

# APPROVED

MAR 03 2022

## BOARD OF RECREATION AND PARK COMMISSIONERS

**BOARD REPORT**

**NO.** 22-051

**DATE:** March 3, 2022

**C.D.** 5

### BOARD OF RECREATION AND PARK COMMISSIONERS

**SUBJECT:** CHEVIOT HILLS RECREATION CENTER – FIRST AMENDMENT TO CONTRACT NO. 3516 WITH LOS ANGELES PETANQUE CLUB, INC. TO EXPAND THE PERMITTED TIMES OF PROGRAM OPERATIONS

AP Diaz \_\_\_\_\_

\* M. Rudnick MR

H. Fujita \_\_\_\_\_

C. Santo Domingo \_\_\_\_\_

J. Kim \_\_\_\_\_

N. Williams \_\_\_\_\_

*M. Sluss*  
General Manager

Approved   X  

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

### RECOMMENDATIONS

1. Approve the proposed First Amendment to Contract No. 3516 with Los Angeles Pétanque Club, Inc. (LAPC) (First Amendment), substantially in the form attached to this Report as Attachment 1, to, among other things, expand the permitted hours of operation of the LAPC petanque program at Cheviot Hills Recreation Center;
2. Direct the Board of Recreation and Park Commissioners (Board) Secretary to transmit the First Amendment to the Mayor and City Council for approval, and the City Attorney for review and approval as to form; and,
3. Authorize the Board President and Secretary to execute the First Amendment upon receipt of the necessary approvals.
4. Authorize RAP Staff to make necessary technical corrections to carry out the intent of this Report.

### SUMMARY

Under Contract No. 3516 (Contract), included with this Report as Attachment 2, LAPC currently operates a pétanque sporting club program (Program) at Cheviot Hills Recreation Center, located at 2551 Motor Avenue, Los Angeles, CA 90064. The Program at Cheviot Hills Recreation Center’s pétanque courts (Courts) has been operated by LAPC during specified days and hours since the Contract was awarded and executed on January 7, 2015, for a term of ten (10) years.

The Contract currently allows LAPC priority use of the Courts to provide free weekly pétanque lessons to the public to recruit new players and promote the French sporting game of pétanque at the Courts during specified days and periods of use.

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The Contract currently allows LAPC priority use of the Courts to provide free weekly pétanque lessons to the public to recruit new players and promote the French sporting game of pétanque at the Courts during specified days and periods of use.

LAPC recently submitted written correspondence to RAP's Partnership Section, dated November 10, 2021, requesting the Board's approval to expand their priority use days and hours of operation, with the objective of making the Courts more accessible to its members and the public, as well as providing additional opportunities to promote the game to schools, boys and girls clubs, YMCA's, and families who live in the surrounding community, possibly incorporating after-school programming into their Program. In the letter submitted, LAPC informed RAP staff that they would like to expand their permitted times for priority use in order to allow their members to play more often and have more flexibility and options for when they can play. The inclusion of after-school programming offered to local schools would provide the community with an additional resource for kids who normally would not play traditional sports due to various reasons, with a unique opportunity to participate in physical activity through what would be a new game or sport for them to learn.

The requested expansion of priority use hours from the existing to the proposed are as follows:

From: 5:00 p.m. to 9:00 p.m., Mondays and Thursdays,  
10:00 a.m. to 4:00 p.m. on Saturdays, and  
7:00 a.m. to 7:00 p.m. on one Sunday per month

to: 3:00 p.m. to 9:00 p.m., Monday through Friday and Sunday, and  
10:00 a.m. to 7:00 p.m. on Saturdays.

The requested hours of expansion have been discussed with RAP staff from the Center, including the DIC and District Supervisor, and each concurs with Staff's recommendation under this Report. LAPC staff will be present at the Courts during all hours of use, to make sure the area is not misused and to keep the area clean, and will continue to fulfill their obligations under the Contract, including but not limited to maintaining appropriate insurance, maintaining the Courts and LAPC contracted portable toilet, and the payment of cost recovery reimbursement fees for utilities, solid waste removal, and staff impacts, as stipulated in the Contract.

If approved by the Board, the proposed First Amendment would not only expand the permitted times of priority use, but will also incorporate updated Standards Provisions for City Contracts, attached to this Report as Attachment 3, and new language addressing recent requirements regarding COVID-19 mandates, including COVID-19 vaccination requirements.

Based on the written request from LAPC outlining the reasons for the expansion of priority use days and hours, RAP Staff recommends the Board approve the proposed First Amendment allowing for an increase of such days and hours of the LAPC Program for the benefit and enjoyment of the LAPC membership and general public.

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### FISCAL IMPACT

Approving the First Amendment will have no fiscal impact on RAP's General Fund, as all costs of operation and maintenance at the Courts will continue to be the responsibility of LAPC.

### 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 Adriana Bautista, Management Assistant, Partnership Section.

### LIST OF ATTACHMENTS

- 1) First Amendment to Contract No. 3516
- 2) Contract No. 3516
- 3) Standard Provisions for City Contracts (Rev. 10/21) [v.4]

**FIRST AMENDMENT TO CONTRACT NO. 3516  
BETWEEN  
THE CITY OF LOS ANGELES  
AND  
LOS ANGELES PÉTANQUE CLUB, INC.  
FOR THE  
SHARED USE OF THE PETANQUE COURTS  
AT  
CHEVIOT HILLS RECREATION CENTER**

THIS FIRST AMENDMENT TO CONTRACT NO. 3516 ("FIRST 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 Los Angeles Pétanque Club, Inc., a California 501(c)(7) corporation ("LAPC"). CITY and LAPC 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 referred to as Cheviot Hills Recreation Center ("CENTER"), located at 2551 Motor Ave., Los Angeles, CA 90064; and,

WHEREAS, within said CENTER there exists certain petanque courts ("COURTS") currently operated and maintained by the LAPC under Contract No. 3516; and,

WHEREAS, on October 16, 2013, the Board of Recreation and Park Commissioners ("BOARD") approved Contract No. 3516 ("CONTRACT"), between CITY and LAPC for the maintenance of the COURTS and the use of the COURTS by LAPC for its pétanque program ("PROGRAM") (Report No. 13-265); and,

WHEREAS, the CONTRACT was executed on January 7, 2015, for a ten (10) year term; and,

WHEREAS, the CONTRACT currently allows LAPC to use certain portions of the PREMISES (as such term is defined in the CONTRACT) on a priority basis during specific permitted hours and days in accordance with the provisions of the CONTRACT; and,

WHEREAS, the LAPC submitted a written request to RAP for authorization to expand the allowable hours and days it may operate the PROGRAM on the PREMISES, subject to approval by the BOARD; and,

WHEREAS, the LAPC wishes to expand the permitted times of PROGRAM operations at the PREMISES in order to recruit new participants including local students

and to allow participants greater flexibility in using the COURTS and participating in the PROGRAM; and,

WHEREAS, due to Citywide measures to prevent the spread of COVID-19 and the continuing effects of the COVID-19 pandemic, the CITY requires the LAPC to agree to and maintain certain obligations regarding COVID-19 related policies in its PROGRAM operations; and,

WHEREAS, the BOARD has approved this First Amendment to the CONTRACT to allow for the expansion of permitted times at the PREMISES and the addition of new provisions related to the COVID-19 pandemic (Board Report #####).

NOW THEREFORE, in consideration of the foregoing, and the terms and conditions contained herein, and the performance thereof, PARTIES hereby agree that the CONTRACT is amended as follows:

- I. Section 6 of the CONTRACT entitled “Days and Periods of Use” is hereby amended such that Paragraphs (a.) and (c.) are amended and restated in its entirety as follows in quotation marks:
  - “a. PERMITTED TIMES of Program operation: 3:00 p.m. to 9:00 p.m. on Monday through Friday and 10:00 a.m. to– 7:00 p.m. on Saturday.”
  - “c. LAPC will be allowed to conduct maintenance, free play, and organized tournaments every Sunday between the hours of 3:00 p.m. and 9:00 p.m.”
- II. Section 5. of the CONTRACT entitled “Permitted Uses” is hereby amended to insert Paragraphs (m.) and (n.) as follows in quotation marks:
  - “m. Employees of LAPC and/or persons working on its behalf, including, but not limited to, subcontractors and volunteers (collectively, “Contractor Personnel”), while performing services under this AGREEMENT and prior to interacting in person with City employees, contractors, volunteers, or members of the public (collectively, “In-Person Services”) must be fully vaccinated against the novel coronavirus 2019 (“COVID-19”). “Fully vaccinated” means that 14 or more days have passed since Contractor Personnel have 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, LAPC shall obtain proof that such Contractor Personnel have been fully vaccinated. LAPC shall retain such proof for the period of retention of all records under this

AGREEMENT. LAPC shall grant medical or religious exemptions (“Exemptions”) to Contractor Personnel as required by law. If LAPC wishes to assign Contractor Personnel with Exemptions to perform In-Person Services, LAPC shall require such Contractor Personnel to undergo weekly COVID-19 testing, with the full cost of testing to be borne by LAPC. If Contractor Personnel test positive, they shall not be assigned to perform In-Person Services or, to the extent they have already been performing In-Person Services, shall be immediately removed from those assignments. Furthermore, LAPC shall immediately notify City if Contractor Personnel performing In-Person Services (1) have tested positive for or have been diagnosed with COVID-19, (2) have been informed by a medical professional that they are likely to have COVID-19, or (3) meet the criteria for isolation under applicable government orders.

