

APPROVED
JUL 16 2020

BOARD OF RECREATION
AND PARK COMMISSIONERS

BOARD REPORT

NO. 20-129

DATE July 16, 2020

C.D. 15

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: CABRILLO MARINE AQUARIUM – MEMORANDUM OF AGREEMENT WITH THE FRIENDS OF CABRILLO MARINE AQUARIUM ESTABLISHING ROLES, RESPONSIBILITIES, AND RELATIONSHIP FOR SUPPORT OF THE AQUARIUM

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General Manager

Approved X Disapproved _____ Withdrawn _____
With Corrections

RECOMMENDATIONS

1. Approve a proposed 10-year Memorandum of Agreement (MOA), with one option to extend the term for an additional five (5) years, with the Friends of Cabrillo Marine Aquarium (FCMA), attached hereto as Attachment 1, establishing the respective roles, responsibilities, and financial relationship of the Department of Recreation and Parks (RAP) and FCMA, to support the Cabrillo Marine Aquarium (Aquarium), subject to the appropriate approvals, and approval of the City Attorney as to form;
2. Direct the Board of Recreation and Park Commissioners (Board) Secretary to transmit the proposed MOA to the City Council for approval and the City Attorney for approval as to form; and,
3. Authorize the Board President and Secretary to execute the MOA upon receipt of the necessary approvals.

SUMMARY

FCMA is a non-profit organization long affiliated with the Cabrillo Marine Aquarium (Aquarium) whose purpose is to support the mission of the Aquarium by soliciting philanthropic support, grants, corporate sponsorships and acceptance of donations on behalf of the Aquarium. Since 1994, FCMA has consistently provided essential financial, logistical, organization assistance, advocacy, programming, and other forms of support to enhance the Cabrillo Marine Aquarium for public benefit. In exchange for the support by FCMA, Aquarium provides on its grounds and at its premises office space, meeting space, event space, and some staff support for FCMA fundraising events.

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In addition to program support, FCMA raises substantial funds for investments in capital improvement projects at the Aquarium. Most notably, FCMA played an essential role in fundraising and management for the 2004 expansion of the Aquarium resulting in the creation of an Exploration Center and Aquatic Nursery. Additionally, FCMA manages an Aquarium membership program which is a core group of supporters that makes up the bulk of individual donations.

The most recent 10-year MOA between RAP and FCMA was approved by the Board on February 4, 2009 (Report No. 09-025) and expired on July 7, 2019. A new MOA is being proposed for approval through this Report to continue the collaboration between RAP and FCMA for the benefit of the Aquarium. There are some notable differences between the proposed MOA and the most recently expired MOA.

Key provisions of the agreement include:

- Clarification of gift agreements, non-financial loan agreements, and conditions of when these agreements are required
- A dispute resolution clause
- Clarification of use of the Aquarium or its grounds by third-party entities
- Criteria for FCMA events involving the sale and service of alcoholic beverages at the Aquarium
- While FCMA has always managed the gift store in a professional manner, the MOA states the responsibility of FCMA is to operate the Aquarium gift shop in a manner that extends the visitor experience
- Clarification on intellectual property in regards to logos, social media, and websites
- Office space and meeting space will continue to be provided to FCMA to fulfill its responsibilities upon determination of space availability by Aquarium staff and in a type and manner as determined by Aquarium staff. FCMA is to reimburse RAP for staff and supply costs incurred for any FCMA events and activities as may be determined in the sole discretion of RAP. FCMA events shall be subject to RAP's normal permitting processes.
- A code of conduct for FCMA is part of the proposed MOA, something not in the previous MOA.

FISCAL IMPACT

The proposed MOA has no negative impact on the Aquarium's operations and RAP's General Fund, inasmuch as all funds generated by FCMA will be used to support the Aquarium and offset program and capital improvement expenditures. By defining the relationship between the City and FCMA, however, the MOA provides the foundation for continued support of the Aquarium by FCMA. The relationship with FCMA almost certainly will afford additional fundraising opportunities, which will enable the Aquarium to continue and/or expand services without bearing the full cost of those services.

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STRATEGIC PLAN INITIATIVES AND GOALS

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

Goal No. 2: Offer Affordable and Equitable Recreational Programming

Outcome No. 1: Improved health and social equity for young Angelenos

Key Metric: Number of youth participants in ocean and science education from across LAUSD and other school districts and number of scholarships provided

Target: Economic-based scholarships provided by FCMA for Jr. Docents and Young Scientists Program. Subsidization of school buses provided by FCMA for field trips for Title I schools.

This Report was prepared by Crislyn McKerron, Chief Management Analyst Cabrillo Marine Aquarium; Joel Alvarez, Sr. Management Analyst II and Raymond Chang, Management Analyst, Partnership Section.

LIST OF ATTACHMENTS

- 1) Proposed MOA

**MEMORANDUM OF AGREEMENT
BETWEEN
THE CITY OF LOS ANGELES
AND
FRIENDS OF CABRILLO MARINE AQUARIUM
ESTABLISHING ROLES, RESPONSIBILITIES, AND RELATIONSHIP
FOR SUPPORT OF THE CABRILLO MARINE AQUARIUM**

THIS MEMORANDUM OF AGREEMENT (hereinafter "MOA") is made and entered into this ___ day of _____, 201___, ("COMMENCEMENT DATE") by and between the City of Los Angeles, a municipal corporation acting by and through the Department of Recreation and Parks (hereinafter "CITY"), and Friends of Cabrillo Marine Aquarium, a California 501(c)(3) nonprofit public benefit corporation, (hereinafter "FCMA"). CITY and FCMA may be referred to herein individually as "PARTY" and/or collectively herein as "PARTIES."

