

## MEETING AGENDA

### BOARD OF RECREATION AND PARK COMMISSIONERS OF THE CITY OF LOS ANGELES

Wednesday, February 15, 2017 at 9:30 a.m.

EXPO Center Comrie Hall  
3980 South Bill Robertson Lane  
Los Angeles, CA 90037

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SYLVIA PATSAOURAS, PRESIDENT  
LYNN ALVAREZ, VICE PRESIDENT  
MELBA CULPEPPER, COMMISSIONER  
PILAR DIAZ, COMMISSIONER  
MISTY M. SANFORD, COMMISSIONER

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EVERY PERSON WISHING TO ADDRESS THE COMMISSION MUST COMPLETE A SPEAKER'S REQUEST FORM AT THE MEETING AND SUBMIT IT TO THE COMMISSION EXECUTIVE ASSISTANT PRIOR TO THE BOARD'S CONSIDERATION OF THE ITEM.

PURSUANT TO COMMISSION POLICY, COMMENTS BY THE PUBLIC ON AGENDA ITEMS WILL BE HEARD ONLY AT THE TIME THE RESPECTIVE ITEM IS CONSIDERED, FOR A CUMULATIVE TOTAL OF UP TO FIFTEEN (15) MINUTES FOR EACH ITEM. ALL REQUESTS TO ADDRESS THE BOARD ON PUBLIC HEARING ITEMS MUST BE SUBMITTED PRIOR TO THE BOARD'S CONSIDERATION OF THE ITEM. COMMENTS BY THE PUBLIC ON ALL OTHER MATTERS WITHIN THE SUBJECT MATTER JURISDICTION OF THE BOARD WILL BE HEARD DURING THE "PUBLIC COMMENTS" PERIOD OF THE MEETING. EACH SPEAKER WILL BE GRANTED TWO MINUTES, WITH FIFTEEN (15) MINUTES TOTAL ALLOWED FOR PUBLIC PRESENTATION.

#### 1. CALL TO ORDER AND SPECIAL PRESENTATIONS

- Presentation of Resolution to Robin Smith, Recreation Supervisor, Upon Her Retirement After 31 Years of Dedicated City Service
- Acknowledgement to Honor the Memory of Retired Aquatics Director Richard Godino, 42 Years of Dedicated City Service

#### 2. APPROVAL OF THE MINUTES

- Approval of Minutes for the Regular Meeting of February 1, 2017

#### 3. NEIGHBORHOOD COUNCIL COMMENTS

- Discussion with Neighborhood Council Representatives on Neighborhood Council Resolutions or Community Impact Statements Filed with the City Clerk Relative to Any Item Listed or Being Considered on this Board of Recreation and Park Commissioners Meeting Agenda (Los Angeles Administrative Code 22.819; Ordinance 184243)

#### 4. BOARD REPORTS

- 17-024 As-Needed Fence and Wall Installation, Maintenance and/or Repairs – Award of Contracts

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- 17-025 Jim Gilliam Child Care Center – California Department of Education 2017-2018 California Center-Based Child Care and California State Preschool Program – Authorization of Continued Funding Application for Subsidized Preschool Services; Acceptance of Grant Funds
- 17-026 Ralph M. Parsons Preschool at EXPO Center – California Department of Education 2017-2018 California State Preschool Program Expansion – Authorization for Funding Application for Subsidized Preschool Services; Acceptance of Grant Funds
- 17-027 EXPO Center – Ralph M. Parsons Preschool – Acceptance of Two Los Angeles Universal Preschool Grants
- 17-028 Lafayette Park – Outdoor Park Improvements (PRJ1394A) Project; Westside Neighborhood Park – Outdoor Park Improvements (PRJ20051) Project – Final Acceptance of Various Quimby Funded Projects
- 17-029 City Hall Park – Park Restoration (PRJ20465) Project; Evergreen Recreation Center – Outdoor Park Restoration (PRJ20123) Project; Hollenbeck Park – Skateboard Plaza Improvements (PRJ20281) Project; Hostetter Park – Building and Outdoor Improvements (20506) Project; Pershing Square – Palm Court Improvements (PRJ1396A) Project – Final Acceptance of Various Quimby Funded Projects
- 17-030 Barrington Recreation Center – Play Area Renovation (PRJ20800) Project; Mar Vista Recreation Center – Building Improvements (PRJ1602F) Project; Mar Vista Recreation Center – Lighting Rehabilitation (PRJ20528) Project; Mar Vista Recreation Center – Outdoor Improvements (PRJ1310B) Project; Oakwood Recreation Center – Building and Outdoor Improvements (PRJ1901B) Project; Stoner Recreation Center – Building and Outdoor Improvements (PRJ1900B) Project; Venice Beach – Outdoor Park Improvements (PRJ20551) Project; Venice High School Pool – Pool and Bathhouse Improvements (PRJ1502N) Project – Final Acceptance of Various Quimby Funded Projects
- 17-031 North Weddington Park – Donation of a Universally Accessible Playground and Restrooms from Shane’s Inspiration (PRJ21106); Allocation of Quimby Fees; Categorical Exemption from the California Environmental Quality Act (CEQA) Pursuant to Article III, Section 1, Class 1(1),(14) and Class 11(3),(6) of the City CEQA Guidelines Regarding Minor Alterations to Existing Facilities and the Replacement of Minor Structures Accessory to Existing Institutional Facilities
- 17-032 Hazard Park and Recreation Center – Donation of Computer Equipment from the University of Southern California, Keck Medicine of University of Southern California

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- 17-033 Lincoln Park Recreation Center – Pool and Bathhouse Replacement (PRJ1504P) (W.O. #E1907715) Project – Escrow Agreement for Security Deposits in Lieu of Retention
- 17-034 Acceptance of Flat Top Property Donation: Final Authorization to Acquire Property for Park Purposes; Categorical Exemption from the California Environmental Quality Act (CEQA) Pursuant to Article 19, Section 15325(f) (Acquisition to Preserve Open Space or Lands for Park Purposes) of California CEQA Guidelines
- 17-035 Veterans’ Barrington Park – Veterans Memorial and Park Beautification (PRJ21091) Project – Final Plans – Allocation of Quimby Fees
- 17-036 Westwood Park – New Dog Park and Park Improvements (PRJ21050) Project – Allocation of Quimby Fees – Categorical Exemption from the California Environmental Quality Act (CEQA) Pursuant to Article III, Section 1, Class 1(3), Class 4(3) and Class 11(3) of the City CEQA Guidelines (Minor Alterations of Existing Streets and Pedestrian Trails, Tree Planting and Landscaping and Placing of Minor Structures Accessory to Existing Facilities)
- 17-037 Rancho Cienega Sports Complex (Phase 1 – PRJ20308) (W.O. #E1907694) – Final Plans and Specifications
- 17-038 Runyon Canyon Park Expansion – Final Authorization to Acquire Property at 2450 Solar Drive; Categorical Exemption from the California Environmental Quality Act (CEQA) Pursuant to Article III, Section 1, Class 16 (Transfers of Ownership in Land in Order to Create Parks) of the City CEQA Guidelines

5. BOARD REPORT PUBLIC COMMENT

Members of the Public Who Wish to Comment on Matters Relevant to the Board Reports

6. COMMISSION TASK FORCE UPDATES

- Commission Task Force on Concessions Report – President Patsouras and Commissioner Diaz
- Commission Task Force on Facility Repair and Maintenance Report – Commissioners Sanford and Alvarez

7. GENERAL MANAGER’S DEPARTMENT REPORT AND UPDATES

- Various Communications Report
- Informational Report on Department Activities and Facilities

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8. GENERAL PUBLIC COMMENT

Members of the Public Who Wish to Comment on Other Matters Not Listed on the Agenda and under the Jurisdiction of the Department of Recreation and Parks

9. COMMISSION BUSINESS

Comments from Commissioners on Matters within the Board's Jurisdiction and Requests by Commissioners to Schedule Specific Future Agenda Items

10. NEXT MEETING

The Regular Meeting of the Board of Recreation and Park Commissioners will be held on Wednesday, March 1, 2017, 9:30 a.m., at EXPO Center Comrie Hall, 3980 South Bill Robertson Lane, Los Angeles, CA 90037.

