

0220-05291-0824

TRANSMITTALTO
The CouncilDATE
06/17/20COUNCIL FILE NO.
19-1416FROM
The MayorCOUNCIL DISTRICT
All**Proposed Agreement between the Department of Convention and Tourism Development
and the Los Angeles Tourism & Convention Board for Marketing and Booking Services**Transmitted for your consideration. See the
City Administrative Officer report attached.

MAYOR

(Ana Guerrero for)

RHL:DMP:09200217t

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: 06-12-20	C.D. No. All	CAO File No.: 0220-05291-0824
Contracting Department/Bureau: Convention and Tourism Development		Contact: Kim Nakashima (213) 765-4248	
Reference: Transmittal from the Mayor's Office dated May 29, 2020.			
Purpose of Contract: Promoting Los Angeles as a destination for conventions and leisure travel.			
Type of Contract: (X) New contract () Amendment, Contract No.		Contract Term Dates: July 1, 2020 through June 30, 2030	
Contract Amount: 1/14 th of the annual amount of Transient Occupancy Tax (TOT) collected by the City.			
Source of funds: Los Angeles Convention and visitors Bureau Trust Fund No. 429 (derived from TOT collections)			
Name of Contractor: Los Angeles Tourism & Convention Board (LATCB)			
Address: 633 West 5 th Street, Suite 1800, Los Angeles, CA 90071			
	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: 36.7%			
Contractor has complied with:		Yes	No
8. Business Inclusion Program			X
9. Equal Benefits & First Source Hiring Ordinances		X	
10. Contractor Responsibility Ordinance		X	
11. Disclosure Ordinances		X	
12. Bidder Certification CEC Form 50		X	
13. Prohibited Contributors (Bidders) CEC Form 55		X	
14. California Iran Contracting Act of 2010		X	

RECOMMENDATION

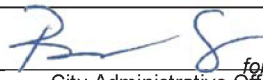
That the Council, subject to the approval of the Mayor, authorize the Executive Director of the Department of Convention and Tourism Development, or designee, to execute the proposed agreement with the Los Angeles Tourism & Convention Board to promote Los Angeles as a destination for conventions and leisure travel, for a term of ten years beginning July 1, 2020 through June 30, 2030.

SUMMARY

The Department of Convention and Tourism Development (CTD) requests authority to execute the attached agreement (the Agreement) with the Los Angeles Tourism & Convention Board (LATCB) for services related to promoting Los Angeles as a travel destination and for sales and booking services for the Los Angeles Convention Center (LACC). For their services, LATCB will be compensated an amount equivalent to one-fourteenth (1/14) of the annual amount of Transient Occupancy Tax (TOT) collected by the City. The term of the proposed Agreement is for ten years, beginning on July 1, 2020 through June 30, 2030.

BACKGROUND

LATCB is a non-profit organization that promotes and sells Los Angeles as a destination for conventions, meetings, and leisure travel from domestic and key international markets. LATCB solicits

Derik Pearson		NRB	 City Administrative Officer
DMP	Analyst	0220-05291-0824	

and books conventions for the LACC, generates leads and bookings for meetings and conferences in hotel venues across Los Angeles, and markets Los Angeles as a destination through paid advertising, on-line promotions, and social media. The City has contracted with LATCB since 1976 to provide these services and to generate economic benefit from direct visitor spending and TOT. The current contract between the City and LATCB expires on June 30, 2020 (C.F. 14-1657).

On December 12, 2020, the Council approved a motion (Buscaino - O'Farrell) (the Motion) directing CTD to negotiate a new agreement with LATCB for a ten-year term intended to encompass significant tourism-related events anticipated to occur throughout that time (C.F. 19-1416). The attached Agreement is the result of those negotiations.

The primary goal of the Agreement with LATCB is to continue to grow the local economy by promoting the City. Pursuant to the terms of the Agreement, LATCB's services will align with the following core objectives:

- **Greater Visitation** - Increasing the number of people visiting Los Angeles as both a convention and tourist destination in order to increase the economic benefits derived from visitors to the City;
- **Economic Impact** - Measuring the economic impact from citywide conventions and the tourism and hospitality sector;
- **Visitor Engagement** - Facilitating and tracking engagement with those visiting Los Angeles for both conventions and leisure travel to enhance the visitor experience with the intent of encouraging repeat visitation and longer stays; and
- **Best Use of City Funding** - Effectively leveraging TOT funds with other sources of funding to promote conventions and tourism to maximize the yield from the City's investment.

The terms of the proposed Agreement are generally consistent with the terms of the current contract with LATCB, with the exception of a longer contract term and revised reserve fund provisions. The current contract with LATCB contains a five-and-a-half-year term, beginning on January 1, 2015 and ending on June 30, 2020. The proposed Agreement contains a ten-year term, beginning on July 1, 2020 and ending on June 30, 2030. As highlighted in the Motion, the City is anticipating the following significant events over the next ten years:

- **LACC Expansion Project** – The City is currently exploring a public-private partnership to expand and modernize the LACC facility (C.F. 15-1207-S1);
- **Extension of the Los Angeles Tourism Marketing District (LATMD)** – Currently set to expire in 2025, the citywide LATMD consists of hotels with 50 or more rooms that are charged a 1.5% assessment on room revenue to be used for sales and marketing purposes; and
- **2028 Summer Olympics** – Los Angeles will host the 2028 Olympic and Paralympic Games, with programming anticipated to be held at various venues throughout the City.

LATCB is expected to play a key role in all three events, and a contract term that encompasses these events will ensure service continuity without potential disruptions and will be advantageous to both LATCB and the City. If, for any reason, the City desires to terminate the Agreement prior to June 30, 2030, the Agreement contains provisions that allow for termination without penalty subject to a ninety-day written notice.