WHEREAS, the Department of Recreation and Parks ("RAP"), owns and operates the Cabrillo Marine Aquarium, located on land leased from the Port of Los Angeles at 3720 Stephen M. White Drive, San Pedro, California 90731 ("AQUARIUM"); and

WHEREAS, FCMA is incorporated as a California 501(c)(3) nonprofit public benefit corporation whose primary purpose is to solicit philanthropic support, grants, corporate sponsorships and accept donations on behalf of AQUARIUM to further the AQUARIUM's programs, activities and capital development projects; and

WHEREAS, FCMA also recruits and retains a paid membership, and enhances guest amenities and assists in programming at the AQUARIUM and its activities; and

WHEREAS, FCMA is governed by its Articles of Incorporation and Bylaws, and the activities and affairs of FCMA are conducted, and all of its corporate powers are exercised, by or under the direction of its Board of Directors, the members of which are designated, selected, and elected in accordance with FCMA's Bylaws;

WHEREAS, this MOA establishes the respective roles, responsibilities, and financial relationship between CITY and FCMA, with respect to fundraising for and in support of the AQUARIUM's programs, activities, operations, and capital improvement projects.

WHEREAS, FCMA has played an instrumental role in funding the capital development and programs of the AQUARIUM including, but not limited to, construction of buildings presently housing the AQUARIUM facilities and development of plans for aquarium maintenance and capital expansion; and

WHEREAS, FCMA has been an instrumental partner with RAP in the AQUARIUM receiving accreditation by the Association of Zoos and Aquariums (AZA).

NOW THEREFORE, the CITY and FCMA hereby agree and understand as follows:

1. FUNDRAISING

- a. **Authority to Raise Funds.** Pursuant to the terms and conditions of this MOA, FCMA is authorized to raise funds for the sole benefit of the AQUARIUM and its visitors. All funds

raised shall be used in furtherance of the AQUARIUM's mission, including support for AQUARIUM programs, maintenance, operation, restoration, capital improvements, and other related AQUARIUM activities, and to support the FCMA's administrative, operational and development expenses associated with its work at and for the AQUARIUM.

- b. **Fundraising at AQUARIUM.** Except for the CITY's own fundraising activities, programs, and events, FCMA shall be the primary organization authorized to conduct fundraising efforts at the AQUARIUM and for the benefit of the AQUARIUM, subject to advance coordination with, and approval by, the AQUARIUM Executive Director or designee (collectively, "AQ-STAFF").
- c. **Donor Recognition.** FCMA is authorized to offer forms of recognition to donors and sponsors in conformance with RAP's Naming, Sponsorship & Recognition policies approved by the BOARD (Report No. 13-160, "Sponsorship Recognition Policy and Guidelines", and Report No. 13-161, "Naming Policy Procedures and Guidelines"); provided, however, that all forms of recognition to donors and sponsors shall be approved by the Board of Recreation and Park Commissioners ("BOARD") at its sole discretion prior to such recognition being finalized.
- d. **Gift Agreements.** Gifts of historical items, equipment, materials, funds, or services provided through the FCMA to CITY for the AQUARIUM, must first be approved by the AQUARIUM, then accepted by the BOARD through a Gift Agreement executed by and between CITY and FCMA and/or a third-party contributor (if applicable). Such Gift Agreement(s) shall stipulate the terms and conditions specific to the subject donation or gift. However, contingent upon the scope and magnitude of the donation or gift, the BOARD may, at its sole discretion, choose to accept the donation or gift through a donation report describing the nature and purpose of the donation or gift.
- e. **Non-Financial Loan Agreements.** Loans of equipment, materials, or artifacts to FCMA shall require written agreements approved in advance and in writing by AQ-Staff, unless RAP in its sole discretion waives this requirement in advance and in writing for any particular loan of equipment, material or artifact based upon the nature and scope of the applicable lending arrangement.
- f. **Right of Entry Permits.** Activities of FCMA, including but not limited to special events and activities, and/or the implementation of improvements at AQUARIUM, shall be subject to issuance of a Right of Entry Permit ("ROE") by RAP. Subject to an advance RAP review and approval of the request for use of the AQUARIUM by FCMA, or portion thereof, the terms and conditions of the ROE will include but not be limited to:
 - (i) Description of approved activities to occur;
 - (ii) Details of requirements and process involved for permittee to access the AQUARIUM, including any financial obligations of permittee;
 - (iii) List of entities involved in FCMA activities;
 - (iv) Required RAP inspections and approvals as directed by RAP;
 - (v) Indemnity and Insurance Requirements as required by the City; and
 - (vi) Other relevant information and requirements deemed necessary by AQUARIUM.

2. **TERM AND TERMINATION** This MOA shall become effective on the COMMENCEMENT DATE listed above, and shall expire ten (10) years from such date ("Term") with an option to extend the Term for an additional 5 years at the sole discretion of RAP to approve, following a request to renew from FCMA. Should FCMA wish to renew this MOA, a written request shall be submitted to RAP at a minimum six (6) months prior to the expiration of the initial Term or extended Term of this MOA, as the case may be. RAP shall have the sole discretion to renew this MOA based upon such request and any renewal of this MOA shall be effected through an amendment to this MOA or a new agreement, as may be determined by RAP in its sole discretion. Further, the Term of this MOA may be modified in accordance with Section 16 of this MOA.

Termination. RAP may terminate this MOA should FCMA not comply with the terms and conditions contained herein, or for reason beyond RAP's control, or due to emergency or convenience. However, prior to taking any termination action, RAP will first consult with FCMA regarding any issues that may lead to termination of this MOA. In addition to immediate termination for an uncured breach or default, this MOA may be terminated for convenience at any time by RAP or FCMA with a minimum of sixty (60) days advanced written notice to the other party. Upon receipt of a written notice of termination, FCMA agrees to discontinue occupancy and use of the AQUARIUM in all capacities, ceasing all operations and other activities as set forth in this MOA by the stated termination date. FCMA shall also remove all personal property and equipment, peacefully surrendering the premises within ninety (90) calendar days of receiving the written notice of termination ("FCMA Surrender"), provided, however, that if RAP terminates this MOA because of FCMA's failure to comply with any provision or condition of this MOA, FCMA's Surrender shall occur within thirty (30) calendar days of receiving the written notice of termination.

