; and,

WHEREAS, on May 17, 2017, the BOARD approved the award of this CONTRACT to CONTRACTOR for the management and operation of the CENTER (Report No. 17-113); and,

WHEREAS, CONTRACTOR agrees to fulfill the obligations and commitments stipulated herein, in accordance with the terms and conditions of this CONTRACT for the benefit of CENTER patrons.

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 recreational child development and childcare center located at 3625 Marathon Street, Los Angeles, California 90026, on a portion of Bellevue Recreation Center.
- PARK:** Bellevue Recreation Center, located at 826 North Lucile Avenue, Los Angeles, California 90026.
- CITY:** The City of Los Angeles, a municipal corporation acting by and through its Board of Recreation and Park Commissioners.
- CONTRACTOR:** Hilltop Nursery School
- 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

SECTION 2 - PARTIES TO CONTRACT AND REPRESENTATIVES

2.1 The Parties to this CONTRACT are:

CITY: City of Los Angeles, Department of Recreation and Parks
221 North Figueroa Street, Suite 350
Los Angeles, CA 90012

CONTRACTOR: Hilltop Nursery School, Inc.
a California 501(c)(3) nonprofit corporation
3625 Marathon Street
Los Angeles, CA 90026

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 II
Partnership Division
221 North Figueroa Street, Suite 180
Los Angeles, CA 90012

Tel. (213) 202-5600

Fax (213) 202-2614
E-mail Joel.Alvarez@lacity.org

Note: For purposes of this CONTRACT, the CITY representative above, or his successor, shall be referred to herein as “RAP Liaison”.

CONTRACTOR: Hilltop Nursery School, Inc.
Anthony Crump, President, Board of Directors
3625 Marathon Street
Los Angeles, CA 90026

Tel. (323) 663-3025
Fax (323) 666-2096
E-mail info@hilltopla.org

- 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 term of this CONTRACT (“TERM”) shall be effective and become operational under this CONTRACT on October 1, 2017. This CONTRACT shall expire following the completion of the initial seven (7) year TERM on September 30, 2024.

The TERM may be extended for an additional five (5) years at the discretion of RAP.

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 - CENTER AND SITE DESCRIPTION

4.1 **CENTER:**

CENTER is located at 3625 Marathon Street, Los Angeles, California 90026, within the PARK commonly known as Bellevue Recreation Center. The CENTER has the capacity to be licensed by the State of California for up to forty-four (44) children (toddlers and/or preschool-age children). The facility is

presently licensed for forty-four (44) children, ages two (2) to six (6) years old. A Site Map of the CENTER and PARK is attached hereto and incorporated herein by reference as Exhibit A.

The CENTER is presently furnished and equipped to serve 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 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 (not provided by CITY) shall be owned by CONTRACTOR and shall not become a fixture of the CENTER, unless it is a physical improvement permanently attached to the building structure(s) or land.

4.2 SITE DESCRIPTION:

The CENTER consists of approximately 7,200 square feet of fence-enclosed grounds, with two (2) connecting octagonal shaped modular classroom structures and an outdoor play area with play equipment and a storage shed, which for purposes of this CONTRACT constitutes the entire CENTER.

The CENTER specifically includes:

a) Interior

1. Two (2) connecting octagonal shaped modular classroom structures (Toddler and Preschool mixed use);
2. Two (2) children's restrooms;
3. One (1) non-commercial food preparation kitchen;
4. An office/reception area for staff use with separate storage area;
5. One (1) teacher's work space/storage area; and,
6. One (1) adult restroom.

b) Exterior / Playground

1. One (1) multi-surface playground with sand;
2. A playground with a small slide for toddlers and preschool-age children;
3. A terraced path and play area; and,
4. A front yard area with small garden.

Note: Designated CONTRACTOR parking at the CENTER is not provided exclusively for CENTER staff or patrons and can be subject to parking enforcement. Available parking at the PARK is open to the

public and will be on a first-come, first-served basis. There are no reserved or designated parking spaces unless prearranged in writing with PARK Staff.

SECTION 5 - CITY'S PHILOSOPHY ON CHILD DEVELOPMENT AND CHILD CARE

CITY's philosophy is that the CENTER should provide children with a safe, caring, nurturing, and consistent environment, while providing recreational programs focused on "play" activities. 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 through recreational activities.

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 and childcare program at the CENTER (collectively, "PROGRAM") for the primary benefit of the local community, which provides high quality recreational child development programs and childcare services, for a licensed capacity of forty-four (44) children, ages two (2) to six (6) years old.

6.2 Hours and Days of Operation

The hours and days of operation for the CENTER shall be from 7:00 a.m. to 6:00 p.m., Monday through Friday, excluding the following CITY observed holidays: Martin Luther King Jr.'s Birthday, President's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and the Friday after Thanksgiving, Christmas Day, and New Year's Day.

It is understood that the CONTRACTOR will inform the CITY by means of a written request of any dates during the year that will require that the CENTER be closed or be open on one of the above CITY observed holidays.

6.3 Operating Responsibilities

CONTRACTOR shall manage and operate the CENTER in a manner consistent with the CITY's philosophy on recreational child development and childcare as set forth above, so as to maintain a high quality child development and childcare

center. In addition to the PROGRAM 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 recreational child development programs, childcare services, and related activities.

Contractor Shall:

- a) Establish a Center philosophy and PROGRAM that promotes the best practices in the field of recreational child development and childcare, consistent with the CITY's Philosophy set forth in Section 5 of this CONTRACT.
- b) Establish and maintain a PROGRAM with effective procedures to ensure the health, safety, and security for all persons while they are involved in PROGRAM related activities at the CENTER.
- c) Develop and maintain a quality PROGRAM with culturally and developmentally appropriate goals and activities.
- d) Implement a PROGRAM 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 RAP of any conditions at the Center that are 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 RAP 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) 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 Maintenance and Repair of CENTER

During the TERM of this CONTRACT, and subject to the terms and conditions contained herein, CONTRACTOR, at its sole cost and expense, shall perform the following functions and/or repair of the CENTER, as further described herein.