- n. Comply with all RAP policies and procedures as well as all Federal, State, County, and local regulations, ordinances, orders and mandates, including but not limited to health and safety ordinances, orders and guidelines related to COVID-19 and vaccination mandates in connection thereto, and background checks and fingerprinting for any volunteer or paid staff participating in the PROGRAM at the PREMISES, throughout the TERM of this AGREEMENT. In doing so, LAPC shall maintain regular communication with RAP staff to ensure LAPC’s compliance with such policies, procedures, regulations, orders and requirements, and LAPC shall be solely responsible for all costs related to ensuring such compliance.”

III. Section 8. of the CONTRACT entitled “Maintenance and Repair of Premises” is hereby amended to insert Paragraph (i.) as follows in quotation marks:

- “i. Maintain and repair the PREMISES in a manner that is consistent and in compliance with all Federal, State, County and local regulations, orders and guidelines, including but not limited to health and safety orders and guidelines related to COVID-19 and all fire safety standards, practices and regulations for park environments.”

IV. Section 15. of the CONTRACT entitled “Indemnification” is hereby amended to insert the following Paragraph as follows in quotation marks:

“LAPC is aware of the condition of the PREMISES and accepts PREMISES in its present condition, and agrees to abide by all health and safety regulations and orders. LAPC has carefully reviewed this document, understands its contents, and signs it voluntarily, without being subject to coercion. LAPC further acknowledges and agrees that it knowingly and freely assumes all COVID-19 related risks, both known and unknown, relating to exercising the terms and conditions of this AGREEMENT and LAPC hereby forever releases, waives, relinquishes, and discharges CITY, along with

its officers, agents, employees, or other representatives, and their successors and assigns, from any and all COVID-19 related claims, demands, liabilities, rights, damages, expenses, and causes of action of whatever kind or nature, and other losses of any kind, whether known or unknown, foreseen or unforeseen, as a result of LAPC's performance under this AGREEMENT, including but not limited to personal injuries, death, disease or property losses, or any other loss, and including but not limited to claims based on the alleged negligence of any City Representative or any other person related to COVID-19 sanitization. LAPC further promises and agrees to indemnify and hold CITY harmless from any and all damages resulting from the contraction of COVID-19."

V. Section 30. of the CONTRACT entitled "Ordinances and Standard Provisions" is hereby amended and restated in its entirety as follows in quotation marks:

**30. Ordinances and Standard Provisions.** The "Standard Provisions for City Contracts (Rev. 10/21) [v.4]" are incorporated herein by reference and attached hereto as Exhibit-E. If there is any conflicting language between the "Standard Provisions for City Contracts (Rev. 10/21) [v.4]" and this AGREEMENT, the language of this AGREEMENT shall prevail. LAPC and CONTRACTOR have the same meaning for purposes of the "Standard Provisions for City Contracts (Rev. 10/21) [v.4]." In addition, LAPC will provide documentation of compliance with all required Ordinance Provisions as determined by CITY.

VI. Section 31 of the CONTRACT entitled "Incorporation of Documents" is hereby amended to remove the language "Exhibit-E: Standard Provisions for City Contracts (Rev. 3/09)" and replace it with the following language in quotation marks:

"Exhibit-E: Standard Provisions for City Contracts (Rev. 10/21) [v.4]"

VII. Exhibit-E of the CONTRACT is hereby amended and restated in its entirety as set forth in Attachment A of this First Amendment.

Other than as amended or modified in this First Amendment, all other terms and provisions of the CONTRACT shall remain unchanged and in full force and effect. Should any provision of the CONTRACT conflict with this First Amendment, the terms and conditions of this First Amendment shall prevail.

ATTACHMENT A: Standard Provisions for City Contracts (Rev. 10/21) [v.4]

**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, the parties have executed this FIRST AMENDMENT TO CONTRACT NO. 3516, as of the day and year first written above.

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

LOS ANGELES PÉTANQUE CLUB, 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: \_\_\_\_\_

**AGREEMENT  
BETWEEN CITY OF LOS ANGELES  
AND  
LOS ANGELES PÉTANQUE CLUB, INC.  
FOR THE  
SHARED USE OF THE PÉTANQUE COURTS  
ON PARK PROPERTY AT  
CHEVIOT HILLS RECREATION CENTER**

This AGREEMENT ("AGREEMENT") is entered into as of January 7, 2015, ("COMMENCEMENT DATE") by and between the City of Los Angeles, a municipal corporation acting by and through its Board of Recreation and Park Commissioners ("CITY"), and Los Angeles Pétanque Club, Inc., a California 501(c)(7) non-profit corporation ("LAPC"). CITY and LAPC may be referred to collectively herein as "PARTIES".

WHEREAS, CITY, through its Department of Recreation and Parks ("RAP"), owns and operates real property at Cheviot Hills Recreation Center ("CENTER"), which includes Pétanque Courts designated as Area A and a shared use area designated herein as Area B within the grounds of CENTER ("PREMISES"), located at 2551 Motor Ave., Los Angeles, California 90064, and as depicted on the site map attached hereto and incorporated herein by reference as Exhibit-A; and,

WHEREAS, LAPC, incorporated in 1990, promotes the outdoor bowling game of Pétanque, hosting tournaments at the CENTER; and,

WHEREAS, LAPC provides free weekly Pétanque lessons to the public, instructing players on the proper skills and etiquette of this French originated game; and,

WHEREAS, LAPC has agreed to use and maintain the PREMISES for the operation of a Pétanque program ("PROGRAM") in accordance with the terms and conditions herein to fulfill recreational needs of the residents of the City of Los Angeles; and,

WHEREAS, CITY agreed to accept this offer of operations and maintenance at the meeting of the Board of Recreation and Park Commissioners ("BOARD") on October 16, 2013, Board Report No. 13-265.

NOW THEREFORE, in consideration of the foregoing and the terms and conditions set forth herein and the performance thereof, PARTIES hereby agree as follows:

1. **Use of Premises.** In consideration of the anticipated benefits to the public, the sufficiency of which is mutually acknowledged, CITY grants to LAPC by this AGREEMENT authority to use the PREMISES for the operation of the PROGRAM

and the maintenance of the CENTER's Pétanque Courts as described in the Permitted Uses set forth below, which shall be performed by LAPC in compliance with the terms and conditions of this AGREEMENT, including the payment of Cost Recovery Reimbursement Fees as applicable, and the performance of the maintenance requirements described herein, at the sole cost and expense of LAPC.

2. **Term and Termination.** The performance period authorized under this AGREEMENT (for ease of reference, shall be referred to herein as "TERM") shall be a maximum of ten (10) years, subject to annual performance evaluations ("ANNUAL PERFORMANCE REVIEWS") more fully described below in Section 3 of this agreement.
  - a. **Commencement and Expiration.** This AGREEMENT shall take effect on the date of execution set forth by the COMMENCEMENT DATE above and shall end upon the expiration of the TERM.
  - b. **Termination.** In addition to termination for an uncured breach or default, or if LAPC ceases to operate under this AGREEMENT, or CITY's written termination notice to LAPC effective after sixty (60) calendar days from the date of issuance due to an unfavorable performance review, pursuant to Section 3 of this AGREEMENT ("ANNUAL PERFORMANCE REVIEWS") or for cause during the TERM, either CITY or LAPC may terminate this AGREEMENT by giving the other sixty (60) calendar days advanced written notice. CITY and LAPC reserve the right to terminate this AGREEMENT at their sole discretion for emergency, or necessity. If CITY or LAPC should elect to terminate this AGREEMENT, LAPC agrees to immediately cease all operations and other activity, and to peacefully surrender the PREMISES to CITY within sixty (60) calendar days of receiving or providing a written notice of termination.
  - c. **Cease to Operate.** The phrase "cease to operate" shall mean the first to occur of any of the following: (i) the termination (but not temporary suspension) of LAPC's corporate charter or grant of non-profit status, unless the same is reinstated within sixty (60) calendar days after such termination; (ii) a material change in LAPC's purposes or function as contained in LAPC's corporate charter or grant of non-profit status ("Stated Purposes"); (iii) a material change in the delivery of services by LAPC, as described herein; or (iv) the failure of LAPC to use the PREMISES for any of the PERMITTED USES or any other default of the terms and conditions or other obligations contained in this AGREEMENT, for a consecutive period of sixty (60) calendar days; unless prevented from doing so because of damage, destruction, major repairs or refurbishment of the improvements within the PREMISES, or for reasons beyond LAPC's control.
3. **Annual Performance Reviews.** PARTIES mutually agree to a series of ANNUAL PERFORMANCE REVIEWS, which shall be conducted by RAP to determine the feasibility and benefit of continuing the collaborative relationship between the PARTIES under this AGREEMENT.

