

0150-11868-0000

T R A N S M I T T A L

TO The City Council	DATE 05/11/21	COUNCIL FILE NO.
FROM The Mayor		COUNCIL DISTRICT All

Contract with Trillium USA Company, LLC (dba Trillium) for the Purchase, Delivery, Supply, and Maintenance of Compressed Natural Gas and/or Renewable Natural Gas for Designated LADOT Transit Facilities

Pursuant to the Mayor's Fiscal Year 2020-21 Cost Containment Memo dated June 24, 2020, the contract is funded by budgeted special funds and allows for uninterrupted transit services. The contract is authorized for execution. Please see the City Administrative Officer report attached.



MAYOR

(Ana Guerrero for)

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

To: The Mayor	Date: 04-14-21	C.D. No. All	CAO File No.: 0150-11868-0000				
Contracting Department/Bureau: Department of Transportation		Contact: Angela De La Rosa (213) 972-5949					
Reference: Department of Transportation transmittal sent to Office of the Mayor and Office of the City Administrative Officer on March 17, 2021							
Purpose of Contract: To purchase and deliver a supply of natural gas to city-owned/leased facilities and to acquire, operate, and maintain fueling station infrastructure and equipment on designated LADOT transit facilities							
Type of Contract: (X) New contract () Amendment, Contract No.		Contract Term Dates: Five (5) years from date of execution					
Contract/Amendment Amount: \$276,000							
Proposed amount \$ 276,000 + Prior award(s) \$ 0 = Total \$ 276,000							
Source of funds: Proposition A Local Transit Assistance Fund							
Name / Address of Contractor: Trillium USA Company, LLC dba Trillium							
	Yes	No	N/A	Contractor has complied with:	Yes	No	N/A
1. Council has approved the purpose	X			8. Business Inclusion Program	X		
2. Appropriated funds are available	X			9. Equal Benefits & First Source Hiring Ordinances	X		
3. Charter Section 1022 findings completed		X		10. Contractor Responsibility Ordinance	X		
4. Proposals have been requested	X			11. Disclosure Ordinances	X		
5. Risk Management review completed	X			12. Bidder Certification CEC Form 50	X		
6. Standard Provisions for City Contracts included	X			13. Prohibited Contributors (Bidders) CEC Form 55	X		
7. Workforce that resides in the City: N/A %				14. California Iran Contracting Act of 2010			X

RECOMMENDATION

That the Mayor authorize the General Manager of the Department of Transportation, or designee, to execute a five-year agreement with Trillium USA Company, LLC (Trillium) for the purchase, delivery, supply, and maintenance of compressed natural gas and/or renewable natural gas for designated LADOT transit facilities.

SUMMARY

The Department of Transportation (LADOT) is requesting authority to enter into a five-year contract for the purchase, delivery, supply, and maintenance of compressed natural gas (CNG) and/or renewable natural gas (RNG) for designated LADOT transit facilities, specifically at the Downtown Transit Maintenance Facility. The Department indicates that it is committed to having 100 percent zero-emission battery electric buses by 2028; as part of this commitment, LADOT does not foresee needing an agreement with a CNG/RNG provider beyond 2028.

LADOT currently operates and maintains its transit vehicles through four maintenance facilities: the Downtown Transit Maintenance Facility, the Washington Transit Maintenance Facility, the Sylmar Transit Maintenance Facility, and the South Transit Maintenance Facility. All four facilities are currently supplied with RNG, which is a natural gas derived from the breakdown of organic matter harvested from landfills, agriculture, food waste, and wastewater treatment facilities. Trillium currently

Roy Cervantes			 City Administrative Officer
RC	Analyst	06210106	

provides CNG/RNG and the associated operations and maintenance service for the CNG station located at the Downtown bus maintenance facility, which is owned by LADOT. The CNG stations at the other maintenance facilities are owned by a third party and have direct contracts with the contractor (MV Transportation) to provide fuel for the buses at those locations.

On June 2020, LADOT released a Request for Proposal for CNG/RNG Purchase, Supply, and Station Maintenance for LADOT Transit Operation Facilities to solicit bids from qualified providers to meet the requested fuel requirements and delivery methods. LADOT received proposals from two providers, and the evaluation panel provided the highest rank to the Trillium proposal based on the company's experience in providing similar services and scope, and their familiarity with the facility and region.

The proposed contract cost is not to exceed \$276,000 for the five-year period. This is based on LADOT's estimated monthly gas gallon equivalent usage costs of \$4,000 per month (\$240,000 for 60 months), plus a 15 percent contingency of \$36,000 to account for unanticipated fuel usage changes within the five-year term.

In accordance with Los Angeles Administrative Code Section 10.5(a), Council approval of the proposed agreements is required because the proposed term exceeds three years. A Charter Section 1022 determination is not required at this time as the associated labor is related to the purchase and delivery of CNG/RNG and the maintenance of the related fueling stations.

Cost Containment Memo Compliance

In accordance with the Mayor's Cost Containment Memo dated June 24, 2020, the execution of new contracts and contract amendments are suspended unless certain exception criteria are met. Departments may request approval to proceed with contracts and expenditures that are: 1) essential to public health and safety, 2) revenue generating, or 3) legally mandated. Additionally, Special Fund contracts with no General Fund impact may also receive an exception following a review of the financial health of those special funds and the recommended necessity of the expenditure by this Office.

This Office recommends exceptions for the proposed contract as funding from the Proposition A Local Transit Assistance Fund is available for this purpose, and it is in the City's best interest to continue providing fuel for its transit vehicles and facilities to avoid any interruption of service.

FISCAL IMPACT STATEMENT

There is no additional General Fund impact. The Department will use its available budgeted funds in the Proposition A Local Transit Assistance Fund.

FINANCIAL POLICIES STATEMENT

The recommendation in this report complies with the City Financial Policies in that sufficient budgeted revenues are available to support proposed expenditures.