11. ADJOURNMENT

Under the California State Ralph M. Brown Act, those wishing to make audio recordings of the Commission Meetings are allowed to bring tape recorders or camcorders in the Meeting.

Sign language interpreters, assistive listening devices, or any auxiliary aides and/or services may be provided upon request. To ensure availability, you are advised to make your request at least 72 hours prior to the meeting you wish to attend. For additional information, please contact the Commission Office at (213) 202-2640.

Finalization of Commission Actions: In accordance with City Charter, actions that are subject to Section 245 are not final until the expiration of the next five meeting days of the Los Angeles City Council during which the Council has convened in regular session and if Council asserts jurisdiction during this five meeting day period the Council has 21 calendar days thereafter in which to act on the matter.

Commission Meetings may be heard live over the telephone through the Council Phone system, depending on technological capabilities at the Meeting location. To listen to a Meeting that can be broadcasted live over the telephone, please call one of the following numbers:

from Downtown Los Angeles	(213) 621-CITY (2489)
from West Los Angeles	(310) 471-CITY (2489)
from San Pedro	(310) 547-CITY (2489)
from Van Nuys	(818) 904-9450

For information, please go to the City's website: <http://ita.lacity.org/ForResidents/CouncilPhone/index.htm>

Information on Agenda items and audio recordings may be obtained by calling the Commission Office at (213) 202-2640. Copies of the Agenda and Reports may be downloaded from the Department's website at [www.laparks.org](http://www.laparks.org).

## REGULAR MEETING MINUTES

### BOARD OF RECREATION AND PARK COMMISSIONERS OF THE CITY OF LOS ANGELES

Wednesday, February 1, 2017

The Board of Recreation and Park Commissioners of the City of Los Angeles convened the Regular Meeting at Rancho Cienega Sports Complex at 9:30 a.m. Present were Commissioner Melba Culpepper, Commissioner Pilar Diaz, and Commissioner Misty Sanford. Commissioner Sanford presided as Chairperson. Also present were Michael A. Shull, General Manager, and Deputy City Attorney IV Mike Dundas.

The following Department staff members were present:

Vicki Israel, Assistant General Manager, Recreation Services Branch  
Cathie Santo Domingo, Superintendent of Planning, Maintenance and Construction Branch  
Matthew Rudnick, Chief Management Analyst, Finance and Administrative Services Division

#### CALL TO ORDER AND SPECIAL PRESENTATIONS

Kimani Black, Southwest Deputy of Councilmember Herb J. Wesson's Office, presented opening remarks and welcomed the Board and audience to the Tenth Council District.

Carl Cooper, Superintendent of the Pacific Region, introduced Department staff and provided background and programming information regarding Rancho Cienega Sports Complex. Superintendent Cooper also introduced Ralph Jordan, Senior Recreation Director II of Rancho Cienega Sports Complex, and discussed Mr. Jordan's background and accomplishments during his 42 years of City service with the Department.

#### APPROVAL OF MINUTES

Commissioner Diaz moved that the Board approve the Minutes of the January 18, 2017 Meeting, which was seconded by Commissioner Culpepper. There being no objections, the Motion was unanimously approved.

#### NEIGHBORHOOD COUNCIL COMMENTS

There were no comments from the Neighborhood Council Representatives relative to the Agenda Items being considered.

#### BOARD REPORTS

##### 17-014

AMENDMENT TO PERSONNEL RESOLUTION NO. 10461 –  
SECTION 1E (SUBSTITUTE POSITIONS) AND SECTION 1G  
(OTHER SPECIAL FUNDED POSITIONS)

Harold Fujita, Personnel Director of Human Resources Division, presented Board Report No. 17-014 for approval of the amended Personnel Resolution No. 10461 to add one Building Civil

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Engineer I and one Executive Administrative Assistant II as substitute positions, and one Senior Park Services Attendant as a special-funded position, to be effective immediately.

17-015

FINAL ACCEPTANCE OF VARIOUS QUIMBY FUNDED PROJECTS; POINSETTIA RECREATION CENTER – BUILDING AND OUTDOOR PARK IMPROVEMENTS (PRJ20106) PROJECT; POINSETTIA RECREATION CENTER – TENNIS COURT RENOVATIONS (PRJ20916) PROJECT; WESTWOOD GARDENS PARK – NEW PARK DEVELOPMENT (PRJ20077) PROJECT; WESTWOOD PARK – SYNTHETIC TURF FIELD (PRJ20663) PROJECT; WOODBINE PARK – OUTDOOR PARK IMPROVEMENTS (PRJ20520) PROJECT

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Darryl Ford, Senior Management Analyst I of the Planning, Maintenance and Construction Branch, presented Board Report No. 17-015 for acceptance of the work performed for the Poinsettia Recreation Center - Building and Outdoor Park Improvements Project constructed by Department staff and/or as-needed pre-qualified on-call vendors; acceptance of the work performed for the Poinsettia Recreation Center - Tennis Court Renovations Project constructed by Department staff and/or as-needed prequalified on-call vendors; acceptance of the work performed for the Westwood Gardens Park - New Park Development Project constructed by Department staff and/or as-needed pre-qualified on-call vendors; acceptance of the work performed for the Westwood Park - Synthetic Turf Field Project constructed by Department staff and/or as-needed pre-qualified on-call vendors; and acceptance of the work performed for the Woodbine Park - Outdoor Park Improvements Project constructed by Department staff and/or as-needed pre-qualified on-call vendors.

17-016

FINAL ACCEPTANCE OF VARIOUS QUIMBY FUNDED PROJECTS; RITCHIE VALENS PARK - SWIMMING POOL AND BATHHOUSE IMPROVEMENTS (PRJ1506P) PROJECT; STETSON RANCH PARK - OUTDOOR PARK IMPROVEMENTS (PRJ20202) PROJECT; SYLMAR PARK - OUTDOOR PARK IMPROVEMENTS (PRJ20870) PROJECT

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Darryl Ford, Senior Management Analyst I of the Planning, Maintenance and Construction Branch, presented Board Report No. 17-016 for acceptance of the work performed for the Ritchie Valens Park - Swimming Pool and Bathhouse Improvements Project constructed by Department staff and/or as-needed pre-qualified on-call vendors; acceptance of the work performed for the Stetson Ranch Park - Outdoor Park Improvements Project constructed by RAP staff and/or as-needed pre-qualified on-call vendors; and acceptance of the work performed for the Sylmar Park - Outdoor Park Improvements Project constructed by RAP staff and/or as-needed pre-qualified on-call vendors.

17-017

LOS ANGELES RIVERFRONT PARK – PHASE II (W.O. #E170406F) PROJECT – REQUEST FOR RELEASE OF CONTRACT PAYMENT ON CONSTRUCTION CONTRACT NO. 3385 WITH SIMGEL COMPANY, INC.

