

MEMORANDUM OF UNDERSTANDING

ORGANIZATION PARTNER: OpenAQ

Regarding: Predicting What We Breathe Project

Agreement Number: _____

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**AGREEMENT BETWEEN
THE CITY OF LOS ANGELES
AND
OPEN AQ
FOR PREDICTING WHAT WE BREATHE AIR QUALITY PROJECT**

THIS AGREEMENT is made and entered into by and between the City of Los Angeles, California, a municipal corporation (hereinafter referred as the “City”), and OpenAQ, a Washington, DC-based non-profit organization (hereinafter referred as the “OpenAQ”), located in Washington, DC (hereinafter referred as the “Washington, DC”).

RECITALS

WHEREAS, the City proposes to gather satellite and ground level data and use predictive analytics and machine learning to complete extensive air quality research on the effectiveness of the City’s interventions (from tree planting to policy changes).

WHEREAS, OpenAQ will help provide and identify ground monitoring air quality data, providing additional sources, as feasible and available.

WHEREAS, the City is planning to complete this Air Quality research through a grant from NASA which will aid to inform the City’s Resilient LA and Sustainability plans on improving air quality by taking steps to reduce air pollution.

WHEREAS, the parties hereto wish to enter into an Agreement pursuant to which OpenAQ will provide harmonized data sets from their open data platform (including 10,000 government and research stations from 70 countries) as well as run 1 in-person air quality workshop in Los Angeles and 1 virtual workshop.

NOW THEREFORE, in consideration of the above promises and of the terms, covenants and considerations set forth herein, the parties do agree as follows:

1.0 PARTIES TO THE AGREEMENT AND REPRESENTATIVES

1.1 Parties to the Agreement

The parties to this Agreement are:

- a. City – The City of Los Angeles, a municipal corporation, acting by and through the Bureau of Street Lighting, having its principal office at 1149 S Broadway, Suite 200, Los Angeles, California 90015.
- b. OpenAQ – OpenAQ, a Washington, DC based 501(c)(3) non-profit organization, with a business address at 1226 9th St NW #200, Washington, DC 20001.

1.2 Representatives to the Agreement

The representatives of the parties who are authorized to administer this Agreement to whom formal notices, demands, and communications will be given are as follows:

- a. The City's representative is, unless otherwise stated in the Agreement:

Jeanne Holm, Senior Technology Advisor to the Mayor and Chief Data Officer
 City of Los Angeles
 Mayor's Office of Budget & Innovation
 200 North Spring Street
 Los Angeles, CA 90012

With copies to:

Bureau of Street Lighting Contract Administration
 1149 S Broadway #200
 Los Angeles, CA 90015
 Attention: Megan Hackney

- b. The Contractor's representative is, unless otherwise stated in the Agreement:

Christa Hasenkopf, Executive Director
 OpenAQ
 1226 9th St NW #200
 Washington, DC 20001

1.3 Formal Notices

Formal notices, demands, and communications to be given hereunder by either party must be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and will be deemed communicated as of the date of mailing.

1.4 Notices of Change

If the name of the person designated to receive the notices, demands or communications or the address of such person is changed, written notice will be given in accordance with this Section, within five (5) business days of said change.

1.5 Conditions Precedent

- a. **Insurance Requirements.** The Contractor shall comply at all times with all of the insurance requirements set forth in the City of Los Angeles, Standard Provision for City Contracts,
- b. **Changes to Documentation.** Changes to the foregoing documents affecting the performance of the Contractor under this Agreement shall receive City approval in writing before the Contractor may affect the change.
- c. **Contract Assignment.** This contract is not to be assigned to a substitute contractor, a successor in interest, or a purchaser of the contract without express permission of the City. If the City does not approve or grant permission to be a subsequent contractor to assume the services outlined in this contract, then the contract will be terminated.

2.0 TERM OF AGREEMENT

The term of Agreement shall be from May 18, 2020 through May 18, 2023. Said term is subject to the termination provision contained in this Agreement.