Attachment

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

Date: March 17, 2021

To: The Honorable Eric Garcetti, Mayor
Office of the Mayor
Attention: Heleen Ramirez, Legislative Coordinator

From: Seleta J. Reynolds, General Manager 
Department of Transportation

Subject: **AGREEMENT BETWEEN THE LOS ANGELES DEPARTMENT OF TRANSPORTATION AND TRILLIUM USA COMPANY, LLC DBA TRILLIUM, FOR COMPRESSED NATURAL GAS (CNG)/ RENEWABLE NATURAL GAS (RNG), PURCHASE, SUPPLY, AND MAINTENANCE FOR LADOT TRANSIT OPERATION FACILITIES**

SUMMARY

The City of Los Angeles Department of Transportation (LADOT) is requesting authority to execute an agreement with Trillium USA Company, LLC dba Trillium for the purchase and delivery of uninterrupted supply of natural gas to city-owned/leased facilities and the acquisition, operation, and maintenance of fueling station infrastructure and equipment on designated LADOT facilities.

RECOMMENDATION

That the City Council, subject to the approval of the Mayor:

Authorize the General Manager of LADOT to execute an agreement with Trillium USA Company, LLC dba Trillium for a five-year term effective April 11, 2021 through March 31, 2026, in an amount not to exceed \$276,000, subject to the review and approval of the City Attorney as to form and legality.

BACKGROUND

On June 2, 2020, LADOT released a Request for Proposal (RFP) for the Compressed Natural Gas (CNG)/Renewable Natural Gas (RNG) Purchase, Supply, and Station Maintenance for LADOT Transit Operation Facilities to solicit bids from qualified natural gas providers to meet the agency's fuel requirements and its established delivery to various LADOT facilities. As part of the RFP's terms, LADOT provided proposers the option to propose the use of CNG or RNG in response to this RFP.

LADOT currently operates and maintains its vehicles through four maintenance facilities; the Downtown Transit Maintenance Facility, the Washington Transit Maintenance Facility, Sylmar Transit Maintenance Facility, and South Transit Maintenance Facility. All four of the City Transit Maintenance Facilities are currently supplied with RNG. RNG is a natural gas derived from the breakdown of organic matter harvested from landfills, wastewater treatment facilities, dairy/swine manure, agriculture, and food waste. The capturing and repurposing of waste-derived resources provide RNG with a lower carbon intensity and lower Greenhouse Gas (GHG) footprint than Fossil CNG.

LADOT is committed to converting its bus fleet to 100 percent zero-emission battery electric buses by 2028. As facilities are electrified to accommodate the new fleet vehicles, CNG vehicles will be consolidated to one facility, the Downtown facility. The Downtown bus facility is LADOT's newest facility and is owned by the City. LADOT does not foresee needing an agreement with a CNG provider after 2028.

DISCUSSION

The Department received a proposal from two firms: Trillium USA Company, LLC dba Trillium (Trillium) and U.S. Gain, a division of U.S. Venture, Inc. (US Gain), by the RFP due date of July 22, 2020. Both Proposers submitted a response for use of RNG only.

Company Background

Trillium

Trillium is part of the Love's Family of Companies. They provide their clients a host of on-road fueling products and services across their brand nationwide. Trillium has focused on high-speed CNG delivery systems for over 25 years. They are one of the largest refueling and fuel logistic companies in the country. Their CNG stations designs deliver fuel, including RNG, faster and more efficiently than any of the competitors.

U.S. Gain

U.S. Gain is a leader in the development, procurement, and distribution of renewable natural gas. U.S. Gain developed a robust national presence in the RNG marketplace, inclusive of more than 20 renewable natural gas development projects, 50 natural gas fueling stations, and more than 130 renewable natural gas delivery points.

Evaluation of Proposals

LADOT formed a three-member Evaluation Committee (Committee) that included three project management staff. The evaluation panel consisted of three LADOT project management staff. The two firms participated in a virtual interview on October 6, 2020. The panel evaluated each proposal and option separately based on the evaluation criteria contained in the RFP.

RFP Evaluation Criteria

Rating Categories	Points
Qualifications of Proposer	20
Qualifications of Proposed Staff	10
Operating Methodology	20
Cost-Effectiveness	50
TOTAL POSSIBLE POINTS AVAILABLE	100

Trillium and U.S. Gain offered to maintain the Low Carbon Fuel Standards (LCFS) and Renewable Identification Number (RIN) credits. Trillium will retain the LCFS and RIN credits and provide a variable percentage share to LADOT based on the submitted C5 cost sheet. U.S. Gain did not offer a share of the LCFS and RIN. Trillium proposed variable rates for GGE based on fuel consumption, ranging from \$0.22 to \$0.048 per GGE. In contrast, U.S. Gain proposed a fixed rate for all levels of usage at \$0.40 per GGE. Although a consistent fuel rate is predictable, Trillium provides opportunities for savings if there is higher usage when the rates per GGE are low. The range in price per GGE allows flexibility for future use. U.S. Gain proposed a fixed rate for the five-year term for all volumes, and U.S. Gain will retain all LCFS and RIN credits generated. Due to the fixed costs provided by U.S. Gain, there are no discounts over time for high fuel consumption.

The evaluation panel ranked and scored each proposal based on the quality and level of service provided (cost-effectiveness) rather than the lowest bid. Each firm participated in a virtual interview where their key management staff highlighted aspects of their proposal. The interviews also allowed the panelist to ask clarifying questions. The evaluation process ranked the firms based on the average scores they received from all panelists, with the highest-ranked firm recommended for contract award.

Evaluation Scores and Ranking

Proposer	Rater 1	Rater 2	Rater 3	Final Score	Rank
Trillium	89.5	87	89	85	1
US Gain	82	80	82	81	2

The evaluation panel ranked the proposal submitted by Trillium as the highest-ranked of the two proposals submitted. The evaluation panel considered Trillium's proposed management team's experience, the team's experience in operating similar services and scope, and their proposed technology. Trillium has the experience necessary to fulfill the CNG and RNG Purchase, Supply, and Station Maintenance requirements for LADOT Transit. They currently provide the operations and maintenance service to the Downtown bus maintenance facility. Trillium staff are familiar with the facility and region, and guarantee to report to the site within 1-2 hours of a service call. Whereas the U.S. Gain response to service calls proposes someone will be on site within a maximum time span of 4 hours.

