

APPROVED

APR 06 2023

BOARD REPORT

NO. 23-073

DATE: April 06, 2023

BOARD OF RECREATION AND PARK COMMISSIONERS

C.D. 4

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: GRIFFITH PARK - FIRST AMENDMENT TO AGREEMENT NO. 3803 BETWEEN THE DEPARTMENT OF RECREATION AND PARKS AND LA COMPOST TO EXTEND THE TERM FOR THE CONTINUED OPERATION AND MAINTENANCE OF A COMPOST HUB PILOT PROJECT AT GRIFFITH PARK

\* B. Aguirre BA M. Rudnick
B. Jackson C. Santo Domingo N. Williams

General Manager signature

Approved X Disapproved Withdrawn

If Approved: Board President Sylvia Patacunas Board Secretary Sabin Sardin

RECOMMENDATIONS

- 1. Approve the proposed First Amendment to Agreement No. 3803 (Amendment) between the Department of Recreation and Parks (RAP) and LA Compost, a non-profit corporation, attached hereto as Attachment 1, to extend the term of Agreement No. 3803 for a compost hub pilot program (Compost Hub) within Griffith Park, from two (2) years to three (3) years, subject to approval of the City Attorney as to form;
2. Authorize the Board of Recreation and Park Commissioners (Board) President and Secretary to execute the Amendment subsequent to all necessary approvals; and,
3. Authorize RAP staff to make technical corrections in order to carry out the Board's intent in approving this Report.

BACKGROUND

RAP manages and provides stewardship over Griffith Park, one of the largest municipal parks in North America. Located at 4730 Crystal Springs Drive, the over 4,511 acre park includes vast wilderness areas, native plant terrain, landscaped parkland, and numerous community amenities.

LA Compost is a community-powered nonprofit organization with a mission to connect the people of Los Angeles to the soil and each other through community-scale composting infrastructure and educational programs. To support this mission, LA Compost has built a network of active compost hubs across LA County since 2014, which provides residents and businesses with a community-

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scale option for turning food scraps and other organic waste into a resource for local healthy soil. These compost hubs are also educational spaces for community members to learn about the regenerative process of composting. LA Compost's community composting model and efforts to create a more ecologically-sound Los Angeles have been widely recognized as a major step towards the creation of a more equitable zero-waste city, in alignment with LA's Green New Deal and other City Council directives.

In April 2021, RAP entered into Agreement No. 3803 (Agreement), attached hereto as Attachment 2, with LA Compost for the development, operation and maintenance of a compost hub pilot project at Griffith Park, which was approved by the Board on April 15, 2021 (BR #21-063). The term of the Agreement is for two (2) years and is scheduled to expire on June 3, 2023. The Griffith Park Regional Compost Hub officially launched in September 2021, and has since been operational for compost processing, community education, and volunteer opportunities for community members. Roughly 8,000 pounds of organic material per week are diverted at the Compost Hub, generating roughly 800 pounds of finished compost per month. In the first year of the Compost Hub, LA Compost was able to divert 415,986 pounds of organic material, equaling 371.95 metric tons of CO<sub>2</sub>e diverted from the atmosphere.

The Compost Hub allowed LA Compost to expand their Farmers' Market Drop-off program in key areas of Los Angeles, and food scraps from the Atwater Village Farmers' Market, Silverlake Farmers' Market, and LA Compost's pop-up Food Scrap Drop-off location outside the Elysian Valley Community Garden are processed at the Compost Hub. Since the Compost Hub opened, LA Compost has served a weekly average of 365 households at these collection locations. Due to the success of this Compost Hub and the resulting benefits for the community and parks system, RAP recommends extending the term of the Agreement for an additional year to continue LA Compost's operation and maintenance of the Compost Hub. The proposed First Amendment will memorialize the term extension as well as updating the City's Standard Terms and Provisions for City Contracts.

### FISCAL IMPACT STATEMENT

The approval and execution of the First Amendment will have no adverse impact on RAP's General Fund as operations and program costs associated with LA Compost's management and maintenance of the Compost Hub will be paid for by LA Compost per the terms of the Agreement.

This report was prepared by Matthew Rudnick, Executive Officer and Departmental Chief Sustainability Officer, and Priya Macwan, Management Analyst, Sustainability and Partnership Sections.

### ATTACHMENTS

- 1) First Amendment
- 2) Agreement No. 3803

FIRST AMENDMENT  
TO AGREEMENT  
BETWEEN  
THE CITY OF LOS ANGELES  
AND  
LA COMPOST

WITNESSETH

THIS FIRST AMENDMENT (“First Amendment”) to that certain Agreement (“AGREEMENT”) between the City of Los Angeles and LA Compost, a California 501(c)(3) nonprofit corporation, is made and entered into this \_\_\_ day of April, 2023, by and between the City of Los Angeles, acting by and through its Board of Recreation and Park Commissioners (“CITY”) and LA Compost, a California 501(c)(3) nonprofit corporation (“ORGANIZATION”) for the development, operation and maintenance of a Griffith Park Compost Hub Pilot Project (“PILOT PROJECT”). CITY and/or ORGANIZATION may be referred to individually herein as “PARTY” or collectively as “PARTIES”.

WHEREAS, through the Department of Recreation and Parks (“RAP”), CITY owns real property commonly referred to as Griffith Park, located at 4730 Crystal Springs Drive; and,

WHEREAS, ORGANIZATION is a California 501(c)(3) nonprofit corporation, whose mission is to connect the people of Los Angeles to the soil and each other through community-scale composting infrastructure and educational programs in collaboration with key partners and mission-aligned organizations to support the just transition of food waste into a resource; and,

WHEREAS, on April 15, 2021, the PARTIES entered into the AGREEMENT with a term of two (2) years, establishing the respective roles, responsibilities, and financial relationship between CITY and ORGANIZATION with respect to the development, operation and maintenance of a regional pilot compost hub at Griffith Park (“Compost Hub Project”); and,

WHEREAS, said AGREEMENT is due to expire on April 15, 2023; and,

WHEREAS, PARTIES agree that it is in the best interest of ORGANIZATION and CITY to continue their collaboration under existing terms and conditions of the AGREEMENT for the continued operation and maintenance of the Compost Hub Project for the benefit of community members; and,

WHEREAS, PARTIES have agreed to extend the term of the AGREEMENT for one (1) additional year, which will result in the term of the AGREEMENT being three (3) years.

NOW THEREFORE, in consideration of the foregoing, and the terms and conditions contained herein, and the performance thereof, PARTIES hereby agree that the AGREEMENT is hereby amended by this FIRST AMENDMENT effective April 15, 2023 as follows:

1. The first paragraph of Section 2 of the AGREEMENT entitled “Term and Termination” is hereby amended in its entirety to read as follows in quotation marks below:

“The term of this AGREEMENT (for ease of reference, shall be referred to herein as “TERM”) shall be **three (3) years from the last date of execution of this AGREEMENT** (“COMMENCEMENT DATE”), subject to annual performance evaluations (ANNUAL PERFORMANCE REVIEWS) more fully described below in Section 3 of this AGREEMENT.”