3. **OBLIGATIONS AND RESPONSIBILITIES OF CITY** In accordance with the objectives and stated purpose of the MOA, CITY shall:

- a. **Spaces and Resources.** Assist FCMA by providing reasonable access, as may be determined by AQ-STAFF, to the AQUARIUM during normal operating hours and pre-approved after hours, including space at the Cabrillo Marine Aquarium property for administrative use and the operation of a gift shop, and telephone service on an as-needed, case-by-case basis to the extent resources are available and approved by AQ-STAFF. The provision of any specific spaces and resources shall be of the type and scope as determined by RAP in its sole discretion and shall be provided at no cost to FCMA. CITY will also provide reasonable utility services (water, electricity, sewage, phone lines, and data lines) for the space at no cost to FCMA. However, FCMA shall retain the right to obtain its own services at its own expense, subject to the prior written approval of RAP and in coordination with RAP.
- b. **Meetings.** Meet regularly with FCMA regarding operational status, program and/or project initiatives, event and/or project planning and updates, and other topics to facilitate cooperation and collaboration.
- c. **Funding Requests.** Prepare and submit a funding request to FCMA no later than June 1st each year. All program support requests should be detailed in project briefs that include program goals and objectives, and a clear outline of anticipated expenditures. AQUARIUM and RAP understand that such funding requests are subject to approval by the FCMA

Board of Directors.

- d. **Reporting.** Provide reports on all grant-funded programs and projects, including attendance statistics and funding expenditure information.
 - e. **Contact Lists.** Provide contact lists of program participants who have authorized the release of contact information to FCMA or to the public, to facilitate the distribution and receipt of FCMA membership and event information.
 - f. **Operation Standards.** Operate and maintain the AQUARIUM in accordance with applicable industry standards, pursuant to available resources and as may be determined by RAP.
 - g. **Policy Training.** Provide FCMA with on-site safety and CITY/RAP policy training opportunities in a manner and scope to be determined by RAP.
 - h. **Budget.** Provide FCMA with a copy of the AQUARIUM's publicly available annual budget.
 - i. **Assistance.** Assist FCMA with events, contingent upon available resources and in a manner and scope as may be reasonably determined by RAP.
 - j. **Third Party Use of AQUARIUM.** Any use of any portion of the grounds or facilities at the AQUARIUM by a third-party shall be subject to, depending on the nature and scope of the event or activity, either a Right of Entry Permit (ROE) or Facility Use Permit issued by RAP in accordance with the RAP AQUARIUM Rental Policy and Schedule of Rates and Fees, or any other agreement as approved by the Board.
4. **OBLIGATIONS AND RESPONSIBILITIES OF FCMA** In accordance with the objectives and stated purpose of the MOA, FCMA shall:
- a. **Membership.** Offer membership(s) to FCMA to the public and provide on-site member benefits in coordination with and as may be approved by AQ-STAFF.
 - b. **Marketing and Fundraising Plans.** Develop marketing and fundraising plans to solicit donations from foundations, corporations and private individuals to benefit the AQUARIUM. All donation opportunities that involve recognition or other commitments by or from the CITY must have the advance approval of the CITY, and when required (as may be determined by RAP) also the BOARD.
 - c. **Funding Request.** Consider the annual funding request submitted by the AQUARIUM (as prepared by AQ-STAFF, RAP, or designee) to evaluate and determine approval for specific AQUARIUM projects and programs as the primary basis for FCMA fundraising.
 - d. **Potential Projects.** FCMA will propose and discuss potential projects, exhibits, or programs with AQ-STAFF for RAP consideration, and explore possible funding opportunities with potential vendors and/or funders, with the clear understanding that all new endeavors must be preapproved by AQ-STAFF and/or RAP before any commitments are made, any funds are committed or accepted, or any contracts signed. FCMA shall not make any public announcements without discussing such announcement or proposal in

advance with AQ-STAFF and receiving authorization in writing prior to making such announcement.

- e. **Proper Use of Funds.** Ensure that funds awarded or provided to FCMA for capital projects at the AQUARIUM will be used only for purposes intended by the subject donors. Major changes to capital projects funded by FCMA and those capital projects which will require additional funding from FCMA shall be submitted to FCMA for approval, and FCMA shall obtain any donor approval necessary to ensure the use of FCMA funds for such changes. Final approval of such changes shall be at the discretion of the authorized representative of RAP or designee. However, RAP may be responsible for the funding of changes in scale and cost for capital projects for which funding has not been secured by FCMA.
- f. **FCMA Funding.** Secure funding necessary to meet FCMA's direct operational expenses, and maintain those funds in accounts that are under the control and supervision of FCMA.
- g. **Non-FCMA Generated Funds.** AQ-Staff and RAP may receive funds and/or revenue through a variety of sources that may include, but are not limited to, grants, stipends, program fees and donations. These funds will be managed by AQ-Staff and/or RAP and will be kept separate from the funds of FCMA at all times to ensure fiscal transparency.
- h. **Printing Literature.** Print, publish and distribute literature and printed material that contains references to the AQUARIUM, subject to prior approval by AQ-Staff and in conformance with RAP branding guidelines. All RAP approved publications and marketing materials shall bear the AQUARIUM and RAP logos, as well as the CITY logo when appropriate and approved by AQ-Staff and/or RAP. FCMA shall not print, publish or distribute literature, publications and printed materials which bear the AQUARIUM, RAP or CITY logo without the express prior written permission of RAP, and no such literature, publication or printed material shall state or imply that FCMA is a part of or acting on behalf of the CITY, RAP or the AQUARIUM.
- i. **FCMA on Premises.** FCMA acknowledges and agrees that its access to the AQUARIUM shall require AQ-STAFF to be present on the AQUARIUM premises at all times during FCMA authorized activities.
- j. **FCMA Events.** FCMA hosted events must be consistent with the mission and vision of the AQUARIUM, and shall not conflict with any existing AQUARIUM event, program, or activity on the Cabrillo Marine Aquarium Master Calendar. FCMA shall be responsible for all expenses associated with FCMA events, including but not limited to any required reimbursement to AQUARIUM for applicable staff costs.
- k. **Alcohol Policies.** Any FCMA proposed event involving the distribution and consumption of alcoholic beverages shall be approved in advance by AQ-STAFF and the Board pursuant to RAP policy and procedures and shall adhere to RAP's alcoholic beverage policy. It is understood by PARTIES that typical FCMA events involving the serving of alcoholic beverages shall adhere to the following criteria:
 - i) The event is scheduled outside of normal Cabrillo Marine Aquarium operating hours or is held in an area not accessible nor visible to the public;
 - ii) The event is solely and specifically for FCMA members; and,

