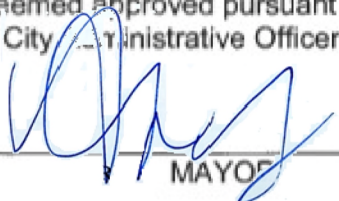


TRANSMITTAL		0150-10326-0002
TO The City Council City Attorney	DATE 3/13/18	COUNCIL FILE NO.
FROM The Mayor		COUNCIL DISTRICT Various
First Supplemental Agreement to Contract No. C-125311 with PSI Services, LLC for Civil Service Testing and Other Testing Related Services Transmitted for your consideration. The Council has 60 days from the date of receipt to act, otherwise the contract will be deemed approved pursuant to Administrative Code Section 10.5(a). See the City Administrative Officer report attached.  _____ MAYOR (Ana Guerrero) for RHL-LC:11180043		

Report From

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Analysis of Proposed Contract

(\$25,000 or Greater and Longer than Three Months)

To: Mayor	Date: 03-13-18	C.D. No. All	CAO File No.: 0150-10326-0002
Contracting Department/Bureau: Personnel Department		Contact: Sherry Cox (213) 473 -9122	
Reference: Personnel Department transmittal dated January 19, 2018; referred by Mayor for report			
Purpose of Contract: To provide civil service test development and testing-related services on an as-needed basis			
Type of Contract: () New contract (X) Amendment, Contract No. C-125311		Contract Term Dates: December 1, 2014 to November 30, 2018 (one-year extension)	
Contract/Amendment Amount: \$0			
Proposed amount \$ 0 + Prior award(s) \$ 900,000 = Total \$ 900,000			
Source of funds: Personnel Department Contractual Services Account 003040			
Name of Contractor: PSI Services, LLC			
Address: 2950 N. Hollywood Way Burbank, CA 91505			
	Yes	No	N/A
1. Council has approved the purpose	X		
2. Appropriated funds are available	X		
3. Charter Section 1022 findings completed	X		
4. Proposals have been requested	X		
5. Risk Management review completed	X		
6. Standard Provisions for City Contracts included	X		
7. Workforce that resides in the City: 2.1%			
* Applicable to contracts of \$1,000,000 or more			
8. Business Inclusion Program	X		
9. Equal Benefits Ordinance	X		
10. First Source Hiring Ordinance	X		
11. Contractor Responsibility Ordinance	X		
12. Slavery Disclosure Ordinance	X		
13. Bidder Certification CEC Form 50	X		
14. Prohibited Contributors (Bidders) CEC Form 55	X		
15. CA Iran Contracting Act of 2010*			X
16. Arizona Policy			X

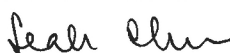
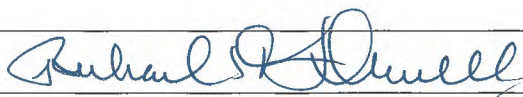
RECOMMENDATION

That the Council approve, and authorize the General Manager of the Personnel Department (Personnel) to execute, the First Supplemental Agreement with PSI Services, LLC to provide civil services test development and testing-related services on an as-needed basis, to extend the term of the Agreement by one-year for a revised term effective four years from December 1, 2014 to November 30, 2018, subject to the review and approval by the City Attorney.

COMMENTS

In accordance with Executive Directive No. 3 (Villaraigosa Series), Personnel requests approval to execute the Supplemental Agreement with PSI Services, LLC (Contractor) to provide civil service test development and testing-related services (Services) on an as-needed basis. The proposed Supplemental Agreement will extend the term by one year for a total four-year term effective December 1, 2014 to November 30, 2018 and maintain the maximum compensation at \$900,000.

The Contractor was selected as a result of a competitive Request for Qualifications (RFQ) process conducted in 2014. On July 18, 2017, Personnel released RFQs for a Pre-Approved Vendor List to Provide Remote Test Proctoring and Other Authentication Services and for a Pre-Approved Vendor

 LC Analyst	11180043	 City Administrative Officer
---	----------	---

List to Provide Use of Test Facilities. Personnel is in the process of establishing contracts with the pre-approved list of vendors for both RFQs. This Supplemental Agreement is requested to continue the availability of Services as Personnel completes the review and award process of the RFQs for the Services provided through this Agreement.