2. Section 30 of the AGREEMENT entitled “Ordinances and Standard Provisions” is hereby amended in its entirety to read as follows in quotation marks below:

“The “Standard Provisions for City Contracts (Rev. 9/22) [v.1]” 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. 9/22) [v.1]” and this AGREEMENT, the language of this AGREEMENT shall prevail. ORGANIZATION and CONTRACTOR have the same meaning for purposes of the “Standard Provisions for City Contracts (Rev. 9/22) [v.1].” In addition, ORGANIZATION will provide documentation of compliance with all required Ordinance Provisions as determined by CITY.”

3. Section 31 of the AGREEMENT entitled “Incorporation of Documents” is hereby amended to remove the existing reference Exhibit D and replace it with the following Exhibit D reference:

“Exhibit D: Standard Provisions for City Contracts (Rev. 9/22) [v.1]”

4. Exhibit D of the AGREEMENT is hereby amended and restated in its entirety as set forth in Attachment A of this FIRST AMENDMENT.

Except as amended in this FIRST AMENDMENT, all other terms and conditions of the AGREEMENT shall remain unchanged and in full force and effect.

ATTACHMENT A: Standard Provisions for City Contracts (Rev. 9/22) [v.1]

**[SIGNATURE PAGE TO FOLLOW]**

IN WITNESS WHEREOF, the parties have executed this FIRST AMENDMENT as of the day and year first above written to be made effective as of April 15, 2023.

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

LA COMPOST, a 501(c)(3) California non-profit corporation

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

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

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

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

**APPROVED AS TO FORM:**

HYDEE FELDSTEIN SOTO, City Attorney

By: \_\_\_\_\_  
Deputy City Attorney

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

**ATTACHMENT A**

Standard Provisions for City Contracts (Rev. 9/22) [v.1]

# 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.

### **PSC-45. Contractor Data Reporting**

If Contractor is a for-profit, privately owned business, Contractor shall, within 30 days of the effective date of the Contract and on an annual basis thereafter (i.e., within 30 days of the annual anniversary of the effective date of the Contract), report the following information to City via the Regional Alliance Marketplace for Procurement (“RAMP”) or via another method specified by City: Contractor’s and any Subcontractor’s annual revenue, number of employees, location, industry, race/ethnicity and gender of majority owner (“Contractor/Subcontractor Information”). Contractor shall further request, on an annual basis, that any Subcontractor input or update its business profile, including the Contractor/Subcontractor Information, on RAMP or via another method prescribed by City.



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

\_\_\_\_\_

\_\_\_\_\_

ATTACHMENT A

Standard Provisions for City Contracts (Rev. 9/22) [v.1]

DEPARTMENT OF RECREATION  
AND PARKS

BOARD OF COMMISSIONERS

SYLVIA PATSAOURAS  
PRESIDENT

LYNN ALVAREZ  
VICE PRESIDENT

TAFARAI BAYNE  
NICOLE CHASE  
JOSEPH HALPER

HAROLD ARRIVILLAGA  
BOARD SECRETARY  
(213) 202-2640

City of Los Angeles  
California



ERIC GARCETTI  
MAYOR

MICHAEL A. SHULL  
GENERAL MANAGER

ANTHONY-PAUL (AP) DIAZ, ESQ.  
EXECUTIVE OFFICER &  
CHIEF OF STAFF

CATHIE SANTO DOMINGO  
ASSISTANT GENERAL MANAGER

JIMMY KIM  
ACTING ASSISTANT GENERAL MANAGER

MATTHEW RUDNICK  
ACTING ASSISTANT GENERAL MANAGER

(213) 202-2633 FAX (213) 202-2614

June 15, 2021

Sent via email

LA Compost  
221 W. Ave 45  
Los Angeles, CA 90065

Attention: Michael Martinez, Executive Director

Gentlepersons:

Enclosed is Agreement No. 3803, between the City of Los Angeles, by and through its Board of Recreation and Park Commissioners, and your organization, setting forth the terms and conditions for the shared use of a portion of Griffith Park for the operation and maintenance of a compost hub pilot project.

If you have any questions with regard to the Agreement at this time, please contact the undersigned at (213) 202-2640.

Very truly yours,

BOARD OF RECREATION AND  
PARK COMMISSIONERS

HAROLD ARRIVILLAGA  
Commission Executive Assistant II

Attachment: Agreement No. 3803

cc: City Controller  
City Attorney  
Departmental Chief Accountant  
Priya Macwan, Sustainability Program Coordinator, Special Operations Branch



**AGREEMENT  
BETWEEN CITY OF LOS ANGELES  
AND  
LA COMPOST  
FOR THE  
DEVELOPMENT, OPERATION AND MAINTENANCE  
OF THE  
GRIFFITH PARK COMPOST HUB PILOT PROJECT**

This AGREEMENT (“AGREEMENT”) is entered into as of June 3<sup>rd</sup>, 2021, (“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 LA Compost, a California 501(c)(3) non-profit organization (“LA COMPOST” or “ORGANIZATION”), for the development, operation and maintenance of a regional pilot compost hub (“PILOT COMPOST HUB”) pilot project at Griffith Park (“PILOT PROJECT”). CITY and LA COMPOST may be referred to herein individually as “PARTY” or collectively as “PARTIES.”

**WHEREAS**, CITY, through its Department of Recreation and Parks (“RAP”), owns real property commonly referred to as Griffith Park, located at 4730 Crystal Springs Drive, which contains the area proposed to be used for the PILOT COMPOST HUB, as depicted on the site map attached hereto and incorporated herein by reference as Exhibit A; and,

**WHEREAS**, RAP owns, operates, and maintains various parks, golf courses, and numerous recreational facilities throughout the City of Los Angeles; and,

**WHEREAS**, Griffith Park at more than 4,511 acres is one of the largest municipal parks with existing urban wilderness areas, landscaped parkland and picnic areas in the United States; and,

**WHEREAS**, LA COMPOST’s mission is to connect the people of Los Angeles to the soil and each other through community-scale composting infrastructure and educational programs in collaboration with key partners and mission-aligned organizations to support the just transition of food waste into a resource; and,

**WHEREAS**, LA COMPOST has built a network of thirty-five (35) active compost hubs across LA County since 2014, which provide residents and businesses with a community-scale option for turning food scraps and other organic waste into a resource for local healthy soil and community development; and,