The following methodology was used to determine the contract ceiling. The actual monthly usage is 74,000 therms per month. Using a conversion of 1.25 therms per 1 GGE, the estimated equivalent in GGE (gas gallon equivalent) equates to 59,200 GGE. The estimated cost for GGE based on the provider's C-5 Cost Component Sheet for usage is approximately \$4000 monthly. The contract cost is not to exceed \$276,000, including a 15% contingency of \$36,000 to account for unanticipated fuel usage changes and resumption of the service expansion within the five-year term.

Award of this agreement will guarantee an uninterrupted supply of natural gas to LADOT-owned fueling facility located at the new Downtown DASH yard. The natural gas pumped through the fueling stations is used to fuel LADOT transit fleet vehicles. Not awarding this agreement hinders LADOT's ability to provide transit services to the public in the Downtown area, which is considered an essential service to the public.

FINANCIAL IMPACT

There is no General Fund Impact. The City's Adopted FY 2020-21 Proposition A Local Transit Assistance (PALTA) budget; Fund number 385 includes sufficient funds for the front funding and local match.

SJR: CR

Attachments

AGREEMENT BETWEEN
THE CITY OF LOS ANGELES
AND
TRILLIUM USA COMPANY, LLC dba TRILLIUM
FOR THE OPERATION OF
COMPRESSED NATURAL GAS (CNG)/RENEWAL NATURAL GAS (RNG) PURCHASE, SUPPLY,
AND STATION MAINTENANCE FOR LADOT TRANSIT OPERATION FACILITIES

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Attachment A: Standard Provisions for City Contracts

Attachment B: Cost Component Form C-5

**AGREEMENT C-XXXXXXX BETWEEN
THE CITY OF LOS ANGELES AND TRILLIUM USA COMPANY, LLC dba TRILLIUM, FOR THE OPERATION OF
COMPRESSED NATURAL GAS (CNG)/RENEWAL NATURAL GAS (RNG) PURCHASE, SUPPLY, AND
STATION MAINTENANCE FOR LADOT TRANSIT OPERATION FACILITIES**

THIS AGREEMENT (“Agreement” or “City Contract”) is made and entered into by and between the City of Los Angeles, a municipal corporation (hereinafter referred to as the “City”), acting by and through the Department of Transportation (hereinafter referred to as “LADOT”), and TRILLIUM USA COMPANY, LLC dba TRILLIUM, a Delaware Corporation (hereinafter referred to as “Contractor”), referred to collectively as “Parties” and individually as “Party”, is entered into with reference to the following:

WITNESSETH

WHEREAS, the City requires services for the supply of natural gas and the operation and maintenance of fueling station infrastructure and equipment at the bus facilities of the City of Los Angeles, Department of Transportation, Office of Transit Services; and

WHEREAS, the City performed a Charter 1022 review and determined that services can be performed more economically or feasibly by an independent contractor than by City employees; and

WHEREAS, on June 2, 2020, the City issued a Request for Proposals (RFP) to solicit proposals for the operation of compressed natural gas (CNG)/renewal natural gas (RNG) purchase, supply, and station maintenance for LADOT Transit operation facilities from local and national companies interested in providing such services; and

WHEREAS, on July 22, 2020, the Contractor submitted a proposal (herein referred to as “Proposal”) in response to the RFP; and

WHEREAS, LADOT has determined that the Contractor possesses the qualifications and experience necessary to provide the requested services; and

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the Parties hereto agree as follows:

1. PARTIES TO THE AGREEMENT AND REPRESENTATIVES

1.1. Parties to this Agreement

The Parties to this Agreement are:

- 1.1.1. The City of Los Angeles, a municipal corporation, having its principal offices at 200 North Spring Street, Los Angeles, California 90012

1.1.2. Trillium USA Company, LLC dba Trillium, a corporation, having its principal offices at 2929 Allen Parkway, Suite 4100, Houston, Texas 77019

1.2. Representatives of the Parties and Service of Notices

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

1.2.1. The representative of the City shall be unless otherwise stated in the Agreement:

Seleta J. Reynolds
General Manager
City of Los Angeles, Department of Transportation
100 South Main Street, 10th Floor
Los Angeles, California 90012

with copies to:

Kari Derderian
Division Head – Transit Development
City of Los Angeles, Department of Transportation
100 South Main Street, 10th Floor
Los Angeles, California 90012

1.2.2. The representative of the Contractor shall be:

JP Field-Hansen
Vice President

and

Lisa Swedler
Business Development Manager

Trillium USA Company, LLC DBA Trillium
2929 Allen Parkway, Suite 4100
Houston, Texas 77019

1.3. Notices

1.3.1. Formal notices, demands, and communications to be given by either Party shall be made in writing (hardcopy or email) and when required, be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and will be deemed communicated as of the date of mailing. A Notice of Breach of Agreement, if any, will be sent via certified mail.

1.3.2. Notice of Changes

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

2. TERM OF THE AGREEMENT

2.1. Term

This Agreement will commence on April 11, 2021 and terminate on March 31, 2026, unless otherwise terminated in accordance with the termination provisions herein.

2.2. Termination of Contract

The City may terminate this Agreement without cause, in whole or in part, at any time by written notice to the Contractor. The Contractor shall be paid its reasonable costs, including contract closeout costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim for payment to the City. If the Contractor has any property in its possession belonging to the City, the Contractor shall account for the same, and dispose of it in the manner the City directs

3. CONDITIONS PRECEDENT

3.1. Insurance Requirements

The Contractor must comply with all of the insurance requirements set forth in Attachment A – Standard Provisions for City Contracts, Exhibit 1.

3.2. Required Equipment

The Contractor shall, prior to the commencement of service, have all equipment required for all necessary functions in place for the operation, supply, administration, maintenance, repairs, and safety of the CNG/RNG fueling station at the Downtown Transit Maintenance Facility required by this Agreement.