- a) CONTRACTOR accepts the CENTER in its condition at execution of this CONTRACT. RAP shall not have any obligation to repair, remodel, replace, and/or reconstruct any building, facility feature, or portion of the CENTER, nor any appliance, amenity or fixture thereon, whether installed by CITY or CONTRACTOR, and regardless of cause.
- b) CONTRACTOR, in performing all required maintenance and repair of the CENTER, shall provide all staff and materials, supplies, equipment, and funds necessary to perform appropriate maintenance and/or repairs. All maintenance and/or repair shall be performed to the reasonable satisfaction of RAP, in consultation with CITY's designated representative, or by CITY's written request and/or instruction.
- c) Daily maintenance to be performed by CONTRACTOR:
 - i. Keep the CENTER clean and safe at all times;
 - ii. Assist RAP in maintaining the shared-use areas of the PARK, including pedestrian paths, common walkways, parking lot, and other shared areas utilized by CONTRACTOR during PROGRAM operations, in a clean condition free of any debris and/or trash associated with PROGRAM operations or activities;
 - iii. Pick up and dispose of trash and debris within the CENTER and/or shared-use areas of the PARK caused by a CONTRACTOR contracted vendor, service provider, volunteer, visitor, or other person associated with the CENTER or PROGRAM;
 - iv. Prevent any such matter or material from accumulating upon or within the CENTER such that it is clearly visible to public view.
- d) Pursuant to CONTRACTOR's notification to RAP and RAP's subsequent instructions to CONTRACTOR if applicable, CONTRACTOR shall repair within such time reasonably acceptable to RAP, any damages to the CENTER which occur during CONTRACTOR operations, or by vandalism, or that is caused by CENTER's restoration, refurbishment, or maintenance;

CONTRACTOR recognizes that any damage which remains unrepaired may constitute a hazard to public safety.

- e) CONTRACTOR shall be responsible for required repairs resulting from damages caused to the PARK shared-use area(s) during CONTRACTOR use of such areas. Considering that CONTRACTOR's use of the shared-use area(s) is not exclusive to CONTRACTOR, CONTRACTOR shall not be responsible for required shared-use area repairs caused by normal wear and tear or which are caused by the general public's use.
- f) Any glass, both exterior and interior of the CENTER, which is damaged during the TERM of this CONTRACT, shall be promptly repaired or replaced at the sole cost and expense of CONTRACTOR, with glass of the same size, kind, and quality.
- g) No offensive or dangerous materials, nor any substance constituting an unnecessary, unreasonable, or material hazard detrimental to public health shall be permitted, or allowed to remain, on the CENTER grounds or within the PARK.
- h) CONTRACTOR shall be responsible for securing its personal property located or stored with the CENTER, providing appropriate security as necessary to ensure the safety and protection of CONTRACTOR's property.
- i) CONTRACTOR shall maintain in appropriate and good working condition, all interior walls and surfaces of the CENTER and all improvements, fixtures, trade fixtures, roof systems, plumbing, electrical, heating-ventilation-air conditioning systems, building structure, and utility systems, which may now or hereafter exist thereon whether installed by CITY or CONTRACTOR. Prior to making any major repairs to the CENTER, CONTRACTOR shall obtain written approval from RAP, which approval shall not be unreasonably withheld.
- j) To the extent that needed repairs to the CENTER are not performed by CONTRACTOR in a timely manner, CONTRACTOR waives any and all claims against CITY for damages as a result of CONTRACTOR's failure to make such repairs.

6.5 Consideration

Pursuant to the terms and conditions of this CONTRACT, the consideration for this CONTRACT in exchange for CONTRACTOR's use of the CENTER, shall be the provision of management and operation of a recreational child development and licensed childcare center, for the primary benefit of the local community and

general public, at no cost to CITY, including but not limited to CONTRACTOR's maintenance and/or repair of the CENTER in accordance with Section 6.4 above.

- a) **Cost Recovery Reimbursement Fee.** During the TERM of CONTRACT, CONTRACTOR shall pay an annual Cost Recovery Reimbursement Fee (CRRF) to RAP, for costs incurred by RAP related to this CONTRACT and CONTRACTOR's use of the CENTER. The annual CRRF is Two Thousand, Four Hundred Thirty-Six Dollars (\$2,436.00), to be paid between July 1st and 15th of each current year of the TERM. PARTIES may discuss and agree that the annual CRRF may be paid in incrementally; (i) semi-annually in the amount of One Thousand, Two Hundred Eighteen Dollars (\$1,218.00); (ii) quarterly in the amount of Six Hundred Nine Dollars (\$609.00); or, (iii) monthly in the amount of Two Hundred Three Dollars (\$203.00). Should payment be made incrementally, payments shall be due by the tenth (10th) day of each period (by July 10th and January 10th for semi-annual payments; by the 10th of July, October, January, and April, for quarterly payments; and by the 10th of each current month for monthly payments). 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 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 CENTER (electricity, gas, water) shall be the sole responsibility of CONTRACTOR. Such utility expenses shall be paid directly by CONTRACTOR to utility service provider(s).
- c) **Trash and Solid Waste Disposal.** Pursuant to 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 solid waste, trash and recyclables must be at the sole expense of the CONTRACTOR, with services of non-CITY provider billed directly to the CONTRACTOR where feasible, or recovered by RAP through fees if not. The annual CRRF for solid waste disposal (trash fee) is Seven Hundred Thirty-Two Dollars (\$732.00); or Three Hundred sixty-Six Dollars (\$366.00) semi-annually; One Hundred Eighty-Three Dollars (\$183.00) quarterly; or, Sixty-One Dollars (\$61.00) monthly. Such fees are included in the CRRF amount in paragraph 6.5.a. above.
- d) **Staff Impact.** Pursuant to the RAP policy regarding staff cost impacts incurred by RAP related to non-profit organizations operating on park property, approved by the BOARD on July 19, 2012 (Report No. 12-217), the annual Staff Impact Fee for common area maintenance and administrative staff costs is One Thousand, Seven Hundred Four Dollars (\$1,704.00); or Eight Hundred Fifty-Two Dollars (\$852.00) semi-annually; Four Hundred Twenty-Six Dollars (\$426.00) quarterly; or, One Hundred Forty-Two Dollars

(\$142.00) monthly. Such payments are included in the CRRF listed in paragraph 6.5.a. above.

- e) **Telephone and data lines.** CONTRACTOR shall be responsible for the cost of telephone and data lines utilized at CENTER and shall pay the service provider directly. CITY shall bear no costs in regards to the telephone and data lines at CENTER that CONTRACTOR uses.
- f) Payment of Cost Recovery Reimbursement 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 CONTRACTOR is wholly responsible for timely payment of cost recovery fees regardless of written notification which is not required.
- g) Payments are to be mailed to:

City of Los Angeles Department of Recreation and Parks
Partnership Division
221 North Figueroa Street, Suite 180
Los Angeles, CA 90012

6.6 Policies and Procedures

CONTRACTOR shall:

- a) Develop and maintain a policies and procedures manual (Operations Manual), as further described below in Section 6.10 herein, for the operation of the CENTER, including but not limited to, protocols for communication with the RAP Liaison, and oversight for the implementation of said policies and procedures. CONTRACTOR shall update said manual as necessary and submit a copy annually for review by RAP as part of the Annual Review process and/or upon request 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, in accordance with the terms and conditions of this CONTRACT.
- 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, repairing/replacing, and reporting to the RAP Liaison, any and all repair, servicing and replacement of items as necessary to maintain PROGRAM operations as described herein.
- i) Immediately provide RAP with copies of any reports submitted to the California State Department of Social Services or Licensing Agency.
- j) Assume the cost of any applicable Possessory Interest tax as determined by the County of Los Angeles Tax Assessor.