3.0 SERVICES TO BE PROVIDED

- 3.1 OpenAQ will identify ground monitoring air quality data from their 10,000 government and research stations from 70 countries, harmonized into one data format. As feasible, OpenAQ may add additional data sources ("refresh data") and provide these additional sources. To note: This agreement does not cover building additional adapters to the OpenAQ Platform.
- 3.2 OpenAQ will ensure identified data is available via their open source platform and provide user-requested data from the platform via csv files or json. OpenAQ can additionally provide support to users on how to access and implement existing open-source tools built on top of the OpenAQ Platform.
- 3.3 OpenAQ will run two (2) air quality workshops with key program stakeholders. One workshop will be held in Los Angeles and the other will be virtual.
- 3.4 OpenAQ will produce quarterly technical, mid-year interim and annual reports during the duration of the project.
- 3.5 OpenAQ will provide expenditure reports and invoicing during the duration of the project.
- 3.6 OpenAQ will synthesize outcomes and key findings into annual reports during each project year.

3.6 Service Delivery

OpenAQ shall provide the data analysis and services based on the following schedule:

Task #	Tasks	Start	Duration
Task 3.1	Identify and share status of existing data upon request	Second quarter 2020	Through first quarter 2022
Task 3.2	Continue to publish open source data as available	Third quarter 2021	Through first quarter 2022
Task 3.3	Design and run OpenAQ air quality workshops (2 workshops - 1 in LA, 1 virtual)	Third quarter 2021	Through fourth quarter 2021
Task 3.4	Complete Financial Reporting (per reporting requirements)	Second quarter 2020	Through third quarter 2022
Task 3.5	Complete Quarterly Technical report	Second quarter 2020	Through second quarter 2022
Task 3.6	Mid-Year Interim Report	Third quarter 2020	Through first quarter 2022
Task 3.7	Annual Report	First quarter 2021	Through second quarter 2022

4.0 COMPENSATION AND METHOD OF PAYMENT

4.1 Compensation

The City shall pay OpenAQ for the satisfactory performance of the terms and conditions of this Agreement. Total costs for this project equal \$74,000.00 and is payable per Section 200.202(b)(2). This includes the continuous costs of OpenAQ support and expertise, \$46,000 and costs for the in-person and virtual air quality workshops, \$28,000.

The grantee allows to deposit the fund by the end of the project term OR after that until all funds are spent.

OpenAQ shall be responsible for paying for any and all of the incidental costs (e.g., travel, outsourced programming, storage) OpenAQ incurs in providing services to the City.

OpenAQ's services are being performed as an independent contractor and not as an agent or employee of the City. Thus, OpenAQ is not entitled to any vacation, sick leaves, workers' compensation, pension or any other City benefits.

4.2 Method of Payment

Invoices

The City shall pay OpenAQ in accordance with Section 4.1 above and the other conditions and provisions of this Section after receipt and approval of OpenAQ's invoices by the City. To ensure that services provided under personal services contracts are measured against services as detailed in

the contract, the Controller of the City of Los Angeles has developed a policy requiring that specific supporting documentation submitted with invoices.

Billing & Invoicing Requirements

OpenAQ is required to submit invoices that conform to City standards and include, at a minimum, the following information:

1. Name and address of OpenAQ
2. Name and address of City department being billed
3. Date of invoice and period covered
4. Contract number
5. Description of completed task and amount due for tasks including:
 - a. Name of personnel working on tasks
 - b. Hours spent on task and timesheet supporting changes (if applicable)
 - c. Rate per hour and total due
6. Certification by Contractor
7. Discount and terms (if applicable)
8. Remittance Address (if different from company address)

All invoices shall be submitted on OpenAQ's letterhead, contain OpenAQ official logo, or other unique and identifying information such as the name and address of the contractor. Evidence that tasks have been completed, in the form of a report, brochure, or photograph, shall be attached to all invoices. Invoices shall be submitted within 30 days of service, or monthly, and shall be payable to OpenAQ no later than 30 days after City approval of a complete invoice. Invoices are considered complete when appropriate documentation or services are signed off as satisfactory by the City's Contract Manager.

Invoices and supporting documentation shall be prepared at the sole expense and responsibility of OpenAQ. The City will not compensate OpenAQ for costs incurred in invoice preparation.

The City may request, in writing, changes to the content and format of the invoice and supporting documentation at any time. The City reserves the right to request additional supporting documentation to substantiate at any time. Failure to adhere to these policies may result in nonpayment or non-approval of demands, pursuant to Charter 262(a), which requires the Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any City office or department, and approve demands before they are drawn on the Treasury.

OpenAQ understands that the City makes no commitment to fund this Agreement beyond the terms set herein.