**WHEREAS**, the regional PILOT COMPOST HUB will be a space where food scraps from the community, such as farmers markets, are processed into finished compost, as well as an educational space where people can learn about the regenerative process of composting and other sustainability related issues; and,

**WHEREAS**, as part of the PILOT PROJECT, LA COMPOST will support Griffith Park with the management of organic materials by converting food scraps, wood chips, and horse stable bedding generated at the park into compost; and,

**WHEREAS**, a goal of the PILOT PROJECT is helping food and beverage concessions in Griffith Park to divert their food scraps to the PILOT COMPOST HUB; and,

**WHEREAS**, the conversion of Griffith Park waste products into biologically active compost can help to support restoration work at Griffith Park facilities and in green spaces across the City, creating a closed-loop cycle for organic waste materials; and,

**WHEREAS**, the compost generated at the PILOT COMPOST HUB would be available for use by RAP on park property as well as for distribution free of charge to community organizations for local farming, beautification, and urban greening initiatives, as well as to community members for residential use; and,

**WHEREAS**, this PILOT PROJECT is in line with the goals of the LA Green New Deal to move towards zero waste, and is consistent with the vision of LA COMPOST and RAP to deepen community and environmental well-being in accessible ways for Angelenos; and,

**WHEREAS**, LA COMPOST would be responsible for the development, operation, and maintenance of the PILOT COMPOST HUB, as well as any community engagement and additional programming, in coordination with RAP; and,

**WHEREAS**, CITY desires to authorize LA COMPOST to operate the PILOT COMPOST HUB for such purposes described above, pursuant to the terms and conditions of this AGREEMENT for a period of two (2) years, subject to annual performance evaluations as described further herein; and,

**WHEREAS**, CITY, through its Board of Recreation and Park Commissioners (“BOARD”), has approved this AGREEMENT at the BOARD meeting held on May 15, 2021 (Board Report No. 21-063), allowing for the operation of the PILOT COMPOST HUB.

**NOW THEREFORE**, in consideration of the forgoing, the anticipated benefits to the public, and the terms and conditions set forth herein and the performance thereof, PARTIES hereby agree as follows:

1. **Use of PILOT COMPOST HUB**. CITY grants to LA COMPOST by way of this AGREEMENT, exclusive use of the PILOT COMPOST HUB for the operation of a regional compost and learning hub as described in Section 5 (Permitted Uses) set forth below, which shall be performed by LA COMPOST in compliance with the terms and conditions of this AGREEMENT.

2. **Term and Termination.** The term of this AGREEMENT (for ease of reference, shall be referred to herein as “TERM”) shall be **two (2) years from the last date of execution of this AGREEMENT** (“COMMENCEMENT DATE”), 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 COMMENCEMENT DATE above, and shall end upon the expiration of the TERM.
  - b. **Termination.** In addition to the CITY’s right to terminate this AGREEMENT for an uncured breach or default as set forth in Section 22 or if the ORGANIZATION ceases to operate as set forth below, CITY and ORGANIZATION may also terminate this AGREEMENT upon written notice of termination given to the other party no less than sixty (60) days prior to the date of termination.
  - c. **Ceases to Operate.** The phrase “ceases to operate” shall mean the first to occur of any of the following: (i) the termination (but not temporary suspension) of LA COMPOST’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 LA COMPOST’s purposes or function as contained in LA COMPOST’s corporate charter or grant of non-profit status (“Stated Purposes”); (iii) a material change in the delivery of services by LA COMPOST from that described herein; or (iv) the failure of LA COMPOST to use the PILOT COMPOST HUB 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 PILOT COMPOST HUB, or for reasons beyond LA COMPOST’s control. Under such circumstances, LA COMPOST shall immediately cease and desist from all use of the PILOT COMPOST HUB, and this AGREEMENT shall be deemed terminated upon LA COMPOST’s receipt of such notification of immediate termination from RAP.
3. **Annual Performance Reviews.** PARTIES mutually agree to a series of ANNUAL PERFORMANCE REVIEWS, which shall be conducted by RAP to assist in determining the feasibility and benefit of continuing the collaborative relationship between PARTIES under this AGREEMENT.
  - a. Continuance of CITY’s collaboration with LA COMPOST shall in part be contingent upon favorable ANNUAL PERFORMANCE REVIEWS, which shall include, but not be limited to:



- i. An evaluation of LA COMPOST's compliance with the terms and conditions of this AGREEMENT;
  - ii. Fulfillment of LA COMPOST's obligations under this AGREEMENT for the operation and maintenance of the PILOT COMPOST HUB, including the provision of programs and/or services performed under the PERMITTED USES specified herein;
  - iii. Fulfillment of all performance requirements ("PERFORMANCE REQUIREMENTS") included in Section 6 herein;
  - iv. Adequacy of LA COMPOST's funding and financial resources to operate and maintain the PILOT COMPOST HUB for the benefit of the community throughout the TERM of this AGREEMENT;
  - v. The volume of the public's use of the PILOT COMPOST HUB and participation in LA COMPOST's programs; and
  - vi. LA COMPOST's cooperation with CITY staff.
- b. Every year during the TERM of this AGREEMENT, for purposes of completing the ANNUAL PERFORMANCE REVIEW process, LA COMPOST shall submit to CITY during the period of January 15th through February 15th of each year, an annual performance or program report ("PERFORMANCE REPORT"). This PERFORMANCE REPORT shall include, but not be limited to:
- i. Annual Budget and Report of Expenditures;
  - ii. Data on participants and program results;
  - iii. Discussion of program changes or challenges; and,
  - iv. Summary of PERFORMANCE REQUIREMENTS completed during the previous calendar year (January to December).
- c. RAP 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 in part on findings obtained through the performance review process, evaluation of the PERFORMANCE REPORT, and a review of LA COMPOST's compliance with the terms and conditions of this AGREEMENT, including interviews with RAP's maintenance staff with jurisdiction over the PILOT COMPOST HUB. A sample PERFORMANCE EVALUATION form is attached hereto and incorporated herein by reference

as Exhibit B. Results of the performance review may also be used in determining future collaborations with LA COMPOST. CITY shall not unreasonably withhold its determination.

4. **Access to the PILOT COMPOST HUB.** LA COMPOST and any authorized third-party associated with LA COMPOST's activities at the PILOT COMPOST HUB shall abide by the terms and conditions expressed in this AGREEMENT and will cooperate fully with RAP and its employees in the performance of their duties. Any third-party participation in the PILOT COMPOST HUB shall be supervised by LA COMPOST at all times while such party is present at the PILOT COMPOST HUB, and RAP on-site staff shall be made aware of such third-party activities.