- iii) The event is an invitation-only member/donor cultivation event not open to the public;
 - I. **Alcohol Sales.** FCMA understands that the sale of alcoholic beverages to attendees at FCMA events must comply with all CITY and RAP policies, and all State of California ABC liquor license requirements and restrictions, including but not limited to the implementation of security guards, fencing, identification of proper drinking age, drink limits, etc.
 - m. **Reporting Financial Status.** FCMA shall meet monthly with the authorized representative of the CITY or designee to exchange reports on the financial status of each entity and provide information on fundraising progress and future plans. FCMA shall provide the authorized representative of the CITY or designee with a copy of its annual budget after approval by FCMA's Board of Directors.
 - n. **FCMA Gift Shop.** FCMA shall operate the Cabrillo Marine Aquarium Gift Shop (Gift Shop) in a manner that extends the visitor experience, with books, games, toys, and mementos that reflect the AQUARIUM's environmental, science education, and conservation mission. All Gift Shop generated revenue shall be used exclusively in support of FCMA and the AQUARIUM, and all profits from such revenues shall be used exclusively in support of the AQUARIUM and its operations. FCMA shall prepare and maintain on at least an annual basis accurate financial records and statements regarding all Gift shop revenue, using Generally Accepted Accounting Principles and shall make such records and statements available to RAP for examination and audit upon RAP's request and as may be obligated under this MOA.
 - o. **Employment of RAP Staff by FCMA.** FCMA shall not hire or employ on any basis any persons employed by RAP or the AQUARIUM to perform any activities, duties, or responsibilities related to the general operation of the AQUARIUM.
5. **USE OF AQUARIUM BY FCMA** CITY acknowledges that FCMA's limited use of various areas within the AQUARIUM during normal operating hours is necessary in order for the AQUARIUM to meet the mutual objectives of FCMA and RAP.
- a. **Meetings.** FCMA is authorized at no-charge during normal hours of operation of the AQUARIUM and, upon FCMA request and prior approval by AQ-Staff, outside of normal hours of operation of the AQUARIUM, to use certain areas of the AQUARIUM to conduct internal meetings in furtherance of FCMA's mission to support the AQUARIUM. FCMA agrees to provide AQ-STAFF with a calendar of pre-scheduled meetings at the beginning of each fiscal year for review and approval, and if approved, for inclusion in the AQUARIUM Master Calendar. It is understood that from time to time FCMA may require use of meeting space at the AQUARIUM for a meeting not previously scheduled. In such case, FCMA must submit a request to the AQ-STAFF for consideration and approval, and if approved, inclusion in the AQUARIUM Master Calendar. FCMA understands that the AQUARIUM may not be able to accommodate all short-notice meeting space requests. Any space designated by AQ-Staff for authorized meetings by FCMA shall be at the AQ-Staff's sole discretion as to its type and location. FCMA's use of AQUARIUM premises for meetings, and any liability or claims related to such use, shall be subject to the indemnification provisions set forth in this MOA.

- b. **FCMA Events and Activities.** FCMA shall be authorized to use certain grounds and facilities at the AQUARIUM (as may be designated by AQ-Staff in its sole discretion) to conduct FCMA events and activities in support of the AQUARIUM, including but not limited to member/donor cultivation and fundraising events, subject to meeting the requirements below and obtaining prior approval by AQ-STAFF. All such use of the AQUARIUM premises shall be performed in coordination with AQ-Staff. Depending on the event or activity which will be determined at RAP's sole discretion, out-of-pocket expenses, including but not limited to AQ-STAFF costs, rental fees, supply costs, and catering expenses, shall apply and shall be paid by FCMA.
- i. All requests for approval of events and/or activities shall be submitted in advance and in writing to AQ-STAFF. Written requests for approval of small, one-day events consisting of three hundred (300) participants or less, which do not impact the AQUARIUM's normal operations shall be provided to AQ-STAFF no less than four (4) weeks prior to the subject event. Written requests for approval of large events, such as the annual "Grand Grunion Gala", consisting of multiple days and/or including over three hundred (300) participants, and/or requiring modification to the AQUARIUM's normal operations, to accommodate the installation of external equipment, amenities, and/or special accommodations, shall be provided to AQ-STAFF no less than four (4) months prior to the subject event. All requests shall include a brief, but detailed description of the event, number of anticipated guests, a parking plan, and any additional information requested by AQ-STAFF in order to appropriately review the event plan and determine necessary instructions, requirements, and approval.
 - ii. AQUARIUM shall provide FCMA with available chairs and tables for such events and activities. Tables and chairs shall not be removed from the AQUARIUM grounds.
 - iii. All requests for RAP resources, including but not limited to complementary parking, equipment, plants, canopies, etc., require a written request four (4) weeks in advance of the event or program, and will be evaluated by RAP staff for feasibility and approval at RAP's sole discretion.
 - iv. It is understood that FCMA may incur RAP staff overtime costs, contingent upon the day, time, and resources available to meet the needs of FCMA at events and activities approved by RAP or AQ-STAFF. FCMA shall be solely responsible for such costs.
 - v. FCMA shall not have the right to issue permits or allow use of the AQUARIUM or its premises by any third-party entities.
 - vi. The approval of any use of the AQUARIUM premises during normal hours of operation and the scope of such use shall be made in the sole discretion of AQ-Staff.
 - vii. FCMA shall ensure that the AQUARIUM Director or designee is invited in advance to participate in FCMA Board meetings and provided an opportunity to submit discussion items for inclusion in the FCMA Board meeting agenda.
 - viii. FCMA's use of AQUARIUM premises for FCMA events and activities shall be subject to the issuance of an ROE in accordance with Section 1.f. of this MOA.
- c. **FMCA Members, Employees, FCMA Volunteers, Vendors.** FCMA acknowledges that it has received and reviewed the Code of Conduct at the AQUARIUM, attached hereto and incorporated herein by reference as Exhibit A ("Code of Conduct"). At all times, FCMA shall ensure that its members, employees, consultants, contractors, vendors and FCMA