6.7 Emergency Policies and Procedures

In coordination with the RAP 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 secondary emergency contacts for immediate family members or extended family members of each child, and all available medical and emergency contact information.

6.8 Staffing

CONTRACTOR shall:

- a) Fully staff and maintain the CENTER at a level in compliance with State of California licensing requirements for mixed age classrooms for children ages two (2) to five (5) years. State required staff to child 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) Provide 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.

6.9 Hiring, Training and Professional Development

CONTRACTOR shall:

- 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, as applicable.
- 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.

6.10 Operations Manual

In accordance with the provisions of this CONTRACT, CONTRACTOR shall maintain and oversee adherence to a current and updated Operations Manual specific to the CENTER and this CONTRACT, addressing staffing and employment policies, benefits, practices, and protocols, and childcare licensing compliance updates and requirements.

6.11 Removal of Key Personnel

CONTRACTOR shall provide the RAP Liaison with a list of the names of Key Personnel for the CENTER, including the following or similar personnel:

- a) President, Board of Directors;
- b) Program Director;
- c) Administration and Operations Manager.

CONTRACTOR shall provide the RAP 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 RAP 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 RAP Liaison can be considered a material breach of this CONTRACT and possible grounds for termination of this CONTRACT.

6.12 Tuition and Fees

- a) Upon commencement of this CONTRACT, the tuition and fees shall be set forth as listed in 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 the RAP 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.

6.13 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 C, 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 6.19 of this CONTRACT.

6.14 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) Current enrollees and their siblings at the time of execution of this CONTRACT shall have first right of refusal for continued enrollment per the price and terms set forth by this CONTRACT.
- b) Applications for enrollment shall be considered on a first-come, first-served basis.
- c) Residents within a five (5) mile radius shall be given the highest priority, and every effort by CONTRACTOR shall be made to ensure that the enrollment spaces at the CENTER are utilized by the children within a five (5) mile radius before anyone else.
- d) Scholarships opportunities shall be offered to eligible low-income families, with priority given to prospective low-income applicants and/or enrollees who reside within a five (5) mile radius of the CENTER.
- e) Priority consideration by CONTRACTOR may be given to siblings of children enrolled subsequent to the execution of this CONTRACT.
- f) CONTRACTOR shall ensure that each applicant is placed on the appropriate wait-list within their respective categories (full-time or part-time) in the order of their application date.

6.15 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 RAP through the RAP Liaison prior to participating in such media events and promotional activities when related to, or occurring at, the CENTER.
- b) CONTRACTOR shall promote quality programming through such activities as seeking new, creative means to improve or enhance services, funding development, improve training and community relations, and/or other related efforts.

6.16 Parent Engagement and Participation

As part of the Operations Manual, 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 Board or Advisory Committee;
- d) Establishing a formal mechanism to track and address parent concerns; and,
- e) Provide clear written direction and establish parameters for involving parents in policy and decision-making processes.

6.17 Subcontracting of Services

- a) The subcontracting of recreational child development programming and/or childcare services provided at the CENTER shall be strictly prohibited. All such programs and services shall be provided by CONTRACTOR staff, unless approval for such is provided by RAP in advance.
- b) CONTRACTOR may provide hot lunches and enrichment programs through vendors (e.g., music, art, dance, etc.), subject to required licensing, certifications, insurance, and/or approvals for such services.
- c) CONTRACTOR may provide supplemental services that CONTRACTOR deems appropriate and beneficial for the children (e.g., nutritionist, nurse, educational therapist).

6.18 Nutrition

CONTRACTOR agrees to abide by the following regarding nutrition, snacks, and meals provided at the CENTER:

- a) CONTRACTOR agrees to comply with the City's Good Food Purchasing Guidelines for Food Service Institutions, attached hereto and incorporated herein by reference as Exhibit D.
- b) CONTRACTOR may provide a hot lunch program and/or food program, should CONTRACTOR determine such program to be necessary and feasible in accordance with Good Food Purchasing Guidelines.
- c) CONTRACTOR may provide nutritional supplements in the morning, afternoon, and/or late afternoon, with appropriate consideration given for ethnic and cultural preferences, and special diets, subject to the Good Food Purchasing Guidelines and prior coordination with, and approval by, respective parents. Parents shall reserve the right to choose for their child or children to not participate.

6.19 Reports Required from Contractor

The CENTER benefits from the use of public assets and as such, any and all information connected to the operation of the CENTER must remain open and subject to public scrutiny.

Being that 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 RAP Liaison within specified time periods:

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 1st – June 30th). The proposed budget shall 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 RAP for review, an annual financial statement for the previous fiscal year (July 1st – June 30th).

3. Quarterly Reports

A. Quarterly Reports shall be due to the RAP Liaison on:

1. First Quarter Report – due December 1st (for July - September);
2. Second Quarter Report – due March 1st (for October - December);
3. Third Quarter Report – due June 1st of each year (for January – March); and,
4. Fourth Quarter Report – due September 1st of each year (for April – June).

B. The Quarterly Reports shall each contain the following:

1. Budget to Actual Report of the actual revenues and expenses for the affected three (3) month period, with a narrative explanation of any 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 and one for part-time, 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.

The BOARD reserves the right to require CONTRACTOR to provide the reports in a manner acceptable to RAP.

6.20 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.

6.21 Notices from / by Contractor

CONTRACTOR must provide timely and advanced notice to the RAP 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 6.21, CONTRACTOR must notify RAP Liaison immediately within forty-eight (48) hours of becoming aware.

6.22 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 CONTRACTOR.

SECTION 7 - RAP RESPONSIBILITIES

The following are RAP responsibilities to the CENTER:

7.1 The Department of Recreation and Parks (RAP)

- a) RAP will provide scheduled maintenance of the PARK's exterior grounds, including the children's play area(s) and parking area.
- 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 RAP Liaison.

7.2 RAP Liaison

CITY has designated a representative to act as the RAP Liaison for the CENTER (See Section 2.2). The RAP Liaison, or his or her designee, shall:

- a) Monitor and address CONTRACTOR compliance with the requirements and obligations of this CONTRACT;
- b) Receive and review Quarterly 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; and,
- d) Coordinate activities with other City of Los Angeles departments or RAP units as needed;

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 programming 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 9 herein.

SECTION 9 – DEFAULT AND TERMINATION

9.1 City's Right to Terminate

a) Termination for Cause

The RAP Liaison will conduct a regular review of CONTRACTOR operations at CENTER, including programs, operations, and regular evaluations to monitor compliance with this CONTRACT. Should deficiencies or non-compliance items be identified, RAP shall provide written notification of such deficiencies to 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 public health, safety, or State licensing.