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Cathie Santo Domingo, Superintendent of the Planning, Maintenance and Construction Branch, presented Board Report No. 17-017 for direction to the Department's Chief Accounting Employee to release \$107,455.55 of the amount withheld on Construction Contract No. 3385 with Simgel Company, Inc. in accordance with the Request for Release of Partial Contract Payment dated January 11, 2017 from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance (OCC), for the Los Angeles Riverfront Park - Phase II Project.

17-018

PROPOSITION 1C 2016 HOUSING-RELATED PARKS PROGRAM  
GRANT – AUTHORIZATION TO SUBMIT GRANT APPLICATION  
FOR THE SOUTH PARK IMPROVEMENT PROJECT; CITY  
COUNCIL RESOLUTION; AND ACCEPTANCE OF GRANT  
FUNDS

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Matthew Rudnick, Chief Management Analyst of Finance and Administrative Services Division, presented Board Report No. 17-018 for the Department's authorization to submit a 2016 Housing-Related Parks Program (HRPP) grant application to the California Department of Housing and Community Development (CDHCD) to fund the South Park Improvement Project, subject to the approval of the Mayor and City Council; recommend that the City Council adopt the proposed Resolution which authorizes the City of Los Angeles to apply for 2016 HRPP grant funds and designates the Department's General Manager, Executive Officer, or Assistant General Manager, as the agent to conduct all negotiations, execute, and submit all documents which may be necessary for the completion of the proposed project(s); direction to Department staff to transmit a copy of the grant Resolution and award to the Mayor, Office of the City Administrative Officer, Chief Legislative Analyst's Office, and to the City Clerk for Committee and City Council approval, pursuant to the Los Angeles Administrative Code Section 14.6 et seq. as may be amended prior to accepting and receiving the grant award; authorization of the Department's General Manager to accept and receive the 2016 HRPP grant, if awarded; and authorization of the Department's Chief Accounting Employee to establish the necessary account and/or to appropriate funding received within Recreation and Parks Grant Fund 205 to accept the 2016 HRPP grant, if awarded, from CDHCD.

The Board and Department staff discussed the State's criteria for the Proposition 1C HRPP grant, and the selection process which resulted in the recommendation of the South Park Improvement Project for the potential award of HRPP grant funds.

17-019

PLAZA DE LA RAZA – PERMISSION TO SERVE ALCOHOLIC  
BEVERAGES

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Sophia Pina-Cortez, Superintendent of Metro Region, presented Board Report No. 17-019 for approval of the sale and serving of alcoholic beverages at seven special events to take place at Plaza de la Raza during calendar year 2017.

17-020

VARIOUS DONATIONS TO RECREATION SERVICES BRANCH

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Vicki Israel, Assistant General Manager of the Recreation Services Branch, presented Board Report No. 17-020 for acceptance of the various donations to the Recreation Service Branch as noted in

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the Report, and that appropriate recognition be given to the donors. Jose Las and Alexa Las of LASDC, Inc. were presented with a recognition plaque in appreciation for their donation in the amount of \$3,700 to the baseball program at Jackie Tatum/Harvard Recreation Center.

17-021

CALIFORNIA DEPARTMENT OF EDUCATION – SUMMER FOOD SERVICE PROGRAM 2016-2017 - AUTHORIZATION TO SUBMIT GRANT APPLICATION FOR SUMMER LUNCH PROGRAM; ACCEPTANCE OF GRANT FUNDS

Sophia Pina-Cortez, Superintendent of Metro Region, presented Board Report No. 17-021 for approval of the submission of a Summer Food Service Program 2016-2017 (SFSP) grant application to the California Department of Education (CDE) for the Department's Summer Lunch Program in the approximate amount of \$811,000.00; direction to Department staff to transmit a copy of the grant application to the Mayor, Office of the City Administrative Officer, Chief Legislative Analyst's Office, and to the City Clerk for Committee and City Council approval prior to accepting and receiving the grant award, pursuant to Los Angeles Administrative Code Section 14.6 et seq. as may be amended; authorization of the Department's General Manager to accept and receive the SFSP grant award, if awarded, in the approximate amount of \$811,000.00 from the CDE for the Department's Summer Lunch Program, subject to the approval of the Mayor and City Council; designation of the Department's General Manager, Executive Officer, or Assistant General Manager, as the agent to conduct all negotiations, execute and submit all documents which may be necessary for the completion of the project(s); and authorization of the Department's Chief Accounting Employee to establish the necessary account within "Recreation and Parks Grant" Fund 205 to accept the SFSP grant, if awarded, in the approximate amount of \$811,000.00 for the Department's Summer Lunch Program.

Board Report No. 17-021 was corrected as follows in the second paragraph of the Summary:

RAP has participated in the SFSP since 1975. The program provides free lunches at over one hundred (100) parks for RAP ~~summer day camp activities~~ during the summer months when the Los Angeles Unified School District (LAUSD) schools are not in session.

17-022

COMMUNITY SCHOOL PARKS PILOT PROGRAM – MEMORANDUM OF AGREEMENT WITH THE LOS ANGELES UNIFIED SCHOOL DISTRICT; EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO ARTICLE III, SECTION 1, CLASS 1(1,14) OF THE CITY CEQA GUIDELINES REGARDING OPERATIONS OF EXISTING FACILITIES, AND ISSUANCE OF AN AGREEMENT FOR THE USE

Matthew Rudnick, Chief Management Analyst of the Finance Division, presented Board Report No. 17-022 for approval of a proposed Memorandum of Agreement (MOA) between the Department and the Los Angeles Unified School District (LAUSD), which sets forth the terms and conditions for the Community School Parks Pilot Program, subject to continued negotiations between the Department and LAUSD and the approval of the City Attorney as to form; and authorization of the Department's

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Chief Accounting Employee to make payment to LAUSD for reimbursement of Community School Parks Pilot Program upon the receipt of invoices, from Fund 302, Department 88, Appropriation Account 3040, Contractual Services.

The Board and Department staff discussed the compensation to be provided by the Department for custodial services and staffing by LAUSD's Beyond the Bell Program and at the Community School Parks Pilot Program sites, the term of the MOA, and the potential addition of other sites to be staffed by Department employees based on funding availability.

Commissioner Sanford requested that Department staff report back to the Board regarding the status of the Community School Parks Pilot Program in six months.

#### BOARD REPORT PUBLIC COMMENT

Public comments were invited for the Board Reports; however, no requests for public comment were submitted.

Commissioner Sanford requested a Motion to approve the Board Reports as presented, and Board Report No. 17-021 as corrected. Commissioner Culpepper moved that the Board Reports be approved, and that the Resolutions recommended in the Reports be thereby approved. Commissioner Diaz seconded the Motion. There being no objections, the Motion was unanimously approved.

#### COMMISSION TASK FORCE UPDATES

- Commission Task Force on Concessions Report (Commissioners Patsouras and Diaz)

There was no report for the Commission Task Force on Concessions.

- Commission Task Force on Facility Repair and Maintenance (Commissioners Sanford and Alvarez)

Commissioner Sanford reported on the Facility Repair and Maintenance Task Force Meeting held on February 1, 2017 prior to the Board Meeting, in which the Task Force discussed upcoming capital improvement projects.

