

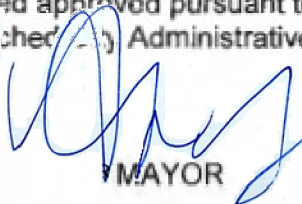
0150-11174-0000

TRANSMITTAL

TO The Council	DATE 8/23/18	COUNCIL FILE NO. 13-0923
FROM The Mayor		COUNCIL DISTRICT --

**Proposed Contracts with Lynden J. and Associates, Inc. and
Ben Hyatt Certified Deposition Reporters to provide Court Reporter Services**

Transmitted for your consideration. The Council has 60 days from the date of the receipt to act, otherwise the contract will be deemed approved pursuant to Administrative Code Section 10.5(a). See the attached Administrative Officer report.


(Ana Guerrero) for
MAYOR

RHL:BYO-04190004

Report From
OFFICE OF THE CITY ADMINISTRATIVE OFFICER
Analysis of Proposed Contract
(\$25,000 or Greater and Longer than Three Months)

To: The Mayor	Date: 08-23-18	C.D. No. —	CAO File No.: 0150-11174-0000				
Contracting Department/Bureau: Los Angeles Police Department (LAPD)		Contact: Nancy Cammarata, (213) 486-0378					
Reference: Board of Police Commissioners transmittal dated June 19, 2018; Supplemental information received August 21, 2018							
Purpose of Contract: To provide court reporter services for the Los Angeles Police Department							
Type of Contract: () New contract (X) Amendment, Contract No. C-123049 Contract No. C-123050		Contract Term Dates: October 2, 2018 through October 1, 2019					
Contract/Amendment Amount: Amount not to exceed \$855,000/year							
Proposed amount \$ 855,000+ Prior award(s) \$ 2,297,494 = Total amount not to exceed \$3,152,494							
Source of funds: General Fund							
Name of Contractor: Lynden J. and Associates, Inc. (C-123049) Ben Hyatt Certified Deposition Reporters (C-123050)							
Address: Lynden J. and Associates, Inc.: 207 West 20 th Street, Santa Ana, CA 92706 Ben Hyatt Certified Deposition Reporters: 1835 Ventura Boulevard, Suite 310, Encino, CA 91316							
	Yes	No	N/A	Contractor has complied with:	Yes	No	N/A
1. Council has approved the purpose	X			8. Business Inclusion Program	X		
2. Appropriated funds are available	X			9. Equal Benefits & First Source Hiring Ordinances	X		
3. Charter Section 1022 findings completed	X			10. Contractor Responsibility Ordinance	X		
4. Proposals have been requested	X			11. Slavery & Border Wall Disclosure Ordinances	X		
5. Risk Management review completed	X			12. Bidder Certification CEC Form 50	X		
6. Standard Provisions for City Contracts included	X			13. Prohibited Contributors (Bidders) CEC Form 55	X		
7. Workforce that resides in the City: 0%				14. California Iran Contracting Act of 2010	X		

RECOMMENDATION

That the City Council, authorize the Chief of Police, or his designee, to negotiate and execute Third Amendments to two professional services agreements for court reporter services between the Los Angeles Police Department (LAPD) and the following two companies: Lynden J. and Associates, Inc., (Lynden), C-123049, and Ben Hyatt Certified Deposition Reporters (Hyatt), C-123050. The term of the agreements will be effective October 2, 2018 through October 1, 2019, for a total amount not to exceed \$3,152,494, and subject to the review and approval of the City Attorney as to form.

SUMMARY

The Los Angeles Police Department (LAPD) requests authority to execute the Third Amendments to two professional services agreements for court reporter services with the following two companies: Lynden J. and Associates, Inc., (Lynden), C-123049, and Ben Hyatt Certified Deposition Reporters (Hyatt), C-123050, (C.F. 13-0923). The term of the agreements will be effective October 2, 2018 through October 1, 2019 for a total amount not to exceed \$3,152,494.