The current contract allows LATCB to maintain a reserve fund up to 15% of their annual budget to be carried forward and used in subsequent fiscal years. Based on recent fiscal years, this ceiling would be roughly equivalent to between \$3 million and \$3.5 million. The proposed Agreement would allow LATCB to set aside up to 15% of their annual budget for any single fiscal year in the reserve fund, but would cap the aggregate reserve fund balance at \$5 million. This increased ceiling would allow LATCB to more efficiently budget for future major travel industry events, and would provide LATCB with the ability to maintain stronger financial resilience against catastrophic events, such as the current COVID-19-related crisis that has significantly disrupted the travel industry.

Mayor's Belt-Tightening Measures

This Agreement qualifies for an exception to the suspension of contracting under the Mayor's Belt-Tightening Measures Memorandum dated March 19, 2020, as LATCB's services under this Agreement will generate revenue for the City. LATCB will promote and market Los Angeles to increase visitation and LACC bookings, which will result in increased TOT and other economic benefits.

Over the term of the current contract, LATCB has booked 157 citywide conventions to be hosted in future years at the LACC, which are expected to generate two million room nights for the City of Los Angeles. During this period, the LACC hosted 136 events which were previously booked by LATCB, bringing over 2.1 million delegates to the City and generating 1.2 million audited hotel room nights. These events have generated \$41.8 million in audited TOT, and have resulted in an estimated \$2.4 billion in economic impact for Los Angeles based on the Event Impact Calculator, an industry-standard tool developed by Destinations International and Tourism Economics to measure the economic value of an event and calculate its return on investment to local taxes.

Sole Source

This Agreement is exempt from a competitive bidding process as it has been determined that LATCB provides a professional and unique service, and thus pursuant to Charter Section 371(e)(10) competitive bidding is neither practicable nor advantageous. Due to its relationships with local hotels, industry partners and stakeholders, and its offices in other domestic and international cities, LATCB is uniquely qualified to undertake the promotion and advertisement of Los Angeles as a premier destination for conventions, meetings, and tourism.

The Agreement has been reviewed by the City Attorney as to form.

FISCAL IMPACT STATEMENT

There is no additional impact to the General Fund associated with the recommendation included in this report. The 2020-21 Adopted Budget includes an appropriation within the Los Angeles Visitors and Convention Bureau Trust Fund for costs associated with supporting the proposed agreement with the Los Angeles Tourism & Convention Board (LATCB). This appropriation is supported by the portion of Transient Occupancy Tax (TOT) allocable to LATCB, equivalent to one-fourteenth of the City's annual TOT receipts. Funding for future years will be considered as part of the City's annual budget process.

FINANCIAL POLICIES STATEMENT

The action recommended in this report complies with the City's Financial Policies in that ongoing expenditures will be funded by ongoing revenues.

RHL:DMP:09200217

ATTACHMENTS

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

Date: May 27, 2020

To: The Honorable Eric Garcetti, Mayor
Office of the Mayor

Attention: Heleen Ramirez, Legislative Coordinator

From: Doane Liu, Executive Director 
Department of Convention and Tourism Development

Subject: **PROPOSED CONTRACT WITH THE LOS ANGELES TOURISM &
CONVENTION BOARD FOR MARKETING AND TOURISM SERVICES
FOR THE CITY AND SALES AND BOOKING SERVICES FOR THE
CONVENTION CENTER**

SUMMARY

The Department of Convention and Tourism Development (CTD) requests authority to execute a contract (attached) with the Los Angeles Tourism & Convention Board (LATCB) for services related to promoting Los Angeles as a destination for conventions and leisure travel through June 30, 2030. The current contract between the City of Los Angeles (City) and the LATCB expires on June 30, 2020. The Board of Los Angeles Convention and Tourism Development Commissioners approved this contract at its Board meeting on May 6, 2020.

RECOMMENDATION

That the Mayor and City Council authorize the Executive Director of the CTD to execute a contract with LATCB for services related to promoting Los Angeles as a destination for conventions and leisure travel.

BACKGROUND

The Los Angeles Tourism & Convention Board (LATCB) is a non-profit organization that promotes and sells Los Angeles as a destination for conventions, meetings and leisure travel from domestic and key international markets. The City of Los Angeles (City) has contracted with LATCB since 1976 to generate economic benefit from direct visitor spending and transient occupancy tax (TOT) revenues.

LATCB solicits and books conventions into LACC; generates leads and bookings for meetings and conferences in hotel venues; markets Los Angeles as a destination

through an integrated strategy of paid advertising, on-line promotions, earned media and social media channels domestically and select international markets; and targets travel buyers globally through trade shows, sales missions and digital communications. LATCB also provides policy advice to the Mayor and City Council (Council) with regard to conventions and professional meetings, tourism and economic data related to the industry.

PROPOSED CONTRACT

The current contract between the City and LATCB has a five- and one-half year (5 ½) term that began January 1, 2015 and is scheduled to expire on June 30, 2020. The proposed new contract addresses the areas discussed below.

The term of the proposed contract is ten (10) years. Per Council Motion 19-1416, staff is requesting a ten-year term so that the contract would encompass both the extension of the contract term of the City-wide Tourism Marketing District (expiring in 2025) as well as the preparations leading up to and including the proposed LACC Expansion and Modernization Project and 2028 Olympic and Paralympic Games.

FISCAL IMPACT STATEMENT

The City annually appropriates an amount equivalent to one percentage point of the TOT to the Los Angeles Convention and Visitors Bureau Trust Fund, which pays for the cost of this contract. There is no additional fiscal impact on the General Fund.

