



## MEMORANDUM OF AGREEMENT

BY AND BETWEEN THE

CITY OF LOS ANGELES

AND

LOS ANGELES BLACK WORKER CENTER

Project Title:

LOS ANGELES WORKFORCE EQUITY DEMONSTRATION PROJECT

Contract No. C-140429

## MEMORANDUM OF AGREEMENT

BETWEEN

THE CITY OF LOS ANGELES, BOARD OF PUBLIC WORKS

AND

THE LOS ANGELES BLACK WORKER CENTER

TO ESTABLISH THE LOS ANGELES WORKFORCE EQUITY DEMONSTRATION PROJECT AS A DURABLE LABOR-COMMUNITY-MANAGEMENT PARTNERSHIP THAT DESIGNS AND ESTABLISHES AN INFRASTRUCTURE FOR A PRE-EMPLOYMENT, EMPLOYMENT, AND CAREER ADVANCEMENT PATHWAY WITHIN THE CITY OF LOS ANGELES, AND SPECIFICALLY AT THE DEPARTMENT OF PUBLIC WORKS

This Memorandum of Agreement (MOA), is made and entered into by and between the **CITY OF LOS ANGELES, a California municipal corporation acting by and through the Department of Public Works, Board of Public Works** (“hereinafter referred to as “BPW” or “CITY”), and the **LOS ANGELES BLACK WORKER CENTER, a California nonprofit corporation** (hereinafter referred to as “LABWC”), collectively, the “Parties”.

### RECITALS

*WHEREAS*, The Los Angeles Department of Public Works (DPW) is the 2nd largest City Department with a budget of more than \$1.4 billion, comprising more than 5,500 employees within five Bureaus and various Board Offices; and

*WHEREAS*, The DPW acknowledges the importance of ensuring equity and opportunity for all Angelenos - particularly those from economically and environmentally vulnerable backgrounds - necessitates continuing to build on those programs as increased demands for services, equity, and quality jobs converge into one overwhelming urgent demand; and

*WHEREAS*, On February 26, 2021, the BPW adopted a motion (BPW-2021-0138) requesting the BPW President to report to the BPW with a recommended framework and action plan for a DPW Workforce Equity Demonstration Project (WED), including seeking input from, (1) Personnel Department; (2) Economic & Workforce Development Department.; (3) Office of the Mayor; and (4) Office of the City Council President or their designee; as well as Bureaus within the DPW, other Board of Public Works offices, and vital community stakeholders such as the Los Angeles Black Worker Center, the Los Angeles County Federation of Labor (LA FED), and the City Coalition of Unions; and

*WHEREAS*, the projected cost to implement the desired initial, WED pilot program may total up to \$1,000,000, and the BPW has allocated \$150,000 from its Fiscal Year 2021-2022 budget towards this effort and has requested additional funds in Fiscal Year 2022-2023, subject to inclusion in the proposed City budget.

*WHEREAS*, additional funding totaling \$250,000 has been secured through non-profits, and other funding amounts and sources for the projected \$1,000,000 project cost, are yet to be determined and nothing herein shall guarantee full funding or approval to proceed absent of pre-identified available funding; and

*WHEREAS*, the DPW intends to collaborate with the City's Personnel and Economic & Workforce Development Departments, as well as the Offices of the Mayor, City Administrative Officer, Chief Legislative Analyst, and the various Council Districts, to review and provide critical feedback relative to the development of a training consistent with the respective job analyses development WED pilot program/curriculum to increase the likelihood of skill building, career advancement, and ultimately a pathway to gain full time employment for the WED pilot program participants/graduates. Staff from the DPW intend to report back to the BPW on results from the WED pilot program in approximately two years; and

*WHEREAS*, LABWC, shall collaborate with the City of Los Angeles, specifically the DPW, to create the curriculum to prepare participants with on the job-readiness skills and other curriculum programs as needed to meet the City's needs for vacant positions.

*WHEREAS*, LABWC, in coordination with the Los Angeles County Federation of Labor, is desirous of collaborating with BPW to establish and coordinate the desired program.

*NOW, THEREFORE*, in consideration of the terms, covenants and conditions in this agreement, *IT IS MUTUALLY AGREED AS FOLLOWS:*

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## I. PURPOSE OF MEMORANDUM OF AGREEMENT

The purpose of this Memorandum of Agreement (MOA) between BPW and LABWC is to form a City contract and to establish roles and responsibilities for both Parties in the creation and management of a pilot Workforce Equity Demonstration Project (WED). The LABWC agrees to execute the necessary tasks that will effectuate the project creation and adoption subject to BPW approval.