Authorized representatives, agents, and employees of CITY will have the right to enter the PILOT COMPOST HUB for purposes of fulfilling normal duties, and performing inspections or in response to emergencies. RAP shall make a reasonable effort to provide LA COMPOST with twenty-four (24) hours prior notice. However, no such advance notice by RAP to LA COMPOST shall be required in the case of emergencies. If a governmental body with jurisdiction over the PILOT COMPOST HUB and/or the CITY or RAP determines that a certain activity, or all of the activities, conducted at the PILOT COMPOST HUB, are material threats to public safety as may be determined by the CITY, CITY may immediately suspend and/or terminate LA COMPOST's right to conduct such activities at the PILOT COMPOST HUB by providing written notice to LA COMPOST of such suspension. Such activities shall remain suspended until they are no longer deemed a threat to public safety, at which time the CITY shall promptly provide written notice to LA COMPOST of same.

5. **Permitted Uses.** LA COMPOST shall not expand and/or change the scope of PERMITTED USES set forth in this Section without the prior written approval and consent of the BOARD through an amendment to this AGREEMENT.
  - a. The PILOT COMPOST HUB shall be operated as a regional compost hub with active and maturing windrows, finished compost piles, water catchment basins and wildlife sanctuaries. The PILOT COMPOST HUB will also include native habitat restoration, gathering space, rest area and storage container for hand tools and small machinery used in the maintenance of community composting sites.
  - b. The PILOT COMPOST HUB shall be utilized by LA COMPOST for community composting workshops and for active and passive environmental education opportunities which shall be provided free of charge. At minimum, 50 community members shall participate in these educational opportunities per month.
  - c. The PILOT COMPOST HUB may be used for meetings related to the operation and maintenance of a regional compost hub.

- d. The public will be allowed access for tours of the PILOT COMPOST HUB. Scheduled school tours and field trips must be approved in writing by the Superintendent of Griffith Park and must be conducted by a registered and fingerprinted employee or volunteer of LA COMPOST. LA COMPOST shall ensure that any employee and/or volunteer is appropriately evaluated pursuant to normal CITY background check procedures for RAP volunteers.
  - e. The PILOT COMPOST HUB may be used by LA COMPOST for the distribution of compost to community members and to RAP for use in Griffith Park and in other City parks. LA COMPOST may distribute finished compost to community members, use finished compost for healthy soils initiatives, or use finished compost for other related projects as may be approved by the City. LA Compost shall be liable for any and all claims and liabilities related to the generation, use and distribution of any such compost.
  - f. The PILOT COMPOST HUB area, or this AGREEMENT and/or its obligations, may not be transferred or sublet to another entity without RAP's prior written authorization.
6. **Performance Requirements and Use Restrictions**. LA COMPOST will operate and maintain the PILOT COMPOST HUB in accordance with the following:
- a. LA COMPOST shall comply with all RAP policies and procedures as well as all Federal, State, County, and local regulations, orders and mandates, including but not limited to health and safety orders and guidelines related to COVID-19, and background checks and fingerprinting for any volunteer or paid staff conducting educational programming at the PILOT COMPOST HUB, throughout the TERM of this AGREEMENT.
  - b. LA COMPOST agrees that it shall operate the PILOT COMPOST HUB only during specified days and hours listed in Section 7 of this AGREEMENT.
  - c. LA COMPOST, at its sole cost and expense, shall provide sufficient staff necessary to perform the operation and maintenance of the PILOT COMPOST HUB, providing all materials, supplies, equipment, and funds necessary to provide the public with such recreational opportunities to the reasonable satisfaction of RAP.
  - d. LA COMPOST's staffing of the PILOT COMPOST HUB shall comply with applicable City, State, and/or Federal protocols for recreation and/or maintenance staff, such as, background checks, fingerprinting, etc., whether the person is an employee or volunteer of LA COMPOST.
  - e. LA COMPOST shall punctually pay, or cause to be paid, all financial obligations incurred by LA COMPOST or RAP in connection with the

operation and maintenance of the PILOT COMPOST HUB. LA COMPOST shall discharge or provide for the discharge of all claims authorized or incurred for labor, equipment, materials, and supplies furnished in connection with LA COMPOST's use of the PILOT COMPOST HUB.

- f. The dispensing and/or consumption of beer, wine or other intoxicating liquors (commonly referred to as alcoholic beverages) shall not be permitted to occur at the PILOT COMPOST HUB.
  - g. No commercial activity will be allowed on the PILOT COMPOST HUB, unless written approval is provided by RAP in advance of such activity occurring.
  - h. No products grown or cultivated on the site may be sold or be used for for-profit commercial purposes; however, the foregoing shall not limit LA COMPOST's ability to use and distribute finished compost as defined in Section 5(e) free of charge.
  - i. LA COMPOST shall 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. The documentation of this written consent must be provided to RAP prior to photographs being taken.
7. **Days and Periods of Use.** The hours and days of PILOT COMPOST HUB operation are:
- Sunrise to sunset daily for the operation and maintenance of the PILOT COMPOST HUB ("PERMITTED TIMES"). Additional hours for events or additional programming related to PILOT COMPOST HUB operations or maintenance may be granted with prior written consent of the Superintendent of Griffith Park or designee.
8. **Parking.** There is no parking lot dedicated to users and visitors of the PILOT COMPOST HUB. LA COMPOST, its staff and public patrons and/or guests, whether or not involved in LA COMPOST activities at the PILOT COMPOST HUB, may park vehicles adjacent to the PILOT COMPOST HUB in existing Griffith Park parking lots. LA COMPOST may temporarily park vehicles within the inside entrance of the site for pick up and drop off of materials. Exclusive or designated parking shall not be allowed.
9. **Funding and Fundraising.** All funds, including grants, donations, or any other funds received by LA COMPOST in connection with the PILOT COMPOST HUB or this PILOT PROJECT or related to matters covered by this AGREEMENT, or generated from programs or activities conducted at the PILOT COMPOST HUB, shall be applied exclusively to the operations and maintenance of the PILOT COMPOST HUB, and shall be strictly accounted for as provided herein. Such

funds shall not be commingled with other funds of LA COMPOST that are unrelated to this AGREEMENT and/or the operation and maintenance of the PILOT COMPOST HUB. If for any reason LA COMPOST 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.

LA COMPOST may hold fundraising activities at the PILOT COMPOST HUB, but must obtain prior written approval for the date and time from the RAP contact person in Section 24 (Notices) for each fundraising event, no fewer than thirty (30) calendar days prior to the scheduled activity. LA COMPOST 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 PILOT COMPOST HUB must be used only in support of the activities authorized under this AGREEMENT. Within thirty (30) days of each fundraising event held at the PILOT COMPOST HUB, LA COMPOST 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.