In accordance with Los Angeles Administrative Code Section 10.5(b)(2), City Council approval of the Agreement is required because the cumulative term exceeds three years and the estimated annual payments will exceed \$149,111. The Contractor has complied with all applicable City contracting requirements. The Agreement includes a ratification clause because of the need for the Contractor to provide Services on an on-going basis prior to the execution of the Supplemental Agreement.

FISCAL IMPACT STATEMENT

Funding is available in the Personnel Department's budget, Fund No. 100, Contractual Services Account No. 003040 for this purpose. There will be no additional impact on the General Fund. The Agreement complies with the City's Financial Policies in that the City's financial obligation is limited to funds budgeted for services rendered per the terms of the Agreement.

RHL:LGC:11180042

Attachment

**BOARD OF CIVIL SERVICE
COMMISSIONERS**

Room 360, PERSONNEL BUILDING

JONATHAN M. WEISS
PRESIDENT

JEANNE A. FUGATE
VICE PRESIDENT

COMMISSIONERS:
GABRIEL J. ESPARZA
NANCY P. McCLELLAND
RAUL PÉREZ

BRUCE WHIDDEN
COMMISSION EXECUTIVE DIRECTOR

**CITY OF LOS ANGELES
CALIFORNIA**



ERIC GARCETTI
MAYOR

PERSONNEL DEPARTMENT

PERSONNEL BUILDING
700 EAST TEMPLE STREET
LOS ANGELES, CA 90012

Wendy G. Macy
GENERAL MANAGER

January 19, 2018

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

Attention: Mandy Morales, Legislative Coordinator

**Subject: REQUEST FOR REVIEW OF PROPOSED FIRST SUPPLEMENTAL
AGREEMENT TO CONTRACT NO. C-125311 WITH
PSI SERVICES, LLC**

Dear Mayor Garcetti:

In accordance with Executive Directive No. 3, attached for your review and approval is a draft First Supplemental Agreement to Contract No. C-125311 with PSI Services, LLC ("PSI" or "Contractor"), to assist and augment the City of Los Angeles Personnel Department's ("City") civil service test development objectives by providing test development services; test administration services; job analysis services; a library of tests; and test validation services, as needed by the City.

The Personnel Department previously had a contract with PSI (Contract No. 125311) which expired on November 30, 2017. A First Supplemental Agreement for a one-year term effective December 1, 2017 to November 30, 2018 is now requested to continue to provide civil service test development, administration, and validation services.

Background

The City released a Request for Qualifications (RFQ) on July 23, 2014, to identify contractors able to assist with test development and administrative services. The City found the Contractor possessed the expertise and personnel required to provide such services and entered into City Contract No. C-125311 with PSI on December 1, 2014. The City's total maximum obligation was not to exceed \$750,000.

On December 1, 2015, the City executed a First Amendment extending the services through November 30, 2016, whereas the City's total obligation remained the same.

On June 22, 2017, the City executed a Second Amended and Restated Agreement extending the services for one additional year through November 30, 2017, whereas the City's total obligation was amended to increase the total compensation payable to Contractor to an amount not to exceed \$900,000.

The City is still in need of these services, and requests an extension to this contract for one additional year to provide continued assistance and augmentation of the Department's civil service test development objectives.

The Contractor's compliance documentation statuses are as follows:

Personnel Department submitted a Contract Review Report to the Office of the City Administrative Officer on December 17, 2014. With regard to this contract, CAO determined that City employees do have the expertise to perform these services; however the proposed contracted work can be performed more feasibly by a contractor than City employees for the following reasons:

- There is insufficient existing City staff to perform the work proposed to be contracted and additional staff cannot be employed and trained in a timely manner to meet the department's needs.
- The work proposed to be contracted is of intermittent nature and will be performed on an as-needed basis only to help resolve the examining backlog, so it is unlikely that the City would be able to continue the employment of persons hired for this project.
- This scope of work is highly specialized and there are only three classifications, Personnel Analyst, Personnel Research Analyst, and Senior Personnel Analyst, that possess the knowledge and expertise to perform all or a portion of the work proposed to be contracted.

Contractor's Contractor Responsibility Ordinance verification forms were approved by the Department of Public Works, Contract Administration. Contractor's Municipal Lobbying Ordinance documentations and insurance certifications are current.

Contractor's Slavery Disclosure, Equal Benefits, Non-discrimination/Equal Employment Practices Provisions, and First Source Hiring Ordinance affidavits are current.