The Parties agree that the intent of this MOA is to recruit and train Angelenos on specific job classifications identified at the DPW, with the desired end goal of transitioning and hiring those trained through WED at the earliest and most practical time. Parties desire to fill up to 200 vacant roles and target the recruitment of the necessary number of individuals to train cohorts commensurate with the job classifications identified.

In return, the BPW will pay the LABWC for deliverables and/or reimbursement of staff time and expenses related to this service as described herein, including the Statement of Work (Attachment A).

## II. ROLES AND RESPONSIBILITIES

The LABWC will be responsible for coordinating with the BPW, and in close coordination with other agencies including but not limited to LA FED, the undertaking and necessary tasks that would allow for the Workforce Equity Demonstration Project to be created, implemented, and managed. A full description of the services to be provided by the LABWC is described in the Statement of Work (Attachment A) attached hereto and incorporated by reference in this MOA.

## III. STAFFING AND PERSONNEL

The LABWC shall assign qualified staff to provide the technical expertise and support needed to perform the Statement of Work, all Notices to Proceed, and all other applicable requirements as set forth in this MOA. BPW shall compensate LABWC for specified deliverables, staff time, and eligible expenses pursuant to the conditions set forth in Sections V and VI below.

BPW shall designate a project manager level resource, for the initial first year only, to liaise between BPW and LABWC on critical actions needed to implement the WED program, collect data, and problem solve potential challenges and unforeseen setbacks in recruitment, training, and/or employment placement of WED program participants/graduates. At the BPW's option, the project manager level resource may be extended, subject upon funding availability. CITY will pay for applicable costs associated with the project manager level resource, including some funding allocated for marketing, outreach, and data collection.

LABWC will use its best efforts to assure the continuity of the staff assigned. LABWC shall inform BPW of staff assigned to the work set forth in this MOA, as well as notify BPW of any change in staff after work has commenced. To the extent possible, the

LABWC shall inform BPW of any change in assignment in writing 15 calendar days in advance of such change taking effect.

#### IV. INDEPENDENT CONTRACTOR

In accordance with PSC-10 of the Standard Provisions, LABWC is acting hereunder as an independent contractor and not as an agent or employee of the City. No employee of LABWC is or shall be an employee of the City by virtue of this MOA. LABWC 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 the City.

#### V. REPRESENTATIVES OF THE PARTIES AND SERVICE OF NOTICES

The representative of the BPW shall be, unless otherwise stated in this MOA:

Aura Garcia, President  
Board of Public Works  
200 North Spring Street, #361  
Los Angeles, CA 90012

The representative of the LABWC shall be, unless otherwise stated in this MOA:

La Tonya Harris, Co-Executive Director  
Los Angeles Black Worker Center  
5350 Crenshaw Blvd  
Los Angeles, CA 90043

#### VI. TERM AND TERMINATION

The term of this MOA shall be for two (2) years commencing on the date of execution, or expire upon completion of the services as set forth in this MOA as determined by the BPW, whichever occurs first; subject, however, to earlier termination by either party to this MOA upon giving written notice 60 days in advance of termination. The provisions of PSC-9(B) of the Standard Provisions shall remain in effect. The City, at its sole discretion, may extend the Contract for a one-year renewal option prior to the expiration of the Contract or any renewal option previously exercised by the City.

#### VII. COMPENSATION FOR SERVICES AND BILLING

The LABWC shall submit, on a monthly basis, an invoice and, on a quarterly basis, status report for services completed during the billing period.

Invoices and status reports shall be submitted to:

City of Los Angeles, Board of Public Works  
Attn: Dr. Fernando Campos, Executive Officer  
200 N. Spring Street, Room 361  
Los Angeles, CA 90012

In lieu of a printed report, invoices and status reports may also be submitted electronically to [Fernando.Campos@lacity.org](mailto:Fernando.Campos@lacity.org).

LABWC shall submit monthly invoices detailing the services performed and/or completed during the billing period, including the assigned personnel involved with their time charges reflecting the number of hours expended, and the cumulative total of the monthly bill. LABWC shall also submit a quarterly (every 3 months) Status Report detailing the progress on the Statement of Work (Attachment A).

For all services rendered and/or completed during the billing period, BPW shall pay to or reimburse LABWC for services on a deliverable basis (Fee For Service) and as agreed to by the Parties, staff time on an hourly basis and at an hourly rate as agreed upon by LABWC and BPW, including eligible materials and out of pocket expenses at cost. Materials costs in excess of \$25,000 must be approved in writing by the BPW in advance of the expenditure being incurred by LABWC. Attachment A provides the total compensation for Fee-For-Services deliverables and shall represent the total not-to-exceed compensation to be paid by the City to the LABWC Contractor for services to be performed under this MOA.