- a. Continuance of CITY's collaboration with LAPC shall be contingent upon a favorable ANNUAL PERFORMANCE REVIEW, which shall include, but not be limited to:
  - (i) An evaluation of LAPC's compliance with the terms and conditions of this AGREEMENT;
  - (ii) Fulfillment of LAPC's obligations for the operation and maintenance of the PREMISES under this AGREEMENT, including the provision of programs and/or services performed under the PERMITTED USES specified herein, and further defined by LAPC's LAPC Program attached hereto and incorporated herein by reference as Exhibit-B;
  - (iii) Adequacy of LAPC's funding;
  - (iv) LAPC's cooperation with CITY staff.
- b. Every year during the life of this AGREEMENT, for purposes of completing the ANNUAL PERFORMANCE REVIEW process, LAPC shall submit to RAP during the period of November 1<sup>st</sup> through December 1<sup>st</sup> of each year, an annual performance or program report ("PERFORMANCE REPORT"). This PERFORMANCE REPORT shall cover but not be limited to:
  - (i) Annual Financial summary including Report of Income and Expenditures;
  - (ii) Annual participation results in LAPC's program;
  - (iii) Copies of marketing, recruitment, and press materials; and,
  - (iv) Discussion of program changes or challenges.
  - (v) Copy of Form 990-N Electronic Notice (e-post card)
- c. The RAP General Manager or his or her designee reserves the right to request additional materials or clarifying information after review of the submitted PERFORMANCE REPORT.
- d. CITY's approval to continue the collaborative relationship shall be based on findings obtained through the ANNUAL PERFORMANCE REVIEW, evaluation of the PERFORMANCE REPORT and a review of compliance with the terms and conditions of this AGREEMENT, including interviews with RAP's operations and maintenance staff at the PREMISES, if any are on-site. A sample Performance Evaluation Form is attached hereto and incorporated herein by reference as Exhibit-C. Results of the ANNUAL PERFORMANCE REVIEW may be used in

determining future collaborations with LAPC. CITY shall not unreasonably withhold its determination.

4. **Access to PREMISES.** LAPC and any authorized third party associated with LAPC's activities at the PREMISES will abide by the terms and conditions expressed in this AGREEMENT, and will cooperate fully with CITY's employees in the performance of their duties. Authorized representatives, agents and employees of CITY will have the right to enter the PREMISES for purposes of fulfilling normal duties, performing inspections, conducting events or programs, or in the case of emergencies. Prior notice will be given to LAPC when feasible. If required for public safety, CITY may immediately suspend and/or terminate LAPC activities involving the PREMISES.
  - a. Area A - LAPC Primary Use Area: As depicted by Exhibit-A, the Primary Use Area shall be the approximately 12,700 square foot space which includes the eleven (11) Pétanque courts, (15) benches, (5) picnic tables, storage unit, and several locker units, all in an enclosed area adjacent to the archery range and RAP Maintenance Yard on the northwest corner of CENTER used by LAPC for PROGRAM purposes during hours specified in Section 6 below.
  - b. Area B - Shared Use Area: As depicted by Exhibit-A, the portable restroom area adjacent to said Primary Use Area, shall be shared with the general public.
5. **Permitted Uses.** LAPC shall not expand and/or change the scope of PERMITTED USES without the prior written approval and consent of the BOARD through an amendment to this AGREEMENT. LAPC, at its sole cost and expense, shall:
  - a. Provide free weekly Pétanque lessons to the public to recruit new players and promote the game of Pétanque all in accordance with the provisions of The LAPC Program attached hereto and incorporated herein by reference as Exhibit-B.
  - b. Operate on the PREMISES on a priority basis only during the specified days and hours listed below in Section 6 of this AGREEMENT.
  - c. Have non-priority access all other hours that park is open.
  - d. Maintain PREMISES in accordance with Section 8 of this AGREEMENT.
  - e. Obtain RAP-written permission to install any portable structures such as benches, picnic tables, lockers, sheds, portable toilettes, and outdoor patio heaters that are not permanently attached to PREMISES.
  - f. Secure Patio Heater propane tank(s) at all times when not in use and in compliance with Section 17. Hazardous Substances.

- g. Provide sufficient staff and/or members necessary to perform the operation of its PROGRAM including game playing and the provision of services as agreed to herein, providing all materials, supplies, equipment, and funds necessary to operate the PROGRAM permitted herein to the reasonable satisfaction of CITY.
  - h. Contract privately for the maintenance of a portable toilet exclusively for LAPC use, to be located on shared property adjacent to the portable toilets provided by CITY for public use.
  - i. Ensure LAPC's protocol for selecting and authorizing any person to participate in the PROGRAM activities on the PREMISES complies with applicable CITY, State, and/or Federal protocols for employees, volunteers, contractors and subcontractors engaging in the PERMITTED USES described herein, including maintenance, such as, certifications, licensing, background checks, and finger printing.
  - j. Punctually pay or cause to be paid all financial obligations incurred in connection with the operation and maintenance of the PREMISES. LAPC shall discharge or provide for the discharge of all claims authorized or incurred for labor, equipment, materials, and supplies furnished in connection with LAPC's use of the PREMISES.
  - k. Ensure that no photographs of minors or depiction of their likeness is included in any publication without obtaining prior written consent from the child's parent or legal guardian.
  - l. Understand that the dispensing and/or consumption of beer, wine or other intoxicating liquors (commonly referred to alcoholic beverages) is NOT one of the PERMITTED USES on the PREMISES.
6. **Days and Periods of Use.** LAPC shall be entitled to use the PREMISES on a priority basis to provide the PROGRAM, including both recreationally and competitively; informal play and organized play to the public through functions, events, and other agreed upon uses as follows ("PERMITTED TIMES").
- a. PERMITTED TIMES of Program Operation: 5:00 p.m. - 9:00 p.m., on Monday and Thursday and 10:00 a.m. - 4:00 p.m. on Saturday.
  - b. Saturday morning PROGRAM operation shall include free instruction to the public during a period of four (4) hours and free equipment use during the instruction – subject to LAPC and instructor availability and weather permitting.
  - c. LAPC will be allowed to conduct maintenance, free play, and organized tournaments, one Sunday per month between the hours of 7:00 a.m. – 7:00 p.m.

- d. LAPC will be allowed to conduct fundraising events and membership drives, between the hours of 8:00 a.m. – 4:30 p.m., one weekend quarterly, Saturday or Sunday, with thirty (30) days prior written approval from RAP, as stipulated in Section 23 (Notices) of this AGREEMENT.
  - e. PERMITTEE is aware that CENTER's operating hours are 9:00 a.m. – 10:00 p.m. Monday through Friday, 9:00 a.m. – 5:00 p.m. Saturday, and 10:00 a.m. – 5:00 p.m. Sunday. Additionally, CENTER's staff are unavailable on Federal Holidays. The CENTER is subject to closures at the sole discretion of RAP.
  - f. Special Events: LAPC shall make requests for use of PREMISES or portion thereof for events and activities other than operations, repair, or maintenance, including for any fundraising as authorized in Section 10 below, by completing a Building Use Application at least thirty (30) days in advance of the particular activity or event and submitting it to the contact person for the PREMISES. No application fees will be charged for non-fundraising events or for fundraising events authorized in Section 10. Upon approval by RAP General Manager or his or her designee, which shall not be unreasonably withheld, the event or activity hours may be extended beyond normal closing time, but not beyond 10:30 p.m. in accordance with Los Angeles Municipal Code Section 63.44.
  - g. LAPC shall cooperate with City of Los Angeles personnel and RAP Park staff on all matters relative to the conduct of operations or any activity, event, and/or special use or fundraiser, including concerns related to parking, traffic and attendance.
  - h. LAPC shall further cooperate with RAP on all matters related to RAP sponsored and permitted events and activities at the PREMISES. LAPC may be required to suspend operations of the PREMISES for up to six (6) days per calendar year upon receipt of written notification from the RAP General Manager or his or her designee at least thirty (30) days prior to the event. However, there may be exceptions due to unforeseen circumstances beyond RAP's control. RAP will make every effort to communicate with LAPC in a timely manner with regards to large special events that may affect LAPC's operation of the PREMISES. No financial compensation or other privileges will be provided to LAPC for temporarily ceasing operations and RAP shall have no obligation to provide an alternate or replacement location for LAPC'S use during such period of interruption.
7. **Parking.** During the TERM of this AGREEMENT and during PERMITTED TIMES specified above in Section 6 of this AGREEMENT, LAPC, its staff, and public patrons and/or guests, whether or not involved in LAPC activities at the PREMISES and/or CENTER, shall have the non-exclusive right without charge, to park vehicles within any available parking spaces at the PREMISES on a first-come-first-served basis. Exclusive or designated parking shall not be allowed, unless previously approved in writing by the RAP General Manager or his or her designee.

8. **Maintenance and Repair of Premises.** During the TERM of this AGREEMENT, and subject to the terms and conditions contained herein, PARTIES agree to the following provisions for the Maintenance and Repair of the PREMISES:
- a. LAPC accepts the PREMISES in its condition at execution of this AGREEMENT. RAP shall not have any obligation to repair, remodel, replace, and/or reconstruct any building, facility, feature, or portion of the PREMISES, nor any appliance or fixture thereon, whether installed by CITY or LAPC, and regardless of cause.
  - b. LAPC, in performing all required maintenance and repair of the PREMISES, shall provide all staff and materials, supplies, equipment, and funds necessary to perform appropriate maintenance and/or repairs. All major maintenance and/or major repair shall be performed to the reasonable satisfaction of CITY and in consultation with CITY's designated representative, or by CITY's written request and/or instruction.
  - c. Maintenance to be performed by LAPC during PERMITTED TIMES or as necessary:
    - i. Maintain PREMISES in a clean, sanitary condition removing all debris and trash;
    - ii. Keep the areas within ten (10) feet of PREMISES, clean and safe at all times;
    - iii. Maintain pedestrian paths, common walkways and other designated shared areas;
    - iv. Pick up trash and debris for RAP disposal whether by LAPC's activity or activity of LAPC's contracted vendor;
    - vi. Maintain the LAPC portable toilet and have the portable toilet professionally serviced in accordance with provider recommendations during the length of time the portable toilet is situated on PREMISES.
  - d. LAPC shall immediately repair any damages to the PREMISES which occur during LAPC's operations, or that is caused by its restoration, refurbishment, or maintenance of the PREMISES; LAPC recognizes that any damage which remains unrepaired may constitute a hazard to public safety.
  - e. No offensive or dangerous materials, nor any substance constituting an unnecessary, unreasonable or material hazard detrimental to the public health, shall be permitted or allowed to remain on the PREMISES.
  - f. LAPC shall be responsible for securing the PREMISES during operations and for LAPC's equipment and materials during non-operating hours.