The headquarter address for this Contractor is as follows:

PSI Services LLC
2950 N Hollywood Way, Unit 200
Burbank, CA 91505

Because of our interest in ensuring service continuity, we have already solicited language review from the City Attorney for this proposed personal services contract.

Fiscal Impact

Funding for this personal services contract is budgeted in the Personnel Department Contractual Services Account 3040.

**FIRST SUPPLEMENTAL AGREEMENT TO THE
PROFESSIONAL SERVICES AGREEMENT
(CONTRACT NO. C-125311)
BETWEEN
THE CITY OF LOS ANGELES
AND
PSI SERVICES, LLC
FOR CIVIL SERVICE TESTING, AND
TESTING RELATED SERVICES**

This FIRST SUPPLEMENTAL AGREEMENT to the Professional Services Agreement (City Contract No. C-125311) is made and entered into by and between the City of Los Angeles, a municipal corporation, acting through its Personnel Department (hereafter referred to as "**City**") and PSI Services, LLC, (hereinafter referred to as "**Contractor**"), with reference to the following:

RECITALS

1. Effective December 1, 2014 the City and Contractor entered into City Contract No. C-125311 (the "Contract") wherein Contractor agreed to assist and augment the Department civil service test development objectives by providing test development services; test administration services; test validation services; job analysis services; a library of tests; and other testing related services for the Los Angeles Personnel Department for the term December 1, 2014 through November 30, 2015;
2. Effective April 7, 2016, the City and Contractor executed a First Amendment to the Contract for the purpose of (a) adding one (1) additional year to the term, commencing December 1, 2015 through November 30, 2016 and (b) amending Article IV to add additional provisions required by City ordinance, under the same terms, covenants, and conditions of the Contract, except as otherwise stated therein;
3. Effective June 22, 2017, the City and Contractor executed a Second Amended and Restated Agreement of the Contract for the purpose of adding one (1) additional year to the term, commencing on December 1, 2016 through November 30, 2017; and increasing the compensation payable to Contractor to an amount not to exceed \$900,000, under the same terms, covenants, and conditions of the Contract and First Amended and Restated Agreement, except as otherwise stated therein;

4. The term of the Second Amended and Restated Agreement ended on November 30, 2017, but the City has a continuing need for the services of the Contractor and the parties have agreed to enter into a First Supplemental Amendment to Contract No. C-125311 for the provision of services through November 30, 2018;
5. Pursuant to Los Angeles Administrative Code Division 10, Chapter 1, Article 1, Section 10.5 b 2 the City, with City Council approval, on **DATE TBD**, agreed to execute a contract amendment to extend the term to November 30, 2018; and
6. The City and Contractor agree to extend the time of performance for the provision of services for the period commencing December 1, 2017 through November 30, 2018, under the same terms and conditions as are contained in the Second Amended and Restated Agreement, except as otherwise provided herein.

NOW, THEREFORE, in consideration of the promises, and of the terms, covenants and conditions set forth herein and in Contract No. C-125311, the parties hereto covenant, agree and represent as follows:

1. The list of "Attachments" is amended to delete "Standard Provisions for City Contracts (Rev.03/09)" and to replace it with "Standard Provisions for City Contracts (Rev.10/17)".
2. Add to Article II, Section A ("TERMS AND SERVICES TO BE PROVIDED") as follows:

At the conclusion of the extended contract, the term was extended to the period commencing December 1, 2017 and ending November 30, 2018, subject to the termination provisions herein and to the availability of City budgeted funds.

3. Articles IV and V shall be removed and replaced in their entirety with the following:

ARTICLE IV. MISCELLANEOUS

A. Standard Provisions for City Contracts

Contractor shall comply with the Standard Provisions for City Contracts (Rev. 10/17), attached hereto as Attachment A and made a part hereof.

B. Responsibility to Provide Services in Accordance with Applicable Standards and Requirement to Possess All Valid Permits and Licenses

Contractor warrants that the work performed hereunder shall be completed in a manner consistent with professional standards among those firms in Contractor's profession, doing the same or similar work, under the same or similar circumstances. Contractor must possess and maintain valid licenses and permits required to perform the services described herein.

C. Compliance with Statutes and Regulations

Contractor, in the performance of this Agreement, shall comply with all applicable statutes, rules, regulations, and orders of the United States, the State of California, the County and City of Los Angeles. Contractor shall comply with new, amended, or revised laws, regulations, and procedures that apply to the performance of this Agreement.