DL:DM:kn

Exec. Ref: 20-115

Attachments:

- A. Proposed Contract with LATCB
- B. LATCB Contract Compliance

cc: William Chun, Deputy Mayor of Economic Development
Kimberly Miera, Deputy City Attorney
Derik Pearson, Senior Administrative Analyst
John Wickham, Office of the Chief Legislative Analyst

**AGREEMENT TO PARTIALLY FUND ACTIVITIES
BETWEEN THE CITY OF LOS ANGELES
AND
LOS ANGELES TOURISM & CONVENTION BOARD**

THIS AGREEMENT ("Agreement") is made and entered into as of July 1, 2020 (the "Effective Date"), by and between the City of Los Angeles, a municipal corporation ("City") and Los Angeles Tourism & Convention Board, a California 501(c)6 nonprofit corporation ("Contractor"), each individually a "Party" and together the "Parties".

RECITALS

WHEREAS, City desires to increase the competitiveness of the City of Los Angeles as a convention and tourist destination in the national and international marketplace so that the City can derive greater economic benefit from visitors in the form of job creation, tax revenue, overnight stays in hotels and other lodging establishments, and spending at local businesses; and

WHEREAS, City desires to have the Los Angeles Convention Center (LACC) serve as an even stronger economic engine for the City by enhancing the number and quality of citywide conventions that utilize a significant number of hotel rooms, which in turn generates Transit Occupancy Tax ("TOT"); and

WHEREAS, City desires to spread the economic benefits of tourism through the City by leveraging the cultural and geographic diversity of the City; and

WHEREAS, City desires to engage visitors to enhance their experience and encourage extended and repeat overnight hotel stays; and

WHEREAS, To accomplish this purpose, it is necessary to develop and execute sales, marketing, advertising and public relations programs designed to educate individuals, groups and organizations of the commercial, climatic, educational, recreational, and cultural advantages of Los Angeles, as well as its modern and extensive convention facilities; and

WHEREAS, Contractor is a California nonprofit mutual benefit corporation whose members are individuals and businesses engaged in the tourism and convention business, including hotels, restaurants, transportation providers, theme parks and museums. As a Destination Marketing Organization (DMO), Contractor engages in activities to promote Los Angeles as an attractive destination for visitors and has assembled comprehensive information relating to hotels and other lodging establishments, recreational, entertainment, transportation and other facilities which are of interest to visitors. Contractor also maintains an extensive

database of information relating to groups, organizations and societies that regularly hold meetings and conventions; and

WHEREAS, Contractor is uniquely qualified by virtue of its possession of the foregoing information, its representatives in other cities in the United States and around the world, and its relationships with local hotels and domestic and international airline carriers, to undertake the promotion and advertisement of Los Angeles as a premier convention or meeting host, and as a destination for tourists and tour groups; and

WHEREAS, Contractor's activities support and foster the creation and growth of additional employment in Los Angeles through the monies spent by visitors in Los Angeles. The City will also directly benefit from increased TOT revenues generated by visitors' stays in hotels and other lodging establishments in Los Angeles; and

WHEREAS, City has created and established within its Treasury a special trust fund, known as the "The Greater Los Angeles Convention and Visitors Bureau Trust Fund" (the "Trust Fund"). A fraction (as determined in Section 4(a), below) of all amounts of TOT received by the City under the tax imposed by Los Angeles Municipal Code Section 21.7.3 shall be placed in the Trust Fund. Expenditures from the Trust Fund shall be made solely to finance the promotion and advertising of Los Angeles as a destination for the purpose of attracting conventions, trade shows, and tourism to Los Angeles in keeping with the terms of this Agreement, including staffing and other operational expenses associated with this work; and

WHEREAS, Contractor's activities serve a public purpose from which the City will benefit. Accordingly, the City desires to provide financial assistance to Contractor; and

WHEREAS, the services required are of an expert and technical nature; therefore, competitive bidding under Charter Section 371 is neither practicable nor advantageous; and

WHEREAS, City desires to have the funding it provides in support of promoting the City as a convention and tourist destination spent in such a way that maximizes the return on its investment, including leveraging City funding in concert with other funding sources of Contractor.

NOW THEREFORE, IN CONSIDERATION of the mutual promises, covenants, representations and agreements set forth below, the City and Contractor hereby agree as follows:

1. Definitions

The following terms used in this Agreement shall have the defined meanings set forth below:

Booked Room Nights - (1) Hotel room nights for attendees of a meeting and/or event held at LACC that has confirmed attendance by an executed Letter of Intent with Contractor for a specific future event, or (2) room nights for self-contained meetings or events, in City hotels, which have been confirmed by an executed contract between the hotel and event sponsor.

City - The City of Los Angeles, a municipal corporation.

City Council - The City Council of the City of Los Angeles.

Citywide Convention - An event held at the Los Angeles Convention Center that generates at least three thousand (3,000) room nights with one thousand five hundred (1,500) room nights on peak and utilizes no fewer than three (3) hotels.

Council Committee - The Trade, Travel, and Tourism Committee of the Los Angeles City Council, or such other committee of the City Council as the Council may designate to oversee the functions of the CTD.

Contractor - Los Angeles Tourism & Convention Board also known herein as LATCB.

Controller - The Controller of the City of Los Angeles.

CTD - Convention and Tourism Development Department, City of Los Angeles.

CTD Board - Board of Convention and Tourism Development Commissioners.

LACC - Los Angeles Convention Center, owned by the City of Los Angeles.

LACC Operator - Private operator of the LACC or the private company contracted by the City to manage and operate the LACC.