10. **Maintenance and Repair of the PILOT COMPOST HUB.** 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 PILOT COMPOST HUB:

- a. Pursuant to the mutual agreement of PARTIES, LA COMPOST shall operate and maintain the PILOT COMPOST HUB efficiently and economically at its sole cost and expense, and shall perform the functions of daily maintenance and/or repair of the PILOT COMPOST HUB, providing at its sole cost and expense all materials, supplies, equipment, and funds necessary to perform appropriate maintenance and required repair to the reasonable satisfaction of CITY.
- b. LA COMPOST, at its sole cost and expense, shall perform or cause to be performed all necessary maintenance and repair of improvements to the PILOT COMPOST HUB, in consultation with CITY's designated representative and by CITY's written request and/or instruction.
- c. LA COMPOST shall punctually pay or cause to be paid all of the financial obligations incurred in connection with the maintenance and repair of the PILOT COMPOST HUB. LA COMPOST shall discharge or provide for the discharge of all claims authorized or incurred for labor, equipment, materials, and supplies furnished in connection with LA COMPOST's use of the PILOT COMPOST HUB.

11. **Consideration.** The consideration for this AGREEMENT in exchange for LA COMPOST's use of the PILOT COMPOST HUB property, shall be LA COMPOST's provision of finished compost free of charge to RAP for use in Griffith Park and in other parks, and provision, free of charge, of PILOT COMPOST HUB-associated environmental education activities, including but not limited to community composting workshops and related programming benefitting park users and community members, and the development, maintenance and/or repair of the PILOT COMPOST HUB at no cost to CITY, pursuant to the terms and conditions of this AGREEMENT and in accordance with RAP policies, together with the attendant benefits to the people of the City of Los Angeles.

a. **Utilities.** Pursuant to RAP policy regarding utility payments for services provided at park facilities operated by non-profit and other collaborating entities, approved by the Board on October 2, 2002, the cost of utility services to the PILOT COMPOST HUB, such as electricity, gas, and water, shall be the sole financial responsibility of the organization operating and maintaining the subject facility. With respect to the PILOT COMPOST HUB under this AGREEMENT, LA COMPOST shall meter its water consumption and reimburse RAP at a rate of \$5.48 per hundred cubic feet (HCF), which is the LADWP rate for "Schedule F – Publicly-Sponsored Irrigation" customers. Reimbursement payments shall be made to RAP on a quarterly basis.

b. **Trash, Solid Waste Disposal and Portable Toilets.** Pursuant to RAP policy regarding trash and solid waste disposal for services provided at park facilities operated by non-profit organizations and other collaborations, approved by the Board on February 1, 2012 (Report No. 12-028), removal of waste, trash and recyclables and rental of portable toilets must be at the sole expense of LA COMPOST, with services of a non-CITY provider billed directly to LA COMPOST.

12. **Project Development.** Subject to the termination and other provisions set forth in this AGREEMENT, PARTIES agree that LA COMPOST shall be solely responsible for directly contracting with, and making all payments to, contractors (collectively "CONTRACTORS") for all design, construction and other services related to the PILOT COMPOST HUB.

a. Design and Location:

i. The PILOT COMPOST HUB shall be constructed within the designated area(s) of the Griffith Park property identified by the attached Site Plan (Exhibit A). Plans and designs for the development of the PILOT COMPOST HUB shall be submitted to the Superintendent of Griffith Park for approval at RAP's sole discretion

and shall be consistent with details set forth in Exhibit A. Site construction includes the following components:

1. Grading and trenching work to facilitate placement of active and maturing windrows to be placed along both sides of the fire lane and finished compost piles;
  2. Installation of a main water line and nutrient management system to facilitate the creation of water catchment basins/ wildlife sanctuaries along the length and both sides of the slope. This will assist in water and nutrient catchment by allowing any water flowing down the fire lane to infiltrate into the ecosystem by falling into the infiltration drain and flowing into the immediately adjacent downward water and nutrient catchment basins;
  3. Native habitat restoration at the west end of the site, adjacent to the finished compost piles which will involve the introduction of native plants propagated and cultivated by Commonwealth Nursery;
  4. Gathering space and rest area adjacent to finished compost piles;
  5. Installation of a storage container for hand tools and small machinery used in the maintenance of community composting sites
  6. Educational signage explaining design elements and processes related to themes such as habitat restoration, composting, water management, native plant guilds, etc.
  7. Additional earthwork infrastructure construction such as berms or small natural retaining walls may be necessary to support the creation of the water catchment basins and wildlife sanctuaries, and the native habitat restoration.
- ii. RAP agrees to discuss with LA COMPOST, and document in writing, any subsequently proposed modifications, additions or changes to the PILOT COMPOST HUB design or its construction, prior to any such changes being implemented or related invoice payment(s) being made to CONTRACTORS. All PILOT COMPOST HUB-related additions and/or changes shall be approved at the sole discretion of RAP and approved by the Superintendent of Griffith Park.

b. Construction

- i. LA COMPOST shall be primarily responsible for any construction related to the PILOT COMPOST HUB which is approved by RAP, including the completion of environmental clearances and other permits as required by law. All expenses and costs for obtaining clearances and permits and filing documents as may be required for the PILOT COMPOST HUB shall be borne by LA COMPOST.

13. **Alterations, Improvements, and Replacements.** No physical alterations, additional improvements, and/or replacements shall be made to existing improvements at the PILOT COMPOST HUB without prior written authorization by RAP. LA COMPOST shall provide RAP detailed information and specifications for review and written approval by the RAP Planning, Construction, and Maintenance Branch, 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 RAP. Unless agreed to in advance, all project associated costs shall be paid at the sole expense of LA COMPOST.

Changes to the layout of compost piles, water catchment basins and wildlife sanctuaries and the location of the native habitat restoration, gathering space and rest area as well as changes to the vehicle access area (excluding concrete or ADA compliant work) are not alterations, improvements, or replacements within the meaning of this section, and do not require RAP review and approval. However, LA COMPOST is required to notify RAP Maintenance staff of any such non-structural change in the configuration or path(s) of travel. Any change in the number of compost piles, water catchment basins and wildlife sanctuaries from those set forth in Exhibit A shall require prior written approval by the Superintendent of Griffith Park.

14. **Insurance.** Before accessing and using the PILOT COMPOST HUB under this AGREEMENT, and periodically as required during its TERM, LA COMPOST shall furnish CITY with evidence of insurance on an annual basis, from firms reasonably acceptable to CITY and approved to do such business in the State of California. LA COMPOST 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 coverage(s), as applicable. LA COMPOST 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. LA COMPOST shall maintain all such insurance at its sole cost and expense throughout the TERM of this AGREEMENT. CITY may change the



required amounts and types of insurance to be effective at the renewal date of the insurance then in effect by giving LA COMPOST thirty (30) calendar days written notice.