- g. To the extent resources are available, CITY may undertake to maintain or repair improvements, fixtures, trade fixtures, roof systems, plumbing, electrical, heating-ventilation-air conditioning systems, building structure, and/or utility systems in place as of the execution of this AGREEMENT, if originally installed by CITY. LAPC agrees and understands that CITY shall not guarantee any level of maintenance or repair because resource availability is unknown. In the event needed repairs impede the ability of LAPC to conduct operations, LAPC may undertake repairs at no cost to RAP or may suspend operations in accordance with Casualty and Condemnation, Section 16. RAP will provide no maintenance or repair to improvements, fixtures, exterior walls, trade fixtures, roof systems, plumbing, electrical, heating-ventilation-air conditioning systems, building structure, and/or utility systems installed by LAPC.
- h. To the extent that needed repairs are not made, LAPC waives any and all claims against CITY for damages or indemnification as a result of the failure to make repairs.
9. **Funding.** All funds including, grants, donations, or any other funds received by LAPC in connection with the PREMISES related to matters and activities covered by this AGREEMENT, or generated from programs or activities conducted on the PREMISES, shall be applied exclusively to the operation and maintenance of the PREMISES, including the delivery of a Pétanque program and service on the PREMISES, and will be strictly accounted for as provided herein. Such funds shall not be comingled with other funds of LAPC unrelated to this AGREEMENT and /or the operation and maintenance of this PREMISES. If for any reason LAPC fails to secure funding to carry out its obligations and commitments under this AGREEMENT, CITY may and can terminate this AGREEMENT pursuant to a Breach and Default of this AGREEMENT. LAPC may charge its members and of the participants appropriate fees for programs, services, and/or activities offered by LAPC on the PREMISES, in an amount comparable to those fees charged by organizations offering similar programs, services, and/or activities in the community. LAPC may also charge admission fees for special events in an amount comparable to admission fees charged for similar events in the community.
10. **Fundraising.** LAPC may hold fundraising activities on PREMISES, but must obtain prior written approval from the RAP General Manager or his or her designee for each fundraising event no fewer than thirty (30) calendar days prior to the scheduled activity in accordance with the procedure in Section 6. LAPC may have no more than four (4) fundraising events per year with a maximum of one (1) fundraising event per quarter. All monies raised from fundraising conducted at the PREMISES must be used only in support of the activities authorized under this AGREEMENT. Within thirty (30) days of each fundraising event held at the PREMISES, LAPC shall provide a written balance statement for the event that shall detail expenses and revenues, including net funds raised. Fundraising activities shall not include the distribution and/or the consumption of alcoholic beverages in accordance with Section 5.h. of this AGREEMENT.

**11. Consideration.** Pursuant to the terms and conditions of this AGREEMENT, the consideration for this AGREEMENT, in exchange for LAPC's use of the PREMISES, shall be the provision of free pétanque game playing services for the benefit of the general public, at no cost to CITY, and including but not limited to, LAPC's maintenance and/or repair of the PREMISES. CITY shall have no responsibility for payment of any fees for the provision of the PROGRAM at the PREMISES. Additionally, LAPC's use of the PREMISES shall be subject to certain cost recovery reimbursement fees described below.

- a. **Cost Recovery Reimbursement Fee.** During the TERM of the AGREEMENT, ORGANIZATION shall pay an annual Cost Recovery Reimbursement Fee ("CRRF") for costs incurred by RAP related to this AGREEMENT and ORGANIZATION's use of the PREMISES, as approved by the Board on July 19, 2012 (Report No. 12-217), and for utility and/or trash costs not directly paid to providers, as detailed below. The annual Cost Recovery Reimbursement Fee (CCRF) is \$1068.00 to be paid between December 1 and December 31 prior to each current year, as related to LAPC's operation of the PROGRAM on the PREMISES. Cost Recovery Reimbursement Fee(s) may be subject to change with written notice of no less than sixty (60) days in advance. In the event of termination pursuant to Section 2.b., the pro-rated portion of the annual Cost Recovery Reimbursement Fees will be refunded to LAPC.
- b. **Utilities.** Pursuant to the RAP policy regarding utility payments for services provided at park facilities operated by non-profit organizations and other collaborating entities, approved by the Board on July 13, 2011 (Report No. 11-202), the cost of utility services to the PREMISES (electricity, gas, water) shall be the sole responsibility of LAPC. Such utility expenses shall be paid directly by LAPC to the utility service provider(s) where feasible, or recovered by RAP through utility fee reimbursements if not. The annual Utility fee is \$96.00 and is included in the CRRF in paragraph 11.a. above.
- c. **Trash and Solid Waste Disposal.** Pursuant to the RAP policy regarding trash and solid waste disposal for services provided at park facilities operated by non-profit organizations and other collaborations, approved by the Board on February 1, 2012 (Report No. 12-028), removal of waste, trash and recyclables must be at the sole expense of LAPC with services of non-CITY provider, billed directly to LAPC where feasible, or recovered by RAP through fees if not. The annual Trash fee is \$144.00 and is included in the CRRF in paragraph 11.a. above.
- d. **Telephone and Data Lines.** LAPC shall be responsible for the cost of telephone and data lines utilized on PREMISES and shall pay the service provider directly. CITY shall bear no costs in regards to the telephone and data lines on PREMISES that LAPC uses.
- e. **Staff Impact.** Pursuant to RAP policy regarding impact of non-profit organization's activities operating on park property, approved by the Board on

July 19, 2012 (Report 12-217), the annual Staff Impact fee is \$828.00 and is included in the CRRF in paragraph 11.a. above.

- f. **Cost Recovery Reimbursement Fee Payments.** 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 LAPC is wholly responsible for timely payment of Cost Recovery Fees regardless of written notification which is not required.

Payments are to be mailed to:

City of Los Angeles Department of Recreation and Parks  
Attn: Partnership Division  
3900 Chevy Chase Drive, mail stop 628-9  
Los Angeles, California 90039

12. **Alterations, Improvements and Replacements.** No physical alterations, additional improvements, and/or replacements shall be made to existing improvements on the PREMISES without prior written authorization by CITY. LAPC shall provide CITY detailed information and specifications for review and written approval by CITY, including but not limited to an explanation of the project scope of work, design or architectural plans, renderings or models, budget and funding source information for capital improvement projects, and any other information reasonably requested by CITY. Unless agreed to in advance, all project associated costs shall be paid at the sole expense of LAPC.

13. **Capital Project Proposal.** When proposing a project involving any alterations, additional improvements, and/or replacements to the PREMISES, LAPC shall adhere to the following guidelines and instructions for submitting a proposed project for CITY's consideration:

- a. Submit a project proposal for CITY review and presentation for conceptual approval by the BOARD, if necessary. The proposal should include but is not limited to, project objectives, conceptual drawings, a written description of the project's scope of work, general project details and requirements, and estimated preliminary budget.
- b. Should the project be conceptually approved by the BOARD, LAPC will be authorized to perform any required preliminary work or site assessments, either through a right-of-entry permit if required, or the CITY's authority and/or this AGREEMENT.
- c. Depending on the scope of work and magnitude of the proposed project, LAPC may be assessed an administrative fee to be determined by RAP, for project review and all services provided by CITY staff. Such fee shall be paid to the

“City of Los Angeles Department of Recreation and Parks” and shall have been paid in full prior to CITY conceptual approval of the proposed project.

- d. If necessary and pursuant to the recommendation of the City Attorney, a development agreement shall be prepared to set forth the terms and conditions under which the proposed project shall be implemented, depending on the scope of work and project magnitude.
- e. When prepared, LAPC shall submit 50% and 90% complete design drawings for CITY review and approval. Upon CITY’s approval, all design and architectural work shall be completed by a California licensed architect and/engineer.
- f. PARTIES shall submit a proposed development agreement and final plans and specifications, respectively, to the BOARD for its consideration and final project approval.
- g. LAPC shall obtain, at its own cost and expense, all necessary and/or required City, County, State, and/or Federal permits, approvals, licenses, and/or authorizations for project implementation, including but not limited to environmental clearances, in compliance with the California Environmental Quality Act (CEQA).
- h. LAPC shall submit approved plans and specifications for final approval to:  
  
Assistant General Manager, Planning, Construction, and Maintenance  
City of Los Angeles Department of Recreation and Parks,  
221 N. Figueroa Street, Suite 100,  
Los Angeles, CA 90012
- i. Upon receipt of final approval, commence construction in coordination with CITY staff.