If 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 has elapsed, CITY shall have the sole authority to determine if CONTRACTOR is acting diligently to pursue a resolution to the deficiencies, 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 such 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), CITY shall immediately notify 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 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

In accordance with the Standard Provisions for City Contracts (Rev. 10/17, v.2, or latest version), the BOARD may terminate this CONTRACT for any reason, whether for CITY's convenience or due to emergency or circumstances beyond CITY's control.

d) Termination due to Financial Status

The BOARD may terminate this CONTRACT due to the CITY's financial inability to fulfill its responsibilities under this CONTRACT. If CONTRACTOR elects to assume such responsibilities at its own expense, CONTRACTOR shall propose such action in writing to the RAP Liaison for consideration by the RAP General Manager and/or BOARD. Any RAP determination, whether by the RAP General Manager or BOARD, any acceptance and/or approval of such proposal shall be communicated by RAP to CONTRACTOR in writing. RAP's response shall not be unreasonably withheld.

e) Notwithstanding exceptions contained herein, RAP shall notify CONTRACTOR in writing of any termination of this CONTRACT, with sixty (60) calendar days advance written notice following the BOARD's approval to terminate.

9.2 Contractor's Right to Terminate

CONTRACTOR may terminate this CONTRACT for any reason with sixty (60) calendar days advanced written notice to RAP. Such written notice must include an explicit explanation of the reason for termination.

In the event of CONTRACTOR's termination, 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) CONTRACTOR's 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 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 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-E. Pursuant to the Instructions for Submitting Proof of Insurance to the City, included herein with Exhibit-E, such proof of insurance shall be submitted to CITY through the Office of the City Administrative Officer, Risk Management website; www.track4la.lacity.org.

The GM, 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, such insurance described above and on Exhibit-E, in accordance with the following conditions:

1. Additional Insured:
CITY, its Officers, Agents and Employees shall be included as additional insured in all liability insurance policies except: Workers' Compensation, Employer's Liability, Professional Errors and Omissions and second-party Legal Liability coverage(s) (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. 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-E. If the policy or the carrier has changed, new evidence of insurance must be submitted in accordance with Exhibit E.
 9. 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 coverage(s) 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, or latest version), attached hereto and incorporated herein by reference as EXHIBIT F 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 – 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).

SECTION 15 – 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:

- Exhibit A - Center and Park Site Map
- Exhibit B - Initial Tuition Rate and Fee Schedule
- Exhibit C - Initial Operating Budget
- Exhibit D - Good Food Purchasing Guidelines for Food Service Institutions
- Exhibit E - Insurance Requirements and Instructions for Submitting Proof of Insurance
- Exhibit F - Standard Provisions for City Contracts (Rev. 03/09, or latest version)

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 F; 3) Exhibit E; 4) Exhibit D; 5) Exhibit B; and then 6) Exhibit C.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the PARTIES have executed this Management and Operations Contract, 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

HILLTOP NURSERY SCHOOL, INC., a California 501(c)(3) nonprofit corporation

By: *Agloni Polanco*
President

By: *[Signature]*

Title: Board President

Date: 5/16/18

Date: 5/8/18

By: *And L Dam*
Secretary

By: *[Signature]*

Title: CFO/Treasurer

Date: 5/16/18

Date: 5/9/18

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

By: *[Signature]*
Deputy City Attorney

Date: 5/21/18

EXHIBIT A

Center and Park Site Map

Bellevue Recreation Center



Recreational Child Development and Child Care Center Area



EXHIBIT B

Initial Tuition Rate and Fee Schedule

Hilltop Nursery School
 Summary of Proposed Program Tuition and Fees
 Year One

Program	Part Time	Full Time	Extended
Monday - Friday	(9:00am - 12:30pm)	(9:00am - 4:00pm)	(7:00am - 6:00pm)
Monthly Tuition	\$852.00	\$1,136.00	\$1,306.00
Annualized Tuition	\$10,224.00	\$13,632.00	\$15,672.00
Annual Fee ⁽¹⁾	\$515.00	\$515.00	\$515.00
One-Time Fees:			
Application Fee ⁽²⁾	\$41.00	\$41.00	\$41.00
Registration Fee ⁽³⁾	\$52.00	\$52.00	\$52.00
Other Fees:			
Late Fee ⁽⁴⁾	\$20.00	\$20.00	\$20.00
Returned Check ⁽⁵⁾	\$12.00	\$12.00	\$12.00

Notes:

- (1) Annual Fee is applied to all students and is to be paid prior to the start of the new school year
- (2) Application Fees are paid by families when applying to Hilltop for the first time. Fees for siblings are waived.
- (3) Registration Fees are paid for each child enrolled into Hilltop for the first time. No fees are charged for subsequent years enrolled.
- (4) Late Fees are due if payment is late (received after the 10th of each month)
- (5) Returned Check Fees are due if payment by check fails to clear.
- (6) There is a 10% sibling discount on monthly tuition fees.
- (7) All families are expected to pay a \$200 deposit within 60 days of the start of the new school year. This amount is deducted from the Registration Fee and the last month's tuition payment.

EXHIBIT C

Initial Operating Budget

Hilltop Nursery School Start-Up Costs - July 1, 2017

Inventory		
Food & Water	4,214	From Program Costs in Year One Budget
Non-Perishable Supplies	3,371	From Program & Building Costs in Year 1 Budget
Classroom Supplies	3,933	From Program Costs in Year One Budget
Equipment		
Office Furniture & Equipment	1,018	Est. replacement cost of existing owned equipment
Classroom Furniture & Outdoor Equipment	10,239	Est. replacement cost of existing owned equipment
Computers and Electronics	1,640	Est. replacement cost of existing owned equipment
Copier / Printer	1,183	Est. replacement cost of existing owned equipment
Appliances	2,538	Est. replacement cost of existing owned equipment
Operating Supplies		
Office Supplies	2,472	From Office Expense in Year One Budget
Marketing & Advertising	464	Year One Budget
Payroll, Taxes & Employee Benefits	467,043	Personnel Expense in Year One Budget
Insurance	8,240	Year One Budget
Other Expenses		
Professional Fees / Contract Services	721	Year One Budget
Other Office Expenses	4,134	Various Admin. Expenses from Year 1 Budget
Telephone	2,584	Year One Budget
Utilities	6,300	Year One Budget
Rent	2,436	Year One Budget
Other Building Maintenance	7,222	Year One Budget
Fundraising Events	7,622	Year One Budget
Other Program Costs	721	Remainder of Program Costs in Year One Budget
Total Start Up Costs	\$538,094	

EXHIBIT D

Good Food Purchasing Guidelines for Food Service Institutions

[Attached as Separate Document]

EXHIBIT E

Insurance Requirements

Form Gen. 146 (Rev. 3/09)

Required Insurance and Minimum Limits

Name: Hilltop Nursery School, Inc.