- b. If any of the required insurance contains aggregate limits or applies to other operations of LA COMPOST outside of this AGREEMENT, LA COMPOST shall give CITY written notice of any incident, occurrence, claim, settlement or judgement against such insurance that may diminish the protection such insurance affords CITY within thirty (30) calendar days of the knowledge of same. LA COMPOST shall further restore such aggregate limits or shall provide other replacement insurance for such aggregate limits within thirty (30) 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, LA COMPOST 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 LA COMPOST.
  - d. LA COMPOST's failure to procure and maintain the required insurance shall constitute a material breach of this AGREEMENT under which CITY may immediately terminate this AGREEMENT, or at its discretion, pay to procure or renew such insurance to protect CITY's interest, and LA COMPOST agrees to reimburse CITY for all money so paid for such procurement or renewal.
  - e. Self-insurance programs and self-insured retention in insurance policies are subject to separate approval by CITY upon review of evidence of LA COMPOST'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, LA COMPOST 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, (1) 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), (2) damages or liability of any nature whatsoever, (3) for death or injury to any person, including LA COMPOST's employees and agents, or (4) 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 LA COMPOST, its 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 AGREEMENT. This provision will survive expiration or termination of this AGREEMENT.

LA COMPOST is aware of the condition of the PREMISES and accepts the PREMISES in its present condition, and agrees to abide by all health and safety regulations and orders. LA COMPOST has carefully reviewed this document, understands its contents, and signs it voluntarily, without being subject to coercion.

LA COMPOST 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 LA COMPOST 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 LA COMPOST'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. LA COMPOST further promises and agrees to indemnify and hold CITY harmless from any and all damages resulting from the contraction of COVID-19.

16. **Casualty and Condemnation.** LA COMPOST shall be excused from its obligations in this AGREEMENT with respect to the operation, maintenance, and repair of any portion of the PILOT COMPOST HUB or any improvement there damaged by casualty or taken by condemnation until any such portion or improvement is restored to LA COMPOST's use. CITY shall not be obligated to restore the PILOT COMPOST HUB damaged by casualty in whole or in part. If any portion of the PILOT COMPOST HUB is taken by condemnation, CITY shall not be obligated to provide LA COMPOST a replacement property for LA COMPOST's use.
17. **Hazardous Substances.** PARTIES agree that the PILOT COMPOST HUB shall be used in a manner consistent with its intended compost-generating and educational purposes and within the scope of use set forth above. LA COMPOST shall use the PILOT COMPOST HUB in compliance with laws pertaining to hazardous substances and ensure that no pesticides, insecticides, herbicides and rodent poisons not in compliance with this section are used at the PILOT COMPOST HUB. 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 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 LA COMPOST to any governmental agency or third party under applicable statute. No lead or oil-based paint, paint thinner, varnishes, lacquers and stain shall be brought onto or stored at the PILOT COMPOST HUB.

18. **Publicity**. Should there be the need, PARTIES agree to cooperate and coordinate with respect to the nature, text, and timing of any press release or public announcement(s) concerning the existence of this AGREEMENT, the use or promotion of the PILOT COMPOST HUB, or construction of any improvements at the PILOT COMPOST HUB, except as may be legally required by applicable laws, regulations, or judicial order. Such cooperation and coordination shall occur prior to the release of any such press release or public announcement(s). PARTIES agree to notify each other in writing prior to the release or use of any press release, public announcement, marketing, or promotion of the PILOT COMPOST HUB prior to such event occurring. Further, any press release, public announcement, marketing materials, or brochures prepared by either CITY or LA COMPOST shall appropriately acknowledge the contributions of both PARTIES. Further, PARTIES shall coordinate the scheduling of any public or media event to provide the opportunity for attendance and participation by officials and/or representatives of both PARTIES; including elected officials and public officials. Similarly, any document, written report, or brochure prepared by CITY or LA COMPOST, in whole or in part, with respect to the use of the PILOT COMPOST HUB shall contain any acknowledgements required under any grant agreement. LA COMPOST shall coordinate all publicity activities with the Superintendent of Griffith Park.
19. **Signage**. No signs or banners of any kind shall be displayed by LA COMPOST unless previously approved in writing by RAP and/or the RAP General Manager or his or her designee. RAP may require removal or refurbishment, at LA COMPOST's expense, of any sign previously approved by RAP and installed, or caused to be installed, by LA COMPOST.
20. **Filming**. It is the policy of the City of Los Angeles to facilitate the use of City-controlled properties as film locations when available and appropriate. RAP has established a Park Film Office to coordinate and document the use of park property for film production purposes. Any commercial filming at the PILOT COMPOST HUB shall be subject to approval by RAP and the Film Office. All fees for use of the PILOT COMPOST HUB 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. LA COMPOST shall not charge any fees for film production conducted at the PILOT COMPOST HUB.
21. **Taxes and Possessory Interest**. LA COMPOST shall pay all taxes of whatever character that may be levied or charged upon the rights of LA COMPOST to use the PILOT COMPOST HUB, or upon LA COMPOST's improvements, fixtures,

equipment, or other property thereon or upon LA COMPOST's operations hereunder. In addition, by executing the AGREEMENT and accepting the benefits thereof, a property interest may be created known as a "Possessory Interest" and such property interest will be subject to property taxation. LA COMPOST, as the party in whom the Possessory Interest is vested, may be subject to the payment of the property taxes levied by the State and County upon such interest.

22. **Breach or Default by LA COMPOST**. The following occurrences constitute events of breach or default of this AGREEMENT: LA COMPOST 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 PILOT COMPOST HUB as specified herein. LA COMPOST'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.
23. **Breach or Default by LA COMPOST – CITY's Remedies**. Upon the occurrence of one or more events of breach or default by LA COMPOST, 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 LA COMPOST, and if LA COMPOST 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 LA COMPOST, terminate this AGREEMENT without further delay, whereupon LA COMPOST shall terminate its activities at the PILOT COMPOST HUB within fourteen (14) calendar days. For a breach or default involving sanitary or safety conditions, the cure period is reduced to seven (7) calendar days.
  - b. **CITY's Right to Cure**. CITY at its sole discretion and with no obligation to do so, subject to any applicable conditions and limitations set forth elsewhere in this AGREEMENT, may, after a continuing breach or default by LA COMPOST, perform or cause to be performed any of LA COMPOST's underperformed obligations under this AGREEMENT. CITY may enter the PILOT COMPOST HUB 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.
24. **Notices**. Any notice, request for consent, or statement ("Notice") that CITY or LA COMPOST 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 (except for notices regarding insurance as provided in section 14, above). Either CITY or LA COMPOST 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 or electronic mail (e-mail), by reliable courier providing tracking services, or by deposit with the United States Postal Service with postage prepaid and return receipt requested.

