

0150-12309-0000

**T R A N S M I T T A L**

TO The City Council	DATE 05/15/2023	COUNCIL FILE NO. 22-0569
FROM The Mayor		COUNCIL DISTRICT ALL

**Amendment No. 1 to the Agreement with 3Di, Inc. for Maintenance and Support Services of the MyLA311 Customer Relationship Management System**

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). Please see the attached report from the City Administrative Officer.



MAYOR  
(Chris Thompson for)

**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: 04-07-23	C.D. No. All	CAO File No.: 0150-12309-0000				
Contracting Department/Bureau: Information Technology Agency (ITA)		Contact: Tita Zara (213)978-6305					
Reference: Report from the Information Technology Agency dated November 3, 2022							
Purpose of Contract: Maintenance and support for the Citywide MyLA311 Customer Relationship Management System							
Type of Contract: ( ) New contract (X) Amendment, Contract No. C-140519		Contract Term Dates: February 3, 2022 through February 2, 2025					
Contract/Amendment Amount: \$1,000,000							
Proposed amount \$ 1,000,000+ Prior award(s) \$ 1,000,000 = Total \$ 2,000,000							
Source of funds: General Fund – Contractual Services Accounts of ITA and Sanitation							
Name of Contractor: 3Di, Inc.							
Address: 3 Pointe Drive, Unit 307, Brea, CA 92821							
	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. 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: 13%				14. California Iran Contracting Act of 2010	X		

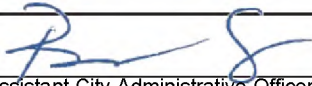
**RECOMMENDATION**

That the Mayor approve, and authorize the General Manager of the Information Technology Agency, or his designee, to execute Amendment No. 1 to City Contract C-140519 with 3Di, Inc. for maintenance and support of the MyLA311 Customer Relationship Management System, to extend the term of the Contract by 22 months for a revised term effective three years from February 3, 2022 through February 2, 2025, and add \$1,000,000 for total contract compensation of \$2,000,000, subject to the review and approval of the City Attorney.

**SUMMARY**

The Information Technology Agency (ITA) requests authority to execute Amendment No. 1 (Amendment) to the City’s contract C-140519 (Contract) with 3Di (Contractor) for maintenance and support of the MyLA311 Customer Relationship Management System (MyLA311). The Amendment will extend the term of the contract by 22 months, for a revised term of three years effective February 3, 2022 through February 2, 2025.

Through the MyLA311 application, residents can request services from various City departments, such as bulky item pick-up, graffiti abatement, and pothole repair. The MyLA311 application also hosts a knowledge base of City services used by 3-1-1 operators to provide information and route calls. The

Austin Patrick			
ADP	Analyst	11230103c	Assistant City Administrative Officer

Contractor was the initial developer of the MyLA311 system, and has been providing services in support of the MyLA311 system since 2013 (C-122480, C.F. 16-0272).

On March 11, 2021, the City Controller issued an audit proposing the upgrade the MyLA311 system to make it more responsive to customers (C.F. 21-0278). As a result of the Controller's audit, ITA selected Grant Thornton as a consultant to evaluate the system. Grant Thornton's chief finding was that MyLA311 should be replatformed to a new cloud-based system. In September 28, 2022, a Request for Proposals (RFP) was released to select a vendor to implement the MyLA311 replatforming project. ITA projects that a contract for the replatforming will be executed in the second quarter of 2023, with an estimated 12-16 months to complete the project once the contract is established.

In February 2022, the City's existing Contract C-122480 with the Contractor expired, but the MyLA311 system still required maintenance services while the City worked to identify the best method to upgrade the system. According to ITA, MyLA311 is complex and customized, requiring extensive knowledge to provide appropriate support of the application. ITA asserts that only 3Di has the institutional knowledge to keep MyLA311 running due to the complexity of the system and 3Di's role as the application developer. ITA executed the current Contract (C.F. 22-0569) on a sole source basis for a 14-month term effective February 3, 2022 through April 2, 2023.