14. **Insurance.** Before occupying the PREMISES under this AGREEMENT and periodically as required during its TERM, LAPC shall furnish CITY with evidence of insurance from firms reasonably acceptable to CITY and approved to do such business in the State of California. LAPC or any third party providing work or services under this AGREEMENT shall name the City of Los Angeles and its boards, officers, agents, employees, assigns and successors in interest as an additional insured for all required coverages, as applicable. LAPC will ensure that like insurance will be maintained by any such third party. Evidence of required coverage shall be on forms reasonably acceptable to CITY’s Risk Manager and shall include the types and minimum limits set forth in Exhibit-D attached hereto and incorporated herein by reference.

- a. LAPC shall maintain all such insurance at its sole cost and expense throughout the TERM of this AGREEMENT. CITY may, by applying generally accepted risk

management principles, change the required amounts and types of insurance to be effective at the renewal date of the insurance then in effect by giving LAPC sixty (60) calendar days written notice, provided that such amounts and/or types shall be reasonably available to LAPC.

- b. If any of the required insurance contains aggregate limits or applies to other operations of LAPC outside of this AGREEMENT, LAPC shall give CITY written notice of any incident, occurrence, claim, settlement or judgment against such insurance that in LAPC's best judgment may diminish the protection such insurance affords CITY within thirty (30) calendar days of the knowledge of same. LAPC shall further restore such aggregate limits or shall provide other replacement insurance for such aggregate limits within sixty (60) calendar days of the knowledge of same.
  - c. If an insurance company elects to cancel insurance before the stated expiration date, declines to renew in the case of a continuous policy, reduces the stated limits other than by impairment of an aggregate limit or materially reduces the scope of coverage, thereby affecting CITY's interest, LAPC will provide CITY at least thirty (30) calendar days (ten (10) calendar days for non-payment of premium) prior written notice of such intended election. The notice will be sent by receipted delivery addressed as follows: City Administrative Officer, Risk Management, 200 North Main Street, Room 1240, City Hall East, Los Angeles, California 90012, or to such address as CITY may specify by written notice to LAPC.
  - d. LAPC's failure to procure and maintain the required insurance shall constitute a material breach of this AGREEMENT under which CITY may immediately terminate the AGREEMENT or, at its discretion, pay to procure or renew such insurance to protect CITY's interest; LAPC agrees to reimburse CITY for all money so paid.
  - e. Self-insurance programs and self-insured retention in insurance policies are subject to separate approval by CITY upon review of evidence of LAPC's financial capacity. Additionally, such programs or retention must provide CITY with an equivalent protection from liability.
15. **Indemnification**. Except for the active negligence or willful misconduct of CITY, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, LAPC undertakes and agrees to defend, indemnify and hold harmless the City and any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including but not limited to, attorneys' fees (both in house and outside counsel) and costs of litigation (including all actual litigation cost incurred by the CITY, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including LAPC's employees and agents, or damage or destruction of any PREMISES of the

negligent acts, errors, omission or willful misconduct incident to the performance of this AGREEMENT by LAPC or its subcontractors of any tier. Rights and remedies available to the CITY under this provision are cumulative of those provided for elsewhere in this AGREEMENT and those allowed under the law of the United State, the State of California, and the CITY. This provision shall survive the expiration or termination of this AGREEMENT.

16. **Casualty and Condemnation.** LAPC shall be excused from its obligations in this AGREEMENT with respect to the operation, maintenance and repair of any portion of the PREMISES or any improvement there damaged by casualty or taken by condemnation until any such portion or improvement is restored to LAPC's use. CITY shall not be obligated to restore PREMISES damaged by casualty in whole or in part. If PREMISES is taken by condemnation, CITY shall not be obligated to provide LAPC a replacement property for LAPC's use.
17. **Hazardous Substances.** PARTIES agree that PREMISES shall be used in a manner consistent with its intention for pétanque game playing purposes and within the scope of use set forth above. LAPC shall use PREMISES in compliance with laws pertaining to hazardous substances. As used herein, "hazardous substances" shall mean any product, chemical, material or waste whose nature, quantity and/or intensity of presence, use, manufacture, disposal, transportation, spill, release or effect, either by itself or in combination with other such substances, is either: (a) potentially injurious to public health, safety or welfare or injurious to the environment; (b) regulated or monitored by any governmental authority; or (c) a basis for liability of CITY or LAPC to any governmental agency or third party under applicable statute.
18. **Publicity.** CITY and LAPC agree to cooperate and coordinate with respect to the nature, text, and timing of any press release or public announcement(s) concerning the existence of this AGREEMENT, the use or promotion of the PREMISES, the acquisition of any real property, or construction of any improvements at the PREMISES, except as may be legally required by applicable laws, regulations, or judicial order. CITY and LAPC agree to notify each other in writing of any press release, public announcement, marketing or promotion of the PREMISES. Further, any press release, public announcement, marketing materials, or brochures prepared by either CITY or LAPC, shall appropriately acknowledge the contributions of both CITY and LAPC. To the extent stipulated in any grant agreement, the CITY and LAPC shall duly notify any grantors, and each other, prior to any public or media event publicizing the accomplishments funded by any grant agreement, and shall provide the opportunity for attendance and participation by grantor representatives. Further, CITY and LAPC shall coordinate the scheduling and organization of any public or media event to provide the opportunity for attendance and participation by officials and/or representatives of both CITY and LAPC; including elected officials and public officials. Similarly, any document, written report, or brochure prepared by either CITY or LAPC, 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.

LAPC agrees that any public release or distribution of information related to this AGREEMENT or related project, programs or services, shall include the following statement at the beginning or introduction of such release:

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

19. **Signage.** No signs or banners of any kind will be displayed unless previously approved in writing by the BOARD and/or RAP General Manager or his or her designee. On signage at PREMISES, LAPC shall provide the following credit or as proportions of signage allow similar credit as approved by RAP in writing:

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

20. **Filming.** It is the policy of the CITY to facilitate the use of City-controlled properties as film locations when appropriate. RAP has established a Park Film Office to coordinate use of park PREMISES for film production purposes. Any commercial filming at shall be subject to approval by RAP and the Film Office. All fees for use of park PREMISES by film production companies shall be established and collected by the Film Office in accordance with CITY and RAP policies. The Park Film Office may be reached at (323) 644-6220. LAPC shall not charge any fees for film production conducted at PREMISES.

21. **Breach or Default by LAPC.** The following occurrences constitute events of breach or default of this AGREEMENT: LAPC materially fails in the performance of any provision or condition of this AGREEMENT, such as failure to maintain required insurance coverage, failure to comply with applicable legal requirements, failure to pay assessed fees or utility charges, or failure to fulfill the obligation to operate, maintain and repair the PREMISES as specified herein. LAPC’s attempt to assign rights or obligations under this AGREEMENT without CITY’s prior written consent shall also constitute an event of breach or default.

22. **Breach or Default by LAPC – CITY’s Remedies.** Upon the occurrence of one or more events of breach or default by LAPC, CITY may, at its election and without waiving any right to select any other remedy provided in this Section or elsewhere in this AGREEMENT, initiate any of the following:

- a. **Notice to Cure Breach or Default.** CITY may issue a written notice of breach or default to LAPC, and if LAPC does not cure said breach or default within thirty (30) calendar days of receipt of said notice, CITY may, by delivering a second written notice to LAPC, terminate this AGREEMENT without further delay, whereupon LAPC shall vacate the PREMISES within thirty (30) calendar days. For a breach or default involving sanitary or safety conditions, the cure period is reduced to seven (7) calendar days.

b. CITY's Right to Cure. CITY at its sole discretion and with no obligation to do so, subject to any applicable conditions and limitations set forth elsewhere in this AGREEMENT, may, after a continuing breach or default by LAPC, perform or cause to be performed any of LAPC's unperformed obligations under this AGREEMENT. CITY may enter the PREMISES and remain there for the purpose of correcting or remedying the continuing breach or default. Such action by CITY shall not be deemed to waive or release said breach or any default or CITY's right to take further, preventative action.

23. Notices. Any notice, request for consent, or statement ("NOTICE"), that CITY or LAPC 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 LAPC may designate a different address for any NOTICE by written statement to the other in accordance with the provisions of this Section. A NOTICE 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:

Partnership Division  
City of Los Angeles Department of Recreation and Parks  
3900 Chevy Chase Drive, mail stop 628-9  
Los Angeles, California 90039  
Tel.: (818) 243-6488; fax: (818) 243-6447

If to LAPC:

LOS ANGELES PETANQUE CLUB, INC.  
c/o ~~Vance Gordan~~, President  
P.O. Box 641595  
Los Angeles, CA 90064  
Tel.: (310) 479-5230

*William Widmaier*

24. Representations and Warranties. CITY and LAPC each represents and warrants to the other that it has full power and authority to execute this AGREEMENT and to perform its obligations and requirements hereunder. This AGREEMENT constitutes the valid and legal binding obligation of CITY and LAPC, enforceable in accordance with its terms and conditions.