Letter of Intent - Letter signed by the client confirming Los Angeles as the host city for their Citywide Convention and outlining the financial commitments of the Los Angeles Tourism & Convention Board and preliminary total room night commitment of the client.

Non-Citywide Center Events - Events booked by the LATCB that do not meet the definition of a Citywide Convention, including consumer tradeshows.

Sales Lead - Citywide Lead also referred to as Prospect is defined as a potential future meeting/convention (event requiring sleeping rooms, meeting space, exhibit space and/or food and beverage, etc.) that could be held in Los Angeles utilizing the Los Angeles Convention Center ("LACC") and a minimum of three Los Angeles hotels and/or 3,000 total room nights.

TOT - Transient Occupancy Tax imposed by Los Angeles Municipal Code Section 21.7.3.

Trust Fund – Greater Los Angeles Visitors and Convention Bureau Trust Fund established in the Administrative Code Chapter 15 Section 5.315.

2. Term

The term of this Agreement shall be from July 1, 2020 to and including June 30, 2030.

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

Upon the expiration of the term of the Agreement, City retains the right to extend (hold over) Contractor, as needed, on a month-to-month basis under the same terms and conditions. Contractor will be notified thirty (30) days prior to the contract expiration date of the need to hold the contract over. Contractor will be given thirty (30) days advance notice of the termination of the contract during the hold over period.

3. Services to be Provided by Contractor and other Related Responsibilities

- a. The services and deliverables to be provided by Contractor as well as the related goals and performance metrics under this Agreement are substantially set forth in Appendix E, "Services to be Provided by Contractor" for each fiscal year during the Term of this Agreement. Within 60 days after the start of the fiscal year, CTD and Contractor will establish mutually agreeable goals, objectives and deliverables for that fiscal year thereby executing a new Appendix E each year. The services and deliverables shall align with the following core objectives:

- i. Increase the number of people visiting Los Angeles as both a convention and tourist destination in order to increase the economic benefits derived from visitors to the City;
 - ii. Measure the economic impact from citywide conventions and the tourism and hospitality sector;
 - iii. Facilitate and track visitor engagement with those visiting Los Angeles for both conventions and leisure travel to enhance the visitor experience with the intent of encouraging repeat visitation and longer stays; and
 - iv. Effectively leverage TOT funds with other sources of funding to promote conventions and tourism to maximize the yield from the City's investment.
- b. To achieve these objectives optimally, the City encourages LATCB to leverage these contract funds with other non-TOT funds to increase stays at hotels and other lodging establishments yielding increased TOT revenues and visitor spending that benefits the City's General Fund and the Los Angeles economy. As such, Contractor shall use best efforts to develop other sources of revenue, such as memberships and sponsorships to support the promotion of tourism in Los Angeles.
- c. Contractor shall complete and submit to CTD a ten (10)-year comprehensive strategic plan, which shall include the long-term direction for sales, marketing and visitor services. This plan may be reviewed and updated from time to time as needed or when requested by CTD.
- d. Contractor shall support the implementation of the City of Los Angeles Tourism Master Plan as it pertains to the promotion of Los Angeles as a visitor destination.
- e. Contractor shall use its best efforts to promote and utilize hotels and other lodging establishments in the City of Los Angeles to offer and secure room blocks for conventions and/or events at the LACC.
- f. Contractor shall use TOT funds to promote the City for the purpose of attracting, servicing and retaining conventions, tradeshow and tourism to the City, including staffing and other operational expenses associated with this work, and for no other purpose.
- g. Contractor shall conduct a post audit of room nights consumed following Citywide Conventions and Non-Citywide Center Events at the LACC and report the results of such audits to the CTD quarterly. Contractor shall produce these audits within one hundred twenty (120) days after the events conclude.

- h. Contractor shall report to CTD and/or the CTD Board on a monthly basis regarding progress towards meeting goals and performance metrics set forth in Appendix E and on any other topic related to the convention center industry or tourism as reasonably requested by CTD.
- i. Contractor shall keep CTD and/or CTD Board apprised of major destination advertising and tourism media campaigns prior to launch and shall, subject to any legal restrictions, make such content available to CTD to complement the City's branding efforts.
- j. Contractor shall collaborate with the City to ensure that Contractor's web site includes a comprehensive calendar of events of interest to visitors taking place in the City.
- k. Contractor shall report to CTD and/or CTD Board on its plans to market Los Angeles to visitors.
- l. Contractor shall use best efforts to leverage the geographic and cultural diversity of the City to promote tourism in areas of the City that may have been overlooked by traditional tourism efforts.
- m. Contractor shall provide CTD and/or CTD Board with comprehensive convention and tourism industry data and analyses to inform the City as to the performance of tourism as a key economic driver and assist CTD with developing special reports for its stakeholders. Special reports may include, but not be limited to, the status of hotel incentive agreements as they occur during the Term of this Agreement.
- n. Contractor shall meet with CTD staff and the LACC Operator on a regular basis to discuss operational, policy and business issues related to booking events at the LACC.
- o. Contractor shall book events into the LACC in accordance with the booking and discount policies in the Los Angeles Administrative Code Section 8.149.
- p. Contractor shall use its best efforts in booking the City's convention facilities in a manner that uses rental discounts judiciously and maximizes revenue for the LACC facility while prioritizing the booking of Citywide Conventions and Non-Citywide Center Events.
- q. Contractor shall provide other mutually agreed upon services to carry out the core objectives of this Agreement as identified in Section 3.a.i-iv.

- r. Contractor shall, to the extent possible, observe and participate in initiatives and recommendations as put forth by the Mayor's Executive Directives.