			
BYO	Analyst	0150-11174-0000	City Administrative Officer

The two companies, Lynden and Hyatt, were selected through a Request for Proposals (RFP) process in 2012 along with two other companies, Jonnell Agnew & Associates (Agnew) and Personal Court Reporters, Inc. (Personal). The four companies were selected based on experience and qualifications, such as the capability to provide California Certified Shorthand Reporters (CSR) for court reporter services and the ability to comply with all licensing standards. Contracts with Agnew and Personal were discontinued in 2017 after both companies stated that they are no longer interested in contracting with the LAPD.

The initial contracts were approved by City Council for a term effective October 2, 2013 through October 1, 2016. The First Amendments extended the term of the contracts for one additional year beginning October 2, 2016 through October 1, 2017 and the Second Amendments extended the term of the contracts for one additional year beginning October 2, 2017 through October 1, 2018. The Third Amendments extend the contracts for an additional twelve-month period from October 2, 2018 through October 1, 2019, while a new RFP for court reporter services is conducted. The Board of Police Commissioners approved the RFP for these services on May 15, 2018 and proposals were due on July 10, 2018.

In accordance with the terms of the Third Amendments, contractors will provide court reporter services to the LAPD's Board of Police Commissioners; Professional Standards Bureau, Internal Affairs Group; Professional Standards Bureau, Force Investigation Division; Detective Bureau; Employee Relations Group; and, Legal Affairs Division. The list of deliverables includes, but is not limited to, providing qualified court reporters, transcribing services, foreign language interpretation, and translation services. Contractors may also be assigned to work for other entities within the LAPD on an as-needed basis. Contractors will be chosen on a case-by-case basis based on the area of specialization and rate of services.

A Charter Section 1022 Determination was performed by the Personnel Department, which concluded that there are classifications of City employees that could perform the requested deliverables. However, it would be more feasible to utilize contractors instead of City staff to provide these services because there is insufficient City staff to perform the requested deliverables and additional City staff cannot be employed and trained in a timely manner to meet the department's needs.

FISCAL IMPACT STATEMENT

There will be no additional impact to the General Fund as a result of the recommendations. Funding has already been provided and is available in the Department's Contractual Services account. Approval of the Third Amendments complies with the City's Financial Policies in that contract expenditures will be limited to the use of approved budgeted funds.

RHL:BYO:04190004

Attachments

LOS ANGELES POLICE COMMISSION

BOARD OF
POLICE COMMISSIONERS

STEVE SOBOROFF
PRESIDENT

MATTHEW M. JOHNSON
VICE PRESIDENT

SANDRA FIGUEROA-VILLA
SHANE MURPHY GOLDSMITH
CYNTHIA McCLAIN-HILL

MARIA SILVA
COMMISSION EXECUTIVE ASSISTANT II



ERIC GARCETTI
Mayor

RICHARD M. TEFANK
EXECUTIVE DIRECTOR

MARK P. SMITH
INSPECTOR GENERAL

EXECUTIVE OFFICE
POLICE ADMINISTRATION BUILDING
100 WEST FIRST STREET, SUITE 134
LOS ANGELES, CA 90012-4112

(213) 238-1400 PHONE
(213) 238-1410 FAX
(213) 238-1440 TDD

June 19, 2018

BPC #18-0212

The Honorable Eric Garcetti
Mayor, City of Los Angeles
City Hall, Room 303
Los Angeles, CA 90012

Attention Mandy Morales

Dear Honorable Mayor:

RE: REQUEST FOR APPROVAL ON THE THIRD AMENDMENT WITH BEN HYATT
CERTIFIED DEPOSITION REPORTERS (C-123050); AND LYNDEN J AND
ASSOCIATES, INC. (C-123049) FOR COURT REPORTER SERVICES FOR THE LOS
ANGELES POLICE DEPARTMENT

At the regular meeting of the Board of Police Commissioners held Tuesday, June 19, 2018, the Board
APPROVED the Department's report relative to the above matter.