4. SCOPE OF WORK

4.1. Procurement and Delivery of Natural Gas

The Contractor will be solely responsible for coordinating all services necessary to meet their natural gas delivery obligation on a firm, uninterrupted basis. The Contractor will be responsible for adjusting quantities in accordance with these requirements and shall maintain sufficient reserves for any fluctuations in supply in addition to providing uninterrupted natural gas supply for the Downtown Transit Maintenance Facility located at 464 East Commercial Street, Los Angeles, California 90012

The City may modify its service demands as needed and will notify the Contractor of service modifications with a thirty (30) day written notice. The Contractor must comply with the City's modification requests and adjust services accordingly. Services and all related tasks must be operated and administered in accordance with the City's operating policies, standards and procedures, and the terms and conditions specified and indicated in this Agreement. The Contractor will also be responsible for operating in compliance with the governmental codes, regulations, ordinances, and directives applicable to such operations and as defined in this Agreement.

4.2. Transit Maintenance Facility Access

The Contractor shall access transit maintenance facilities solely for the purposes of servicing equipment, provide training, repair/maintain fueling stations or to supply fuel as necessary. The Contractor's right to use the facilities may not be transferred or assigned. The Contractor shall be deemed to have a revocable license to use the facilities during the Term of the Agreement. This right shall not be construed as creating a lease (express or implied) or as giving rise to any of the legal rights or interests associated with a leasehold interest in the property.

All persons entering and/or leaving non-public/secure facilities/areas within the Transit Maintenance Facilities must possess and show a valid identification card or document (as described below) to gain access. Valid identification cards or documents must be tamper-resistant and, at a minimum, include the holder's name and a recent photograph of the holder. Any of the following may constitute a valid form of identification:

- Employer-issued employee identification cards
- An identification card issued by a government agency
- State-issued drivers' license (note that some states do not require photos)
- Passport

If an individual seeking access to the facility does not have an identification card that meets the requirements, only prescribed alternative means of identification should be accepted.

4.3. Operation and Maintenance of CNG Fueling Stations

The Contractor shall, at its sole expense, repair, maintain in good condition, and replace (as necessary) the equipment used in the facilities. The Contractor shall maintain all equipment in accordance with the

manufacturer's preventable maintenance program. Any replacements made by the Contractor must be of like size, kind, and quality to the items replaced, as such items existed when originally installed and shall be subject to LADOT's approval. Replacement equipment and materials shall be from the OEM or better or equal in quality and service. LADOT reserves the right to reject the use of any after-market product that LADOT finds is not equal or better in quality or service to the OEM product.

The Contractor shall not make any structural modifications to the facility(ies) without LADOT's prior written approval.

4.3.1. Routine Maintenance and Repair of CNG Fueling Stations

The Contractor shall provide scheduled, routine maintenance service for the Term of this Agreement and shall repair, or replace, any defective parts or equipment of the existing pipeline infrastructure for the duration of the Agreement at its expense. The maintenance schedule will be provided to LADOT upon award of the contract.

4.3.2. Maintenance Scheduling

The Contractor shall mutually agree on times for maintenance services that require the fueling station to be out of operation for more than four (4) hours.

4.4. Service Calls

The Contractor will be available to provide emergency repair service on a 24-hour, 7-day per week basis, and will provide an emergency contact telephone number to the City. In the event of an emergency, the Contractor shall respond following notification by the City and will restore the operation of the facility in a safe and timely manner.

4.5. Safety Requirements

4.5.1. Occupational Safety and Health Administration (OSHA) and California Occupational Safety and Health Act (CAL-OSHA)

Any equipment or material furnished must conform with the current safety code of the California Division of Industry Safety and all OSHA requirements, where applicable.

The Contractor agrees to comply with the provisions of the California Occupational Safety and Health Act of 1973, or its latest revision, and the standards and regulations issued thereunder. The Contractor further certifies that all items furnished under this contract will conform to and comply with said standards and regulations.

The Contractor further agrees to indemnify and hold harmless the City of Los Angeles for all damages assessed against the City as a result of Contractor's failure to comply with the Act and the standards and regulations issued thereunder and for the failure of the items furnished under this contract to comply.

4.5.2. Safety Approval and Certification

Items delivered to the City must conform to the safety orders/codes of the California Division of Industrial Safety, CAL-OSHA, and OSHA where applicable.

Any required certification necessary to transport, install, and/or place equipment or other items into service shall be the Contractor's responsibility. A copy of the certification will accompany the delivery of the equipment or items.

All electrical items shall have Underwriter's Laboratory Listing or Approval.

4.5.3. Hazardous Substances/Chemicals

Chemicals shall be free of known carcinogens and shall comply with the current Safety Code of the California Division of Industrial Safety, and with all OSHA requirements.

If any ingredient in the product quoted is a carcinogen, as shown on the most current list prepared by the International Agency for Research on Cancer (IARC), Contractor shall separately identify such ingredients as a carcinogen. The Contractor shall note that the products will not be accepted unless (1) the product may be used safely, and (2) no acceptable non-carcinogenic substitute is available. A copy of the SDS shall accompany each product shipment to a City facility.

Products/chemicals will only be delivered in containers labeled with the product's common chemical name and the common or technical name of each of the product's chemical ingredients, together with a statement of precautions to be taken in product use.

A copy of the SDS will be available at each location of use in the performance of the contract(s).

4.5.4. Natural Disasters

In the event of a natural disaster, the Contractor agrees to provide priority supply of CNG to the City before servicing commercial customers, presuming the City's Transit Maintenance Facility CNG fueling stations or adjacent buildings/structures have not suffered damage and are still operational.

4.6. Training Requirement

The Contractor will be responsible for conducting an annual training class at each Transit Maintenance Facility, which the Contractor services. The Contractor will coordinate with LADOT and the transit facility service contractor to schedule this training. This annual training class will include safety, fueling station use, a fueling demonstration, and include material and handouts for each facility to post.

4.7. Contractor Personnel

The Contractor must maintain all lines of authority, responsibility, and communication and provide the City with the names, titles, and functions of all supervisory and other key personnel. The Contractor must provide a Project Manager and 24 hour/ 7 days a week contact throughout the Term of this Agreement. The Contractor will notify the City of any changes to key personnel. The Contractor must comply with the Contractor's Cost Component Form C-5 (Attachment B) in accordance with the Contractor's provided service levels as outlined in this Agreement. In addition, the Contractor must ensure that these requirements, including, but not limited to, the requirements pertaining to the qualification levels and staffing levels are maintained throughout the contract period.