25. No Joint Venture or Agency Relationship. Nothing herein contained shall be construed to place the PARTIES to this AGREEMENT in the relationship of a joint venture, association, partnership, or other form of a business organization or agency

relationship. LAPC shall have no power to obligate or bind CITY in any manner whatsoever. Further, under no circumstances will LAPC represent itself to be an agent of the CITY or any of its departments. Nothing in this AGREEMENT may be construed to have authorized or vested in LAPC the power to be an agent of the CITY or an actor under the color of law, be it civilly or criminally

26. **Approval of Sub-Leases or Sub-Agreements.** Any operation, services, or activity conducted on the PREMISES on behalf of the LAPC by a third party, including but not limited to the sale of food and/or beverages or other items, shall be subject to prior written approval by the RAP General Manager or his or her designee. In addition, any concession or other sub-lease or sub-agreement affecting the PREMISES shall be filed with the RAP General Manager or his or her designee for review and written approval no fewer than sixty (60) calendar days before the date LAPC proposes to implement the sub-lease or sub-agreement. No sub-lease or sub-agreement shall take effect unless approved by CITY. LAPC shall require all individuals and organizations providing programs or services within the PREMISES to agree in writing to abide by all conditions set forth in this AGREEMENT.
27. **Merchandise.** No merchandise shall be sold by LAPC on PREMISES without the prior written consent of the RAP General Manager or his or her designee.
28. **Safety Practices.** LAPC shall correct violations of safety practices immediately and shall cooperate fully with CITY in the investigation of accidents or deaths occurring on the PREMISES. In the event of death or serious injury (requiring an emergency room hospital visit), LAPC must notify the Director-in-Charge at the Cheviot Hills Recreation Center specified in Section 29 as soon as possible but no later than twenty-four (24) hours after the incident. Notice of non-serious injuries occurring on the PREMISES shall be provided to the Director-in-Charge at the Cheviot Hills Recreation Center specified in Section 29 within seventy-two (72) hours. LAPC shall keep internal documentation of the incident(s) and provide RAP General Manager or his or her designee with such information upon request.
29. **Recreation Center Contact.** Cheviot Hills Recreation Center Operations and Maintenance staff for the PREMISES may be contacted at the following numbers:
- Daily Operations and Maintenance, Director-in-Charge, Tel: (310) 837-5186.
30. **Ordinances and Standard Provisions.** The "Standard Provisions for City Contracts (Rev. 3/09)" are incorporated herein by reference and attached hereto as Exhibit-E. If there is any conflicting language between the "Standard Provisions for City Contracts (Rev. 3/09)" and this AGREEMENT, the language of this AGREEMENT shall prevail. LAPC and CONTRACTOR have the same meaning for purposes of the "Standard Provisions for City contracts (Rev. 3/09)." In addition, LAPC will provide documentation of compliance with all required Ordinance Provisions as determined by CITY.

31. **Incorporation of Documents.** This AGREEMENT and incorporated documents represent the entire integrated agreement of the parties and supersedes all prior written or oral representations, discussions, and agreements. The following documents are incorporated and made a part hereof by reference.

Exhibit-A: Site Map

Exhibit-B: The LAPC Program

Exhibit-C: Sample Performance Evaluation Form

Exhibit-D: Insurance Requirements

Exhibit-E: Standard Provisions for City Contracts (Rev. 3/09)

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

*[Signature Page to Follow]*

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

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

LOS ANGELES PÉTANQUE CLUB, INC., a 501(c)(7) California non-profit corporation

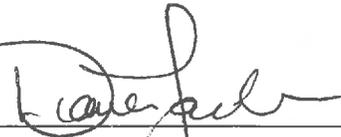
By:   
President

By: 

By:   
Secretary

Title: PRESIDENT

Date: 1/7/2015

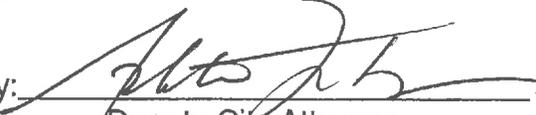
By: 

Title: Secretary

**APPROVED AS TO FORM:**

MICHAEL N. FEUER, City Attorney

Date: 12/20/14

By:   
Deputy City Attorney

Date: 1/7/2015

**EXHIBIT - A**  
**SITE MAP**

Pursuant to Section 1 of this AGREEMENT, the PREMISES located at 2551 Motor Ave., Los Angeles, CA 90064, within the grounds of Cheviot Hills Recreation Center is delineated below within the red lines. Area A includes approximately 12,700 sq. ft. area consisting of eleven (11) Pétanque courts, (15) benches, (5) picnic tables, storage unit, and several locker units all in an enclosed gated area adjacent to the archery range and RAP maintenance yard at the northwest corner of the CENTER used by LAPC for PROGRAM purposes during LAPC specified hours. Area B includes a shared use area for both CITY portable toilettes and LAPC's portable toilette. LAPC's portable toilette to be used by LAPC.



LAPC located within Cheviot Hills Recreation Center

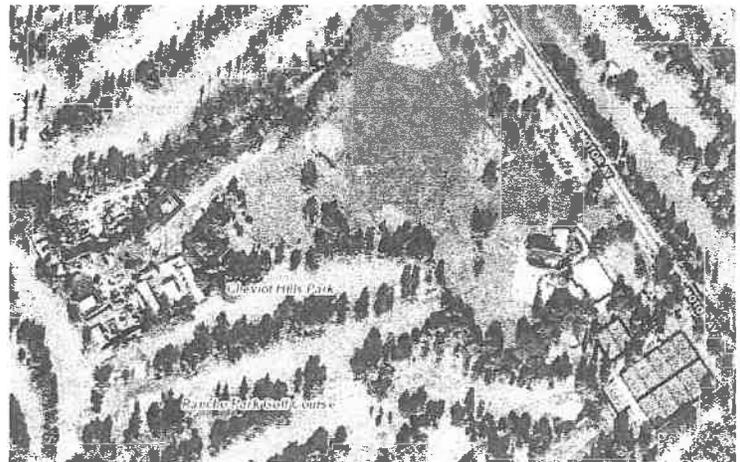
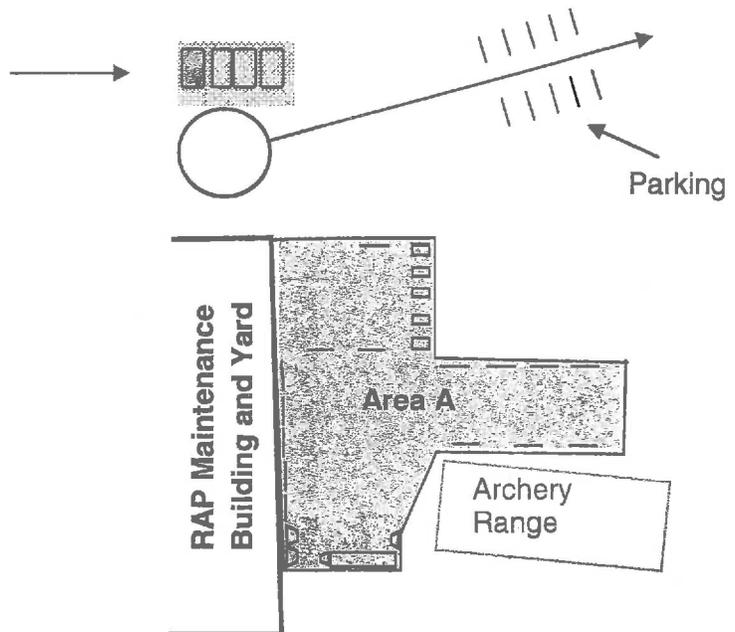


Diagram not to scale

**Area B:**  
Portable Restroom Area

Indicates  
Primary Use  
during  
operational  
hours

Indicates  
Shared Use  
with Public



**EXHIBIT- B**  
**The LAPC Program**

Exhibit B: The LAPC Program

The Los Angeles Petanque Club (LAPC) is a sport club which exists to play and promote the game of petanque as a public recreational activity and to provide free informal instruction in the game for interested newcomers. It is currently one of forty-two petanque clubs in the United States affiliated with the Federation Petanque USA. LAPC operates as a 501.c.7 non-profit corporation. It is a volunteer organization with no employees.

LAPC sponsors organized play from 5:00 – 9:00 PM on Monday and Thursday evenings, and on Saturdays from 10:00 – 4:00 PM. Members are regularly available on Saturdays to provide informal instruction in the game to newcomers and to lend them equipment at no cost. LAPC also sponsors tournaments on a monthly basis, generally on Sundays.

In collaboration with the City of Los Angeles Department of Recreation and Parks, the LAPC maintains a terrain with eleven petanque courts in the Cheviot Hills Recreation Center. These courts are used on a priority basis for organized play by LAPC during the hours specified above and are available to the public at large (including LAPC) on a non-priority basis at all other times that the park is open. Children are welcome when accompanied by a responsible adult. ADA accessibility ramps are available during organized play upon request.