This matter is being forwarded to you for approval.

Respectfully,

BOARD OF POLICE COMMISSIONERS

MARIA SILVA
Commission Executive Assistant

Attachment

c: Chief of Police

INTRADPARTMENTAL CORRESPONDENCE

18 PC 1112-0212
Attachment A
RECEIVED
JUN 14 2018
POLICE COMMISSION

June 15, 2018
14.1

REVIEWED

TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

Richard M. Tefank
RICHARD M. TEFANK
EXECUTIVE DIRECTOR
6/14/18
DATE

SUBJECT: REQUEST FOR APPROVAL ON THE THIRD AMENDMENT WITH BOTH CONTRACTORS FOR COURT REPORTER SERVICES FOR THE LOS ANGELES POLICE DEPARTMENT

RECOMMENDED ACTIONS

1. That the Board of Police Commissioners (Board) REVIEW and APPROVE, subject to approval by the City Attorney as to form and legality, the attached Third Amendments for Court Reporter Services with the following companies:
 - Ben Hyatt Certified Deposition Reporters (Contract No. C-123050); and
 - Lynden J and Associates, Inc. (Contract No. C-123049)
2. That the Board TRANSMIT the Amendments to the Office of the Mayor for review and approval.
3. That the Board AUTHORIZE the Chief of Police to execute the third amendments upon Mayoral approval.

DISCUSSION

The Original Agreements were for three years, which commenced on October 2, 2013 and expired on October 1, 2016. The First Amendment extended the term of the original agreements from October 2, 2016 until October 1, 2017. The Second Amendment extended the agreements from October 2, 2017 to October 1, 2018. This Third Amendment would extend the term for an additional twelve-month period, commencing October 2, 2018 to October 1, 2019, while a new Court Reporter Services Agreement is implemented. Request for Proposals No. 17-830-008 for Court Reporter Services, was approved by the Los Angeles Police Commission on Tuesday, May 15, 2018, and was released on May 24, 2018. Proposals will be due on July 10, 2018.

Should you have any questions regarding this matter, please contact Commander Jeffrey Bert, Commanding Officer, Risk Management Legal Affairs Group, at (213) 486-8720.

Respectfully,

Charlie Beck
CHARLIE BECK
Chief of Police

**BOARD OF
POLICE COMMISSIONERS**
Approved *June 19, 2018*
Secretary *Maria Silva*

Attachment

**THIRD AMENDMENT TO CONTRACT NO. C-123049
BETWEEN THE CITY OF LOS ANGELES
AND
LYNDEN J. AND ASSOCIATES, INC.
FOR COURT REPORTER SERVICES**

This THIRD AMENDMENT to Contract No. C-123049 is made and entered into by and between the City of Los Angeles, California, a municipal corporation ("City"), acting by and through the Los Angeles Police Department ("Department" or "LAPD") and Lynden J. and Associates, Inc., (hereinafter referred to as the "Contractor").

RECITALS

WHEREAS, On October 2, 2013, the LAPD and the Contractor entered into Contract No. C-123049 ("Original Agreement") for Police Court Reporter Services; and

WHEREAS, The Original Agreement, which provided for an additional two (2) one-year period extensions, expired on October 1, 2016; and

WHEREAS, The First Amendment to the original agreement was entered for the purpose of extending the term of the Agreement for the first additional one-year period, commencing as of October 2, 2016 through October 1, 2017; and

WHEREAS, the Second Amendment was necessary for the purpose of extending the term of the Agreement for the second additional one-year period, commencing as of October 2, 2017 to October 1, 2018; and

WHEREAS, The LAPD wishes to (a) replace Attachment A of the Original Agreement, and (b) extend the term for an additional twelve-month period, commencing as of October 2, 2018 to October 1, 2019, to allow time for the Department to complete the Request for Proposals process and selection of a contractor, and

WHEREAS, the Contractor's services continue to be of a professional nature, and occasional in character; and

WHEREAS, this Third Amendment is necessary to provide continuous services of Police Court Reporter Services under the Original Agreement.