5. CONTRACTOR RESPONSIBILITIES AND DUTIES

5.1. Tax Withholding

In rendering service hereunder, the Contractor shall be and remain an independent Contractor. It is expressly understood and acknowledged by the Parties hereto that any amounts payable hereunder shall be paid in gross amount, without reduction for any federal or state withholding or other payroll taxes, or any other governmental taxes or charges. The Contractor is responsible for assuming and remitting any applicable federal or state withholding taxes, estimated tax payments, social security payments, unemployment compensation payments, or any other fees or expenses whatsoever.

5.2. Representation of the City

The Contractor shall refrain from any action that would create or tend to create obligations, express or implied, on behalf of the City, it is understood that the Contractor is not, and shall not, be the legal representative or agent of the City and that the Contractor shall not be authorized to make any promise, warranty or representation except as specifically provided for in this Agreement or as otherwise agreed to in writing between the Parties.

5.3. Personnel Wages and Benefits

The Contractor is solely responsible for paying all Contractor's employee wages and benefits. Without any additional expense to LADOT, the Contractor must comply with the requirements of liability, workers' compensation, employment insurance, and social security. The Contractor will hold the City harmless from any liability, damages, claims, costs, and expenses of any nature arising from alleged violations of personal and personnel practices.

5.4. Subcontractor Fees

The Contractor is solely responsible for paying for technical services or any other work performed for the Contractor by any subcontractor entered into by the Contractor pursuant to the conduct of service under this Agreement. The City shall have no liability to any subcontractor(s) for payment.

5.5. Surrender of Property

All property purchased directly by the City or through the Contractor for this Agreement shall become the property of the City and shall be returned to the City upon the termination of this Agreement, except as provided otherwise.

Upon receiving notice of Agreement termination, the Contractor will begin the transition of service and equipment back to the City and the City’s designated replacement contractor in an amount of time to be determined by the City.

5.6. Operating During a Declared Emergency

Contractor shall provide fuel to buses in accordance with the City's emergency plan, as declared by the Mayor or the City Council in accordance with the City Administrative Code.

6. PERFORMANCE STANDARDS

6.1. Overview

The City shall monitor the service in order to assess the performance of the Contractor in delivering the service. The City reserves the right to modify these performance criteria, as necessary.

6.2. Service Performance Standards and Performance Penalties.

The City has established the following service performance standards to measure the Contractor’s performance, set levels of standards and/or expectations, and impose compliance with the requirements and provisions of this Agreement. A performance penalty amount may be imposed for not meeting the service performance standard. Notwithstanding the foregoing, the Contractor shall not be subject to any performance penalties during the first one-hundred and eighty (180) days of the contract Term.

PERFORMANCE STANDARDS AND PERFORMANCE PENALTIES

PERFORMANCE CRITERIA	STANDARD	FREQUENCY	PERFORMANCE MEASURE	PERFORMANCE PENALTY AMOUNT
1. Preventive Maintenance Inspection (PMI) completed on-time	100 % PMI on-time	Monthly	Number of pumps that completed its preventive maintenance inspection compared with the number of fuel pumps due for inspection	\$200 per pump not completed on-time during the month
2. Timely response to service calls	Response time within 2 hours of initial notice of equipment failure	Monthly	The total number of late or missed service calls	\$200 for each service call where the response time is beyond 2 hours

6.3. City Right to Modify or Add Performance Standard and Penalties.

The City reserves the right to add or modify the performance standards and penalties. The City may impose additional penalties as it deems necessary in order to enforce provisions of the Agreement. The City shall provide a thirty (30) day notice to Contractor prior to modifying or adding any performance standards and penalties, unless the modification or addition of a performance standard(s) is required by law. In the event the City modifies or adds a performance standard(s) as required by law, the Parties agree said performance standard(s) shall be effective immediately.

6.4. Performance Penalties Amount Deducted from Contractor Monthly Invoices

All performance penalties assessed against the Contractor will be deducted from the monthly invoices. Circumstances beyond the control of the Contractor, causing the Contractor to fail to comply with the stated performance requirement, may be considered as a just cause on the part of the City not to assess performance penalties against the Contractor. The Contractor shall receive written notice of the City's intent to assess performance penalties and will be provided an opportunity to present written material in answer thereto within ten (10) days after receipt of written notice.

7. COMPENSATION AND INVOICING

7.1. Compensation

For and in consideration of the services to be provided by the Contractor under this Agreement, the City agrees to pay the Contractor a total not-to-exceed amount of \$276,000 for the complete and satisfactory performance of the terms and conditions of this Agreement.

The Contractor will invoice the City for services rendered in accordance with the billing rates, that corresponds to the City authorized service levels at the time of services were provided, attached hereto, and incorporated as Attachment B, Cost Component Form C-5.

7.2. Invoice Procedures and Requirements

The Contractor will submit claims for payment within sixty (60) days in arrears to the City with supporting documentation of all charges and eligible expenses incurred by the Contractor.

These invoices shall be based on the Contractor's proposed Cost Component Forms minus any rebates or incentives generated through the services provided under the conditions and terms as indicated in this Agreement. The billing breakdown must include the meter number, and the gas gallon equivalent (GGE) metric of gas used during the billing month and gas cost per meter.

7.2.1. Service Payments

Service payments will be calculated as follows:

Proposed cost per GGE x number of GGE.

Notes: ¹ the proposed cost per GGE, as indicated in Exhibit 1, that corresponds to the City authorized service level and corresponds to the time services where provided.

7.2.2. Invoice Submission

For services provided under this Agreement, the Contractor will be paid by the City for the approved services provided and reimbursable items as outlined in the terms of this Agreement within thirty (30) calendar days after receipt and approval of the Contractor's invoices by the City.