#### GENERAL MANAGER'S DEPARTMENT REPORT AND UPDATES

- The Various Communications Report was noted and filed.
- General Manager Michael Shull reported on Department activities, facilities, and upcoming events. The 2017 Griffith Park Half-Marathon and 5K Run organized by the Los Angeles Parks Foundation was held on January 29, 2017 in Griffith Park. The Department hosted the National Recreation and Parks Association (NRPA) Innovation Lab on January 25-27, 2017, in which representatives from park agencies throughout the nation participated in discussions regarding homelessness issues. The 11<sup>th</sup> Annual Tea and Tunes Luncheon is scheduled on February 11, 2017 at the Banning Museum.

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PUBLIC COMMENTS

Public comments on matters within the Board's jurisdiction were invited. Two requests were submitted for public comment, and such comments were made to the Board.

COMMISSION BUSINESS

Commissioner Culpepper requested a follow-up report on the South Park Improvement Project. Commissioner Diaz acknowledged the 2017 Griffith Park Half-Marathon and 5K Run and Department staff involved in coordinating the event, as well as the recreation programs and special events offered at Rancho Cienega Sports Complex. Commissioner Sanford requested future Agenda Items to discuss potential operational changes to coincide with the upcoming capital improvements at Rancho Cienega Sports Complex for a holistic approach, a status update on the homelessness issue, and a status update on potential amendments to the Department's tree policy.

NEXT MEETING

The next scheduled Regular Meeting of the Board of Recreation and Park Commissioners was scheduled to be held on Wednesday, February 15, 2017, 9:30 a.m., at EXPO Center Comrie Hall, 3980 South Bill Robertson Lane, Los Angeles, CA 90037.

ADJOURNMENT

There being no further business to come before the Board, Commissioner Sanford adjourned the Meeting at 10:45 a.m.

ATTEST

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PRESIDENT

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BOARD SECRETARY

**BOARD REPORT**

NO. 17-024

DATE February 15, 2017

C.D. ALL

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: AS-NEEDED FENCE AND WALL INSTALLATION, MAINTENANCE AND/OR REPAIRS – AWARD OF CONTRACTS

AP Diaz \_\_\_\_\_  
R. Barajas \_\_\_\_\_  
H. Fujita \_\_\_\_\_

V. Israel \_\_\_\_\_  
\*N. Williams NR for

  
\_\_\_\_\_  
General Manager

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Find, in accordance with Charter Section 1022, that the Department of Recreation and Parks (RAP) does not have, available in its employ, personnel with sufficient time or necessary expertise to undertake fence and wall installation, maintenance and/or repairs in a timely manner, and it is more feasible, economical and in RAP's best interest, to secure these services by contract with several contractors to perform this work as-needed and on an occasional, but frequent basis, without engaging in a new competitive bidding process for each individual project to be performed;
2. Find, in accordance with Charter Section 371(e)(2) and Los Angeles Administrative Code Section 10.15(a)(2), that competitive bidding is not practicable or advantageous as it is necessary for RAP to be able to call on contractors to perform this expert, technical work as-needed and on an occasional, but frequent, basis without engaging in a new competitive process for each individual project to be performed; however, from among as-needed contractors, each individual project is assigned on the basis of availability of an as-needed contractor to perform the work, the price to be charged and the unique expertise of the as-needed contractor;
3. Find, in accordance with Charter Section 371(e)(10), that use of competitive bidding would be undesirable, impractical or impossible or is otherwise excused by the common law and the Charter because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by RAP to provide as-needed fence and wall installation, maintenance and/or repair services;
4. Find, in accordance with Charter Section 372, that obtaining competitive proposals or bids for each individual project for which work may be performed pursuant to this agreement is not reasonably practicable or compatible with RAP's interests of having available as-needed contractors who are assigned various projects on the basis of availability, price, and

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expertise, and that it is therefore necessary to have several as-needed contractors for this type of service available when called upon by RAP to perform services; and

5. Approve the proposed Services Contracts (Contracts), substantially in the form on file in the Board Office, between the City of Los Angeles RAP and the following firms for 1) Chain-Link and/or Omega Fencing; 2) Ornamental Fencing; 3) Sports Netting/Fencing; and 4) Masonry Walls, specifying the terms and conditions for a three (3) year contract, subject to approval of the Mayor and the City Attorney as to form;

Contractors:

- a) California Landscape & Design, Inc.  
273 N. Benson Ave., Upland, CA 91786
  - b) Chris Kelley Inc. DBA Childs Play  
1852 Langley Ave., Irvine, CA 92614
  - c) Coast Iron Works  
234 Broad Ave., Wilmington, CA 90744
  - d) Crown Fence Co  
12118 Bloomfield Ave., Santa Fe Springs, CA 90670
  - e) DeFence Co.  
14726 Arrow Hwy, Space G, Baldwin Park, CA 91706
  - f) Izurieta Fence Company, Inc.  
3000 Gilroy St., Los Angeles, CA 90039
  - g) Judge Netting, Inc.  
427 E. 17<sup>th</sup> St., Ste. # 489, Costa Mesa, CA 92627
  - h) United Riggers & Erectors, Inc.  
4188 Valley Blvd., Walnut, CA 91789
  - i) West Coast Netting, Inc.  
5075 Flightline Dr., Kingman, AZ 86401
6. Direct the Board Secretary to transmit the Contracts to the Mayor in accordance with Executive Directive No. 3 and, concurrently to the City Attorney for review and approval as to form; and,
  7. Authorize the Board President and Secretary to execute the contracts upon receipt of the necessary approvals.

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### SUMMARY

RAP requires as-needed fence and wall installation, maintenance and/or repair services contracts. Currently, RAP does not have contracts in place to install, maintain and/or repair: Chain-Link and/or Omega Fencing, Ornamental Fencing, Sports Netting/Fencing, Masonry Walls if its buildings and other facilities require services to install, perform maintenance and/or repairs these commodities. These contracts will provide RAP with additional resources to ensure that installation, maintenance and/or repairs for Chain-Link and/or Omega Fencing, Ornamental Fencing, Sports Netting/Fencing, and Masonry Walls, as required to protect park patrons and employees, as well as properties and facilities, protect park-adjacent areas from park related usage and activities, and/or to cordon off areas under construction and/or refurbishment, and other related usages on an as-needed basis.

On August 10, 2016, the Board approved an issuance of Request for Qualifications (RFQ) for Fence and Wall Installation, Maintenance and/or Repairs (Report No. 15-210), which was released September 1, 2016. The RFQ allowed responders to submit proposals in one, several or all of the following four service categories: 1) Chain-Link and/or Omega Fencing, 2) Ornamental Fencing, 3) Sports Netting/Fencing, and 4) Masonry Walls.

On November 3, 2016, RAP received nine (9) proposals in response to the RFQ for fence and wall installation, maintenance and/or repair services as follows:

- 1) California Landscape Design, Inc.
- 2) Chris Kelley, Inc. dba Childs Play
- 3) Coast Iron Works
- 4) Crown Fence Co.
- 5) DeFence Company
- 6) Izurieta Fence Company, Inc.
- 7) Judge Netting, Inc.
- 8) United Rigger & Erectors, Inc.
- 9) West Coast Netting, Inc.