Date: 04/12/2017

Agreement/Reference: for the management and operation of a recreation child development and childcare cent 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 \$1,000,000
Products/Completed Operations
Sexual Misconduct \$1,000,000
Fire Legal Liability \$100,000

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) \$1,000,000
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: Provided to Raymond Chang @ RAP
1) If a contractor has no employees and decides to not cover herself / himself for worker's compensation, please complete the form entitled "Release for Waiver of Workers' Compensation Insurance Requirement" located at http://cao.lacity.org/risk/InsuranceForms.htm
2) In the absence of imposed auto liability requirement, all contractors using vehicles during the course of their contract must adhere to the financial responsibility laws of the State of California.

**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.

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), 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 F

Standard Provisions for City Contracts (Rev. 10/17) [v.2]

[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 of this Contract. The language of this Contract shall be construed according to its fair meaning and not strictly for or against **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" includes the party or parties identified in this Contract. The singular shall include the plural and if there is more than one **CONTRACTOR**, unless expressly stated otherwise, their obligations and liabilities shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

PSC-2. Applicable Law, Interpretation and Enforcement

Each party's performance shall comply with all applicable laws of the United States of America, the State of California, and **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing. 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, or procedures that apply to the performance of this Contract with no additional compensation paid to **CONTRACTOR**.

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 federal, state or local law or regulation, the validity of the remaining parts, terms or provisions of this Contract shall not be affected.

PSC-3. 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**;
- 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 **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

PSC-4. Integrated Contract

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter of this Contract, 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 the provisions of PSC-5 hereof.

PSC-5. Amendment

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-3.

PSC-6. Excusable Delays

Neither party shall be liable for its delay or failure to perform any obligation under and in accordance with this Contract, if the delay or failure arises out of fires, floods, earthquakes, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by the party or any of the party's Subcontractors), freight embargoes, terrorist acts, insurrections or other civil disturbances, or other similar events to those described above, but in each case the delay or failure to perform must be beyond the control and without any fault or negligence of the party delayed or failing to perform (these events are referred to in this provision as "Force Majeure Events").

Notwithstanding the foregoing, a delay or failure to perform by a Subcontractor of **CONTRACTOR** shall not constitute a Force Majeure Event, unless the delay or failure arises out of causes beyond the control of both **CONTRACTOR** and Subcontractor, and without any fault or negligence of either of them. In such case, **CONTRACTOR** shall not be liable for the delay or failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit **CONTRACTOR** to perform timely. As used in this Contract, the term "Subcontractor" means a subcontractor at any tier.

In the event **CONTRACTOR'S** delay or failure to perform arises out of a Force Majeure Event, **CONTRACTOR** agrees to use commercially reasonable best efforts to obtain the goods or services from other sources, and to otherwise mitigate the damages and reduce the delay caused by the Force Majeure Event.

PSC-7. 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-8. Suspension

At **CITY'S** sole discretion, **CITY** may suspend any or all services provided under this Contract by providing **CONTRACTOR** with written notice of suspension. Upon receipt of the notice of suspension, **CONTRACTOR** shall immediately cease the services suspended and shall not incur any additional obligations, costs or expenses to **CITY** until **CITY** gives written notice to recommence the services.

PSC-9. Termination

A. Termination for Convenience

CITY may terminate this Contract for **CITY'S** convenience at any time by providing **CONTRACTOR** thirty days written notice. Upon receipt of the notice of termination, **CONTRACTOR** shall immediately take action not to incur any additional obligations, costs or expenses, except as may be necessary to terminate its activities. **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 effect the termination. Thereafter, **CONTRACTOR** shall have no further claims against **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights **CITY** is entitled to, shall become **CITY** property upon the date of the termination. **CONTRACTOR** agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

B. Termination for Breach of Contract

1. Except as provided in PSC-6, 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, **CITY** may give **CONTRACTOR** written notice of the default. **CITY'S** default notice will indicate whether the default may be cured and the time period to cure the default to the sole satisfaction of **CITY**. Additionally, **CITY'S** default notice may offer **CONTRACTOR** an opportunity to provide **CITY** with a plan to cure the default, which shall be submitted to **CITY** within the time period allowed by **CITY**. At **CITY'S** sole discretion, **CITY** may accept or reject **CONTRACTOR'S** plan. If the default cannot be cured or if **CONTRACTOR** fails to cure within the period allowed by **CITY**, then **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. If the default under this Contract is due to **CONTRACTOR'S** failure to maintain the insurance required under this Contract, **CONTRACTOR** shall immediately: (1) suspend performance of any services under this Contract for which insurance was required; and (2) notify its employees and Subcontractors of the loss of insurance coverage and Contractor's obligation to suspend performance of

services. **CONTRACTOR** shall not recommence performance until **CONTRACTOR** is fully insured and in compliance with **CITY'S** requirements.

3. 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 **CITY** may immediately terminate this Contract.
4. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates **CITY'S** laws, regulations or policies relating to lobbying, then **CITY** may immediately terminate this Contract.
5. Acts of Moral Turpitude
 - a. **CONTRACTOR** shall immediately notify **CITY** if **CONTRACTOR** or any Key Person, as defined below, is charged with, indicted for, convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, any act which constitutes an offense involving moral turpitude under federal, state, or local laws ("Act of Moral Turpitude").
 - b. If **CONTRACTOR** or a Key Person is convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, an Act of Moral Turpitude, **CITY** may immediately terminate this Contract.
 - c. If **CONTRACTOR** or a Key Person is charged with or indicted for an Act of Moral Turpitude, **CITY** may terminate this Contract after providing **CONTRACTOR** an opportunity to present evidence of **CONTRACTOR'S** ability to perform under the terms of this Contract.
 - d. Acts of Moral Turpitude include, but are not limited to: violent felonies as defined by Penal Code Section 667.5, crimes involving weapons, crimes resulting in serious bodily injury or death, serious felonies as defined by Penal Code Section 1192.7, and those crimes referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2); in addition to and including acts of murder, rape, sexual assault, robbery, kidnapping, human trafficking, pimping, voluntary manslaughter, aggravated assault, assault on a peace officer, mayhem, fraud, domestic abuse, elderly abuse, and child abuse, regardless of whether such acts are punishable by felony or misdemeanor conviction.

- e. For the purposes of this provision, a Key Person is a principal, officer, or employee assigned to this Contract, or owner (directly or indirectly, through one or more intermediaries) of ten percent or more of the voting power or equity interests of **CONTRACTOR**.
 6. In the event **CITY** terminates this Contract as provided in this section, **CITY** may procure, upon such terms and in the manner as **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to **CITY** for all of its costs and damages, including, but not limited to, any excess costs for such services.
 7. 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-9(A) Termination for Convenience.
 8. The rights and remedies of **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.
- C. In the event that this Contract is terminated, **CONTRACTOR** shall immediately notify all employees and Subcontractors, and shall notify in writing all other parties contracted with under the terms of this Contract within five working days of the termination.