All Notices shall be addressed as follows:

If to CITY: City of Los Angeles Department of Recreation and Parks  
Partnership Section  
221 North Figueroa Street, Suite 180, Mail Stop 628-9  
Los Angeles, CA 90012

Phone: (213) 202-5600

If to LA Compost: LA Compost  
c/o Michael Martinez, Executive Director  
221 W. Ave 45  
Los Angeles, CA 90065  
Michael@lacompost.org

Phone: (323) 205-6115

25. **Representations and Warranties.** PARTIES 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 PARTIES, enforceable in accordance with its terms and conditions.
26. **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 LA COMPOST or agency relationship. LA COMPOST shall have no power to obligate or bind CITY in any manner whatsoever. Further, under no circumstances will LA COMPOST 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 LA COMPOST the power to be an agent of the CITY or an actor under the color of law, be it civilly or criminally.
27. **Relationship of Parties.** PARTIES agree that no other party shall have any right, power, or authority to assume, create, or incur any expense, liability, or obligation, expressed or implied, on behalf of any other party, except as expressly provided herein.
28. **Approval of Sub-agreements.** Any concession, such as the sale of food and/or beverages or other items, shall be subject to prior written approval by CITY. In addition, any concession or sublease, transfer or assignment of rights agreement

affecting the PILOT COMPOST HUB shall be filed with CITY for review and written approval no fewer than sixty (60) calendar days before the date LA COMPOST proposes to implement any sublease, transfer, or assignment of rights agreement. No such agreement shall take effect unless approved by CITY. LA COMPOST shall require all subcontractors, individuals and entities providing programs or services within the PILOT COMPOST HUB to agree in writing to abide by all conditions set forth in this AGREEMENT.

29. **Safe Practices**. LA COMPOST shall correct violations of safety practices during its PERMITTED USE immediately and shall cooperate fully and in good faith with CITY in the investigation of accidents or deaths occurring on the PILOT COMPOST HUB. In the event of death or serious injury (requiring an emergency room hospital visit), LA COMPOST must notify the Partnership Section as soon as possible but no later than twenty-four (24) hours after the incident. Notice of non-serious injuries occurring at the PILOT COMPOST HUB shall be provided to the Partnership Section within seventy-two (72) hours. LA COMPOST shall keep internal documentation of the incident(s) occurring during the previous two (2) years and provide RAP with such information upon request.

30. **Ordinances and Standard Provisions**. The “Standard Provisions for City Contracts (Rev. 10/17 v.3)” 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. 10/17 v.3)” and this AGREEMENT, the language of this AGREEMENT shall prevail. In addition, LA COMPOST 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: Sample Performance Evaluation Form

Exhibit C: Insurance Requirements

Exhibit D: Standard Provisions for City Contracts (Rev. 10/17 v.3)

**[SIGNATURE PAGE FOLLOWS]**

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

LA COMPOST, a 501(c)(3) California non-profit organization

By: *Sylvia Patsanas*  
President

By: *H. Arnold*  
Secretary

Date: May 24, 2021

DocuSigned by:  
*Michael Mantz*  
By: 5D197B22A80345B...

Title: Executive Director

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: 5/24/2021

**APPROVED AS TO FORM:**

MICHAEL N. FEUER,  
City Attorney

By: *S. Feuer*  
Deputy City Attorney

Date: 6/3/21



Exhibit A

Site map and overlay of PILOT COMPOST HUB and habitat restoration components to be operated by LA COMPOST at Griffith Park.

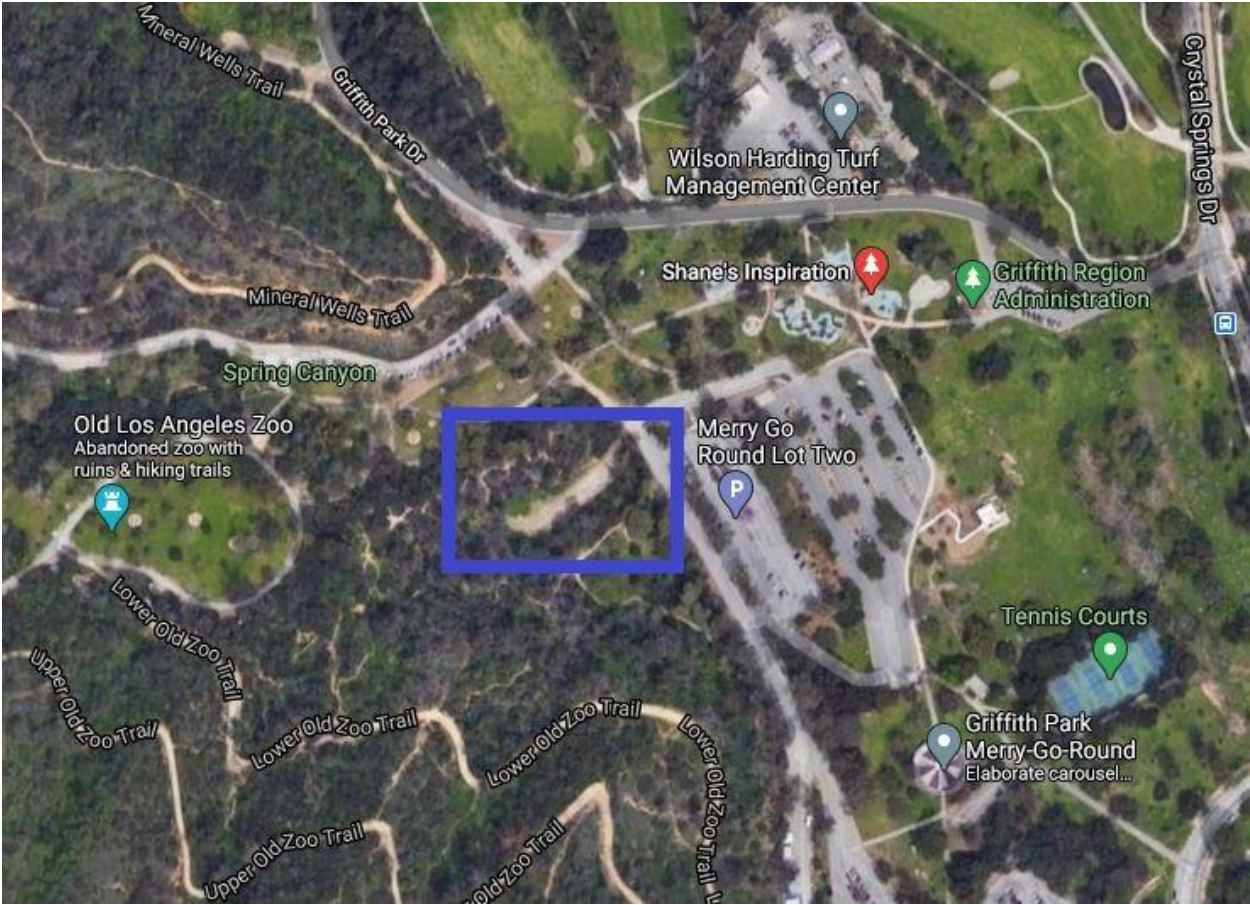




Exhibit B  
Sample Performance Evaluation Form  
(form subject to change)