Responders were required to provide evidence of their qualifications, as indicated by their responses to the criteria/requests for information, listed immediately below, which are based on the four categories of this RFQ, that they were submitting in, and to meet or exceed the criteria listed:

- 1) Provide a list of references of jobs performed and/or a statement of the firm's general background information related to fence and wall installation, maintenance and/or repair, including completed qualifying projects in the last ten (10) years for Sports Netting/Fencing and including completed qualifying projects in the last five (5) years of performing for Chain-Link and/or Omega Fencing, Ornamental Fencing, and Masonry Walls.
- 2) All qualifications submitted are required to have an established office(s) within the Southern California area (Los Angeles, Orange, Riverside, San Bernardino, San Diego, or Ventura counties). Responder will provide the address of the office location(s) and the name and phone number of the office manager(s);

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- 3) Respondents must have current license and be in good standing with The California State License Board as follows:
  - a) Chain-Link and /or Omega Fencing a valid C-13 License.
  - b) Ornamental Fencing a valid C-23 License.
  - c) Sports Netting/Fencing a valid A. B. or C-13 License.
  - d) Masonry Walls a valid B License.
- 4) Must meet all current bonding requirements with the City of Los Angeles.

### Results of the RFQ Process

Responses were evaluated solely to determine if each responder met the minimum qualifications as stated in the RFQ Document. The minimum qualifications as set forth determined the responder's knowledge and experience to perform according to the terms and specifications of the resulting contract.

Nine (9) firms have submitted responses to the RFQ. The breakdown for the four categories is as follows:

The following responders met the minimum qualifications for Chain-Link and/or Omega Fencing:

1. Chris Kelley, Inc. dba Childs Play
2. Crown Fence Co.
3. DeFence Company
4. Izurieta Fence Company, Inc.

The following responders met the minimum qualifications for Ornamental Fencing:

1. California Landscape Design, Inc.
2. Chris Kelley, Inc. dba Childs Play
3. Coast Iron Works
4. United Rigger & Erectors, Inc.

The following responder met the minimum qualifications for Sports Netting/Fencing:

1. Judge Netting, Inc.
2. West Coast Netting, Inc.

The following responder met the minimum qualifications for Masonry Walls:

1. Chris Kelley, Inc. dba Childs Play
2. United Rigger & Erectors, Inc.

(Please refer to Exhibit A.)

## BOARD REPORT

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It was found through review and verification by RAP staff that the above listed responders met and/or exceeded the minimum qualifications as set forth in the RFQ. Of the nine (9) responders, seven (7) have submitted complete packages. The following two (2) firms have informalities which can be waived:

- 1) Chris Kelley, DBA Child's Play has not checked all boxes on the Child Care Declaration Statement (pg.118). This form can be sent to Chris Kelley, DBA Child's Play for completion of this form to be returned to the Board Office within 14 days of written notice.
- 2) Izurieta Fence Company responder did not answer Question 11 (CRO page 66), Question 18c (page 67), and Question 24 (page 68, no information regarding apprenticeship). On the Board's copy it is noted Question 11 and Question 18c were answered, and Question 24 was not. It is important to note that the instruction said to provide Apprenticeship information but does not indicate what to do if the company doesn't have an apprenticeship program.

By waiving the informalities for these two companies this would increase competition among contractors and would benefit RAP with competitive bids for the much needed critical services in maintaining and expanding our facilities in Chain-Link/Omega Fencing, Ornamental Fencing, Sports Netting/Fencing, and Masonry Walls. It is proposed that these responders have ten (10) business days to rectify these informalities once they have been informed by mail. The forms may be mail or hand-delivered but they must be received before 3:00 PM on the tenth day.

Once it was determined that the responders had met all of the minimum qualifications, RAP staff verified with the responders' provided references. Questions were posed regarding both the responder's ability to produce a quality product that met all necessary standards in a timely manner, and if the responder was timely and effective in their correspondence with governing agencies. All of the references for the responders who met our minimum qualifications responded favorably to these questions and were highly recommended. It is recommended that each of the above listed Responders should be selected in the submitted classifications of installation, repair and/or maintenance for Chain-Link and/or Omega Fencing, Ornamental Fencing, Sports Netting/Fencing, and Masonry Walls, and therefore, be eligible to bid on future RAP projects.

All responders are to complete the minimum requirements in the Business Inclusion Program (BIP). BIP requires the responders to reach out to the subcontractors and to give the subcontractors opportunities to participate in the performance of the City contracts.

We are seeking Board authorization for the Board President and Secretary to execute contracts for each of the nine (9) responders, subject to approval by the City Attorney and Mayor's Office. The selected pre-qualified Responders are being recommended to the Board for a three (3) year contract, in an amount not to exceed an annual expenditure of Four Million Dollars (\$4,000,000.00) per contract, per year. The contract amount is an estimate, and RAP does not guarantee that the contract maximum amount will be reached. The construction services that RAP is requesting shall be on an as-needed basis; RAP in entering into an agreement, guarantees no minimum amount of business or compensation. Contracts awarded through this RFQ shall be subject to funding availability and early termination by RAP, as provided in the Standard Provisions for City Contracts.

## BOARD REPORT

PG. 6 NO. 17-024

Funding for projects will be provided from various funding sources including, but not limited to Proposition A, Quimby, Community Development Block Grant (CDBG), and Proposition 84.

### FISCAL IMPACT STATEMENT

Executing these as-needed contracts have no impact on the RAP's General Fund as funding will be identified on a per project basis.

This Report was prepared by Robert Feld, Sr. Management Analyst I, reviewed by Noel Williams, Chief Financial Officer, and Finance Division.

### LIST OF ATTACHMENTS/EXHIBITS

- 1) Exhibit A – Fence and Wall Installation/Repairs submittal verification
- 2) Contract – Fence and Wall Installation, Maintenance and/or Repairs California Landscape & Design, Inc.
- 3) Contract – Fence and Wall Installation, Maintenance and/or Repairs Chris Kelley, Inc. DBA Child's Play
- 4) Contract – Fence and Wall Installation, Maintenance and/or Repairs Coast Iron Works
- 5) Contract – Fence and Wall Installation, Maintenance and/or Repairs Crown Fence Co.
- 6) Contract – Fence and Wall Installation, Maintenance and/or Repairs DeFence Company
- 7) Contract – Fence and Wall Installation, Maintenance and/or Repairs Izurieta Fence Company
- 8) Contract – Fence and Wall Installation, Maintenance and/or Repairs Judge Netting, Inc.
- 9) Contract – Fence and Wall Installation, Maintenance and/or Repairs United Riggers & Erector, Inc.
- 10) Contract – Fence and Wall Installation, Maintenance and/or Repairs West Coast Netting

**CITY OF LOS ANGELES/ DEPARTMENT OF RECREATION AND PARKS  
FENCE AND WALL INSTALLATION, MAINTENANCE AND/OR REPAIRS  
SUBMITTAL VERIFICATION  
11/8/2016**