All requests for payment or reimbursement submitted pursuant to this MOA shall be certified by a duly authorized officer of the LABWC under penalty of perjury that the information submitted is true and correct. BPW reserves the right to require additional substantiation of any payment request submitted if, in the opinion of the Executive Officer of the Board of Public Works, if it would be in the best interest of BPW and the City. The Executive Officer of the Board of Public Works, or designated representative, shall make the final determination as to whether the particular services rendered or materials costs incurred are consistent with the Statement of Work (Attachment "A") and eligible for payment.

Payments to LABWC may be unilaterally withheld or reduced by the City if LABWC fails to comply with the provisions of this MOA. It is understood that the City's liability under this contract shall only be to the extent of the present City appropriation to fund the contract. However, if the City shall appropriate funds for any of the extension options, the City's liability shall be extended to the extent of such appropriation, subject to the terms and conditions of this MOA, including but not limited to, the provisions of PSC-39 of the Standard Provisions.

The parties acknowledge that the \$1,000,000 sum may not be adequate to complete the project. In that event, BPW will work with LABWC to identify additional funding necessary to complete the project. The total sum will compensate all appropriate staff as deemed necessary by BPW and the LABWC to perform the required services, as outlined in the attached Statement of Work (Attachment A).

#### VIII. ISSUANCE OF NOTICE TO PROCEED

The City will issue a Notice to Proceed to commence work in the attached Statement of Work (Attachment "A"). The parties acknowledge that as funding becomes available, work will be authorized through a Notice to Proceed document detailing the funding available and work authorized for that period. No work shall be performed without prior written authorization from the City.

Notice to Proceed will authorize LABWC to begin work and specify a "not to exceed" compensation amount. LABWC shall complete the work within the "not to exceed" amount unless changes to the Notice to Proceed are made by the City. Any change to the Notice to Proceed must be requested in writing and approved by the City in writing. The LABWC shall not proceed with any work or incur any cost until a Notice to Proceed is issued.

The Notice to Proceed will be submitted electronically to La Tonya Harris at [lharris@labwc.org](mailto:lharris@labwc.org). Notice to Proceed issuance will not exceed reasonable timeframes to complete Statement of Work activities within the life of the agreement.

#### IX. REQUEST FOR ADVANCE PAYMENT

Upon this Agreement becoming effective, the LABWC may submit a first request for advance payment. The first request for advance payment will be in an amount not to exceed \$150,000. Once the first advance has been provided to the LABWC, no further payments will be disbursed to the LABWC until the first advance has been expended.

The LABWC may submit a subsequent request(s) for advance payment after the CITY's representative has approved documentation that substantiates the first payment and every advance payment to follow. Subsequent request(s) for advance payment will be in an amount not to exceed \$150,000. Copies of documentation to support all the expenditures of the first advance and all subsequent advances to follow must be submitted to and approved by the CITY's representative prior to disbursement by the CITY of any additional advance payments.

REQUESTS FOR PAYMENT submitted by the LABWC must include a budget that indicates the estimated costs to be incurred by the LABWC for which payment is requested. REQUESTS FOR PAYMENT must be submitted in a form substantially similar to Attachment C [Sample Invoice] and must be signed under PENALTY OF PERJURY by the CONTRACTOR'S representative designated in this Agreement.

Documentation submitted by the CONTRACTOR to support expenditures includes but is not limited to copies of such items as receipts; invoices matched with canceled checks, invoices marked "Paid", payroll registers, internal hiring documents and time sheets. Bank statements may be requested and shall be provided to support submitted documentation at the discretion of the CITY.

Any portion of any advance payment made and not expended or obligated by the LABWC or not approved by the CITY's representative must be paid back to the CITY no later than

the end of term of the Agreement. Such payment will accompany the CLOSE-OUT INVOICE/STATEMENT."

## XI. INDEMNIFICATION

LABWC shall comply with all applicable indemnification provisions in the Standard Provisions.

## XII. AUDIT

BPW, and/or its designee, shall have the right to conduct audits of the Project, as deemed appropriate, such as financial and compliance audits; interim audits; pre-award audits, performance audits and final audits. The LABWC agrees to establish and maintain proper accounting procedures and cash management records and documents in accordance with Generally Accepted Accounting Principles (GAAP). LABWC shall reimburse BPW for any expenditure not in compliance with this MOA. Any use of the Funds which is expressly prohibited under this Agreement shall be an ineligible use of the Funds and may be disallowed by BPW audit. Findings of the BPW audit are final.