The Contractor must submit invoices to:

City of Los Angeles
Los Angeles Department of Transportation
100 South Main Street, 10th Floor
Los Angeles, California, 90012
Attention: LADOT Transit Facilities Project Manager
(Email and name to be provided prior to execution)

All invoices for LADOT's approved task(s) and/or deliverable(s) must include the following information for payments to be processed:

1. Name and address of Contractor
2. Date of invoice
3. Invoice Number
4. Agreement number
5. Remittance address
6. Description of the task(s) performed and/or deliverable(s) during the billing period
7. Amount of invoice
8. Total Amount Payable
9. Monthly and total year-to date LCFS and RIN credits earned report
10. Other additional information as requested by LADOT

7.3. Unanticipated Services Compensation Rates

The value of the Low Carbon Fuel Standards (LCFS) and Renewable Identification Number (RIN) credits are awarded to the Contractor; however, the Parties agree these savings will be passed onto LADOT as a monthly service credit based on the monthly market value of such credits.

The monthly invoices shall contain documentation of monthly LCFS, RIN credits earned, and the total year-to-date total LCFS and RIN credits earned. The LCFS and RIN credit documentation can be reported in a separate monthly report; however, the report should accompany the monthly invoices.

7.4. Right to Withhold and Assess Penalties on Payments

The City reserves the right to withhold and/or assess penalties on payments to the Contractor for work that was deemed unsatisfactory by the Contractor's employees or agents (subcontractors) as determined by the City, based on the performance standards detailed in Section 6.2 Performance Standards and Penalties.

The breakdown must include location, meter number, and the gas gallon equivalent (GGE) metric of gas used during the billing month and gas cost per meter.

7.5. Service Modifications

The City reserves the right to increase or decrease its CNG/RNG consumption levels. Pursuant to this increase or decrease in CNG/RNG fuel consumption, the fuel cost per gasoline gallon equivalents (GGE) shall be adjusted based on the rates provided in the Cost Component Form C-5 (Attachment B).

8. NON-EXCLUSIVE

The City and the Contractor understand and agree this is a non-exclusive Agreement to provide services to the City and that the City reserves the right to enter into an agreement with other contractors to provide similar services during the Term of this Agreement.

9. AUDIT AND INSPECTION OF RECORDS

During the Term of the Agreement, the Contractor must comply with the provisions of Retention of Records, Audits and Reports of the Standard Provisions for City Contracts. In addition, Contractor must also comply with the additional provisions for Audits and Inspections as described below:

The Contractor agrees that the City and any of its duly authorized representatives, shall, for the purpose of audit and examination be permitted to inspect all work, materials, payrolls, and other data and records with regard to the project, and to audit the books, records, and accounts with regard to the project.

It is agreed that examination of books, inventory logs, records, timesheets and payroll records, reports, and accounts of the Contractor will be made in accordance with generally accepted auditing standards applicable in the circumstances and that as such, said examinations do not require a detailed audit of all transactions. Testing and sampling methods may be used in verifying invoices and related reports submitted by the Contractor. Deficiencies ascertained by the use of such testing and sampling methods by applying the "percentage of error" obtained from such testing and sampling to the entire period under examination will be binding on the Contractor and to that end shall be admissible in court to prove any amounts due to the City from the Contractor. This shall not prevent the Contractor from producing all actual records and figures in court to rebut the sampling method. The City shall then conduct an audit of all records for the audit period. In the event any deficiency in the amount of five percent (5%) or greater of the compensation payable to the City hereunder is ascertained, the Contractor agrees to pay the City for the entire cost of the audit as well as any other deficiencies,

payments, and performance penalties due under this or any other provision of this Agreement within thirty (30) days of receipt of the City's billing.

At any time during normal business hours and as often as the City may deem necessary, the Contractor shall make available to the City for examination, all necessary records with regard to the service provision, start-up, and capital costs. The City shall have the authority to audit, examine and make excerpts or transcripts from records, including all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other statistical data relating to all matters covered by this Agreement.

The City reserves the right to dispatch auditors of its choosing to any site where any phase of the project is being conducted, controlled, or advanced in any way, however tangible or intangible. Such sites might include the home office, any branch office, or other locations of the Contractor if such sites or the activities shall be provided with adequate and appropriate workspace in order to conduct audits and shall be allowed to interview any employees or the Contractor. It is the responsibility of the Contractor to ensure the cooperation of all employees with any procedure pertaining to the audit.

All project records prepared by the Contractor shall be owned by the City and be made available to the City at no additional charge. The City may elect to authorize representatives of other project funding partners to inspect, audit and analyze the records of the Contractor in operating this service, preparing the bid for this service, or the operation of any similar service.

The City shall have the authority to make physical inspections and to require such physical safeguarding devices as locks, alarms, safes, fire extinguisher, sprinkler system, etc., to safeguard property and/or equipment authorized by this Agreement. When a fiscal or special audit determines that the Contractor has received payments from the City which are questionable under the criteria set forth herein, the Contractor shall be notified and given the opportunity to justify questioned items prior to the City's final audit report.

If such audit finds that the City's dollar liability for such service is less than payments made by City or Contractor, the Contractor agrees that the difference shall be either:

- Repaid forthwith by Contractor or City be a cash payment, or
- At LADOT's General Manager's option, deduct against any future payments hereunder to Contractor.

If such audit finds that City's dollar liability for service is more than payments hereunder to Contractor, then the difference shall be paid to Contractor by the City, provided that in no event shall the City's maximum obligations, as set forth in this Contract, be exceeded. The City shall determine any amount to be paid to the Contractor during the period of the audit. The City has the authority to withhold funds pending a final determination by the City of any questionable expenditure.

10. STANDARD PROVISIONS FOR CITY CONTRACTS

By entering into this Agreement with the City, the Contractor agrees to abide by the Standard Provisions for City Contracts (Rev. 10/17[v.3]), attached hereto and incorporated herein as Attachment A.

10.1. Indemnification

Except for the active negligence or willful misconduct of the City, or any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest, Contractor 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 the 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 negligent acts, errors, or omission by Contractor, Subcontractors, or their boards, officers, agents, employees, assigns, and successors in interest. The rights and remedies of the 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 the expiration or termination of this Contract.

10.2. 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 right and remedies of the 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 the expiration or termination of this Contract.