	Responder Name	Address	Full RFQ Document Submitted (Y/N)	All Forms Submitted Completed (Y/N)	Comments
1	California Landscape & Design, Inc	273 N Benson Ave, Upland, CA 91786	Y	Y	Responder qualified for: Ornamental Fencing
2	Chris Kelley, Inc. dba Child's Play	1852 Langley Ave, Irvine, CA 92614	Y	N	Responder left Child Care Declaration Statement (not all boxes were checked (pg. 118). No information on Board copy.  Informality could be waived. If informality is waived: Responder qualified for: 1) Chain-Link and/or Omega Fence, 2) Ornamental Fencing, and 3) Masonary Walls
3	Coast Iron Works	234 Broad Ave, Wilmington, CA 90744	Y	Y	Responder qualified for Ornamental Fencing
4	Crown Fence Co.	12118 Bloomfield Ave, Santa Fe Springs, CA 90670	Y	Y	Responder qualified for: Chain-Link and/or Omega Fence
5	DeFence Company	14528 Los Angeles St, Baldwin Park, CA 91706	Y	Y	Responder qualified for: Chain-Link and/or Omega Fence
6	Izurieta Fence Company	3000 Gilroy Street, Los Angeles, CA 90039	Y	N	Responder did not answer Q 11 (CRO page 66), Q18c (page 67) and Q24 (page 68, No information on Apprenticeship)  Board copy: Q11 and Q18c answered. Q24 - not answered  Informalties could be waived since Question #11 and #18 are answered on one of the two original. Question #24 is left unanswered to the inquiry of apprenticeship. Instruction said to provide Apprenticeship information but does not indicate what to do if the company doesn't have apprenticeship. If informalties are waived, Responder qualified for: Chain-Link and/or Omega Fence.
7	Judge Netting, Inc	427 E.17th St, #489, Costa Mesa, CA 92627	Y	Y	Responder qualified for: Sports Netting/Fencing.
8	United Riggers & Erector, Inc	4188 Valley Blvd, Walnut, CA 91789	Y	Y	Responder qualified for: 1) Ornamental Fencing and 2) Masonary Walls.
9	West Coast Netting	5075 Flighline Dr, Kingman, AZ 86401	Y	Y	Responder qualified for: Sports Netting/Fencing.

CONTRACT NO. \_\_\_\_\_

BETWEEN

THE CITY OF LOS ANGELES

DEPARTMENT OF RECREATION AND PARKS

AND

CALIFORNIA LANDSCAPE & DESIGN, INC

FOR FENCE AND WALL INSTALLATION, MAINTENANCE AND/OR REPAIRS

This CONTRACT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the City of Los Angeles, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners (hereinafter referred to as CITY), and California Landscape & Design, Inc., hereinafter referred to as CONTRACTOR.

#### RECITALS

WHEREAS, the Department of Recreation and Parks (DEPARTMENT) owns various facilities and infrastructure throughout the City of Los Angeles and is responsible for the maintenance and improvements for such facilities and infrastructure; and

WHEREAS, DEPARTMENT requires the services of an experienced and responsible CONTRACTOR to perform Ornamental Fencing for the DEPARTMENT; and

WHEREAS, a Request for Qualifications (RFQ) for Fence and Wall Installation, Maintenance and/or Repairs was released on September 1, 2016, and nine (9) responses to the RFQ were received on November 3, 2016; and

WHEREAS, the CONTRACTOR'S response met the minimum requirement for the Ornamental Fencing component as specified in the RFQ; and

WHEREAS, CONTRACTOR has the necessary equipment and staff who possess sufficient knowledge, expertise, and experience required to provide the necessary services and has indicated its willingness to perform such services; and

WHEREAS, CITY, pursuant to Charter Section 371(e)(2) and Los Angeles Administrative Code Section 10.15(a)(2), finds that competitive bidding is not practicable or advantageous as it is necessary for the DEPARTMENT to be able to call on contractors to perform this expert, technical work as-needed and on an occasional, but frequent, basis without engaging in a new competitive process for each individual project to be performed; however, from among as needed contractors each individual project is assigned on the basis of availability of an as-needed contractor to perform the work, the price to be charged and the unique expertise of the as-needed contractor; and,

WHEREAS, CITY, pursuant to Charter Section 372, finds that obtaining competitive proposals or bids for each individual project for which work may be performed pursuant to this agreement is not reasonably practicable or compatible with the DEPARTMENT's interests of having available as-needed contractors who are assigned various projects on the basis of availability, price and expertise and that it is therefore necessary to have several as-needed contractors for this type of service available when called upon by the DEPARTMENT to perform services; and,

WHEREAS, CITY, pursuant to Charter Section 371(e)(10), finds that use of competitive bidding would be undesirable, impractical or impossible or is otherwise excused by the common law and the Charter because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by the Department to provide as-needed fence and wall installation, maintenance and repairs services;

WHEREAS, CITY, pursuant to Charter Section 1022, finds that Department does not have, available in its employ, personnel with sufficient time or necessary expertise to undertake (*this task*) in a timely manner, and it is more feasible, economical and in RAP's best interest, to secure these services by contract with several contractors to perform this work as-needed and on an occasional, but frequent basis, without engaging in a new competitive bidding process for each individual project to be performed; and

NOW, THEREFORE, CITY AND CONTRACTOR, in consideration of the recitals above and of the terms, covenants, and conditions contained herein, agree as follows

## SECTION 1 - PARTIES TO CONTRACT, REPRESENTATIVES AND NOTICE

### 1.1 Parties

The parties to this Contract are:

DEPARTMENT - The City of Los Angeles, a municipal corporation, Department of Recreation and Parks, acting by and through its Board of Recreation and Park Commissioners, having its principal office located at 221 North Figueroa Street, Room 300, Los Angeles, California 90012.

CONTRACTOR – California Landscape & Design, Inc., having its principal office located at 273 N Benson Ave., Upland, CA 91786.

## 1.2 Representatives

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

DEPARTMENT'S representative will be:

Michael A. Shull, General Manager  
Department of Recreation and Parks  
221 N. Figueroa St., Suite 350  
Los Angeles, CA 90012

With copies to:

Jim Newsom, Senior Management Analyst I  
Department of Recreation and Parks  
Contracts, Finance Division  
6335 Woodley Ave  
Van Nuys, CA 91406

Telephone Number: (818) 756 - 9294  
Fax Number: (818) 908-9786

CONTRACTOR'S representative will be:

Roger Lovingood  
California Landscape & Design, Inc  
273 Benson Ave.  
Upland, CA 91786

Telephone Number: (909) 949-1601  
Fax Number: (909) 981-9368  
Email: [rlovingood@calandscape.com](mailto:rlovingood@calandscape.com)

## 1.3 Notices

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

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

## SECTION 2 - TERM OF CONTRACT

The term of this contract shall be three (3) years from the date of execution between the CONTRACTOR and CITY, subject to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts.

## SECTION 3 - SERVICES TO BE PERFORMED BY THE CONTRACTOR

### 3.1 Conduct of Operations

- A. At all times, work must conform to all current, relevant Federal, State and Local Municipal Codes and Regulations.
- B. CONTRACTOR shall endeavor to maintain good public relations at all times. The work shall be conducted in a manner that will cause the least possible interference with or annoyance to park patrons or employees.
- C. A qualified supervisor shall be present and readily available to City personnel and the public during hours of operation at each work site. The site supervisor shall be available to the Contract Inspector at all times during normal working hours. Avoiding contact with the Contract Inspector may result in suspension of work without extension.
- D. CONTRACTOR's working hours must coincide with those of the Department of Recreation and Parks (Monday through Friday, 7:00 a.m. – 3:30 p.m., excluding City holidays). The Department of Recreation and Parks must first approve any deviation from these hours and/or work on weekends and/or holidays.
- E. CONTRACTOR shall carefully protect from damage all existing trees, shrubs, plants, fences, and other features. The CONTRACTOR shall be liable for any and all damage(s) caused by contract operations to such trees, shrubs, plants, other growth and features or property. All damaged trees, shrubs, plants, other growth and features, and property shall be replaced or restored to their original condition to the satisfaction of the Contract Inspector at CONTRACTOR's expense.
- F. At all times, traffic control measures should conform to the Work Area Traffic Control Handbook, latest edition, published by Building New, Inc. Pedestrian and vehicular traffic shall be allowed to pass through the work area only under conditions of safety and with as little inconvenience and delay as possible. CONTRACTOR shall provide and maintain adequate barricades and warning devices. Flag persons shall be stationed as reasonably necessary for the safety of persons and vehicles.