While it was initially anticipated the 14-month term of the Contract would be sufficient for ITA to complete the replatforming project, delays in selecting Grant Thornton as the system evaluator as well as obtaining appropriate stakeholder input in the development of the MyLA311 replatforming project RFP delayed the project timeline. ITA is therefore requesting to extend the Contract by 22 months through February 2, 2025, to allow the Contractor to continue to provide maintenance and support of the current system during the transition. In addition, ITA is requesting an increase of \$1 million dollars in contract compensation, bringing the total compensation to \$2 million dollars, to fund the monthly maintenance charges during the extended time period. This cost is to be shared by ITA and the Bureau of Sanitation, the primary department currently utilizing the system to process service requests.

The Contractor has complied with all applicable City contracting requirements. In accordance with Charter Section 1022, the Personnel Department determined that City employees do not have the expertise to perform the work under the Contract as it requires extensive experience and knowledge of multiple Oracle platforms. In accordance with Los Angeles Administrative Code Section 10.5(b)2, while the Amendment does not exceed three years in term, Council approval of the proposed Amendment is required as the Contract replaced an expired contract involving the same party with no new competitive process with a resulting cumulative period of longer than three years.

## **FISCAL IMPACT STATEMENT**

Funding for the proposed Contract is available in ITA's Contractual Services Account and the budget of the Bureau of Sanitation. The impact to the General Fund is limited to the availability of funds appropriated for this purpose.

## **FINANCIAL POLICIES STATEMENT**

The recommendation of this report is in compliance with the City's Financial Policies as contract expenditures are limited to the appropriation of funds made by the City for this purpose.

# CITY OF LOS ANGELES

CALIFORNIA



**ERIC GARCETTI**  
MAYOR



INFORMATION TECHNOLOGY AGENCY

CITY HALL EAST  
200 N MAIN ST, ROOM 1400  
LOS ANGELES, CA 90012  
213.978.3311

[ita.lacity.org](http://ita.lacity.org)

**TED M. ROSS**  
GENERAL MANAGER  
CHIEF INFORMATION OFFICER

**JOYCE J. EDSON**  
EXECUTIVE OFFICER

**MARYAM ABBASSI**  
ASSISTANT GENERAL MANAGER

**BHAVIN PATEL**  
ASSISTANT GENERAL MANAGER

**TITA ZARA**  
ASSISTANT GENERAL MANAGER

November 3, 2022

REF: EXE-328-22

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

Attention: Heleen Ramirez, Legislative Coordinator

Subject: **AMENDMENT NO. 1 TO CONTRACT C-140519 WITH 3DI, INC. FOR MYLA311 CRM PLATFORM MAINTENANCE AND SUPPORT SERVICES**

Dear Mayor Garcetti:

Attached for your review and approval is Amendment No. 1 to Contract C-140519 with 3Di, Inc. to 1) extend the term by 22 months through February 2, 2025, and 2) increase the total compensation amount by \$1,000,000.00 with no change to the scope of work.

## **BACKGROUND**

MyLA311 serves as a vital link between Angelenos and the City government. Not only does it take in more than 2.5 million non-emergency requests a year for services provided by 10 different City Departments, but it also answers questions about local government through a comprehensive knowledgebase of more than 1,500 articles. Citizens use MyLA311 to improve public safety by reporting flooding, broken streetlights, loose animals, and potholes; to clean up their neighborhoods by notifying departments about graffiti and abandoned vehicles; to make billing inquiries; to sign up for Sanitation services and building permit inspection appointments; to learn about City services; and to make a variety of other requests.

The MyLA311 platform was launched in 2015 and implemented on Oracle-based software for the web portal, including Oracle databases, Siebel, and Webcenter, and native mobile apps for Apple and Android devices. This Citywide platform was implemented by 3Di, Inc., through Contract C-122480 (Council File 16-0272), which provided the technical resources to build out the MyLA311 platform on web and mobile and add features and enhancements.