volunteers comply with the Code of Conduct. In addition, FCMA shall not hire as an employee or FCMA volunteer, or subcontract with, any person whom RAP would be prohibited from hiring as an employee or volunteer pursuant to California Public Resources Code Section 5164 to perform work at the AQUARIUM premises. FCMA must have each of its employee or volunteer who is located on the AQUARIUM site, and any of its contractors or vendors whom AQ-Staff requires, fingerprinted and each shall be required to fill out a form requesting the information required by Section 5164. FCMA shall promptly notify the AQUARIUM Director of any of FCMA's contractor or vendors who will be performing work at the AQUARIUM premises prior to such contractors or vendors coming onto the AQUARIUM premises and shall not authorize such persons onto the premises until the AQUARIUM Director or designee approves of such access onto the premises. RAP reserves the right to conduct a Department of Justice criminal background check on any such person prior to approving their presence on AQUARIUM premises. In the event any FCMA member, employees, FCMA volunteers and/or contractors/vendors (including all employees and volunteers for any such vendor) has violated the Code of Conduct or engaged in any serious act of misconduct, including (but not limited to) an act of dishonesty, theft or misappropriation of City property, moral turpitude, insubordination, or any act injuring, abusing, or endangering others, FCMA shall immediately remove such employee, volunteers and/or contractors/vendors from the AQUARIUM premises at RAP's instruction. FCMA's failure to promptly comply with any of the provisions set forth in this section shall be a material breach of this MOA.

- d. **Aquarium Parking.** FCMA Board members and employed staff shall be provided free AQUARIUM parking to be used during FCMA business matters related to the AQUARIUM which requires access to AQUARIUM premises. FCMA members and volunteers visiting the AQUARIUM shall have the non-exclusive right to park vehicles within any available parking spaces at the AQUARIUM on a first-come-first-served basis. Exclusive or designated parking shall not be allowed, unless previously approved in writing by RAP. Restrictions of dates of free parking shall apply at the sole discretion of RAP.
6. **SAFETY** FCMA will observe and be responsible for safety precautions for those on the AQUARIUM property during FCMA events and activities and FCMA meetings, subject to further direction by RAP. In case of injury or emergencies, FCMA will complete and submit the non-city employee accident form. A non-City employee accident report and instructions is attached as Exhibit B and incorporated herein by reference. For serious injuries, FCMA must immediately call 911.
7. **INDEMNIFICATION** Except for the active negligence or willful misconduct of CITY, or any of its boards, officers, agents, employees, assigns and successors in interest, FCMA 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 FCMA'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 FCMA, 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 MOA.

8. **INSURANCE** FCMA shall be fully insured, and as a requirement of this MOA, FCMA shall additionally insure the City of Los Angeles for the coverage specified by the City Administrative Officer's (CAO) Risk Manager on Form 146R, attached hereto and incorporated herein by reference as Exhibit C. FCMA shall maintain during the TERM of this MOA, evidence of insurance acceptable to the CAO Risk Manager, and shall obtain approval of such insurance prior to FCMA' performance under this MOA, in accordance with instructions for submitting insurance to the City, included herein as part of Exhibit C, incorporated herein by reference.
9. **INTELLECTUAL PROPERTY** The arrangements between the PARTIES with respect to intellectual property rights will be set out in separate license agreements negotiated and executed by and between PARTIES, approved in writing by the BOARD, City Attorney, Mayor, and City Council (if required). This MOA shall not supersede the terms of any existing or future executed license agreement, and nothing in this MOA shall be construed as to giving any rights (or any assurance of giving any rights) in any intellectual property of either PARTY to the other. Notwithstanding the foregoing, the following shall apply:
 - a. PARTIES acknowledge that each of the CITY, RAP, AQUARIUM and FCMA names and other intellectual property of PARTIES have substantial goodwill and the PARTIES further acknowledge and agree that all use of the CITY, RAP, AQUARIUM, and/or FCMA name, pursuant to this MOA, shall inure to the sole and exclusive benefit of the subject PARTY or PARTIES.
 - b. Each PARTY agree to use the name of the other PARTY solely in accordance with the terms and conditions set forth in this MOA.
 - c. Neither of the PARTIES shall use the other's trademarks, trade-names or logos (each, a "Mark") without the prior written approval of the other. Each Mark shall remain the sole and exclusive intellectual property of the respective PARTY. Nothing in this MOA, or in the performance thereof, shall be construed as transferring, licensing, or otherwise permitting the right to use any intellectual property rights, including any rights to any Mark that may be owned or licensed by the CITY, RAP or the AQUARIUM to any other entity or individual, including FCMA. Further, nothing in this MOA, or in the performance thereof, shall be construed to acknowledge the ownership of or any right to use any such intellectual property rights by any individual or entity, including FCMA.
10. **PUBLICITY** PARTIES agree to cooperate and coordinate with respect to the nature, text, and timing of any press release or public announcement(s) concerning the existence of this MOA, the use or promotion of AQUARIUM in connection with this MOA, the acquisition of any real property in connection with this MOA, or construction of any improvements at AQUARIUM in connection with this MOA, except as may be legally required by applicable laws, regulations, or judicial order. PARTIES agree to notify each other in advance and in writing, of any press release, public announcement, marketing or promotion of AQUARIUM in connection with this MOA. Further, any such press release, public announcement, marketing materials, or brochures prepared by either PARTY in connection with this MOA, shall appropriately acknowledge the contributions of both PARTIES. To the extent stipulated in any grant agreement, PARTIES shall duly notify any grantors, and each other, prior to any public or media event publicizing the accomplishments funded by any grant agreement, and shall

provide the opportunity for attendance and participation by grantor representatives. Further, PARTIES shall coordinate the scheduling and organization of any public or media event to provide the opportunity for attendance and participation by officials and/or representatives of both PARTIES, including elected officials and public officials. Similarly, any document, written report, or brochure prepared by either PARTY, in whole or in part pursuant to the acquisition of property and/or installation of improvements, shall contain any acknowledgements required under any grant agreement.