NOW THEREFORE, the City and the Contractor agree as follows:

1. Term of Agreement. Term of Agreement, is amended to read in its entirety, as follows.

The term of this Third Amendment to Agreement No. C-123049 shall be extended, commencing on October 2, 2018 and ending on October 1, 2019.

2. Attachment A of the Original Agreement, entitled "Standard Provisions for City Contracts (Rev. 03/09)" is hereby replaced with "Standard Provisions for City Contracts (Rev. 10/17) [v.2], attached hereto as Exhibit 1.
3. Ratification. Due to the need for the Contractor's services to be provided continuously, the Contractor may have provided services prior to the execution of this Third Amendment. To the extent that said services were performed in accordance with the terms and conditions of the Original Agreement, the First, Second and Third Amendments, those services are hereby ratified.
4. Order of Precedence. In the event of an inconsistency between any of the provisions of this Third Amendment to Contract No. C-123049, or all prior or current attachments, the inconsistency shall be resolved by giving previous attachments and/or amendments precedence in the following order:
 - 1) Third Amendment to Contract No. C-123049,
 - 2) Second Amendment to Contract No. C-123049,
 - 3) First Amendment to Contract No. C-123049, and
 - 4) LAPD Contract No. C-123049
5. Other than the extension of the term of the Original Agreement set forth above, all other terms and conditions of the Original Agreement shall remain unchanged and in full force and effect.

This Third Amendment includes three (3) pages and is executed in three (3) duplicate originals; each of which is deemed to be an original. The Original Agreement is hereby incorporated by reference in its entirety into this Third Amendment.

(Signature page follows)


[Remainder of Page Intentionally Left Blank]

IN WITNESS THEREOF, the parties hereto have caused this Third Amendment to be executed by their respective duly authorized representatives.

THE CITY OF LOS ANGELES

LYNDEN J. AND ASSOCIATES, INC.

By: _____
CHARLIE BECK
Chief of Police

By: 
LOWELL GLOVER
President

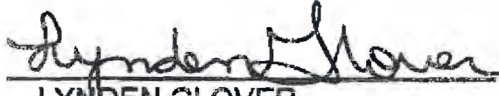
Date: _____

Date: 5-16-18

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

(2nd Corporate Officer)

By: _____
DANIEL KREINBRING
Deputy City Attorney

By: 
LYNDEN GLOVER
Vice President

Date: _____

Date: 5-16-18

ATTEST:
HOLLY L. WOLCOTT, City Clerk

By: _____
Deputy City Clerk

Date: _____

City Business License Number: 0052-029934

Internal Revenue Service Taxpayer Identification Number: 95-4203096

City Contract Number: C-123049-3

EXHIBIT 1

**STANDARD PROVISIONS FOR CITY CONTRACTS
(REV. 10/17) [v.2]**

STANDARD PROVISIONS FOR CITY CONTRACTS

TABLE OF CONTENTS

PSC-1	<u>Construction of Provisions and Titles Herein</u>	1
PSC-2	<u>Applicable Law, Interpretation and Enforcement</u>	1
PSC-3	<u>Time of Effectiveness</u>	1
PSC-4	<u>Integrated Contract</u>	2
PSC-5	<u>Amendment</u>	2
PSC-6	<u>Excusable Delays</u>	2
PSC-7	<u>Waiver</u>	2
PSC-8	<u>Suspension</u>	3
PSC-9	<u>Termination</u>	3
PSC-10	<u>Independent Contractor</u>	5
PSC-11	<u>Contractor's Personnel</u>	5
PSC-12	<u>Assignment and Delegation</u>	6
PSC-13	<u>Permits</u>	6
PSC-14	<u>Claims for Labor and Materials</u>	6
PSC-15	<u>Current Los Angeles City Business Tax Registration Certificate Required</u>	6
PSC-16	<u>Retention of Records, Audit and Reports</u>	6
PSC-17	<u>Bonds</u>	7
PSC-18	<u>Indemnification</u>	7
PSC-19	<u>Intellectual Property Indemnification</u>	7
PSC-20	<u>Intellectual Property Warranty</u>	8
PSC-21	<u>Ownership and License</u>	8
PSC-22	<u>Data Protection</u>	9