These records must be retained by LABWC for three (3) years following final payment under this MOA.

## XIII. ADDITIONAL TERMS

### A. Standard Provisions for City Contracts

The LABWC agrees to comply with the Standard Provisions for City Contracts, (Rev. 10/21) [v. 4] ("Standard Provisions"), which are attached hereto as Attachment B and incorporated herein. The order of precedence for interpretative purposes shall be; (a) this Agreement; and (b) the Standard Provisions; and (c) any particular Notice to Proceed.

### B. Disclosure of Border Wall Contracting

The LABWC shall comply with Los Angeles Administrative Code Section 10.50 et seq., 'Disclosure of Border Wall Contracting.' City may terminate this Contract at any time if City determines that Contractor failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in LAAC Section 10.50.1.

## XIV. INTEGRATED AGREEMENT

This MOA shall constitute the entire agreement between the parties and shall only be modified by a written amendment to this MOA duly executed by both BPW and the LABWC.

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

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IN WITNESS WHEREOF, the City of Los Angeles, Board of Public Works and the Los Angeles Black Worker Center have caused this MOA to be entered into by the duly authorized officers on the day and year herein written.

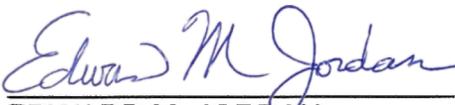
THE CITY OF LOS ANGELES,  
A Municipal Corporation

By:   
AURA GARCIA, President  
Board of Public Works

Date: 6/9/2022

APPROVED AS TO FORM:

MICHAEL N. FEURER, City Attorney

By:   
EDWARD M. JORDAN  
Assistant City Attorney

Date: 6/9/2022

LOS ANGELES BLACK WORKER CENTER  
A California Nonprofit Corporation

By:   
LA TONYA HARRIS, Co-Executive  
Director of Operations & Finance  
Los Angeles Black Worker Center

Date: 6/8/2022

ATTEST:

HOLLY L. WOLCOTT, City Clerk

By:    
Deputy City Clerk

Date: 6/10/2022

City Business Tax Registration Certificate Number: \_\_\_\_\_

Internal Revenue Service ID Number: \_\_\_\_\_

Contract No.: C-140429

## **ATTACHMENT A**

### Statement of Work

The purpose of this Statement of Work (SOW) is to describe the respective responsibilities of the Parties under this MOA relating to:

- Establishment of the Los Angeles Workforce Equity Demonstration Project as a durable labor-community-management partnership that designs and establishes an infrastructure for a pre-employment, employment, and career advancement pathway within the City of Los Angeles, and specifically at the DPW.
- Creation and implementation of a pre-employment, employment, and career advancement program that trains, skills-up, retains, and promotes workers in the DPW and provides a skilled, workforce for the City of Los Angeles.

The program will be effectuated through the following approach:

- Adoption of final program through the BPW or Los Angeles City Council.

The BPW shall be the lead agency for program adoption.

#### **Task 1: Establishment of Los Angeles Workforce Equity Demonstration Project**

Establish the Los Angeles Workforce Equity Demonstration Project as a durable labor-community-management partnership that designs and establishes an infrastructure for a pre-employment, employment, and career advancement pathway within the City of Los Angeles, and specifically at DPW.

As the lead Agency, the BPW, with the assistance of the LABWC, shall,

- **1.1** – Continue a formal working coalition consisting of WERC, DPW, LA BWC, SEIU Local 721, AFSCME DC 36, and the City of Los Angeles Workforce Development Board.
- **1.2** – Convene the partnership monthly and establish working groups as necessary to move project forward.
- **1.3** – Develop decision making processes, protocols, and agreed-upon metrics for the program.

BPW shall,

- **1.4** – Review the existing civil service process and the City Personnel Department's Civil Service Rules to understand job access, promotion, and retention for job seekers and incumbents. This shall include, but not be limited to, the feasibility and exploration of Selective Certification for existing vacancies and creating new classifications leading up from the pilot WED program to employment placement and comparing said new classifications to existing or similar existing classifications used by the City.

- **1.5** – Identify vacancies, green/sustainable job classifications, and promotion opportunities within DPW in quarters one and three.
- **1.6** – Pursue policymaking, including City Council and Board of Public Works motions, which will strive to establish pre-employment, employment and career advancement pathways.
- **1.7** – Establish hiring and promotion forecasts for each of the five DPW Bureaus and establish a process to set budgeted positions aside for the Workforce Equity Demonstration Project as economic recovery improves the City’s ability to hire.