PSC-10. Independent Contractor

CONTRACTOR is an independent contractor and not an agent or employee of **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 **CITY**.

PSC-11. Contractor's Personnel

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

CONTRACTOR shall not use Subcontractors to assist in performance of this Contract without the prior written approval of **CITY**. If **CITY** permits the use of Subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of this Contract and paying all Subcontractors. **CITY** has the right to approve **CONTRACTOR'S** Subcontractors, and **CITY** reserves the right to request replacement of any

Subcontractor. **CITY** does not have any obligation to pay **CONTRACTOR'S** Subcontractors, and nothing herein creates any privity of contract between **CITY** and any Subcontractor.

PSC-12. Assignment and Delegation

CONTRACTOR may not, unless it has first obtained the written permission of **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-13. Permits

CONTRACTOR and its directors, officers, partners, agents, employees, and Subcontractors, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance of this Contract. **CONTRACTOR** shall immediately notify **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents that relate to **CONTRACTOR'S** performance of this Contract.

PSC-14. Claims for Labor and Materials

CONTRACTOR shall promptly pay when due all amounts owed 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), and shall pay all amounts due under the Unemployment Insurance Act or any other applicable law with respect to labor used to perform under this Contract.

PSC-15. Current Los Angeles City Business Tax Registration Certificate Required

For the duration of this Contract, **CONTRACTOR** shall maintain valid Business Tax Registration Certificate(s) as required by **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code ("LAMC"), and shall not allow the Certificate to lapse or be revoked or suspended.

PSC-16. 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 or as otherwise approved by **CITY**. These records shall be retained for a period of no less than three years from the later of the following: (1) final payment made by **CITY**, (2) the expiration of this Contract or (3) termination of this Contract. The records will be subject to examination and audit by authorized **CITY** personnel or **CITY'S** representatives at any time. **CONTRACTOR** shall provide any reports requested by **CITY** regarding

performance of this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

In lieu of retaining the records for the term as prescribed in this provision, **CONTRACTOR** may, upon **CITY'S** written approval, submit the required information to **CITY** in an electronic format, e.g. USB flash drive, at the expiration or termination of this Contract.

PSC-17. Bonds

All bonds required by **CITY** shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Los Angeles Administrative Code ("LAAC") Sections 11.47 *et seq.*, as amended from time to time.

PSC-18. Indemnification

Except for the active negligence or willful misconduct of **CITY**, or any of its boards, officers, agents, employees, assigns and successors in interest, **CONTRACTOR** shall defend, indemnify and hold harmless **CITY** and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits 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 **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 an act, error, or omission by **CONTRACTOR**, Subcontractors, or their boards, officers, agents, employees, assigns, and successors in interest. The rights and remedies of **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. This provision will survive expiration or termination of this Contract.

PSC-19. Intellectual Property Indemnification

CONTRACTOR, at its own expense, shall defend, indemnify, and hold harmless the **CITY**, and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits 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 **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature 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: (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, in performing the work under this Contract; or (2) as a result of **CITY'S** actual or intended use of any Work Product (as defined in PSC-21) furnished by **CONTRACTOR**, or its Subcontractors, under this Contract. The rights and remedies of **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. This provision will survive expiration or termination of this Contract.

PSC-20. 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, patent, copyright, trademark, trade secret, right of publicity and proprietary information.

PSC-21. Ownership and License

Unless otherwise provided for herein, all finished and unfinished works, tangible or not, created under this Contract including, without limitation, documents, materials, data, reports, manuals, specifications, artwork, drawings, sketches, blueprints, studies, memoranda, computation sheets, 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 originated and prepared by **CONTRACTOR** or its Subcontractors under this Contract (each a "Work Product"; collectively "Work Products") shall be and remain the exclusive property of **CITY** for its use in any manner **CITY** deems appropriate. **CONTRACTOR** hereby assigns to **CITY** all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

CONTRACTOR agrees that a monetary remedy for breach of this Contract may be inadequate, impracticable, or difficult to prove and that a breach may cause **CITY** irreparable harm. **CITY** may therefore enforce this requirement by seeking injunctive relief and specific performance, without any necessity of showing actual damage or irreparable harm. Seeking injunctive relief or specific performance does not preclude **CITY** from seeking or obtaining any other relief to which **CITY** may be entitled.

For all Work Products delivered to **CITY** that are not originated or prepared by **CONTRACTOR** or its Subcontractors under this Contract, **CONTRACTOR** shall secure a grant, at no cost to **CITY**, for 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 **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract shall include this provision to contractually bind its Subcontractors performing work under this Contract such that **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein.

PSC-22. Data Protection

- A. **CONTRACTOR** shall protect, using the most secure means and technology that is commercially available, **CITY**-provided data or consumer-provided data acquired in the course and scope of this Contract, including but not limited to customer lists and customer credit card or consumer data, (collectively, the “City Data”). **CONTRACTOR** shall notify **CITY** in writing as soon as reasonably feasible, and in any event within twenty-four hours, of **CONTRACTOR’S** discovery or reasonable belief of any unauthorized access of City Data (a “Data Breach”), or of any incident affecting, or potentially affecting City Data related to cyber security (a “Security Incident”), including, but not limited to, denial of service attack, and system outage, instability or degradation due to computer malware or virus. **CONTRACTOR** shall begin remediation immediately. **CONTRACTOR** shall provide daily updates, or more frequently if required by **CITY**, regarding findings and actions performed by **CONTRACTOR** until the Data Breach or Security Incident has been effectively resolved to **CITY’S** satisfaction. **CONTRACTOR** shall conduct an investigation of the Data Breach or Security Incident and shall share the report of the investigation with **CITY**. At **CITY’S** sole discretion, **CITY** and its authorized agents shall have the right to lead or participate in the investigation. **CONTRACTOR** shall cooperate fully with **CITY**, its agents and law enforcement.
- B. If **CITY** is subject to liability for any Data Breach or Security Incident, then **CONTRACTOR** shall fully indemnify and hold harmless **CITY** and defend against any resulting actions.

PSC-23. Insurance

During the term of this Contract and without limiting **CONTRACTOR’S** obligation to indemnify, hold harmless and defend **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits not less than the required amounts and types as determined by the Office of the City Administrative Officer of Los Angeles, Risk Management (template Form General 146 in Exhibit 1 hereto). The insurance must: (1) conform to **CITY’S** requirements; (2) comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto); and (3) 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-24. Best Terms

Throughout the term of this Contract, **CONTRACTOR**, shall offer **CITY** the best terms, prices, and discounts that are offered to any of **CONTRACTOR’S** customers for similar goods and services provided under this Contract.