TABLE OF CONTENTS (Continued)

PSC-23	<u>Insurance</u>	9
PSC-24	<u>Best Terms</u>	9
PSC-25	<u>Warranty and Responsibility of Contractor</u>	10
PSC-26	<u>Mandatory Provisions Pertaining to Non-Discrimination in Employment</u>	10
PSC-27	<u>Child Support Assignment Orders</u>	10
PSC-28	<u>Living Wage Ordinance</u>	11
PSC-29	<u>Service Contractor Worker Retention Ordinance</u>	11
PSC-30	<u>Access and Accommodations</u>	11
PSC-31	<u>Contractor Responsibility Ordinance</u>	12
PSC-32	<u>Business Inclusion Program</u>	12
PSC-33	<u>Slavery Disclosure Ordinance</u>	12
PSC-34	<u>First Source Hiring Ordinance</u>	12
PSC-35	<u>Local Business Preference Ordinance</u>	12
PSC-36	<u>Iran Contracting Act</u>	12
PSC-37	<u>Restrictions on Campaign Contributions in City Elections</u>	12
PSC-38	<u>Contractors' Use of Criminal History for Consideration of Employment Applications</u>	13
PSC-39	<u>Limitation of City's Obligation to Make Payment to Contractor</u>	13
PSC-40	<u>Compliance with Identity Theft Laws and Payment Card Data Security Standards</u>	14
PSC-41	<u>Compliance with California Public Resources Code Section 5164</u>	14
PSC-42	<u>Possessory Interests Tax</u>	14
PSC-43	<u>Confidentiality</u>	15
Exhibit 1	<u>Insurance Contractual Requirements</u>	16

STANDARD PROVISIONS FOR CITY CONTRACTS

PSC-1. Construction of Provisions and Titles Herein

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

PSC-2. Applicable Law, Interpretation and Enforcement

Each party's performance shall comply with all applicable laws of the United States of America, the State of California, and **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, or procedures that apply to the performance of this Contract with no additional compensation paid to **CONTRACTOR**.

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

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

PSC-3. Time of Effectiveness

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

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

PSC-4. Integrated Contract

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter of this Contract, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in the provisions of PSC-5 hereof.

PSC-5. Amendment

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

PSC-6. Excusable Delays

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

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

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

PSC-7. Waiver

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

PSC-8. Suspension

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

PSC-9. Termination**A. Termination for Convenience**

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

B. Termination for Breach of Contract

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

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

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

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

PSC-10. Independent Contractor

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

PSC-11. Contractor's Personnel

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

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

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

PSC-12. Assignment and Delegation

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

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

PSC-13. Permits

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

PSC-14. Claims for Labor and Materials

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

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

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

PSC-16. Retention of Records, Audit and Reports

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

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

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

PSC-17. Bonds

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

PSC-18. Indemnification

Except for the active negligence or willful misconduct of **CITY**, or any of its boards, officers, agents, employees, assigns and successors in interest, **CONTRACTOR** shall defend, indemnify and hold harmless **CITY** and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of an act, error, or omission by **CONTRACTOR**, Subcontractors, or their boards, officers, agents, employees, assigns, and successors in interest. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

PSC-19. Intellectual Property Indemnification

CONTRACTOR, at its own expense, shall defend, indemnify, and hold harmless the **CITY**, and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity, and proprietary information: (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its Subcontractors, in performing the work under this Contract; or (2) as a result of **CITY'S** actual or intended use of any Work Product (as defined in PSC-21) furnished by **CONTRACTOR**, or its Subcontractors, under this Contract. The rights and remedies of **CITY** provided in this section shall not be exclusive

and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

PSC-20. Intellectual Property Warranty

CONTRACTOR represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information.