All press releases or public announcements will be processed in accordance with applicable City rules and regulations, including City rules prohibiting advertisements and endorsements of any products or services on park property without first obtaining advance written approval from RAP as applicable.

FCMA agrees that any public release or distribution of information related to this MOA or related projects, programs, services, or events, shall include the following statement at the beginning or introduction of such release:

“In collaboration with the City of Los Angeles Department of Recreation and Parks”

- 11. WEBSITE AND SOCIAL MEDIA** FCMA may operate a website of their own, or webpage linked to the AQUARIUM website (<https://www.cabriollowmarineaquarium.org>), with preapproval of content by AQ-STAFF in conjunction with that of the RAP Public Information Director, which FCMA may manage at their discretion. In no event shall an FCMA operated website state or imply that FCMA or the website is representing, acting as an agent for, or acting on behalf of the CITY, RAP or the AQUARIUM. Any links provided on the AQUARIUM website shall be made available in accordance with applicable City regulations and shall include appropriate disclaimers disclosing the third party nature of such links (i.e. links to websites which are not owned by the CITY). AQ-STAFF and FCMA will discuss and implement the most beneficial and manageable manner in which to optimize available FCMA and AQUARIUM resources to maximize public outreach through the internet and social media platforms. All efforts made by RAP to coordinate public outreach with FCMA through internet and social media platforms, including the addition of any website links on the AQUARIUM website, shall be limited to what is allowable under applicable City rules and regulations, including City rules prohibiting advertisements and endorsements of any entities, products or services. PARTIES understand and agree that any and all technology and/or internet arrangements contemplated between the PARTIES must be first discussed with RAP Systems staff to ensure feasibility and appropriate mechanisms are utilized. FCMA acknowledges and agrees that it does not have any rights or claims to the AQUARIUM website or any other social media accounts or websites which represent the AQUARIUM and AQ-Staff shall approve modifications to posts or updates on social media accounts at its sole discretion.
- 12. SIGNAGE** With the exception of Gift Shop displays, no permanent signs of any kind will be displayed by FCMA unless previously approved in writing by the BOARD. Temporary banners to be placed less than thirty (30) days, may be displayed, subject to fifteen (15) days advance review and approval by AQ-STAFF prior to installation, such approval to be made at RAP's sole discretion. CITY may require removal or refurbishment, at FCMA's expense, of any sign or banner previously approved. Requirements for signage shall be stipulated in a separate project permit or agreement (if applicable), in accordance with CITY policies and regulations.

13. INTERNET CROSS PROMOTION AND USE OF MARKS As stated above in Section 11 of this MOA, RAP shall cooperate with FCMA in reasonably supporting FCMA's Internet and social media presence on RAP Internet sites, web-page, and social media platforms dedicated by RAP to the AQUARIUM, in forms mutually agreed upon by PARTIES and in accordance with applicable City rules and regulations, including City rules prohibiting advertisements and endorsements of any entities, products or services. FCMA shall cooperate with RAP in reasonably supporting RAP and AQUARIUM's presence on FCMA Internet sites, web-page, and social media platforms, in forms mutually agreed-upon by PARTIES. Otherwise, neither PARTY shall use the other's trademarks, trade-names or logos (each, a "MARK") without the prior written approval of FCMA or RAP, respectively. Each MARK shall remain the sole and exclusive intellectual property of the respective PARTY.

14. NO JOINT VENTURE OR AGENCY RELATIONSHIP Nothing herein contained shall be construed to place the PARTIES to this MOA in the relationship of a joint venture, association, partnership, or other form of a business organization or agency relationship. FCMA shall have no power to obligate or bind CITY in any manner whatsoever. Further, under no circumstances will FCMA represent itself to be an agent of the CITY or any of its departments. Nothing in this MOA may be construed to have authorized or vested in FCMA the power to be an agent of the CITY or an actor under the color of law, be it civilly or criminally.

15. CITY PRIORITIES Pursuant to any RAP restoration or capital improvement project(s) at AQUARIUM, RAP or its designated vendor will prepare a plan to restore, improve and renovate AQUARIUM, and will provide FCMA with information on AQUARIUM's needs in terms of funding, support, or programming, which the Board of Directors of FCMA shall take into account in determining the use of FCMA's assets.

16. MOA MODIFICATION - RAP PERFORMED IMPROVEMENTS Should major construction or refurbishments be conducted on the interior or exterior of the AQUARIUM or any adjacent structures, RAP retains the exclusive right to revise the TERM and applicable sections of this MOA at the sole discretion of the RAP General Manager in order to accommodate such project(s).

RAP shall ensure that funds awarded or donated to FCMA which are then awarded or donated to RAP for construction projects at the AQUARIUM will be used only for such purposes intended by the subject donors as identified by FCMA. Any major changes to proposed or existing construction projects funded by FCMA shall be submitted to FCMA for approval prior to implementation, and FCMA shall seek donor approval or authorization.

17. FCMA ANNUAL PERFORMANCE REPORT AND FINANCIAL STATEMENT FCMA agrees to provide once per year at the end of each fiscal year but no later than December 31st, a Performance Report and Financial Statement summarizing all FCMA activities and finances from the prior fiscal year July 1st through June 30th.