4. Payments by City

- a. City will credit to the Trust Fund an amount equivalent to a fraction of all TOT received by the City during the term of this Agreement. Said fraction shall have as its numerator the number one (1) and as its denominator the number which coincides with the current percentage of TOT imposed by the Los Angeles Municipal Code. By way of example, the current TOT is fourteen percent (14%). Therefore, City will credit to the Trust Fund an amount equivalent to one fourteenth (1/14) of all TOT received by the City during the term of this Agreement so long as the fourteen percent (14%) TOT remains in effect (the "Annual Contractor Allocation").

Ninety-five percent (95%) of the projected receipts of the Trust Fund will be appropriated to be paid to Contractor or to the City for costs of contract administration as described in Section 10 of this Agreement. The remaining receipts deposited in the Trust Fund shall be held by the City in said Trust Fund (the "Holdback Amount") for the purpose of offsetting any possible shortfall in Trust Fund receipts compared to the Annual Contractor Allocation denoted in the City's approved annual fiscal year budget. It is understood and agreed that any and all sums paid to Contractor by City will be used by Contractor only for allowable costs incurred in performing one or more of the services set forth in Section 3 of this Agreement.

- b. To facilitate issuing payment to Contractor for the purposes of this Agreement, the City anticipates appropriating for the purposes of this agreement a total of ninety-five percent (95%) of the projected receipts of the Trust Fund during each fiscal year during the Term of this Agreement. A portion of this amount will be appropriated for City costs associated with contract administration as described in Section 10 of this Agreement. The remaining portion will be appropriated to be paid to Contractor. City shall advance to Contractor on each July 1, October 1, January 1 and April 1, during the Term of this Agreement, an amount equivalent to one-quarter of the amount appropriated toward Contractor (each a "Quarterly Prepayment").
- c. Approximately thirty (30) days in advance of July 1, October 1, January 1 and April 1 (individually referred to as a "Quarterly Payment Date") during the Term of this Agreement, Contractor shall submit an advance billing ("Advance Billing") in the manner prescribed by the City (substantially as contained in Appendix B, attached hereto), requesting payment by City of each Quarterly Prepayment. After receipt and

approval of each such Advance Billing, City shall pay Contractor the amount of the Quarterly Prepayment.

- d. Prior to the payment of the April 1 Advance Billing, if the City's projected receipts to the Trust Fund through the end of the fiscal year will be less than originally anticipated, the amount paid to Contractor in the April 1 Advance Billing Payment shall be adjusted so that total payments for that fiscal year shall not exceed the amount of receipts projected to be deposited into the Trust Fund.
- e. Following the conclusion of each fiscal year during the Term of this Agreement, and no later than August 31st following each fiscal year, the City shall perform a reconciliation analysis (the "Annual Reconciliation Report") comparing actual receipts to the Trust Fund through the end of that fiscal year to the Annual Contractor Allocation for that fiscal year, and shall provide Contractor with a copy of the Annual Reconciliation Report. In the event that actual receipts to the Trust Fund exceed the Annual Contractor Allocation for that fiscal year ("Excess Collections"), City shall issue payment to Contractor for the Holdback Amount plus the amount of Excess Collections within ninety (90) days of the date on which Contractor submits an invoice for to the City for those amounts.
- f. In the event that the Annual Reconciliation Report determines that actual receipts to the Trust Fund through the end of a given fiscal are less than the Annual Contractor Allocation for that fiscal year (a "Collections Shortfall"), and the amount of the Collections Shortfall is less than the Holdback Amount, City shall issue payment to Contractor for the Holdback Amount less the amount of the Collections Shortfall within ninety (90) days of the date on which Contractor submits an invoice for to the City for that amount.
- g. In the event that the Annual Reconciliation Report determines that a Collections Shortfall exceeds the Holdback Amount for a fiscal year, Contractor shall not be entitled to receive the Holdback Amount for that fiscal year. In addition, City shall deduct twenty-five percent (25%) of the total amount by which the Collections Shortfall exceeds the Holdback Amount from each Quarterly Prepayment to Contractor during the subsequent fiscal year.
- h. In the event that Contractor requires funds in addition to the Annual Contractor Allocation for a legitimate promotional purpose, to perform special studies or to offset a decline in Trust Fund Receipts and to the extent that additional monies may be available in the Trust Fund, Contractor may request such funds from the City Council through CTD.
- i. Within thirty (30) days after the end of each fiscal quarter, Contractor

shall submit to CTD an interim progress statement of cumulative costs incurred during the fiscal year of the Agreement to that date, prepared in a manner substantially in the form set out in Appendix C, attached hereto ("Interim Progress Statement"). City shall review or audit the Interim Progress Statement and the supporting books and records to the extent deemed necessary by the City. Contractor must submit a copy of its audited financial statements for the prior fiscal year to CTD on or before November 30 of each fiscal year. The City shall, at all times during the Term of this Agreement, retain the right to audit Contractor's financial records, as described below in Section 4(j). City shall also informally review Contractor's monthly financial statements, as described in Section 5(a), to ensure general compliance with the provisions of this Agreement.