PSC-21. Ownership and License

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

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

For all Work Products delivered to **CITY** that are not originated or prepared by **CONTRACTOR** or its Subcontractors under this Contract, **CONTRACTOR** shall secure a grant, at no cost to **CITY**, for a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

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

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

PSC-22. Data Protection

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

PSC-23. Insurance

During the term of this Contract and without limiting **CONTRACTOR'S** obligation to indemnify, hold harmless and defend **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits not less than the required amounts and types as determined by the Office of the City Administrative Officer of Los Angeles, Risk Management (template Form General 146 in Exhibit 1 hereto). The insurance must: (1) conform to **CITY'S** requirements; (2) comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto); and (3) otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

PSC-24. Best Terms

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

PSC-25. Warranty and Responsibility of Contractor

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

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

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

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

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

PSC-27. Child Support Assignment Orders

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

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

PSC-28. Living Wage Ordinance

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

PSC-29. Service Contractor Worker Retention Ordinance

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

PSC-30. Access and Accommodations

CONTRACTOR represents and certifies that:

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

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

PSC-31. Contractor Responsibility Ordinance

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

PSC-32. Business Inclusion Program

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

PSC-33. Slavery Disclosure Ordinance

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

PSC-34. First Source Hiring Ordinance

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

PSC-35. Local Business Preference Ordinance

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

PSC-36. Iran Contracting Act

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PSC-42. Possessory Interests Tax

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

PSC-43. Confidentiality

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

EXHIBIT 1**INSTRUCTIONS AND INFORMATION
ON COMPLYING WITH CITY INSURANCE REQUIREMENTS**

(Share this information with your insurance agent or broker)

1. **Agreement/Reference** All evidence of insurance should identify the nature of your business with the CITY. Clearly show any assigned number of a bid, contract, lease, permit, etc. or give the project name and the job site or street address to ensure that your submission will be properly credited. Provide the **types of coverage and minimum dollar amounts** specified on the Required Insurance and Minimum Limits sheet (Form Gen. 146) as determined in writing by the CAO-RM.

2. **When to submit** Normally, no work may begin until a CITY insurance certificate approval number ("CA number") has been obtained, so insurance documents should be submitted as early as practicable. For **As-needed Contracts**, insurance need not be submitted until a specific job has been awarded. **Design Professionals** coverage for new construction work may be submitted simultaneously with final plans and drawings, but before construction commences.

Submitting your documents. **Track4LA®** is the CITY'S online insurance compliance system and is designed to make the experience of submitting and retrieving insurance information quick and easy. The system is designed to be used by insurance brokers and agents as they submit client insurance certificates directly to the CITY. It uses the standard insurance industry form known as the **ACORD 25 Certificate of Liability Insurance** in electronic format. Track4LA® advantages include standardized, universally accepted forms, paperless approval transactions (24 hours, 7 days per week), and security checks and balances. The easiest and quickest way to obtain approval of your insurance is to have your insurance broker or agent access **Track4LA®** at <http://track4la.lacity.org> and follow the instructions to register and submit the appropriate proof of insurance on your behalf.

Insurance industry certificates other than the ACORD 25 may be accepted, however **submissions other than through Track4LA® will significantly delay the insurance approval process as documents will have to be manually processed**. **CONTRACTOR must provide CITY** a thirty day notice of cancellation (ten days for non-payment of premium) AND an Additional Insured Endorsement naming the CITY an additional insured completed by your insurance company or its designee. If the policy includes an automatic or blanket additional insured endorsement, the Certificate must state the CITY is an automatic or blanket additional insured. An endorsement naming the CITY an Additional Named Insured and Loss Payee as Its Interests May Appear is required on property policies. All evidence of insurance must be authorized by a person with authority to bind coverage, whether that is the authorized agent/broker or insurance underwriter. Completed **Insurance Industry Certificates other than ACORD 25 Certificates** are sent electronically to CAO.insurance.bonds@lacity.org.