- G. The roads and pathways shall be left free of debris at the close of each day's operation.
- H. Contractor will be responsible for all safety requirements and certifications in accordance with CAL-OSHA rules and regulations. It will be the CONTRACTOR's responsibility to assess the work location and implement safety controls and procedures that are compliant with Title 8 of the California Code of Regulations. All projects will be awarded to CONTRACTOR as a "Single Employer" in accordance with CAL OSHA classifications. CONTRACTOR will be responsible and have full control over all activities as well as safety requirements thereof, for each as-need project awarded.
- I. CONTRACTOR shall notify the Contract Inspector at least twenty-four (24) hours prior to starting the work required by the contract.
- J. If CONTRACTOR, after having officially started said contract, should discontinue work for any cause, CONTRACTOR shall notify the Contract Inspector of intent to do so, and shall further provide the Contract Inspector with the date that operations will resume.
- K. All work shall be completed to the satisfaction of the Department of Recreation and Parks Contract Inspector. Work will be considered complete only when signed off by the Contract Inspector. Work shall be performed to the specifications as determined by RAP.
- L. Failure to comply with any requirement contained herein may result in suspension of work without extension.
- M. The Contract Inspector must approve any request for subcontracting of work prior to such subcontracting.
- N. CONTRACTOR shall provide equipment and personnel for all tasks.

#### SECTION 4 - SERVICES TO BE PROVIDED BY RAP

- 4.1 DEPARTMENT personnel will work cooperatively with the CONTRACTOR to ensure timely approvals of all items required under this contract.
- 4.2 DEPARTMENT will promptly act, review, and make decisions as necessary to permit the orderly progress of this work.

#### SECTION 5 - INSPECTION

- 5.1 CONTRACTOR must request final inspection from DEPARTMENT representative for work completed at each site.

- 5.2 CONTRACTOR will receive written notification for any services and/or delivery determined by the Project Manager or his/her designee to be below an acceptable level. This notification shall be in the form of a "Notice to Correct Unacceptable Service."
- 5.3 CONTRACTOR shall respond in writing to the Project Manager indicating the steps taken to correct the unacceptable service. If unacceptable service is not corrected after CONTRACTOR receives the "Notice to Correct Unacceptable Service," payment may be withheld by DEPARTMENT until corrections are made.
- 5.4 If unacceptable service continues, or if CONTRACTOR receives three (3) or more such notices, DEPARTMENT may terminate the contract as described in PSC-10-Termination, of the Standard Provisions for City Contracts (Rev. 3/09), attached hereto and incorporated herein by reference as Appendix A.

## SECTION 6 - COMPENSATION AND INVOICING

### 6.1 Compensation

DEPARTMENT will pay CONTRACTOR an amount for service outlined in the "Notice to Proceed" for each individual project. The total for this contract will not exceed Four Million Dollars (\$4,000,000.00) annually. CITY will monitor this not-to-exceed aggregate total.

- 6.2 CONTRACTOR shall inform DEPARTMENT of any additional project costs due to unforeseen delays and unexpected changes to the scope of work. Additional project costs shall be itemized by CONTRACTOR and approved by DEPARTMENT before payment is made to CONTRACTOR.

### 6.3 Invoicing

CONTRACTOR shall invoice upon completion of job by submitting two (2) copies of the invoice, which details the work performed in accordance with the original scope of services and any approved amendments to the scope, within thirty (30) days of completion of service.

CONTRACTOR shall submit invoices to:

Department of Recreation and Parks  
Attention: Jimmy Newsom  
Contracts, Finance Division  
Valley Region  
6335 Woodley Ave  
Van Nuys, CA 91406

All invoices shall be submitted on CONTRACTOR'S letterhead, containing CONTRACTOR'S official logo, or other unique and identifying information such as the name and address of CONTRACTOR. Evidence that the task has been completed, in the form of a report, brochure or photographs, shall be attached to all invoices.

Invoices and supporting documentation shall be prepared at the sole expense and responsibility of CONTRACTOR. CITY will not compensate CONTRACTOR for costs incurred in invoice preparation. DEPARTMENT may request changes to the content and format of the invoice and supporting documentation at any time. DEPARTMENT reserves the right to request additional supporting documentation to substantiate costs at any time.

Tasks that are completed by subcontractors shall be supported by subcontractor invoices, copies of pages from reports, brochures, photographs, or other unique documentation that substantiates their charges.

Failure to adhere to these policies may result in nonpayment pursuant to Charter Section 262(a), which requires the City Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any City office or department, and to approve demands before they are drawn on the Treasury.

#### SECTION 7 - INCORPORATION OF DOCUMENTS

This Contract and exhibits represent the entire integrated agreement of the parties and supersedes all prior written or oral representations, discussions, and agreements. The following documents are incorporated and made a part hereof by reference:

Appendix A. Standard Provisions for City Contracts (Rev. 3/09)

(Signature Page to Follow)

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their respective duly authorized representatives.

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

THE CITY OF LOS ANGELES, a municipal  
corporation, acting by and through its Board  
of Recreation and Park Commissioners

By \_\_\_\_\_  
PRESIDENT

By \_\_\_\_\_  
SECRETARY

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

CALIFORNIA LANDSCAPE & DESIGN, INC.

By \_\_\_\_\_

By \_\_\_\_\_  
SECRETARY

Approved as to Form:

MICHAEL N. FEUER  
City Attorney

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

By: \_\_\_\_\_  
DEPUTY CITY ATTORNEY

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 hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" herein in this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one **CONTRACTOR** herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

### **PSC-2. NUMBER OF ORIGINALS**

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the **CITY'S** option, one or more additional original texts of this Contract may also be retained by the City.

### **PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT**

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. 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, and/or procedures that apply to the performance of this Contract.

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 law of a federal, state or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of the Contract shall not be affected thereby.

**PSC-4. 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** hereto;
- 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 the **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

**PSC-5. INTEGRATED CONTRACT**

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, 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 paragraph PSC-6 hereof.

**PSC-6. AMENDMENT**

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-4.

**PSC-7. EXCUSABLE DELAYS**

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

**PSC-8. BREACH**

Except for excusable delays as described in PSC-7, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights

and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

**PSC-9. 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-10. TERMINATION**

**A. TERMINATION FOR CONVENIENCE**

The **CITY** may terminate this Contract for the **CITY'S** convenience at any time by giving **CONTRACTOR** thirty days written notice thereof. Upon receipt of said notice, **CONTRACTOR** shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The **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 affect such termination. Thereafter, **CONTRACTOR** shall have no further claims against the **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon the date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

**B. TERMINATION FOR BREACH OF CONTRACT**

1. Except for excusable delays as provided in PSC-7, 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, the **CITY** may give **CONTRACTOR** written notice of such default. If **CONTRACTOR** does not cure such default or provide a plan to cure such default which is acceptable to the **CITY** within the time permitted by the **CITY**, then the **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. 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 the **CITY** may immediately terminate this Contract.
3. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates the

**CITY'S** lobbying policies, then the **CITY** may immediately terminate this Contract.

4. In the event the **CITY** terminates this Contract as provided in this section, the **CITY** may procure, upon such terms and in such manner as the **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to the **CITY** for all of its costs and damages, including, but not limited, any excess costs for such services.
5. All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.
6. 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-10(A) Termination for Convenience.
7. 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.