PSC-25. 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-26. Mandatory Provisions Pertaining to Non-Discrimination in Employment

Unless otherwise exempt, this Contract is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

- A. **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 **CITY**. In performing this Contract, **CONTRACTOR** shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status or medical condition.
- B. The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this Contract by reference.
- C. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Equal Employment Practices" provisions of this Contract.
- D. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Affirmative Action Program" provisions of this Contract.

Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-27. Child Support Assignment Orders

CONTRACTOR shall comply with the Child Support Assignment Orders Ordinance, Section 10.10 of the LAAC, as amended from time to time. Pursuant to Section 10.10(b) of the LAAC, **CONTRACTOR** shall fully comply with all applicable State and Federal employment reporting requirements. Failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment or Notices of Assignment, or the failure of any principal owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract. Failure of **CONTRACTOR** or principal owner to cure

the default within 90 days of the notice of default will subject this Contract to termination for breach. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-28. Living Wage Ordinance

CONTRACTOR shall comply with the Living Wage Ordinance, LAAC Section 10.37 *et seq.*, as amended from time to time. **CONTRACTOR** further agrees that it shall comply with federal law proscribing retaliation for union organizing. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-29. Service Contractor Worker Retention Ordinance

CONTRACTOR shall comply with the Service Contractor Worker Retention Ordinance, LAAC Section 10.36 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-30. Access and Accommodations

CONTRACTOR represents and certifies that:

- A. **CONTRACTOR** shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 *et seq.*, the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 *et seq.*, the Fair Housing Act, and its implementing regulations and any subsequent amendments, and California Government Code Section 11135;
- B. **CONTRACTOR** shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;
- C. **CONTRACTOR** shall provide reasonable accommodation upon request to ensure equal access to **CITY**-funded programs, services and activities;
- D. Construction will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and
- E. The buildings and facilities used to provide services under this Contract are in compliance with the federal and state standards for accessibility as set forth in the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

CONTRACTOR understands that **CITY** is relying upon these certifications and representations as a condition to funding this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-31. Contractor Responsibility Ordinance

CONTRACTOR shall comply with the Contractor Responsibility Ordinance, LAAC Section 10.40 *et seq.*, as amended from time to time.

PSC-32. Business Inclusion Program

Unless otherwise exempted prior to bid submission, **CONTRACTOR** shall comply with all aspects of the Business Inclusion Program as described in the Request for Proposal/Qualification process, throughout the duration of this Contract. **CONTRACTOR** shall utilize the Business Assistance Virtual Network (“BAVN”) at <https://www.labavn.org/>, to perform and document outreach to Minority, Women, and Other Business Enterprises. **CONTRACTOR** shall perform subcontractor outreach activities through BAVN. **CONTRACTOR** shall not change any of its designated Subcontractors or pledged specific items of work to be performed by these Subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of **CITY**.

PSC-33. Slavery Disclosure Ordinance

CONTRACTOR shall comply with the Slavery Disclosure Ordinance, LAAC Section 10.41 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-34. First Source Hiring Ordinance

CONTRACTOR shall comply with the First Source Hiring Ordinance, LAAC Section 10.44 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-35. Local Business Preference Ordinance

CONTRACTOR shall comply with the Local Business Preference Ordinance, LAAC Section 10.47 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-36. Iran Contracting Act

In accordance with California Public Contract Code Sections 2200-2208, all contractors entering into, or renewing contracts with **CITY** for goods and services estimated at \$1,000,000 or more are required to complete, sign, and submit the "Iran Contracting Act of 2010 Compliance Affidavit."

PSC-37. Restrictions on Campaign Contributions and Fundraising in City Elections

Unless otherwise exempt, if this Contract is valued at \$100,000 or more and requires approval by an elected **CITY** office, **CONTRACTOR**, **CONTRACTOR’S** principals, and **CONTRACTOR’S** Subcontractors expected to receive at least \$100,000 for performance under the Contract, and the principals of those Subcontractors (the “Restricted Persons”)

shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles **CITY** to terminate this Contract and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected **CITY** officials or candidates for elected **CITY** office for twelve months after this Contract is signed. Additionally, a **CONTRACTOR** subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any **CONTRACTOR** subject to Charter Section 470(c)(12) shall include the following notice in any contract with any Subcontractor expected to receive at least \$100,000 for performance under this Contract:

“Notice Regarding Restrictions on Campaign Contributions and Fundraising in City Elections

You are a subcontractor on City of Los Angeles Contract #_____. Pursuant to the City of Los Angeles Charter Section 470(c)(12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles (“**CITY**”) officials and candidates for elected **CITY** office for twelve months after the **CITY** contract is signed. You are required to provide the names and contact information of your principals to the **CONTRACTOR** and to amend that information within ten business days if it changes during the twelve month time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at ethics.lacity.org or by calling the Los Angeles City Ethics Commission at (213) 978-1960.”

PSC-38. Contractors’ Use of Criminal History for Consideration of Employment Applications

CONTRACTOR shall comply with the City Contractors’ Use of Criminal History for Consideration of Employment Applications Ordinance, LAAC Section 10.48 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-39. Limitation of City’s Obligation to Make Payment to Contractor

Notwithstanding any other provision of this Contract, including any exhibits or attachments incorporated therein, and in order for **CITY** to comply with its governing legal requirements, **CITY** shall have no obligation to make any payments to **CONTRACTOR** unless **CITY** shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this Contract. **CONTRACTOR** agrees that any services provided by **CONTRACTOR**, purchases made by **CONTRACTOR** or expenses incurred by **CONTRACTOR** in excess of the appropriation(s) shall be free and without charge to **CITY** and **CITY** shall have no obligation to pay for the services, purchases or expenses. **CONTRACTOR** shall have no obligation to provide any services,

provide any equipment or incur any expenses in excess of the appropriated amount(s) until **CITY** appropriates additional funds for this Contract.

PSC-40. Compliance with Identity Theft Laws and Payment Card Data Security Standards

CONTRACTOR shall comply with all identity theft laws including without limitation, laws related to: (1) payment devices; (2) credit and debit card fraud; and (3) the Fair and Accurate Credit Transactions Act (“FACTA”), including its requirement relating to the content of transaction receipts provided to Customers. **CONTRACTOR** also shall comply with all requirements related to maintaining compliance with Payment Card Industry Data Security Standards (“PCI DSS”). During the performance of any service to install, program or update payment devices equipped to conduct credit or debit card transactions, including PCI DSS services, **CONTRACTOR** shall verify proper truncation of receipts in compliance with FACTA.