Additional Insured Endorsements DO NOT apply to the following:

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

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

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

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

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

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

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

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

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

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

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

Required Insurance and Minimum Limits

Attachment A

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: _____

**THIRD AMENDMENT TO CONTRACT NO. C-123050
BETWEEN THE CITY OF LOS ANGELES
AND
BEN HYATT CERTIFIED DEPOSITION REPORTERS
FOR COURT REPORTER SERVICES**

This THIRD AMENDMENT to Contract No. C-123050 is made and entered into by and between the City of Los Angeles, California, a municipal corporation ("City"), acting by and through the Los Angeles Police Department ("Department" or "LAPD") and Ben Hyatt Certified Deposition Reporters, (hereinafter referred to as the "Contractor").

RECITALS

WHEREAS, On October 2, 2013, the LAPD and the Contractor entered into Contract No. C-123050 ("Original Agreement") for Police Court Reporter Services; and

WHEREAS, The Original Agreement, which provided for an additional two (2) one-year period extensions, expired on October 1, 2016; and

WHEREAS, The First Amendment to the original agreement was entered for the purpose of extending the term of the Agreement for the first additional one-year period, commencing as of October 2, 2016 through October 1, 2017; and

WHEREAS, the Second Amendment was necessary for the purpose of extending the term of the Agreement for the second additional one-year period, commencing as of October 2, 2017 to October 1, 2018; and

WHEREAS, The LAPD wishes to (a) replace Attachment A of the Original Agreement, and (b) extend the term for an additional twelve-month period, commencing as of October 2, 2018 to October 1, 2019, to allow time for the Department to complete the Request for Proposals process and selection of a contractor, and

WHEREAS, the Contractor's services continue to be of a professional nature, and occasional in character; and

WHEREAS, this Third Amendment is necessary to provide continuous services of Police Court Reporter Services under the Original Agreement.

NOW THEREFORE, the City and the Contractor agree as follows:

1. **Term of Agreement.** Term of Agreement, is amended to read in its entirety, as follows.

The term of this Third Amendment to Agreement No. C-123050 shall be extended, commencing on October 2, 2018 and ending on October 1, 2019.

2. Attachment A of the Original Agreement, entitled "Standard Provisions for City Contracts (Rev. 03/09)" is hereby replaced with "Standard Provisions for City Contracts (Rev. 10/17) [v.2], attached hereto as Exhibit 1.
3. **Ratification.** Due to the need for the Contractor's services to be provided continuously, the Contractor may have provided services prior to the execution of this Third Amendment. To the extent that said services were performed in accordance with the terms and conditions of the Original Agreement, the First, Second and Third Amendments, those services are hereby ratified.
4. **Order of Precedence.** In the event of an inconsistency between any of the provisions of this Third Amendment to Contract No. C-123050, or all prior or current attachments, the inconsistency shall be resolved by giving previous attachments and/or amendments precedence in the following order:
 - 1) Third Amendment to Contract No. C-123050,
 - 2) Second Amendment to Contract No. C-123050,
 - 3) First Amendment to Contract No. C-123050, and
 - 4) LAPD Contract No. C-123050
5. Other than the extension of the term of the Original Agreement set forth above, all other terms and conditions of the Original Agreement shall remain unchanged and in full force and effect.

This Third Amendment includes three (3) pages and is executed in three (3) duplicate originals; each of which is deemed to be an original. The Original Agreement is hereby incorporated by reference in its entirety into this Third Amendment.

(Signature page follows)

[Remainder of Page Intentionally Left Blank]

IN WITNESS THEREOF, the parties hereto have caused this Third Amendment to be executed by their respective duly authorized representatives.