- a. **Performance Report:** FCMA shall provide AQ-STAFF with a summary of events and activities (including fundraising) conducted at the AQUARIUM during the prior fiscal year, which at minimum shall include the following:
 - (i) Brief description of the event and purpose;
 - (ii) Number of participants and/or attendees, with breakdown of how many were FCMA members, potential or existing donors, and/or general public;

- (iii) Logistical information, such as the event date(s) and hours, and areas with AQUARIUM used; and,
 - (iv) Brief description of any challenges and/or accomplishments.
- b. **Financial Statement:** FCMA shall provide AQ-STAFF with a profit and loss statement summarizing FCMA's financial activities conducted during the prior fiscal year in support of the AQUARIUM, whether conducted at the AQUARIUM or off-site, which shall include but not be limited to the following:
- (i) A financial summary of fundraising and other revenue generating activities, including but not limited to Gift Shop operation, from the prior fiscal year ending June 30th; and,
 - (ii) A financial summary of FCMA expenses incurred over the prior fiscal year, including but not limited to event, activity, and operational costs.

18. DISPOSITION OF ASSETS UPON LIQUIDATION FCMA shall not change or make ineffective or subordinate the provisions in its Articles of Incorporation which provide that upon liquidation, its net assets will be transferred to another California non-profit public benefit corporation with similar purposes and mission with respect to the support of AQUARIUM.

19. Dispute Resolution RAP and FCMA desire to resolve in timely and efficient manner any dispute that may arise between them in connection with any provision of this MOA. Should a dispute arise that cannot be resolved through negotiation, RAP and FCMA shall engage in a mutually acceptable dispute resolution process conducted by an independent mediator chosen cooperatively by the parties, to resolve the issue. The purpose of this provision is to provide the parties with a process to resolve disputes which are otherwise at impasse between FCMA and RAP

20. NOTICES Any notice, request for consent, or statement (NOTICE), that CITY or FCMA is required or permitted to give or cause to be given to the other, shall be in writing and shall be delivered or addressed as set forth below. Either CITY or FCMA may designate a different address for any NOTICE by written statement to the other in accordance with the provisions of this Section. NOTICES shall be delivered personally or sent by confirmed facsimile transmission, by reliable courier providing tracking services, or by deposit with the United States Postal Service with postage prepaid and return receipt requested.

All NOTICES shall be addressed as follows:

If to CITY:
Cabrillo Marine Aquarium
Attn: Director in Charge
3720 Stephen M. White Drive
San Pedro, CA 90731

With Copies to:
City of Los Angeles, Department of Recreation and Parks
Attn: Assistant General Manager – Special Operations
221 North Figueroa Street, Suite 350,
Los Angeles, CA 90012

City of Los Angeles, Department of Recreation and Parks
Attn: Partnership Section
221 North Figueroa Street, Suite 180,

Los Angeles, CA 90012

If to FCMA:
Friends of Cabrillo Marine Aquarium
Attention: ~~Dr. Ralph Appy~~President
3720 Stephen M. White Drive,
San Pedro, CA 90731

With copy to:
Friends of Cabrillo Marine Aquarium
Attention: ~~Caroline Brady~~, Executive Director
3720 Stephen M. White Drive,
San Pedro, CA 90731

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

22. INCORPORATION OF DOCUMENTS. The following documents are incorporated and made a part hereof by reference:

Exhibit A: Code of Conduct – City Policies and Executive Directives
Exhibit B: Non-City Employee Accident or Injury Report
Exhibit C: Insurance Requirements and Instructions for Submitting Insurance

[SIGNATURE PAGE FOLLOWS]

This MOA shall supersede any prior oral or written understanding, communications, or agreements between the PARTIES, and constitutes the entire agreement of the PARTIES with respect to the subject matter hereof. This MOA shall not be amended or modified, except in writing and signed by both PARTIES hereto.

IN WITNESS WHEREOF, the PARTIES have executed this MOA as of the day and year first above written.

CITY OF LOS ANGELES, a municipal corporation, acting by and through its
BOARD OF RECREATION AND PARK
COMMISSIONERS

FRIENDS OF CABRILLO MARINE
AQUARIUM, a 501(c)(3) California non-
profit corporation

By: _____
President

By: _____

By: _____
Secretary

Title: _____

Date: _____

By: _____

APPROVED AS TO FORM:

MICHAEL N. FEUER, City Attorney

Title: _____

By: _____
Deputy City Attorney

Date: _____

Date: _____

Exhibit-A

Code of Conduct

The Friends of the Cabrillo Marine Aquarium (FCMA) was founded to support the mission of the Cabrillo Marine Aquarium (CMA), a facility of the City of Los Angeles, Department of Recreation and Parks. FCMA will not engage in any conduct or activities that reflect unfavorably upon or conflict with the best interest of CMA and/or the City of Los Angeles, Department of Recreation and Parks. All employees of FCMA, its Board of Directors, associated vendors and volunteers are required to maintain a work environment that is free of discrimination, harassment, retaliation, bullying, free from inappropriate and/or discriminatory actions, language, and images, as well as demonstrate sensitivity and respect for others.

The City of Los Angeles is committed to providing all employees a non-discriminatory and harassment-free workplace and employees are expected to adhere to many rules and regulations and must demonstrate sensitivity and respect to all individuals. A non-discriminatory and harassment-free workplace can only be achieved when all parties are held to the same level of compliance. All on-site vendors, consultants, volunteers and employees of both CMA and FCMA and FCMA Board are expected to conduct themselves in a professional and courteous manner at all times. As such, FCMA is required to follow the same rules and procedures as set forth by the City of Los Angeles and the Department of Recreation and Parks. Any FCMA employee, Board Member, associated consultant, contractor, vendor or volunteer who violates this Code of Conduct is subject to removal from operating on City of Los Angeles property. An egregious violation may also result in a revocation of the Memo of Agreement between City of Los Angeles and Friends of the Cabrillo Marine Aquarium. The activities outlined below are strictly prohibited:

- a) Abusive language towards a City staff, volunteer, or participants in CMA activities.
- b) Possession or use of illegal drugs on City property or reporting to the CMA program while under the influence of drugs or alcohol.
- c) Bringing onto CMAs property dangerous or unauthorized materials such as explosives, firearms, weapons or other similar items.
- d) Discourtesy or rudeness to participants in CMA activities, City staff or volunteer.
- e) Verbal, physical or visual harassment participants in CMA activities, City staff or volunteer.
- f) Actual or threatened violence toward any individual or group.
- g) Conduct endangering the life, safety, health or well-being of others.
- h) Bullying or taking unfair advantage of any to participants in CMA activities, City staff or volunteer.
- i) Failure to follow any City of Los Angeles, Department of Recreation and Parks EEO policies, procedures and Executive Directives.