11. GENERAL PROVISIONS

11.1. Entire Agreement, Counterparts, and Electronic Signatures

This Agreement contains the complete Agreement between the Parties. No verbal agreement(s) or conversation(s) with any officer or employee of either Party will affect or modify the terms and conditions of this Agreement. This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which will be taken together and deemed to be one instrument. 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.

11.2. Number of Pages and Attachments

This Agreement includes nineteen (19) pages, including the signature page, and 2 Attachments, which constitutes the entire understanding and agreement of the Parties.

11.3. Order of Precedence

This Agreement, and any exhibits, attachments or documents incorporated herein by inclusion or by reference, including the RFP and Proposal, constitute the complete and entire Agreement between the City and the Contractor. In the event of any inconsistencies between the bodies of this Agreement, exhibits, attachments, RFP, and Proposal, the order of precedence will be as follows:

1. This Agreement between the City of Los Angeles and Trillium USA Company, LLC dba Trillium, including Attachment B, Cost Component Form C-5
2. Attachment A – Standard Provisions for City Contracts
3. CNG/RNG Purchase, Supply, and Station Maintenance RFP
4. Proposal

11.4. Modifications, Changes, and Amendments

This Agreement fully expresses all understanding of the Parties concerning all matters covered and shall constitute the total agreement. Except as may otherwise be provided herein, no addition to, or alteration hereto shall be valid unless made in the form of a written amendment, which must be formally approved by the Mayor and/or City Council and executed by the Parties.

11.5. No Assignment

This Agreement is not to be assigned to a substitute contractor, a successor in interest, or a purchaser of the contract without the express written permission of the City. If the City does not approve or grant permission to a subsequent contractor to assume the services outlined in this contract, then the contract will be terminated.

11.6. No Waiver

The failure of the City to insist upon strict performance by Contractor of any provision hereunder in every one or more instances shall not constitute a waiver of such provision by the City, nor shall, as a result, the City relinquish any rights that it may have under this Agreement.

11.7. Governing Law and Venue

Each Party's performance shall comply with all applicable laws of the United States of America, the State of California, and City of Los Angeles, 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. The 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 the 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.

11.8. Severability

If any provision of this Permit is, for any reason, held to be invalid or unenforceable, the other provisions of this Permit will remain enforceable and the invalid or unenforceable provision(s) will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.

[Signature Page Follows]

IN WITNESS WHEREOF, the City of Los Angeles and the Contractor have caused this Agreement to be executed by their duly authorized representatives.

THE CITY OF LOS ANGELES

TRILLIUM USA COMPANY, LLC dba TRILLIUM, a Delaware Corporation

By: _____
Seleta J. Reynolds
General Manager
Department of Transportation

By*: _____

Title: _____

Date: _____

Date: _____

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

By**: _____

By: _____
Michael Nagle
Deputy City Attorney

Title: _____

Date: _____

Date: _____

ATTEST:
HOLLY L. WOLCOTT, City Clerk

NOTE: If Contractor is a corporation, two signatures are required.

By: _____

* The signature of President, Chairman of the Board, or Vice President is required here; and
** an additional signature of Secretary, Assistant Secretary, Chief Financial Officer, or Assistant Treasurer is also required for the Corporation.

Date: _____

City Agreement Number: _____

Council File Number: XXXXXX

ATTACHMENT A
STANDARD PROVISIONS FOR CITY CONTRACTS

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 Limits

Name: _____

Date: 06/24/2020

Agreement/Reference: RFP for the Operation of the Cityride Paratransit Program

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

Limits

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

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

General Liability City of Los Angeles must be named as additional insured \$2,000,000

Products/Completed Operations Sexual Misconduct _____
 Fire Legal Liability _____

Automobile Liability (for any and all vehicles used for this contract, other than commuting to/from work) \$2,000,000

____ **Professional Liability** (Errors and Omissions) _____

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

Property Insurance (to cover replacement cost of building - as determined by insurance company) \$2,000,000

All Risk Coverage Boiler and Machinery
 Flood _____ Builder's Risk
 Earthquake _____ _____

____ **Pollution Liability** _____

____ **Surety Bonds - Performance and Payment (Labor and Materials) Bonds** 100% of the contract price

____ **Crime Insurance** _____

Other: A. Umbrella Liability = \$2 Million
 B. Cyber Security Insurance Requirements:
 1. Technology Errors and Omissions Liability and Professional Misconduct Liability - limits not less than \$ 1 million per occurrence.
 2. Unauthorized Computer Access, Security and Privacy Liability, Network Interruption, and Cyber Extortion - limits not less than \$1 Million per occurrence.

**ATTACHMENT B
COST COMPONENT FORM C-5**

FORM C-5 DOWNTOWN TRANSIT MAINTENANCE FACILITY COST COMPONENT (STAND-ALONE)

This Form identifies the key cost components for the completion of the services, as outlined in this RFP. This cost information will be used in the evaluation of proposals, and at a later date as additional data to document the costs. This Form may be incorporated into the contract if awarded.

TABLE 5A – YEAR 1* COST COMPONENT SHEET

Monthly CNG Fuel Consumption in GGE	Under 10,000	10,001-20,000	20,001-30,000	30,001-40,000	40,001-50,000	50,001-60,000	60,001-80,000	80,001-100,000	100,001+	
1. Fuel Cost per GGE	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	
2. Operation and Maintenance Costs	\$0.268	\$0.218	\$0.205	\$0.168	\$0.155	\$0.111	\$0.111	\$0.099	\$0.088	
3. Administration Costs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
4. Other Costs (Please Specify)		*B Changes with Market prices - it is not Fixed This is a "Today Market" price								
a. *Distribution charges fees & taxes, pass thru see proposal		Calculation Based on a LADOT share of 7% RIN, 35% LCFS incremental, & 100% CPS Fossil								
b. * RIN/LCFS credit value per GGE	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	
c.										
5. Profit	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	
6. Infrastructure Costs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
Proposed Cost per GGE (Sum of lines 1 through 6)	\$0.220	\$0.170	\$0.158	\$0.120	\$0.108	\$0.064	\$0.064	\$0.051	\$0.039	

NOTE: All pricing is to be indicated in United States Currency.