THE CITY OF LOS ANGELES

BEN HYATT CERTIFIED DEPOSITION REPORTERS

By: _____
CHARLIE BECK
Chief of Police

By: Sharon Hyatt
SHARON HYATT
President

Date: _____

Date: 5/17/18

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

(2nd Corporate Officer)
By: [Signature]
MITCHELL HYATT
Vice President

By: _____
DANIEL KREINBRING
Deputy City Attorney

Date: _____

Date: 5/17/18

ATTEST:
HOLLY L. WOLCOTT, City Clerk

By: _____
Deputy City Clerk

Date: _____

City Business License Number: 0000932439-0001-6

Internal Revenue Service Taxpayer Identification Number: 95-4691898

City Contract Number: C-123050-3

EXHIBIT 1

**STANDARD PROVISIONS FOR CITY CONTRACTS
(REV. 10/17) [v.2]**

STANDARD PROVISIONS FOR CITY CONTRACTS

TABLE OF CONTENTS

PSC-1	<u>Construction of Provisions and Titles Herein</u>	1
PSC-2	<u>Applicable Law, Interpretation and Enforcement</u>	1
PSC-3	<u>Time of Effectiveness</u>	1
PSC-4	<u>Integrated Contract</u>	2
PSC-5	<u>Amendment</u>	2
PSC-6	<u>Excusable Delays</u>	2
PSC-7	<u>Waiver</u>	2
PSC-8	<u>Suspension</u>	3
PSC-9	<u>Termination</u>	3
PSC-10	<u>Independent Contractor</u>	5
PSC-11	<u>Contractor's Personnel</u>	5
PSC-12	<u>Assignment and Delegation</u>	6
PSC-13	<u>Permits</u>	6
PSC-14	<u>Claims for Labor and Materials</u>	6
PSC-15	<u>Current Los Angeles City Business Tax Registration Certificate Required</u>	6
PSC-16	<u>Retention of Records, Audit and Reports</u>	6
PSC-17	<u>Bonds</u>	7
PSC-18	<u>Indemnification</u>	7
PSC-19	<u>Intellectual Property Indemnification</u>	7
PSC-20	<u>Intellectual Property Warranty</u>	8
PSC-21	<u>Ownership and License</u>	8
PSC-22	<u>Data Protection</u>	9

TABLE OF CONTENTS (Continued)

PSC-23	<u>Insurance</u>	9
PSC-24	<u>Best Terms</u>	9
PSC-25	<u>Warranty and Responsibility of Contractor</u>	10
PSC-26	<u>Mandatory Provisions Pertaining to Non-Discrimination in Employment</u>	10
PSC-27	<u>Child Support Assignment Orders</u>	10
PSC-28	<u>Living Wage Ordinance</u>	11
PSC-29	<u>Service Contractor Worker Retention Ordinance</u>	11
PSC-30	<u>Access and Accommodations</u>	11
PSC-31	<u>Contractor Responsibility Ordinance</u>	12
PSC-32	<u>Business Inclusion Program</u>	12
PSC-33	<u>Slavery Disclosure Ordinance</u>	12
PSC-34	<u>First Source Hiring Ordinance</u>	12
PSC-35	<u>Local Business Preference Ordinance</u>	12
PSC-36	<u>Iran Contracting Act</u>	12
PSC-37	<u>Restrictions on Campaign Contributions in City Elections</u>	12
PSC-38	<u>Contractors' Use of Criminal History for Consideration of Employment Applications</u>	13
PSC-39	<u>Limitation of City's Obligation to Make Payment to Contractor</u>	13
PSC-40	<u>Compliance with Identity Theft Laws and Payment Card Data Security Standards</u>	14
PSC-41	<u>Compliance with California Public Resources Code Section 5164</u>	14
PSC-42	<u>Possessory Interests Tax</u>	14
PSC-43	<u>Confidentiality</u>	15
Exhibit 1	<u>Insurance Contractual Requirements</u>	16

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.