D. Amendments to Agreement

Any changes in the terms of this Agreement, including changes in the services to be performed by the CONTRACTOR, extension of the term, and any increase or decrease in pricing, will be incorporated into this Agreement by a written amendment properly executed by both parties.

E. Ambiguity

No ambiguity in this Agreement may be interpreted against any one party by virtue of that party being drafter of the Agreement.

F. Ratification Language

Due to the need for the Contractor's services to be provided continuously on an ongoing basis, Contractor may have provided services prior to the execution of this Agreement. To the extent that said services were performed in accordance with the terms and conditions of this Agreement, those services are hereby ratified.

G. Entire Agreement

This Agreement contains the full and complete Agreement between the parties. No verbal agreement or conversation with any officer or employee of either party will affect or modify any of the terms and conditions of this Agreement.

H. Order of Precedence

In the event of any inconsistency between the provisions in the body of this Agreement and the attachments, the order of precedence shall be as follows:

- 1) Paragraphs set forth in the body of this First Supplemental Amendment.
 - 2) Paragraphs set forth in the body of Second Amended and Restated Agreement of Contract No. C-125311
 - 3) Paragraphs set forth in the body of the First Amendment of Contract No. C-125311
 - 4) Paragraphs set forth in the body of Contract No. C-125311
 - 5) Standard Provisions for City Contracts (Rev. 10/17)
4. Except as amended by this First Supplemental Amendment, all other provisions of Contract No. C-125311 will remain in full force and effect.

Signature page follows

IN WITNESS THEREOF, the parties hereto have caused this Contract to be signed by their respective duly authorized representatives.

**CITY OF LOS ANGELES
PERSONNEL DEPARTMENT**

PSI SERVICES LLC (PSI)

By: _____
WENDY G. MACY
General Manager

By: _____
Title: _____

Date: _____

Date: _____

By: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

ATTEST:

MICHAEL N. FEUER, City Attorney

HOLLY L. WOLCOTT, City Clerk

By: _____
Daniel Kreinbring
Deputy City Attorney IV

By: _____
Deputy City Clerk

Date: _____

Date: _____

Approved Signature Methods:

- 1) Two signatures: One of the Chairman of the Board of Directors, President, or Vice-President, and one of the Secretary, Assistant Secretary, Chief Finance Officer, or Assistant Treasurer.
- 2) One signature of a Corporate-designated individual together with a properly attested resolution of the Board of Directors authorizing the individual to sign.

City Business License Number _____

Internal Revenue Service Taxpayer Identification Number _____

Contract Number C-125311

Recommendation

That the General Manager of the Personnel Department, or her designee, be authorized to amend City Contract No. C-125311 with PSI Services LLC for one additional year through November 30, 2018, with a contract maximum of \$900,000.

Please contact Sherry Cox at (213) 473-9122 with any additional questions.

Respectfully submitted,

Wendy Macy
General Manager

Attachment

ec: Leah Chu, CAO



REPORT
FROM

THE PERSONNEL
DEPARTMENT

TO:	DATE
REFERENCE:	COUNCIL FILE
SUBJECT: EXTENSION OF CONTRACT WITH PSI SERVICES, LLC	

RECOMMENDATIONS:

That the City Council approve and authorize the General Manager of the Personnel Department, or her designee, to execute a First Supplemental Agreement to Contract No. C-125311 with PSI Services, LLC to provide test development and administration services for one additional year from December 1, 2017, through November 30, 2018.

BACKGROUND:

The City of Los Angeles Personnel Department has partnered with PSI Services, LLC (PSI) to assist with the development and administration of Civil Service examinations and is seeking to continue this partnership with the extension of this contract. PSI has completed job analyses for various City job classifications and has partnered with the City to bring forward the innovative approach of online testing. Specifically, through PSI services, the City has been able to administer online multiple-choice tests to candidates either by allowing them to take an online multiple-choice test at PSI facilities located throughout the U.S. or by allowing candidates to take a multiple-choice test at any location of their choosing including their home by having their test administration proctored online.

The City's Personnel Department released a Request for Qualifications (RFQ) on July 23, 2014, in a search to identify organizations able to provide test development and administration services. The Personnel Department identified PSI as a leader in the field of test development and administration based on their history, quality of their services, and the list of satisfied customers and subsequently entered into an agreement with PSI on December 1, 2014.