## EXHIBIT- C

### Sample Performance Evaluation Form



**City of Los Angeles Department of Recreation and Parks  
PARTNERSHIP DIVISION**

### CONSOLIDATED PERFORMANCE REVIEW

<b>PARTNER ORGANIZATION</b>	
<b>PROJECT/PROGRAM TITLE</b>	<b>ONE-TIME or ROE</b> <input type="checkbox"/>
	<b>ANNUAL</b> <input type="checkbox"/>
<b>DEPARTMENT FACILITY(IES)</b>	
<b>PERIOD COVERED</b>	<b>DATE OF INSPECTION</b>

	Unsatisfactory	Improvement Needed	Meets Standards	Exceeds Standard	Outstanding
<b>PROGRAM</b>	<input type="checkbox"/>				
Partnership enhances recreational opportunities (no duplication)					
Participants enjoying/engaged in program based on inspection or oral/written feedback					
Participation appears to include reasonable proportion from the local community and inclusion of special needs participants					
Instructors are specialized, licensed, experienced, and have an appropriate level of education; they are professional, polite, and prepared					
Participants show progress (if applicable)					
	<input type="checkbox"/>				
<b>FINANCIAL</b>	<input type="checkbox"/>				
Cost of the program is free, low cost, or relatively similar to programs in same community and consistent with agreement					
Partner's annual budget is provided and is sufficiently funded for commitment					
Partner pays on-time and according to requirements					
	<input type="checkbox"/>				
<b>OUTREACH</b>	<input type="checkbox"/>				
Number of participants reaches or exceeds target					
Recruits new participants					
Provides demographic information and analysis and/or surveys of participants					
Marketing material includes "In collaboration with the City of Los Angeles, Department of Recreation & Parks" and Department logo					
Partner web site links to the RAP web site					
Department approves marketing material					

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CONSOLIDATED PERFORMANCE REVIEW – PAGE 2

ORGANIZATION
TITLE
PERIOD COVERED

	Unsatisfactory	Improvement Needed	Meets Standards	Exceeds Standard	Outstanding
<b>SAFETY</b>	<input type="checkbox"/>				
Employees and volunteers of partnership programs are fingerprinted and written verification is provided					
Provides liability insurance that includes the City of Los Angeles, Department of Recreation and Parks as determined by City Risk Manager (check website)					
Adequate program staff to provide proper supervision and safety					
All equipment and instructional supplies adhere to Department safety specifications and requirements					
Maintains designated areas in clean and orderly condition					
	Unsatisfactory	Improvement Needed	Meets Standards	Exceeds Standard	Outstanding
<b>ORGANIZATION</b>	<input type="checkbox"/>				
The value of the partnership is provided and partner is meeting program requirements					
Maintains good communication and a professional relationship with the Department					
Compliance with the terms of the agreement including proof of non-profit status (if applicable – check websites)					
Provides required written reports including Annual Report					
Sub-leasing is not occurring					
Department has control over property usage during non-designated times (if applicable)					
Compliance Resolutions completed satisfactorily (if any)					
Public Complaints resolved (if any)					
Capital improvement projects are in conformance with City Standards and in coordination with the Department and Bureau of Engineering (if applicable)					
<b>OVERALL EVALUATION</b>	<input type="checkbox"/>				

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**CONSOLIDATED PERFORMANCE REVIEW – PAGE 3**

<b>ORGANIZATION</b>	
<b>TITLE</b>	
<b>PERIOD COVERED</b>	

<p><b><u>ADDITIONAL COMMENTS / RESULTS / RECOMMENDATIONS</u></b>  <i>Include RAP Staff feedback and participant comments</i></p>
--

<b>NAME AND TITLE OF EVALUATOR</b>	
<b>SIGNATURE OF EVALUATOR</b>	<b>DATE</b>
<b>NAME AND TITLE OF EVALUATION REVIEWER</b>	
<b>SIGNATURE OF REVIEWER</b>	<b>DATE</b>

<p><b>ATTACHMENTS</b>  <input type="checkbox"/> Compliance Resolution Forms           <input type="checkbox"/> Public Comments           <input type="checkbox"/> Flyers and PR Materials           <input type="checkbox"/> Photos           <input type="checkbox"/> Program Forms  <input type="checkbox"/> Annual Report   <input type="checkbox"/> Budget   <input type="checkbox"/> Inspection(s)   <input type="checkbox"/> Compliance Check   <input type="checkbox"/> Legal/Insurance Status   <input type="checkbox"/> Other _____</p>
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Rev February 2012

## EXHIBIT- D INSURANCE REQUIREMENTS

Form Gen. 146 (Rev. 9/06)

### Required Insurance and Minimum Limits

Name: LOS ANGELES PÉTANQUE CLUB, INC. Date: 11/30/2012

Agreement/Reference: Shared Use of Petanque Courts on Park Property at Cheviot Hills 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
<hr/>	
<input type="checkbox"/> <b>Workers' Compensation - Workers' Compensation (WC) and Employer's Liability (EL)</b>	WC <u>Statutory</u>
	EL _____
<input type="checkbox"/> Waiver of Subrogation in favor of City <span style="margin-left: 200px;"><input type="checkbox"/> Longshore &amp; Harbor Workers</span> <span style="margin-left: 200px;"><input type="checkbox"/> Jones Act</span>	
<hr/>	
<input checked="" type="checkbox"/> <b>General Liability</b> _____	<b>\$1,000,000</b>
<input checked="" type="checkbox"/> Products/Completed Operations <span style="margin-left: 200px;"><input type="checkbox"/> Sexual Misconduct _____</span> <input type="checkbox"/> Fire Legal Liability _____ <input type="checkbox"/> _____	
<hr/>	
<input type="checkbox"/> <b>Automobile Liability</b> (for any and all vehicles used for this contract, other than commuting to/from work)	_____
<hr/>	
<input type="checkbox"/> <b>Professional Liability</b> (Errors and Omissions)	_____
Discovery Period _____	
<hr/>	
<input type="checkbox"/> <b>Property Insurance</b> (to cover replacement cost of building - as determined by insurance company)	_____
<input type="checkbox"/> All Risk Coverage <span style="margin-left: 200px;"><input type="checkbox"/> Boiler and Machinery</span> <input type="checkbox"/> Flood _____ <span style="margin-left: 200px;"><input type="checkbox"/> Builder's Risk</span> <input type="checkbox"/> Earthquake _____ <span style="margin-left: 200px;"><input type="checkbox"/> _____</span>	
<hr/>	
<input type="checkbox"/> <b>Pollution Liability</b>	_____
<hr/>	
<input type="checkbox"/> <b>Surety Bonds - Performance and Payment (Labor and Materials) Bonds</b>	100% of the contract price
<input type="checkbox"/> <b>Crime Insurance</b>	_____

Other: 1) If the non-profit corporation has no employees and decides to not cover themselves for workers' compensation, please complete the form entitled "Request for Waiver of Workers' Compensation Insurance Requirement" located at: <http://cao.lacity.org/risk/InsuranceForms.htm>  
2) In absence of imposed Auto Liability insurance requirements, all non-profit corporation use of vehicles during the course of their contract must adhere to the financial responsibility laws of 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 preferred method of submitting your documents. **Track4LA™** is the CITY's online insurance compliance system and is designed to make the experience of submitting and retrieving insurance information quick and easy. The system is designed to be used primarily by insurance brokers and agents as they submit client insurance certificates directly to the City. It uses the standard insurance industry form known as the **ACORD 25 Certificate of Liability Insurance** in electronic format – the CITY is a licensed redistributor of ACORD forms. **Track4LA™** advantages include standardized, universally accepted forms, paperless approval transactions (24 hours, 7 days per week), and security checks and balances. The easiest and quickest way to obtain approval of your insurance is to have your insurance broker or agent access **Track4LA™** at <http://track4la.lacity.org> and follow the instructions to register and submit the appropriate proof of insurance on your behalf.

Insurance industry certificates other than the ACORD 25 that have been approved by the State of California, may be accepted, however ***submissions other than through Track4LA™ will significantly delay the insurance approval process as documents will have to be manually processed.*** All Certificates must provide a thirty (30) days' cancellation notice provision (ten (10) days for non-payment of premium) AND an Additional Insured Endorsement naming the CITY an additional insured completed by your insurance company or its designee. If the policy includes an automatic or blanket additional insured endorsement, the Certificate must state the CITY is an automatic or blanket additional insured. An endorsement naming the CITY an Additional Named Insured and Loss Payee as Its Interests May Appear is required on property policies. All evidence of insurance must be authorized by a person with authority to bind coverage,

whether that is the authorized agent/broker or insurance underwriter. Completed **Insurance Industry Certificates other than ACORD 25 Certificates** are sent electronically to [CAO.insurance.bonds@lacity.org](mailto:CAO.insurance.bonds@lacity.org).

Additional Insured Endorsements DO NOT apply to the following:

- Indication of compliance with statute, such as Workers' Compensation Law.
- Professional Liability insurance.

Verification of approved insurance and bonds may be obtained by checking **Track4LA™**, the CITY's online insurance compliance system, at <http://track4la.lacity.org>.

4. **Renewal** When an existing policy is renewed, have your insurance broker or agent submit a new Acord 25 Certificate or edit the existing Acord 25 Certificate through **Track4LA™** at <http://track4la.lacity.org>.

5. **Alternative Programs/Self-Insurance** Risk financing mechanisms such as Risk Retention Groups, Risk Purchasing Groups, off-shore carriers, captive insurance programs and self-insurance programs are subject to separate approval after the CITY has reviewed the relevant audited financial statements. To initiate a review of your program, you should complete the Applicant's Declaration of Self Insurance form (<http://cao.lacity.org/risk/InsuranceForms.htm>) to the Office of the City Administrative Officer, Risk Management for consideration.

6. **General Liability** insurance covering your operations (and products, where applicable) is required whenever the CITY is at risk of third-party claims which may arise out of your work or your presence or special event on City premises. **Sexual Misconduct** coverage is a required coverage when the work performed involves minors. **Fire Legal Liability** is required for persons occupying a portion of CITY premises. (Information on two CITY insurance programs, the SPARTA program, an optional source of low-cost insurance which meets the most minimum requirements, and the Special Events Liability Insurance Program, which provides liability coverage for short-term special events on CITY premises or streets, is available at ([www.2sparta.com](http://www.2sparta.com)), or by calling (800) 420-0555.