On March 11, 2021, the Controller's Office issued an audit report advising the City to upgrade the MyLA311 system to make it more responsive to customers (CF 21-0278). In

response, the Personnel and Animal Welfare (PAAW) committee instructed ITA to engage a consultant to evaluate the system and make recommendations. ITA selected Grant Thornton through a Task Order Solicitation, and a Task Order contract (22-004-0-32) was executed on January 11, 2022.

The consulting project kicked off on January 18, 2022, and Grant Thornton submitted its final report on May 28, 2022. The report's findings and recommendations confirmed many of those made in the 2021 Controller's audit of MyLA311. Namely, that in order for MyLA311 to better serve the citizens of Los Angeles, it should be replatformed to a new cloud-based system.

In July 2022, the City created a MyLA311 Replatforming Project steering committee and working group with members from all the stakeholder departments to develop a Request for Proposals (RFP) and set of requirements based on the Grant Thornton report. The RFP was released on September 28, 2022, on RAMP, with proposals due on November 30, 2022. ITA projects that a contract will be executed with the selected vendor in the second quarter of 2023, and expects that implementation will take 12-16 months once contracts are established.

## **MAINTENANCE CONTRACT**

In February 2022, Contract C-122480 expired, but the MyLA311 system still required maintenance services so it could continue to be operational and secure.

The MyLA311 system does not reflect an out-of-the-box implementation for any of the software utilized and requires detailed knowledge on how all the components work together. Over the past seven years, the platform has been customized to fit the needs of City departments and has only grown in complexity. MyLA311 integrates with various departmental fulfillment systems, an open data portal, mobile apps, Sanitation Franchise haulers, and other external systems to make up the 311 ecosystem. ITA's staff does not have the training to maintain the system. Only 3Di has the institutional knowledge to keep the overall system running. Bringing in a new vendor would be neither cost-effective nor efficient due to the time required to bring them up to speed, especially when the platform is slated to be replaced.

The City Attorney's Office agreed to a 14-month sole source contract with 3Di to keep MyLA311 running while an RFP to replatform it was initiated, and in June 2022, ITA executed Contract C-140519 (CF 22-0569).

Unfortunately, the initial timeline was predicated on Grant Thornton providing a Statement of Work that could be quickly incorporated into an RFP. Instead, the Steering Committee required time to review the report and produce a list of requirements. In addition, the final Grant Thornton report, input from the City Council, and the requirements drafted by the Steering Committee indicate a much larger project than initially suggested is needed. This has led not only to pushing back the date of posting the RFP, but has also meant that

rolling out MyLA311 on a new platform will take longer than originally projected. In sum, the replatforming project cannot be completed before the maintenance contract expires.

ITA is requesting to extend the contract by 22 months through February 2, 2025, to provide the much needed maintenance and support of the current system while it is being replatformed under a new contract.

In conjunction with the 22-month extension request, ITA is requesting an increase of \$1,000,000 in contract authority, bringing the contract limit up to \$2,000,000 to cover the monthly maintenance charges for the current MyLA311 system. This cost is shared by ITA and LASAN.

### **CONTRACT COMPLIANCE**

The Personnel Department performed a Charter Section 1022 evaluation and determined that while there are City classes such as Programmer Analyst and Applications Programmers that would be able to perform some of the duties outlined in the contract, the City classes would not be able to perform the full scope of work, as it involves knowledge of multiple Oracle platforms.

The ACORD Certificate of Liability Insurance has been uploaded in KwikComply for the required insurance for Professional/Cyber Liability (expires January 4, 2023), Workers' Compensation, General Liability and Automobile Liability (expire August 3, 2022).

The Disclosure Ordinance and Equal Benefits/First Source Hiring Ordinance forms were verified by the Public Works Bureau of Contract Administration (BCA) on June 18, 2019 and March 31, 2022, respectively.