LABWC shall,

- **1.8** – Commencement of work with DPW Bureau Directors, personnel, unions, and community to identify and finalize soft and hard skills for the identified classifications. [Payment upon Milestone: \$20,000]
- **1.9** – Present recommendations for diversity and inclusion strategies with measurements that will support retention and promotion of racial equity in targeted classifications, working alongside DPW department managers, community, and unions, for program implementation. [Payment upon Milestone: \$34,000].
- **1.10** – Determine DPW’s needs for skills training in green, sustainable jobs classifications, and design core curriculum and up to 5 supplemental instructional modules that meets this need. Rooted in the values of popular education, this culturally competent curriculum will prepare participants for public sector jobs by building leadership, confidence, and understanding of the role of public sector work as it relates to the City, Black communities, and Priority Populations. [Payment upon Milestone: \$20,800 – May include additional supplemental modules for an additional fee of \$10,000 per 5 supplemental modules.]
- **1.11** – Contingent upon receiving the identified job classifications and notice to proceed from BPW, conduct quarterly outreach to Priority Populations by including, but not limited to, canvassing and door knocking, and other virtual and/or in-person activities to prepare recruits for those specific job classifications. [Payment upon Milestone: \$45/hour]

**Task 2: Creation and Implementation of Career Advancement Program**

Create and implement a pre-employment, employment, and career advancement program that trains, skills-up, retains, and promotes workers in DPW and provides a skilled, green workforce for the City of Los Angeles.

As the lead Agency, LABWC, in close coordination with BPW, shall,

- **2.1** – Enroll up to 200 new trainees into soft skills training and subject-based classroom learning that prepares them for civil service employment, and skills

training for new and incumbent workers that prepares them for job specificities and promotional opportunities. [Payment upon Milestone: \$3,710 per participant]

- **2.2** - Develop a mentorship training program as a retention strategy that prepares rank-and-file union members at DPW to become mentors to new DPW employees, as well as incumbent workers in entry-level positions who have barriers to advancement. [Payment Upon Milestone: \$43,200]
- **2.3** - Partner with the WDB (Workforce Development Board) and develop a model of “co-case management” with WERC (Workforce Education Resource Center), in support of task 2.1. [No Payment Due]

**TENTATIVE TIME SCHEDULE (COMPLETION MILESTONE DATES)**

LEAD	TASK	YEAR 1				YEAR 2			
		Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4
BPW	1.1	X							
	1.2	X	X	X	X	X	X	X	X
	1.3	X	X						
	1.4	X							
	1.5	X		X					
	1.6	X	X	X	X	X	X	X	X
	1.7	X							
LABWC	1.8		X		X				
	1.9		X		X				
	1.10	X	X		X	X			
	1.11	X	X	X	X	X	X		
	2.1			X	X	X	X		
	2.2			X	X	X	X		
	2.3	X	X	X	X	X	X	X	X

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

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

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

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

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

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

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

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

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

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

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

**PSC-42. Possessory Interests Tax**

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

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

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

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

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

**EXHIBIT 1**

**INSURANCE CONTRACTUAL REQUIREMENTS**

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

**CONTRACTUAL REQUIREMENTS**

CONTRACTOR AGREES THAT:

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

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

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

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

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

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

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

## Required Insurance and Minimum Limits

Name: Los Angeles Black Worker Center

Date: 05/13/2022

Agreement/Reference: Los Angeles Workforce Equity Demonstration Project.

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

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**Workers' Compensation - Workers' Compensation (WC) and Employer's Liability (EL)**

	WC	<u>Statutory</u>
	EL	<u>\$1,000,000</u>

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

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**General Liability** \$1,000,000

Products/Completed Operations
  Sexual Misconduct  
 Fire Legal Liability

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

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**Professional Liability** (Errors and Omissions)

Discovery Period \_\_\_\_\_

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**Property Insurance** (to cover replacement cost of building - as determined by insurance company)

<input type="checkbox"/> All Risk Coverage	<input type="checkbox"/> Boiler and Machinery
<input type="checkbox"/> Flood	<input type="checkbox"/> Builder's Risk
<input type="checkbox"/> Earthquake	<input type="checkbox"/>

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**Pollution Liability**

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

**Crime Insurance**

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**Other:** 1) In the absence of imposed Auto Liability requirements, all contractors using vehicles during the course of their contract must adhere to the financial responsibility laws of the State of California.  
 2) If a contractor has no employees and decides not to cover himself/herself for Worker's Compensation, please complete the form titled "Request for Waiver of Workers' Compensation Insurance Requirement" located at <http://cao.lacity.org/risk/InsuranceForms.htm>

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