7. **Automobile Liability** insurance is required only when vehicles are used in performing the work of your Contract or when they are driven off-road on CITY premises; it is not required for simple commuting unless CITY is paying mileage. However, compliance with California law requiring auto liability insurance is a contractual requirement.

8. **Errors and Omissions** coverage will be specified on a project-by-project basis if you are working as a licensed or other professional. The length of the claims discovery period required will vary with the circumstances of the individual job.

9. **Workers' Compensation and Employer's Liability** insurance are not required for single-person contractors. However, under state law these coverages (or a copy of the state's Consent To Self Insure) must be provided if you have any employees at any time during the period of this contract. Contractors with no employees must complete a Request for Waiver of Workers' Compensation Insurance Requirement (<http://cao.lacity.org/risk/InsuranceForms.htm>). A **Waiver of Subrogation** on the coverage is required only for jobs where your employees are working on CITY premises under hazardous conditions, e.g., uneven terrain, scaffolding, caustic chemicals, toxic materials, power tools, etc. The Waiver of Subrogation waives the insurer's right to recover (from the CITY) any workers' compensation paid to an injured employee of the contractor.

10. **Property Insurance** is required for persons having exclusive use of premises or equipment owned or controlled by the CITY. **Builder's Risk/Course of Construction** is required during construction projects and should include building materials in transit and stored at the project site.

11. **Surety** coverage may be required to guarantee performance of work and payment to vendors and suppliers. A **Crime Policy** may be required to handle CITY funds or securities, and under certain other conditions. **Specialty coverages** may be needed for certain operations. For assistance in obtaining the CITY required bid, performance and payment surety bonds, please see the City of Los Angeles Bond Assistance Program website address at <http://cao.lacity.org/risk/BondAssistanceProgram.pdf> or call (213) 258-3000 for more information.

**EXHIBIT- E**  
**Standard Provisions for City Contracts**

# STANDARD PROVISIONS FOR CITY CONTRACTS

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## **STANDARD PROVISIONS FOR CITY CONTRACTS**

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

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

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

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

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

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

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

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

**PSC-4. TIME OF EFFECTIVENESS**

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

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

**PSC-5. INTEGRATED CONTRACT**

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

**PSC-6. AMENDMENT**

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

**PSC-7. EXCUSABLE DELAYS**

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

**PSC-8. BREACH**

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

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

**PSC-9. WAIVER**

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

**PSC-10. TERMINATION**

**A. TERMINATION FOR CONVENIENCE**

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

**B. TERMINATION FOR BREACH OF CONTRACT**

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

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

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

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

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

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

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

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

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

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

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

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

**PSC-14. PERMITS**

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

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

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

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

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

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

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

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

**PSC-18. FALSE CLAIMS ACT**

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

**PSC-19. BONDS**

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

**PSC-20. INDEMNIFICATION**

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

**PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION**

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

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

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

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

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

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

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

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

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

#### **PSC-24. INSURANCE**

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

#### **PSC-25. DISCOUNT TERMS**

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

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

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

#### **PSC-27. NON-DISCRIMINATION**

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

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

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

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

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

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

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

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

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

**PSC-29. AFFIRMATIVE ACTION PROGRAM**

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

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

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

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

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

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

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

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

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

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

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

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

**CONTRACTOR** certifies that, to the best of its knowledge, it is fully complying with the Earnings Assignment Orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

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

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

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

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

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

**PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE**

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

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

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

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

**PSC-35. EQUAL BENEFITS ORDINANCE**

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

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

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

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

**PSC-36. SLAVERY DISCLOSURE ORDINANCE**

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

**EXHIBIT 1**

**INSURANCE CONTRACTUAL REQUIREMENTS**

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

**CONTRACTUAL REQUIREMENTS**

**CONTRACTOR AGREES THAT:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

		Limits
<input type="checkbox"/> Workers' Compensation – Workers' Compensation (WC) and Employer's Liability (EL)	WC EL	<u>Statutory</u> _____
<input type="checkbox"/> Waiver of Subrogation in favor of City	<input type="checkbox"/> Longshore & Harbor Workers <input type="checkbox"/> Jones Act	
<input type="checkbox"/> General Liability		
<input type="checkbox"/> Products/Completed Operations	<input type="checkbox"/> Sexual Misconduct _____	
<input type="checkbox"/> Fire Legal Liability _____		
<input type="checkbox"/> _____		
<input type="checkbox"/> Automobile Liability (for any and all vehicles used for this Contract, other than commuting to/from work)		
<input type="checkbox"/> Professional Liability (Errors and Omissions)		
<input type="checkbox"/> Property Insurance (to cover replacement cost of building – as determined by insurance company)		
<input type="checkbox"/> All Risk Coverage	<input type="checkbox"/> Boiler and Machinery	
<input type="checkbox"/> Flood _____	<input type="checkbox"/> Builder's Risk	
<input type="checkbox"/> Earthquake _____	<input type="checkbox"/> _____	
<input type="checkbox"/> Pollution Liability		
<input type="checkbox"/> _____		
<input type="checkbox"/> Surety Bonds – Performance and Payment (Labor and Materials) Bonds		100 % of Contract Price
<input type="checkbox"/> Crime Insurance		_____
Other: _____ _____ _____		

**ATTACHMENT A**

Standard Provisions for City Contracts (Rev. 10/21) [v.4]

# 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](http://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.

### **PSC-44. COVID-19**

Employees of Contractor and/or persons working on its behalf, including, but not limited to, subcontractors (collectively, “Contractor Personnel”), while performing services under this Agreement and prior to interacting in person with City employees, contractors, volunteers, or members of the public (collectively, “In-Person Services”) must be fully vaccinated against the novel coronavirus 2019 (“COVID-19”). “Fully vaccinated” means that 14 or more days have passed since Contractor Personnel have 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 have been fully vaccinated. Contractor shall retain such proof for the document retention period set forth in this Agreement. Contractor shall grant medical or religious exemptions (“Exemptions”) to Contractor Personnel as required by law. If Contractor wishes to assign Contractor Personnel with Exemptions to perform In-Person Services, Contractor shall require such Contractor Personnel to undergo weekly COVID-19 testing, with the full cost of testing to be borne by Contractor. If Contractor Personnel test positive, they shall not be assigned to perform In-Person Services or, to the extent they have already been performing In-Person Services, shall be immediately removed from those assignments. Furthermore, Contractor shall immediately notify City if Contractor Personnel performing In-Person Services (1) have tested positive for or have been diagnosed with COVID-19, (2) have been informed by a medical professional that they are likely to have COVID-19, or (3) meet the criteria for isolation under applicable government orders.

**EXHIBIT 1**

**INSURANCE CONTRACTUAL REQUIREMENTS**

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

**CONTRACTUAL REQUIREMENTS**

CONTRACTOR AGREES THAT:

- 1. Additional Insured/Loss Payee.** The CITY must be included as an Additional Insured in applicable liability policies to cover the CITY'S liability arising out of the acts or omissions of the named insured. The CITY is to be named as an Additional Named Insured and a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.
- 2. Notice of Cancellation.** All required insurance will be maintained in full force for the duration of its business with the CITY. By ordinance, all required insurance must provide at least thirty (30) days' prior written notice (ten (10) days for non-payment of premium) directly to the CITY if your insurance company elects to cancel or materially reduce coverage or limits prior to the policy expiration date, for any reason except impairment of an aggregate limit due to prior claims.
- 3. Primary Coverage.** CONTRACTOR will provide coverage that is primary with respect to any insurance or self-insurance of the CITY. The CITY'S program shall be excess of this insurance and non-contributing.
- 4. Modification of Coverage.** The CITY reserves the right at any time during the term of this Contract to change the amounts and types of insurance required hereunder by giving CONTRACTOR ninety (90) days' advance written notice of such change. If such change should result in substantial additional cost to CONTRACTOR, the CITY agrees to negotiate additional compensation proportional to the increased benefit to the CITY.
- 5. Failure to Procure Insurance.** All required insurance must be submitted and approved by the Office of the City Administrative Officer, Risk Management prior to the inception of any operations by CONTRACTOR.

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

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

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

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

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

**9. Commencement of Work.** For purposes of insurance coverage only, this Contract will be deemed to have been executed immediately upon any party hereto taking any steps that can be considered to be in furtherance of or towards performance of this Contract. The requirements in this Section supersede all other sections and provisions of this Contract, including, but not limited to, PSC-3, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

# 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

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

WC Statutory

EL \_\_\_\_\_

Waiver of Subrogation in favor of City

Longshore & Harbor Workers

Jones Act

\_\_\_\_ **General Liability** \_\_\_\_\_

Products/Completed Operations

Sexual Misconduct \_\_\_\_\_

Fire Legal Liability \_\_\_\_\_

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

\_\_\_\_ **Professional Liability** (Errors and Omissions) \_\_\_\_\_

Discovery Period \_\_\_\_\_

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

All Risk Coverage

Boiler and Machinery

Flood \_\_\_\_\_

Builder's Risk

Earthquake \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_ **Pollution Liability** \_\_\_\_\_

\_\_\_\_ **Surety Bonds** - Performance and Payment (Labor and Materials) Bonds \_\_\_\_\_

\_\_\_\_ **Crime Insurance** \_\_\_\_\_

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