The headquarters address is:

3 Pointe Drive, Unit 307  
Brea, CA 92821

The percentage of 3Di's total workforce that resides in the City of Los Angeles is 13%.

The vendor has a valid Business Tax Registration Certificate.

The draft contract amendment has been reviewed and approved by the City Attorney as to form.

### **FISCAL IMPACT**

Required funding for this contract is available in ITA's and LASAN's Contractual Services Account. Funding in subsequent fiscal years is dependent upon budget approval process.

## RECOMMENDATION

That the Council, subject to the approval of the Mayor, authorize the General Manager of the Information Technology Agency, or designee, to execute a contract amendment to extend the term of the contract to February 2, 2025, and increase the total compensation amount by \$1,000,000.00 for a total contract limit not-to-exceed \$2,000,000.

If you have any questions, please contact Tita Zara at (213) 978-3346 or Arik Bibicoff at (213) 978-6305.

Respectfully submitted,



Ted Ross  
General Manager

Enclosure

ec: Melissa Velasco, CAO  
Maria Cecilia Ramos, CAO  
Joyce Edson, ITA  
Tita Zara, ITA  
Eduardo Magos, ITA  
Marc Magallanes, ITA  
Maggie McNally, ITA

**AMENDMENT NO. 1 TO**  
**CONTRACT C-140519**  
**BETWEEN**  
**CITY OF LOS ANGELES**  
**AND**  
**3DI, INC.**

This Amendment No. 1 (“Amendment”) to that certain City of Los Angeles Contract C-140519 is made and entered into by and between the City of Los Angeles, a municipal corporation, (hereinafter referred to as “City”), acting by and through the Information Technology Agency (hereinafter referred to as “ITA”), and 3Di, Inc., a California corporation (hereinafter referred to as “Contractor”) with reference to the following:

**WITNESSETH:**

WHEREAS, ITA is responsible for providing maintenance and support for the City’s MyLA311 platform, which allows Angelenos to make requests for non-emergency City services, including reporting potholes, requesting bulky item pickup, making billing inquiries, etc., and provides users with information about City services;

WHEREAS, the MyLA311 platform was originally implemented by Contractor, through Contract C-122480;

WHEREAS, once Contract C-122480 expired, the City continued to require services to maintain, support, and secure the MyLA311 platform pending ITA’s completion of the replatforming of MyLA311 to a new cloud-based system;

WHEREAS, due to the unique nature and complexity of the original MyLA311 platform, Contractor is the only vendor that can provide maintenance and support services in an efficient and cost-effective manner;

WHEREAS, on June 22, 2022, the City entered into Contract C-140519 (“Contract”), whereby Contractor agreed to continue providing necessary maintenance and support services for the City’s MyLA311 system;

WHEREAS, the City will be unable to implement the new cloud-based platform before the Contract expires; and

WHEREAS, the City desires to 1) extend the term of the Contract for 22 additional months to allow Contractor to continue providing services while the City establishes a new contract to replatform MyLA311 and 2) increase the City's total contract limit from \$1,000,000 to \$2,000,000 to pay for the maintenance services for this period.

**NOW, THEREFORE**, in consideration of the above recitals, and of the covenants and agreements hereinafter set forth, the City and Contractor covenant and agree that the Contract is amended as follows:

1. Section 1.0 Term of Contract is deleted in its entirety and replaced as follows:

**"1.0 TERM OF CONTRACT.** The term of this Contract shall commence on February 3, 2022, and shall terminate three years therefrom on February 2, 2025, or at such time as all funding provided herein has been expended, whichever occurs first. This Contract shall be subject to termination by the City if funds are not appropriated for these services in the ensuing fiscal year commencing July 1."

2. Section 2.1 is amended in its entirety and restated as follows in quotation marks:

**"2.1 Total Contract Expenditure.** The City's total obligation under this Contract shall not exceed two million dollars (\$2,000,000.00). The Contractor further understands and agrees that execution of this Contract neither guarantees that the Contractor's employees will be utilized nor that the Contractor will receive any payment unless confirmed by ITA in an authorization-to-hire letter."