* Start date of April 11, 2021

TABLE 5B – YEAR 2 COST COMPONENT SHEET

Monthly CNG Fuel Consumption in GGE	Under 10,000	10,001-20,000	20,001-30,000	30,001-40,000	40,001-50,000	50,001-60,000	60,001-80,000	80,001-100,000	100,001+	
1. Fuel Cost per GGE	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	
2. Operation and Maintenance Costs	\$0.273	\$0.222	\$0.210	\$0.171	\$0.159	\$0.114	\$0.114	\$0.101	\$0.088	
3. Administration Costs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
4. Other Costs (Please Specify)		*B Changes with Market prices - it is not Fixed This is a "Today Market" price								
a. *Distribution charges fees & taxes, pass thru see proposal		Calculation Based on a LADOT share of 7% RIN, 35% LCFS incremental, & 100% CPS Fossil								
b. * RIN/LCFS credit value per GGE	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	
c.										
5. Profit	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	
6. Infrastructure Costs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
Proposed Cost per GGE (Sum of lines 1 through 6)	\$0.226	\$0.175	\$0.162	\$0.124	\$0.111	\$0.067	\$0.067	\$0.054	\$0.041	

NOTE: All pricing is to be indicated in United States Currency.

CNG/RNG PURCHASE, SUPPLY, AND STATION MAINTENANCE FOR LADOT TRANSIT OPERATION FACILITIES RFP – JUNE 2020

**FORM C-5 DOWNTOWN TRANSIT MAINTENANCE FACILITY COST COMPONENT (STAND-ALONE)
(CONTINUED)**

This Form identifies the key cost components for the completion of the services, as outlined in this RFP. This cost information will be used in the evaluation of proposals, and at a later date as additional data to document the costs. This Form may be incorporated into the contract if awarded.

TABLE 5C – YEAR 3 COST COMPONENT SHEET

Monthly CNG Fuel Consumption in GGE	Under 10,000	10,001-20,000	20,001-30,000	30,001-40,000	40,001-50,000	50,001-60,000	60,001-80,000	80,001-100,000	100,001+	
1. Fuel Cost per GGE	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	
2. Operation and Maintenance Costs	\$0.279	\$0.225	\$0.214	\$0.175	\$0.162	\$0.115	\$0.115	\$0.104	\$0.093	
3. Administration Costs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
4. Other Costs (Please Specify)		*B Changes with Market prices - it is not Fixed. This is a "Today Market" price Calculation based on a LADOT share of 7% RIN, 35% LCFS incremental, & 100% LCFS Fossil								
a. *Distribution charges fees & taxes, pass thru see proposal		Reference to a carbon intensity of approximately 45 gCO ₂ e/MJ								
b. *RIN/LCFS credit value per GGE	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	
c.										
5. Profit	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	
6. Infrastructure Costs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
Proposed Cost per GGE (Sum of lines 1 through 6)	\$0.232	\$0.180	\$0.167	\$0.128	\$0.115	\$0.069	\$0.069	\$0.056	\$0.043	

NOTE: All pricing is to be indicated in United States Currency.

TABLE 5D – YEAR 4 COST COMPONENT SHEET

Monthly CNG Fuel Consumption in GGE	Under 10,000	10,001-20,000	20,001-30,000	30,001-40,000	40,001-50,000	50,001-60,000	60,001-80,000	80,001-100,000	100,001+	
1. Fuel Cost per GGE	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	
2. Operation and Maintenance Costs	\$0.285	\$0.232	\$0.219	\$0.179	\$0.166	\$0.119	\$0.119	\$0.108	\$0.093	
3. Administration Costs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
4. Other Costs (Please Specify)		*B Changes with Market prices - it is not Fixed. This is a "Today Market" price Calculation based on a LADOT share of 7% RIN, 35% LCFS incremental, & 100% LCFS Fossil								
a. *Distribution charges fees & taxes, pass thru see proposal		Reference to a carbon intensity of approximately 45 gCO ₂ e/MJ								
b. *RIN/LCFS credit value per GGE	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	
c.										
5. Profit	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	
6. Infrastructure Costs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
Proposed Cost per GGE (Sum of lines 1 through 6)	\$0.238	\$0.185	\$0.171	\$0.132	\$0.119	\$0.072	\$0.072	\$0.059	\$0.045	

CNG/RNG PURCHASE, SUPPLY, AND STATION MAINTENANCE FOR LADOT TRANSIT OPERATION FACILITIES RFP – JUNE 2020

**FORM C-5 DOWNTOWN TRANSIT MAINTENANCE FACILITY COST COMPONENT (STAND-ALONE)
(CONTINUED)**

This Form identifies the key cost components for the completion of the services, as outlined in this RFP. This cost information will be used in the evaluation of proposals, and at a later date as additional data to document the costs. This Form may be incorporated into the contract if awarded.
NOTE: All pricing is to be indicated in United States Currency.

TABLE 5E – YEAR 5 COST COMPONENT SHEET

Monthly CNG Fuel Consumption in GGE	Under 10,000	10,001-20,000	20,001-30,000	30,001-40,000	40,001-50,000	50,001-60,000	60,001-80,000	80,001-100,000	100,001+	
1. Fuel Cost per GGE	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	\$0.425	
2. Operation and Maintenance Costs	\$0.291	\$0.237	\$0.224	\$0.183	\$0.169	\$0.122	\$0.122	\$0.109	\$0.095	
3. Administration Costs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
4. Other Costs (Please Specify)		*B Changes with Market prices - it is not Fixed. This is a *Today Market price Calculations based on a LADOT share of 7% RPS, 3.5% LCFR incremental, 100% L(FS Fossil								
a. *Distribution charges fees & taxes, pass thru see proposal		Reference to a carbon intensity of approximately 45 CO2e/MJ								
b. *RPS/LCFS credit value per GGE	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	(\$0.492)	
c.										
5. Profit	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020	
6. Infrastructure Costs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
Proposed Cost per GGE (Sum of lines 1 through 6)	\$0.244	\$0.190	\$0.176	\$0.136	\$0.122	\$0.075	\$0.075	\$0.061	\$0.048	

NOTE: All pricing is to be indicated in United States Currency.