- j. Contractor shall maintain records as provided in Section 5(c). Within one hundred fifty (150) days following the end of each fiscal year, after Contractor's financial records have been audited by a certified public accountant and such accountant's independent report has been issued, and after Contractor's books for such period have been closed, Contractor shall submit a copy of its audited financial statements to City. City shall, at all times during the Term of this Agreement, retain the right to audit Contractor's financial records for any fiscal year during the Term of the Agreement, and to request reimbursement for any expenditures that City, through such audit, determines were not specifically incurred for purposes of services to be provided by Contractor under Section 3 of this Agreement ("Nonallowable Expenses"). In the event that City elects to exercise its audit rights, City shall conduct its final fiscal year-end audit and issue its final report to Contractor within sixty (60) days after receipt of Contractor's audited financial statements. Any Nonallowable Expenses identified through a City audit shall be refunded by Contractor to the Trust Fund within sixty (60) days after City's written notification to Contractor of any such Nonallowable Expenses. Such Trust Fund reimbursements shall be available for future disbursement to Contractor for allowable costs at the discretion of CTD. If Contractor does not have sufficient funds to repay such Nonallowable Expenses to the Trust Fund, the amount owed shall be deducted from the next Quarterly Prepayment from the Trust Fund due to Contractor.
- k. In the event that City identifies any Nonallowable Expenses and Contractor does not concur with that determination, the Parties shall negotiate to resolve such discrepancy. Any disputes which are not resolved by negotiation between Contractor and City's designee for contract administration shall be presented to the Executive Director of CTD (or designee) with recommendations for action, which shall finally determine the matter. Contractor shall be included in the resolution of any such disputes.

- l. Although the term of this Agreement is for ten (10) years, funding to the Contractor in each fiscal year is conditioned upon the City Council appropriating funds to the budget for the Agreement and the availability of sufficient monies in the Fund to reimburse the City's General Fund for Advance Billings of the Contractor. In the event that City Council fails to appropriate funds to Contractor for any fiscal year during the Term of this Agreement, such failure shall relieve Contractor of its performance obligations under this Agreement for that fiscal year ("Suspension of Services"). In the event that City Council subsequently appropriates funds to Contractor during a Suspension of Services, City and Contractor shall mutually agree in writing to the services to be provided by Contractor for the balance of the fiscal year in which the Suspension of Services occurred. Any Suspension of Services shall not extend the termination date as described in Section 2 of this Agreement.
- m. Notwithstanding anything contained in this Agreement to the contrary, the City shall not be obligated to appropriate any particular amount of monies or any monies for funding of this Contract for any fiscal year.
- n. Contractor shall comply with all State and City gift restriction laws.
- o. Contractor may designate monies as part of its annual funding to be used as a reserve fund ("Reserve Fund"). These monies may be held by Contractor and carried over for use in subsequent fiscal years and may be used at the discretion of Contractor for any purposes permitted under this Agreement. The maximum which may be set aside by Contractor from any single fiscal year may not exceed fifteen percent (15%) of the Annual Contractor Allocation for that fiscal year. Contractor may retain up to fifteen percent (15%) of the Annual Contractor Allocation for multiple fiscal years in order to set aside sufficient funding for future major travel industry events that may take place, in whole or in part, in the City for any purposes permitted under this Agreement, as well as to support appropriate programming in the event of natural disaster or any other catastrophic events that materially impact visitation to Los Angeles, provided that the total amount of the Reserve Fund may not exceed five million dollars (\$5,000,000).
- p. Any funds paid to Contractor under this Agreement not expended at the end of each fiscal year shall augment the Reserve Fund and be carried over for use in subsequent fiscal years in accordance with the provisions of Section 4(o).
- q. Contractor shall use its best efforts, to procure goods and services from local businesses in the City of Los Angeles.

5. Financial Reporting Requirements

- a. Contractor shall submit to the CTD and/or CTD Board copies of its monthly financial statements. Said statements shall include specific information as to all sources of funds and in-kind contributions, amounts received from each such source, and, in aggregate, the amount of City and other funds that have been expended during the reporting period. With each of its monthly financial statements, Contractor shall provide copies of its computerized check register and general ledger for the period covered by the statement. The Interim Progress Statements, referred to in Section 4(i), shall be accompanied by copies of Contractor's financial statement for the period covered.
- b. Invoice for Quarterly Prepayments shall be prepared in a form substantially as show in Appendix B attached to this Agreement and signed by an authorized official of Contractor. Interim Progress Statements submitted by Contractor shall be certified by an authorized official or agent of Contractor that the costs and expenses, incurred or to be incurred, for which payment is requested are reasonably related to Contractor's performance of services under this Agreement and are true and correct, in the form provided for in California Code of Civil Procedure Section 2015.5.
- c. Contractor shall maintain and preserve books of account and other financial records during the term of this Agreement. Said books and records shall accurately record monies received by source, date and amount; and monies expended by name of vendor, description of goods or services purchased, the nature and purpose of the expenditure and the date of purchase and the amount. The record of amounts paid to vendors shall distinctly separate City Trust Fund expenditures from private transactions of Contractor. Contractor shall retain such books and records for at least three (3) years following the final payment by City hereunder for the fiscal year in question. At any time during the term of this Agreement or within three (3) years following the final payment under this Agreement, the City and its authorized representatives shall have the right, on reasonable notice and during regular business hours, to review, inspect and audit Contractor's books and records. Such information shall be maintained as confidential by the City to the extent permitted under the California Government Code, section 6250 et seq. (California Public Records Act).
- d. Following the end of each fiscal year during the term of this Agreement, Contractor shall submit a report to CTD describing the services provided and the accomplishments attained from Trust Fund expenditures during such fiscal year.

6. Competitive Bidding

In the interest of economy and to assure the effective use of City funds, for all matters involving the expenditure of City funds over one hundred thousand dollars (\$100,000), Contractor shall solicit bids by advertising or by request to three or more qualified potential providers of applicable goods or services. Contractor shall make reasonable efforts to obtain bids from at least three different qualified parties and shall select the lowest and best responsible contractor on the basis of such bids as are received; provided that Contractor may reserve the right to reject all such bids. Contractor shall document and maintain all such bids or proposals to enable the City to audit the same. Notwithstanding the foregoing, in instances where Contractor determines that it is not feasible to solicit three bids, Contractor shall, at least ten days before incurring such expense, report to the CTD the basis for said determination.