3. The Standard Provisions for City Personal Services Contracts (Rev. 10/21) [v.4] previously attached as **Appendix A** to the Contract is deleted in its entirety and replaced by the Standard Provisions for City Contracts (Rev. 9/22) [v.1], which is attached to this Amendment as **Attachment A – Standard Provisions for City Contracts** and incorporated and made a part of the Contract by this reference.
4. All other provisions of the Contract shall remain in full force and effect.

IN WITNESS THEREOF, the City and Contractor have caused this Amendment to be signed by their respective duly authorized officers:

APPROVED AS TO FORM:

CITY OF LOS ANGELES

Michael N. Feuer, City Attorney

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

Joshua M. Templett  
Deputy City Attorney

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

ATTEST:

Holly Wolcott, City Clerk

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

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

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

Tita Zara  
Assistant General Manager  
Information Technology Agency

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

3Di, Inc.

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

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

## **APPENDIX A**

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

**STANDARD PROVISIONS FOR CITY CONTRACTS**

**TABLE OF CONTENTS**

**PSC-1**    Construction of Provisions and Titles Herein..... 1

**PSC-2**    Applicable Law, Interpretation and Enforcement..... 1

**PSC-3**    Time of Effectiveness..... 1

**PSC-4**    Integrated Contract ..... 2

**PSC-5**    Amendment..... 2

**PSC-6**    Excusable Delays..... 2

**PSC-7**    Waiver..... 2

**PSC-8**    Suspension ..... 3

**PSC-9**    Termination ..... 3

**PSC-10**    Independent Contractor ..... 5

**PSC-11**    Contractor’s Personnel..... 5

**PSC-12**    Assignment and Delegation ..... 6

**PSC-13**    Permits..... 6

**PSC-14**    Claims for Labor and Materials ..... 6

**PSC-15**    Current Los Angeles City Business Tax Registration Certificate Required .... 6

**PSC-16**    Retention of Records, Audit and Reports..... 6

**PSC-17**    Bonds..... 7

**PSC-18**    Indemnification..... 7

**PSC-19**    Intellectual Property Indemnification ..... 7

**PSC-20**    Intellectual Property Warranty..... 8

**PSC-21**    Ownership and License..... 8

**PSC-22**    Data Protection ..... 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
PSC-44	<u>COVID-19</u> .....	15
PSC-45	<u>Contractor Data Reporting</u> .....	15

**Exhibit 1** Insurance Contractual Requirements..... **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](http://ethics.lacity.org) or by calling the Los Angeles City Ethics Commission at (213) 978-1960.”

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

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

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

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

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

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

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

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

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

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

**PSC-42. Possessory Interests Tax**

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

### **PSC-43. Confidentiality**

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

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

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

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

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

**EXHIBIT 1**

**INSURANCE CONTRACTUAL REQUIREMENTS**

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

**CONTRACTUAL REQUIREMENTS**

**CONTRACTOR AGREES THAT:**

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

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

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

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

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

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

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

## Required Insurance and Minimum Limits

Name: 3DI, Inc.

Date: 03/23/2022

Agreement/Reference: Design & Development of the City's Customer Relationship Management System (CRM)

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 - Workers' Compensation (WC) and Employer's Liability (EL)** WC Statutory  
EL \$1,000,000

Waiver of Subrogation in favor of City  Longshore & Harbor Workers  
 Jones Act

**General Liability** (\$2MM Aggregate) City of Los Angeles must be named as an Additional Insured \$1,000,000

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) \$1,000,000

**Professional Liability** (Errors and Omissions) \$1,000,000

Discovery Period 12 Months After Completion of Work or Date of Termination

**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** 100% of the contract price

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

**Other:** 1) Professional Liability Insurance is required for any Licensed Professional performing work as part of the Agreement.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_