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

**COMPLIANCE CHECK FOR PERFORMANCE REVIEW**

<b>PARTNER ORGANIZATION</b>
<b>PROJECT/PROGRAM</b>
<b>DEPARTMENT FACILITY(</b>
<b>ORGANIZATION TYPE</b> <input type="checkbox"/> 501(c)(3) <input type="checkbox"/> Government <input type="checkbox"/> Sports Group <input type="checkbox"/> Community Group other than 501(c)(3) <input type="checkbox"/> For-Profit <input type="checkbox"/> Other
<b>AGREEMENT TYPE</b> <input type="checkbox"/> ROE <input type="checkbox"/> Exclusive <input type="checkbox"/> Shared <input type="checkbox"/> Gift/Capital <input type="checkbox"/> Gift/Funding <input type="checkbox"/> MOU/MOA <input type="checkbox"/> Joint Use <input type="checkbox"/> Other
<b>PERIOD COVERED</b>

Payments made timely and accurately	
Provides required written reports including Annual Report	
Annual report data about the program is consistent with agreement terms including costs charged to participants	
Partner's annual budget is provided; sufficient funding is in place	
Partner is in good legal standing: check Sec of State website and (if applicable) 501(c)(3) status (attach printouts)	
Responsive in communications	
Performed and provided annual surveys of participants or about program	
Provided demographic information and analysis	
Marketing material provided; includes "In collaboration with the City of Los Angeles, Department of Recreation & Parks" and Department logo	
Partner web site links to the Department web site	
No unapproved marketing or public relations	
Insurance as determined by City Risk Manager is current: check website (attach printouts)	
Compliance with the other terms of the agreement	
Compliance Resolutions completed satisfactorily (if any)	
Public Complaints resolved (if any)	

New February 2012



COMPLIANCE CHECK  
PERFORMANCE REVIEW - PAGE 2

ORGANIZATION
TITLE
PERIOD COVERED

<b>OVERALL EVALUATION</b>	<b>Unsatisfactory</b> <input type="checkbox"/>	<b>Improvement Needed</b> <input type="checkbox"/>	<b>Meets Standards</b> <input type="checkbox"/>	<b>Exceeds Standard</b> <input type="checkbox"/>	<b>Outstanding</b> <input type="checkbox"/>
---------------------------	---	---	--	---	--

ADDITIONAL COMMENTS / RESULTS / RECOMMENDATIONS

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

<b>ATTACHMENTS</b>	
<input type="checkbox"/> Flyers and PR Materials	<input type="checkbox"/> Insurance
<input type="checkbox"/> Annual Report	<input type="checkbox"/> Budget
<input type="checkbox"/> Payment Summary	
<input type="checkbox"/> Legal/Insurance Status Printouts	<input type="checkbox"/> Other _____

New February 2012

### Exhibit C Insurance Requirements

Form Gen. 146 (Rev. 6/12)



#### Required Insurance and Minimum Limits

Name: LA Compost Date: 12/7/2020  
Agreement/Reference: LOA - Compost Huband Native Habitat Restoration Pilot Project

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 checked="" type="checkbox"/> <b>Workers' Compensation (WC) and Employer's Liability (EL)</b>	WC <u>Statutory</u> EL <u>1,000,000</u>
<input type="checkbox"/> Waiver of Subrogation in favor of City	
<input type="checkbox"/> Longshore & Harbor Workers	
<input type="checkbox"/> Jones Act	
<input checked="" type="checkbox"/> <b>General Liability</b> <u>City of Los Angeles must be named as an Additional Insured Party</u>	<u>1,000,000</u>
<input checked="" type="checkbox"/> Products/Completed Operations	
<input type="checkbox"/> Fire Legal Liability	
<input checked="" type="checkbox"/> <u>\$5,000,000 in Umbrella Liability</u>	
<input type="checkbox"/> Sexual Misconduct	
<input checked="" type="checkbox"/> <b>Automobile Liability</b> (for any and all vehicles used for this contract, other than commuting to/from work)	<u>1,000,000</u>
<input type="checkbox"/> <b>Professional Liability</b> (Errors and Omissions)	
Discovery Period _____	
<input type="checkbox"/> <b>Property Insurance</b> (to cover replacement cost of building - as determined by insurance company)	
<input type="checkbox"/> All Risk Coverage	
<input type="checkbox"/> Flood	
<input type="checkbox"/> Earthquake	
<input type="checkbox"/> Boiler and Machinery	
<input type="checkbox"/> Builder's Risk	
<input checked="" type="checkbox"/> <b>Pollution Liability</b>	<u>1,000,000</u>
<input type="checkbox"/> _____	
<input type="checkbox"/> <b>Surety Bonds - Performance and Payment (Labor and Materials) Bonds</b>	
<input type="checkbox"/> <b>Crime Insurance</b>	
<b>Other:</b> <u>Provided to: Priya Macwan @ RAP: Ph: (213) 847-5215</u>	
<u>If a contractor has no employees and decides to not cover herself/himself for workers' compensation, please complete the form entitled "Request for Waiver of Workers' Compensation Insurance Requirement" located at: <a href="http://cao.lacity.org/risk/InsuranceForms.htm">http://cao.lacity.org/risk/InsuranceForms.htm</a></u>	
<u>In the absence of imposed auto liability requirements, all contractors using vehicles during the course of their contract must adhere to the financial responsibility laws of the State of California.</u>	

Exhibit D  
Standard Provisions for City Contracts

(To be attached)

# 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.



**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				
<b>Workers' Compensation (WC) and Employer's Liability (EL)</b>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"></td> <td style="text-align: right; border-bottom: 1px solid black;">WC <u>Statutory</u></td> </tr> <tr> <td></td> <td style="text-align: right; border-bottom: 1px solid black;">EL _____</td> </tr> </table>		WC <u>Statutory</u>		EL _____
	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> <input type="checkbox"/> Jones Act					
<b>General Liability</b>	_____				
<input 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"/> _____					
<b>Automobile Liability</b> (for any and all vehicles used for this contract, other than commuting to/from work)	_____				
<b>Professional Liability</b> (Errors and Omissions)	_____				
Discovery Period _____					
<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>					
<b>Pollution Liability</b>	_____				
<input type="checkbox"/> _____					
<b>Surety Bonds - Performance and Payment (Labor and Materials) Bonds</b>	_____				
<b>Crime Insurance</b>	_____				

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