The Personnel Department is continually seeking ways to improve the candidates' test taking experience and also gain efficiencies where possible. Therefore, it is critical that the services provided by PSI in conjunction with the City's innovative efforts are continued.

Since the Personnel Department partnered with PSI, over 12 examinations have been administered online throughout the U.S. In addition, over 70 candidates have been administered an online test that was also proctored online. These are necessary steps towards achieving the City's goal of implementing the innovative and customer oriented, Anytime/Anywhere testing model, which will

allow more City candidates to take Civil Service tests online from the convenience of their home, a critical option for future candidates looking for employment with the City.

Partnering with PSI and providing online testing services has allowed the City to recruit candidates that normally wouldn't participate in a City Civil Service test because of their geographic location. This is a highly desirable service that will help the various City departments hire the best and brightest candidates for their critical positions.

Contract Compliance

In accordance with Los Angeles Administrative Code Section 10.5(b)(2), Council approval of the First Supplemental Agreement is required because the term exceeds three years and estimated annual payment exceeds, \$100,000.

Per Charter Section 1022, the City Administrative Officer determined that although City employees have the expertise to perform these services, it is more feasible for a contractor to perform the work because the work exceeds staffing availability.

Contractor's Slavery Disclosure, Equal Benefits, and First Source Hiring Ordinance affidavits are current.

The Contractor's insurance certifications are current.

CONCLUSION:

The Personnel Department is requesting that the City Council authorize the General Manager or designee of the Personnel Department to extend the term of Contract No. C-125311 with PSI for one year through November 30, 2018.

FISCAL IMPACT STATEMENT:

The Personnel Department is budgeted for these services in its Contractual Services Account.

STANDARD PROVISIONS FOR CITY CONTRACTS

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STANDARD PROVISIONS FOR CITY CONTRACTS

PSC-1. Construction of Provisions and Titles Herein

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

PSC-2. Applicable Law, Interpretation and Enforcement

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

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

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

PSC-3. Time of Effectiveness

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

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

PSC-4. Integrated Contract

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

PSC-5. Amendment

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

PSC-6. Excusable Delays

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

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

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

PSC-7. Waiver

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

PSC-8. Suspension

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

PSC-9. Termination

A. Termination for Convenience

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

B. Termination for Breach of Contract

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

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

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

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

PSC-10. Independent Contractor

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

PSC-11. Contractor's Personnel

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

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

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

PSC-12. Assignment and Delegation

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

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

PSC-13. Permits

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

PSC-14. Claims for Labor and Materials

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

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

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

PSC-16. Retention of Records, Audit and Reports

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

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

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

PSC-17. Bonds

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

PSC-18. Indemnification

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

PSC-19. Intellectual Property Indemnification

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

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

PSC-20. Intellectual Property Warranty

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

PSC-21. Ownership and License

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

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

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

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

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

PSC-22. Data Protection

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

PSC-23. Insurance

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

PSC-24. Best Terms

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

PSC-25. Warranty and Responsibility of Contractor

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

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

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

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

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

PSC-27. Child Support Assignment Orders

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

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

PSC-28. Living Wage Ordinance

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

PSC-29. Service Contractor Worker Retention Ordinance

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

PSC-30. Access and Accommodations

CONTRACTOR represents and certifies that:

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

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

PSC-31. Contractor Responsibility Ordinance

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

PSC-32. Business Inclusion Program

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

PSC-33. Slavery Disclosure Ordinance

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

PSC-34. First Source Hiring Ordinance

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

PSC-35. Local Business Preference Ordinance

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

PSC-36. Iran Contracting Act

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PSC-42. Possessory Interests Tax

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

PSC-43. Confidentiality

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

EXHIBIT 1

INSTRUCTIONS AND INFORMATION ON COMPLYING WITH CITY INSURANCE REQUIREMENTS

(Share this information with your insurance agent or broker)

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

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

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

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

Additional Insured Endorsements DO NOT apply to the following:

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

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

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

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

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

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

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

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

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

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

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

Required Insurance and Minimum Limits

Name: _____

Date: _____

Agreement/Reference: _____

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

Limits

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☐ Flood☐ Earthquake☐ Boiler and Machinery☐ Builder's Risk☐
Pollution Liability
☐
Surety Bonds - Performance and Payment (Labor and Materials) Bonds
Crime Insurance

Other: _____