7. Budget Requirements

Contractor shall provide to CTD, in a form prescribed by CTD, information for use in the Mayor's annual budget submission to the City Council. This shall include Contractor's annual proposed budget, details such as actual expenditures and revenues, estimates on source of funds, revenues, expenditures, major areas of work emphasis, and productivity goals. Contractor and CTD shall develop a schedule each year for the delivery of this information. Contractor shall notify CTD of any major changes in its planned areas of work emphasis that are funded by the Annual Contractor Allocation.

Budget shall include funding to cover the cost of contract administration by the City. Budget shall also include funding to be spent on initiatives specified by the CTD for purposes that are consistent with the goals and objectives of this Agreement, the specifics of which shall be determined during the budget process. The amount of the funding for these purposes shall be determined during the annual budget process and subject to the agreement of both Parties.

8. Compensation Payment of Sales Staff

Contractor may, at its sole discretion, provide incentive compensation payments to staff in the Director and Manager positions or classifications that are directly involved in the function of selling the City as a site for business meetings, conventions, trade shows, and other group activities involving the overnight stay in City of Los Angeles hotels. The performance criteria utilized for these incentive compensation payments shall be shared with CTD annually prior to the beginning of each Fiscal Year, or more frequently if changes are made to these criteria subsequent to the start of

the fiscal year. Except as provided in this paragraph, Contractor shall make no incentive compensation payments from funds provided under this Agreement to executive staff or senior management (defined herein as those staff holding the title of vice president or above), or non-sales staff members.

9. Insurance and Indemnity

Contractor agrees to maintain the insurance coverage and limits listed on the Insurance Requirements Sheet, attached to this Agreement as Appendix D, and to comply with the applicable insurance conditions set forth in PSC-10 and PSC-17 of Appendix A to this Agreement.

10. City Designee for Contract Administration

- a. This Agreement shall be administered on behalf of the City by CTD. CTD shall be responsible for receiving and forwarding all Advanced Bills, statements, Year End Claims and other similar documents for approval. Upon approval for payment by CTD, City will process payments as required under this Agreement. CTD shall be responsible for reviewing, approving and making recommendations to the City Council as necessary or appropriate as to matters such as requests for additional funds, disputes regarding Advance Billing Payment, or significant changes in the services to be provided by Contractor. The Office of Finance shall conduct the final year-end financial audit of Contractor, as described in Section 4. Contractor shall reimburse City for the salary expense, including indirect costs, of a City auditor assigned to assist the Office of Finance in administering the Agreement; provided, that in no event shall the total of such reimbursement exceed twenty-five thousand dollars (\$25,000) per fiscal year.
- b. City auditor shall, for purposes of auditing any Quarterly Prepayment, have access to all books and records of Contractor for all costs incurred under this Agreement and for all Contractor sources of revenue as provided in Section 5.
- c. Contractor shall give notice to CTD of the time and place of meetings of its full Board of Directors. The CTD shall be entitled to have a representative of its choosing attend any meetings of Contractor's full Board of Directors.

11. Termination

- a. Notwithstanding any other provision contained in this Agreement to the contrary, with the exception of Section 11(b), City, on appropriate action by the City Council, or Contractor may terminate this Agreement upon not less than ninety (90) days prior written notice, subject to all provisions for statements, audits, payments or refunds contained in this Agreement.

- b. If Contractor fails to perform any of the provisions of this Agreement or so fails to make progress as to endanger timely performance of this Agreement, CTD may give Contractor written notice of the default ("Default Notice"). Contractor shall have thirty (30) days from the date of such notice to cure its default or provide a plan to cure the default. At CTD's sole discretion, CTD may accept or reject Contractor's plan. If the default cannot be cured or if Contractor fails to cure within the thirty (30)-day period, then City may terminate this Agreement due to Contractor's breach of this Agreement by written notice with such termination effective on the date of said written notice.
- c. In the event of early termination of this Agreement by City, Contractor shall be entitled to payment under this Agreement up to and including the date of termination.

12. Notices

A notice required or permitted under this Agreement shall be given in writing and shall be deemed effectively given (1) on personal delivery, (2) twenty-four (24) hours after deposit with Federal Express or a comparable express courier, addressed to a Party at the address set forth below, or (3) forty-eight (48) hours after deposit in the United States mail, by certified mail, postage prepaid, addressed to such Party. A Party may designate another address for notice purposes by giving written notice to the other in the manner provided in the Section.

If to Contractor: Los Angeles Tourism & Convention Board
633 West 5th Street
Suite 1800
Los Angeles, CA 90071
ATTN: Chief Executive Officer

If to City: Los Angeles Department of Convention and
Tourism Development
1201 South Figueroa Street
Los Angeles, CA 90015
ATTN: Executive Director

13. Incorporation of Standard Provisions, Precedence of Documents

- a. The Standard Provisions for City Personal Services Contracts, attached to this Agreement as Appendix A and the appendices referred to in subparagraph (b) below are incorporated into this Agreement.

- b. In the event of an inconsistency between any of the provisions of this Agreement and the appendices to this Agreement, the inconsistency shall be resolved by giving precedence in the following order:
 - i. Provisions of this Agreement.
 - ii. Appendix A, Standard Provisions for City Personal Services Contracts (Rev. 10/17[v.3]).
 - iii. Appendix B, Advance Billing.
 - iv. Appendix C, Interim Progress Statement.
 - v. Appendix D, Insurance Requirements.
 - vi. Appendix E, Services to be Provided by Contractor, and subsequent annual reports under Appendix E.