PSC-41. Compliance with California Public Resources Code Section 5164

California Public Resources Code Section 5164 prohibits a public agency from hiring a person for employment or as a volunteer to perform services at any park, playground, or community center used for recreational purposes in a position that has supervisory or disciplinary authority over any minor, if the person has been convicted of certain crimes as referenced in the Penal Code, and articulated in California Public Resources Code Section 5164(a)(2).

If applicable, **CONTRACTOR** shall comply with California Public Resources Code Section 5164, and shall additionally adhere to all rules and regulations that have been adopted or that may be adopted by **CITY**. **CONTRACTOR** is required to have all employees, volunteers and Subcontractors (including all employees and volunteers of any Subcontractor) of **CONTRACTOR** working on premises to pass a fingerprint and background check through the California Department of Justice at **CONTRACTOR’S** sole expense, indicating that such individuals have never been convicted of certain crimes as referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2), if the individual will have supervisory or disciplinary authority over any minor.

PSC-42. Possessory Interests Tax

Rights granted to **CONTRACTOR** by **CITY** may create a possessory interest. **CONTRACTOR** agrees that any possessory interest created may be subject to California Revenue and Taxation Code Section 107.6 and a property tax may be levied on that possessory interest. If applicable, **CONTRACTOR** shall pay the property tax. **CONTRACTOR** acknowledges that the notice required under California Revenue and Taxation Code Section 107.6 has been provided.

PSC-43. Confidentiality

All documents, information and materials provided to **CONTRACTOR** by **CITY** or developed by **CONTRACTOR** pursuant to this Contract (collectively “Confidential Information”) are confidential. **CONTRACTOR** shall not provide or disclose any Confidential Information or their contents or any information therein, either orally or in writing, to any person or entity, except as authorized by **CITY** or as required by law. **CONTRACTOR** shall immediately notify **CITY** of any attempt by a third party to obtain access to any Confidential Information. This provision will survive expiration or termination of this Contract.

EXHIBIT 1

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 should 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) as determined in writing by the CAO-RM.

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.

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. 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 may be accepted, however ***submissions other than through Track4LA® will significantly delay the insurance approval process as documents will have to be manually processed.*** **CONTRACTOR must provide CITY** a thirty day notice of cancellation (ten 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.

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 CAO-RM 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), 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.

12. **Cyber Liability & Privacy** coverage may be required to cover technology services or products for both liability and property losses that may result when a **CITY** contractor engages in various electronic activities, such as selling on the Internet or collecting data within its internal electronic network. **CONTRACTOR'S** policies shall cover liability for a data breach in which the **CITY** employees' and/or **CITY** customers' confidential or personal information, such as but not limited to, Social Security or credit card information are exposed or stolen by a hacker or other criminal who has gained access to the **CITY'S** or **CONTRACTOR'S** electronic network. The policies shall cover a variety of expenses associated with data breaches, including: notification costs, credit monitoring, costs to defend claims by state regulators, fines and penalties, and loss resulting from identity theft. The policies are required to cover liability arising from website media content, as well as property exposures from: (a) business interruption, (b) data loss/destruction, (c) computer fraud, (d) funds transfer loss, and (e) cyber extortion.

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				
<p>___ Workers' Compensation (WC) and Employer's Liability (EL)</p> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%;"> <p><input type="checkbox"/> Waiver of Subrogation in favor of City</p> </div> <div style="width: 45%;"> <p><input type="checkbox"/> Longshore & Harbor Workers <input type="checkbox"/> Jones Act</p> </div> </div>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: right; border-bottom: 1px solid black;">WC</td> <td style="width: 50%; text-align: left; border-bottom: 1px solid black;">Statutory</td> </tr> <tr> <td style="width: 50%; text-align: right; border-bottom: 1px solid black;">EL</td> <td style="width: 50%; text-align: left; border-bottom: 1px solid black;"></td> </tr> </table>	WC	Statutory	EL	
WC	Statutory				
EL					
<p>___ General Liability</p> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%;"> <p><input type="checkbox"/> Products/Completed Operations <input type="checkbox"/> Fire Legal Liability <input type="checkbox"/></p> </div> <div style="width: 45%;"> <p><input type="checkbox"/> Sexual Misconduct</p> </div> </div>					
<p>___ Automobile Liability (for any and all vehicles used for this contract, other than commuting to/from work)</p>					
<p>___ Professional Liability (Errors and Omissions)</p> <p style="margin-left: 20px;">Discovery Period _____</p>					
<p>___ Property Insurance (to cover replacement cost of building - as determined by insurance company)</p> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%;"> <p><input type="checkbox"/> All Risk Coverage <input type="checkbox"/> Flood <input type="checkbox"/> Earthquake</p> </div> <div style="width: 45%;"> <p><input type="checkbox"/> Boiler and Machinery <input type="checkbox"/> Builder's Risk <input type="checkbox"/></p> </div> </div>					
<p>___ Pollution Liability</p> <p><input type="checkbox"/></p>					
<p>___ Surety Bonds - Performance and Payment (Labor and Materials) Bonds</p>					
<p>___ Crime Insurance</p>					
<p>Other: _____</p> <p>_____</p> <p>_____</p> <p>_____</p>					



Hilltop Nursery School Child and Family Development Center
 3625 Marathon St
 Los Angeles, CA 90026

July 30, 2021

Re: Request for Authorization for Tuition Increase

City of Los Angeles, Department of Recreation and Parks
 To the Attention of Mr. Joel Alvarez
 221 North Figueroa Street, Suite 180
 Los Angeles, CA 90012

Dear Mr. Alvarez,

Due to the impact of COVID-19, Hilltop Nursery School temporarily closed on March 16, 2020 and reopened August 18, 2020. With the new group size restrictions placed on child care facilities by Community Care Licensing, HNS can no longer operate at standard capacity. Consequently, HNS reopened with 20 students which is a 56% decrease from our normal capacity of 46 students.

In speaking with the Family Membership and the HNS Board, it was agreed that the school would necessitate a tuition increase for the 21-22 school year. HNS would like to request authorization to increase tuition by the allowable 4% for this school year. This tuition amount equates to \$1,430 per month for 12 months, thereby allowing HNS to cover basic operational costs such as payroll, insurance, utilities, and educational materials, as well as safety and maintenance supplies as required under the CDC Guidelines. This plan would take place upon the start of the 2021-2022 school year and continue until Community Care Licensing removes restrictions and HNS Nursery School can resume full enrollment.

Currently, HNS has the least expensive tuition rate in correlation to comparable schools in the area. Even with a 4% increase, we would continue to remain an affordable option for our community. Below is an analysis of tuition rates for comparable schools in our area.

School	Hours	Tuition
Silverlake JCC	8AM - 6PM	\$1,788
Camelot Kids Preschool	8AM - 5:30PM	\$1,900
Los Angeles Family School	8:30AM - 6PM	\$1,936.47
PLAY Preschool	7:30AM - 6PM	\$1,955