As with City of Los Angeles employees, it is imperative that all employees of FCMA are accountable for all City of Los Angeles' EEO and Ethics policies and have knowledge and understanding of all these policies. Some of the City's EEO policies, procedures, and Executive Directives are listed below.

City of Los Angeles Policies and Executive Directives:

City of Code of Ethics:

<https://ethics.lacity.org/PDF/MayorExecDir/CityCodeofEthics.pdf>

Executive Directive PE-1 - Equal Employment Opportunity, Non-Discrimination and Reasonable Accommodations, revised August 31, 2004

http://per.lacity.org/eeo/exec_pe1.pdf

Discrimination Free Workplace Policy Resolution, revised October 1, 1999

<https://personnel.lacity.org/documents/discrim.pdf>

Executive Directive 8 - Zero Tolerance for Hazing of Fellow Employees, issue date November 20, 2006

<https://personnel.lacity.org/documents/Exec%20Dir%20No.%208%20-%20Zero%20Tolerance%20for%20Hazing.pdf>

Executive Directive 12 - Policy Against Discrimination in Employment based on Sexual Orientation, Gender Identity or Gender Expression, issue date June 6, 2008

<http://per.lacity.org/eeo/ExecutiveDirectiveNo12.pdf>

Harassment and Discrimination

<https://www.lamayor.org/sites/q/files/wph446/f/page/file/ED%202023%20-%20Harassment%20and%20Discrimination.pdf>

Sexual Harassment Complaint Procedure, revised August 2010

<http://per.lacity.org/documents/sexharas.pdf>

A more extensive list of policies can be found on the City of Los Angeles' Personnel Department's website at <http://per.lacity.org/> and the City of Los Angeles' Mayors website at https://www.lamayor.org/mayor_garcetti_s_executive_directives and are incorporated herein by reference.

Exhibit-B

Form Gex. 87 (R. 4/99)

City of Los Angeles

NON-EMPLOYEE ACCIDENT OR ILLNESS REPORT

Orig. City Attorney m/s 110
Dup. Risk Manager m/s 625-24
Trip. Dept. Area Office or Division Head

Department Reporting
Recreation and Parks

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

PART I - PERSONAL DATA

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

PART II - ACCIDENT/INJURY

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

PART III - WITNESSES

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

PART IV - STATEMENT OF INJURED PARTY OR WITNESS

21.

PART V - EMPLOYEE FILING REPORT

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

Exhibit-C

Insurance Requirements and Instructions for Submitting Insurance Required Insurance and Minimum Limits

Name: Friends of Cabrillo Marine Aquarium Date: 4/24/2019

Agreement/Reference: MCA - Establishing Roles, Responsibilities, & Relationship for Support of Cabrillo Marine Aquarium

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
<hr/>	
✓ Workers' Compensation (WC) and Employer's Liability (EL)	
<input checked="" type="checkbox"/> Waiver of Subrogation in favor of City	<u>W/C</u> <u>Statutory</u>
<input type="checkbox"/> Longshore & Harbor Workers	<u>EL</u> <u>1,000,000</u>
<input type="checkbox"/> Jones Act	
<hr/>	
✓ General Liability <small>(City of Los Angeles must be named as an Additional Insured Party)</small>	
<input checked="" type="checkbox"/> Products/Completed Operations	<u>1,000,000</u>
<input type="checkbox"/> Fire Legal Liability _____	<u>_____</u>
<input type="checkbox"/> _____	<u>_____</u>
<hr/>	
✓ Automobile Liability (for any and all vehicles used for this contract, other than commuting to/from work)	
<u>1,000,000</u>	
<hr/>	
— Professional Liability (Errors and Omissions)	
Discovery Period <u>12 Months After Completion of Work or Date of Termination</u>	
<hr/>	
— Property Insurance (to cover replacement cost of building - as determined by insurance company)	
<input type="checkbox"/> All Risk Coverage	<u>_____</u>
<input type="checkbox"/> Flood _____	<input type="checkbox"/> Boiler and Machinery
<input type="checkbox"/> Earthquake _____	<input type="checkbox"/> Builder's Risk
<input type="checkbox"/> _____	<input type="checkbox"/> _____
<hr/>	
— Surety Bonds - Performance and Payment (Labor and Materials) Bonds	
— Crime Insurance	
<hr/>	
Other: <u>Provided to: Joel Alvarez @ RAP; ph:(213) 202-5671</u>	
<u>If a contractor has no employees and decides to not cover herself/himself for workers' compensation, please complete the form entitled "Request for Waiver of Workers' Compensation Insurance Requirement" located at: http://cac.lacity.org/risk/InsuranceForms.htm</u>	
<u>In the absence of imposed auto liability requirements, all contractors using vehicles during the course of their contract must adhere to the financial responsibility laws of the State of California.</u>	

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 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) 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 required method of submitting your documents. **KwikComply** 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. **KwikComply** 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 **KwikComply** at <https://kwikcomply.org/> and follow the instructions to register and submit the appropriate proof of insurance on your behalf.

Contractor must provide City a thirty (30) day notice of cancellation (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.

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 **KwikComply**, the CITY's online insurance compliance system, at <https://kwikcomply.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 **KwikComply** at <https://kwikcomply.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 Contractor Development and Bond Assistance Program website address at <http://cao.lacity.org/risk/BondAssistanceProgram.pdf> or call (213) 258-3000 for more information.

12. **Cyber Liability and 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.