14. Miscellaneous Provisions

- a. The subject headings of the paragraphs and subparagraphs of this Agreement are included for convenience only and will not affect the construction or interpretation of any of its provisions.
- b. Unless the context clearly requires otherwise:
 - i. Plural and singular numbers will each be considered to include the other;
 - ii. The masculine, feminine, and neuter genders will each be considered to include the others;
 - iii. "Shall," "will," "must," "agree," and "covenants" are each mandatory;
 - iv. "May" is permissive;
 - v. "Or" is not exclusive; and
 - vi. "Includes" and "including" are not limiting.
- c. All references to sections, paragraphs and subparagraphs are to those in this Agreement, unless the context otherwise requires. Documents attached to this Agreement as exhibits or appendices are incorporated in this Agreement as though set forth in full.

15. Processing of License and Discount Requests

Contractor is required to submit the license request packets to the LACC Operator within thirty (30) days of executing a Letter of Intent with sales leads for Citywide Conventions and Non-Citywide Center Events. The license request packet shall include a cover memorandum from Contractor, a request form for an LACC License with three (3) years of history, a cost analysis form, a pricing discount approval form, the transmittal Convention Center Reservation Form and the signed Letter of Intent. Rental discount request requiring CTD Board approval should be submitted at least two (2) weeks prior to the Board meeting date, unless competitive circumstances require expedited approval.

Contractor shall cooperate with requests by the LACC Operator to expedite the submittal of such license packets if circumstances warrant the submittal within less than the thirty (30)-day time frame referenced above.

16. Personnel

The Executive Director of CTD may request a change in Contractor's personnel assigned to perform services on the City's account relating to the LACC. Any such request shall be in writing using the Notice provisions of Section 12, and shall detail the specific business reasons for the request. Contractor's Chief Executive Officer ("CEO") shall have the right to meet at a mutually acceptable time with the Executive Director of CTD to discuss the basis for the requested change or removal and any alternative course of action. While Contractor shall make reasonable efforts to accommodate such requests, the employer-employee relationship shall at all times remain with Contractor, who shall have final decision-making authority regarding whether to accommodate any such request.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first written above.

This Agreement may be executed in one or more counterparts, and by the parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. The parties further agree that facsimile signatures or signatures scanned into .pdf (or signatures in another electronic format designated by City) and sent by e-mail shall be deemed original signatures.

THE CITY OF LOS ANGELES
a municipal corporation

LOS ANGELES TOURISM &
CONVENTION BOARD a California
nonprofit corporation

By: _____

DOANE LIU
Executive Director, CTD

By: _____

ERNEST WOODEN JR.
President & CEO

Dated: _____

Dated: _____

APPROVED AS TO FORM AND
LEGALITY

ATTEST: HOLLY WOLCOTT , City
Clerk

MICHAEL N. FEUER
City Attorney

By: _____

KIMBERLY MIERA
Deputy City Attorney

By: _____

Dated: _____

Dated: _____

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**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. 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 LimitsName: Los Angeles Tourism and Convention Board (LATCB)Date: 03/02/2020Agreement/Reference: 2020 Agreement between L.A. City Department of Convention and Tourism Development (CTD) and LATCB for marketing and tourism services for the City and booking services for CTD.

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

Limits

<input checked="" type="checkbox"/> Workers' Compensation - Workers' Compensation (WC) and Employer's Liability (EL)		WC <u>Statutory</u>
<input type="checkbox"/> Waiver of Subrogation in favor of City	<input type="checkbox"/> Longshore & Harbor Workers	EL <u>\$1,000,000</u>
	<input type="checkbox"/> Jones Act	

<input checked="" type="checkbox"/> General Liability	<u>At least \$5,000,000 aggregate GL coverage. City of Los Angeles must be named as an additional insured party.</u>	<u>\$1,000,000</u>
<input checked="" type="checkbox"/> Products/Completed Operations	<input type="checkbox"/> Sexual Misconduct _____	
<input type="checkbox"/> Fire Legal Liability _____		
<input type="checkbox"/> _____		

<input checked="" type="checkbox"/> Automobile Liability	<u>(for any and all vehicles used for this contract, other than commuting to/from work)</u>	<u>\$1,000,000</u>
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<input type="checkbox"/> Professional Liability	<u>(Errors and Omissions)</u>	_____
Discovery Period	_____	

<input type="checkbox"/> Property Insurance	<u>(to cover replacement cost of building - as determined by insurance company)</u>	_____
<input type="checkbox"/> All Risk Coverage	<input type="checkbox"/> Boiler and Machinery	
<input type="checkbox"/> Flood _____	<input type="checkbox"/> Builder's Risk	
<input type="checkbox"/> Earthquake _____	<input type="checkbox"/> _____	

<input type="checkbox"/> Pollution Liability	_____
<input type="checkbox"/> _____	

<input type="checkbox"/> Surety Bonds - Performance and Payment (Labor and Materials) Bonds	<u>100% of the contract price</u>
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<input type="checkbox"/> Crime Insurance	_____
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Other: Submitted to: Donna Jean Irving @ L.A. Dept of Convention and Tourism Development (CTD) (213-765-4240)
on March 2, 2020.

Contractor must agree to submit their insurance on the City's designated site for insurance compliance and tracking, KwikComply: <https://kwikcomply.org/> ; AND to resubmit insurance certificates throughout contract term; AND per the instructions in the guide on the following site:
http://cao.lacity.org/risk/Submitting_proof_of_Insurance.pdf (attached)