Invoices must be e-mailed and mailed to:

Megan Hackney
Bureau of Street Lighting
City of Los Angeles
1149 S Broadway #200
Los Angeles, California 90015
jeanne.holm@lacity.org

5.0 OWNERSHIP AND INTELLECTUAL PROPERTY RIGHTS

5.1 Intellectual Property Warranty

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

5.2 Survival of Provisions

The provisions of this Section shall survive expiration or termination of this Agreement. Further, the rights and remedies are cumulative of those provided for elsewhere in this Agreement and those allowed under the laws of the United State, the State of California, and the City of Los Angeles.

6.0 RETENTION OF RECORDS

OpenAQ shall maintain records pertaining to the performance of this Agreement, in their original form, in accordance with requirements prescribed by the City. These records must be retained for a period of no less than three (3) years following final payment made by the City hereunder or the expiration date of this contract, whichever occur last. Said records will be subject to examination and audit by authorized City personnel or by the City's representative at any time during the term of this contract or within the three (3) years following the final payment made by the City hereunder or the termination date of this Agreement, whichever occurs last. OpenAQ will provide any reports requested by the City regarding performance of the Agreement.

7.0 TERMINATION

7.1 Termination for Convenience

CITY may terminate this Contract for **CITY'S** convenience at any time by providing **OpenAQ** thirty days written notice. Upon receipt of the notice of termination, **OpenAQ** 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 **OpenAQ** its reasonable and allowable costs, including documentable non-cancellable obligations (e.g. procurement costs which are paid in advance for which costs are non-refundable and student fee tuition and remission costs) through the effective date of termination and those reasonable and necessary costs incurred by **OpenAQ** to effect the termination. Thereafter, **OpenAQ** shall have no further claims against **CITY** under this Contract. All work, finished and unfinished documents and materials ("Work Products") produced under this Contract, shall become **CITY** property upon the date of the termination. **OpenAQ** agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

7.2 Termination for Breach of Agreement

- a. If OpenAQ fails to perform any of the provisions of this Agreement or so fails to make progress as to endanger timely performance of this Agreement, City may give OpenAQ written notice of such default. If OpenAQ does not cure such default or provide a plan to cure such default which is acceptable to the City within the time permitted by City, then City may terminate this Agreement due to OpenAQ's breach of this Agreement.
- b. If a federal or state proceeding for relief of debtors is undertaken by or against OpenAQ, or if OpenAQ makes an assignment for the benefit of creditors, then City may immediately terminate this Agreement.
- c. If OpenAQ engages in any dishonest conduct related to the performance or administration of this Agreement or violates City's lobbying policies, then City may immediately terminate this Agreement.
- d. In the event City terminates this Agreement as provided in this Section, City may procure, upon such terms and in such manner as City may deem appropriate, Services similar in scope and level of effort to those so terminated, and OpenAQ shall be liable to City for all of its costs and damages, including, but not limited to, any excess costs for such Services.
- e. All finished or unfinished documents and materials produced or procured under this Agreement shall become City property upon date of such termination.
- f. If, after notice of termination of this Agreement under the provisions of this Section, it is determined for any reason that OpenAQ was not in default under the provisions of this Section, or that the default was excusable under the terms of this Agreement, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Section 7.1, Termination for Convenience.
- g. The rights and remedies of City provided in this Section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

8.0 CONFIDENTIALITY OF INFORMATION

Information, documents, records, software programs, and data furnished to OpenAQ by the City and other documents to which OpenAQ has access during the term of this Agreement are confidential information (herein after referred to as "Confidential Information"). OpenAQ may not disclose Confidential Information in any manner without the prior written consent of the City.

9.0 AMENDMENTS

Any change in the terms of this Agreement must be incorporated into this Agreement by a written amendment properly executed and signed by the person authorized to bind the parties thereto.

10.0 RATIFICATION

Due to the need for OpenAQ's services to be provided expeditiously, OpenAQ may have provided services prior to the execution of this Agreement. To the extent that OpenAQ's services were performed in accordance with the terms and conditions of this Agreement, those services are hereby ratified.

11.0 STANDARD PROVISIONS

OpenAQ shall comply with the applicable requirements of the Standard Provisions for City Contracts (Rev. 10/17)[V.3], attached hereto as Appendix A and incorporated herein by this reference.

12.0 ENTIRE AGREEMENT

This Agreement contains the full and complete Agreement between the two 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.

This Agreement is executed in three (3) originals, each of which is deemed to be an original.