#### **PSC-11. INDEPENDENT CONTRACTOR**

**CONTRACTOR** is acting hereunder as an independent contractor and not as an agent or employee of the **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 the **CITY**.

#### **PSC-12. CONTRACTOR'S PERSONNEL**

Unless otherwise provided or approved by the **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. The **CITY** shall have the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** agrees to remove personnel from performing work under this Contract if requested to do so by the **CITY**.

**CONTRACTOR** shall not use subcontractors to assist in performance of this Contract without the prior written approval of the **CITY**. If the **CITY** permits the use of subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of

this Contract. The **CITY** has the right to approve **CONTRACTOR'S** subcontractors, and the **CITY** reserves the right to request replacement of subcontractors. The **CITY** does not have any obligation to pay **CONTRACTOR'S** subcontractors, and nothing herein creates any privity between the **CITY** and the subcontractors.

**PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION**

**CONTRACTOR** may not, unless it has first obtained the written permission of the **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-14. PERMITS**

**CONTRACTOR** and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance hereunder and shall pay any fees required therefor. **CONTRACTOR** certifies to immediately notify the **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

**PSC-15. CLAIMS FOR LABOR AND MATERIALS**

**CONTRACTOR** shall promptly pay when due all amounts payable 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), against **CONTRACTOR'S** rights to payments hereunder, or against the **CITY**, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**PSC-16. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED**

If applicable, **CONTRACTOR** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this Contract, **CONTRACTOR** shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

**PSC-17. 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, in accordance with

requirements prescribed by the **CITY**. These records shall be retained for a period of no less than three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. Said records shall be subject to examination and audit by authorized **CITY** personnel or by the **CITY'S** representative at any time during the term of this Contract or within the three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. **CONTRACTOR** shall provide any reports requested by the **CITY** regarding performance of this Contract. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

**PSC-18. FALSE CLAIMS ACT**

**CONTRACTOR** acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the **CITY** under the False Claims Act (Cal. Gov. Code §§ 12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

**PSC-19. BONDS**

All bonds which may be required hereunder shall conform to **CITY** requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

**PSC-20. 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** undertakes and agrees to defend, indemnify and hold harmless the **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits 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 the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by **CONTRACTOR** or its subcontractors of any tier. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-20 shall survive expiration or termination of this Contract.

**PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION**

**CONTRACTOR**, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the **CITY**, and any of its Boards, Officers, Agents, Employees, Assigns,

and Successors in Interest from and against all suits 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 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 right (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 of any tier, in performing the work under this Contract; or (2) as a result of the **CITY'S** actual or intended use of any Work Product furnished by **CONTRACTOR**, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-21 shall survive expiration or termination of this Contract.

#### **PSC-22. 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, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

#### **PSC-23. OWNERSHIP AND LICENSE**

Unless otherwise provided for herein, all Work Products originated and prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract shall be and remain the exclusive property of the **CITY** for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, 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. **CONTRACTOR** hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by **CONTRACTOR** under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

For all Work Products delivered to the **CITY** that are not originated or prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract, **CONTRACTOR** hereby grants 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 the **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subcontractors performing work under this Contract such that the **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

#### **PSC-24. INSURANCE**

During the term of this Contract and without limiting **CONTRACTOR'S** indemnification of the **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by **CONTRACTOR**, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form General 146 in Exhibit 1 hereto), covering its operations hereunder. Such insurance shall conform to **CITY** requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto) and shall 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-25. DISCOUNT TERMS**

**CONTRACTOR** agrees to offer the **CITY** any discount terms that are offered to its best customers for the goods and services to be provided hereunder and apply such discount to payments made under this Contract which meet the discount terms.

#### **PSC-26. 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-27. NON-DISCRIMINATION**

Unless otherwise exempt, this Contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The **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 the **CITY**. In performing this Contract, **CONTRACTOR** shall not

discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

#### **PSC-28. EQUAL EMPLOYMENT PRACTICES**

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **CONTRACTOR** and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of **CITY** contracts. On their or either of their request **CONTRACTOR** shall provide evidence that he or she has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of **CITY** contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has failed to comply with the Equal Employment Practices provisions of a **CITY** contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until **CONTRACTOR** shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the **CITY**, or when an individual bid or proposal is submitted, **CONTRACTOR** shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of **CITY** Contracts.

- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
  - 1. Hiring practices;
  - 2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  - 3. Training and promotional opportunities; and
  - 4. Reasonable accommodations for persons with disabilities.
  
- L. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR'S** Contract with the **CITY**.

**PSC-29. AFFIRMATIVE ACTION PROGRAM**

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
  
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to

their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, **CONTRACTOR** shall certify on an electronic or hard copy form to be supplied, that **CONTRACTOR** has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of **CITY** contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Affirmative Action Program provisions of **CITY** contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has breached the Affirmative Action Program provisions of a **CITY** contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that **CONTRACTOR** has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a **CITY** contract, there may be deducted from the amount payable to **CONTRACTOR** by the **CITY** under the contract, a penalty of ten dollars

(\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a **CITY** contract.

- H. Notwithstanding any other provisions of a **CITY** contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in **CITY** contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. **CONTRACTOR** shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the **CITY**. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, **CONTRACTOR** may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, **CONTRACTOR** must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
  - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
  - 2. **CONTRACTOR** may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the **CITY** with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and **CONTRACTOR**.

- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  2. Classroom preparation for the job when not apprenticeable;
  3. Pre-apprenticeship education and preparation;
  4. Upgrading training and opportunities;
  5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
  6. The entry of qualified women, minority and all other journeymen into the industry; and
  7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the **CITY'S** Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the **CITY** and may be used at the discretion of the **CITY** in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.

- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the **CITY** and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the **CITY**.

**PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS**

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, **CONTRACTOR** will fully comply with all applicable State and Federal employment reporting requirements for **CONTRACTOR'S** employees. **CONTRACTOR** shall also certify (1) that the Principal Owner(s) of **CONTRACTOR** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that **CONTRACTOR** will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, *et seq.* of the California Family Code; and (3) that **CONTRACTOR** will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to obtain compliance of its subcontractors shall constitute a default by **CONTRACTOR** under this Contract, subjecting this Contract to termination where such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

**CONTRACTOR** certifies that, to the best of its knowledge, it is fully complying with the Earnings Assignment Orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

**PSC-31. LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE**

- A. Unless otherwise exempt, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:
1. **CONTRACTOR** assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.
  2. **CONTRACTOR** further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. **CONTRACTOR** shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. **CONTRACTOR** shall deliver the executed pledges from each such subcontractor to the **CITY** within ninety (90) days of the execution of the subcontract. **CONTRACTOR'S** delivery of executed pledges from each such subcontractor shall fully discharge the obligation of **CONTRACTOR** with respect to such pledges and fully discharge the obligation of **CONTRACTOR** to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
  3. **CONTRACTOR**, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the **CITY** with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. **CONTRACTOR** shall post the Notice of Prohibition Against Retaliation provided by the **CITY**.
  4. Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of PSC-31 and shall incorporate the provisions of the LWO and the SCWRO.

5. **CONTRACTOR** shall comply with all rules, regulations and policies promulgated by the **CITY'S** Designated Administrative Agency which may be amended from time to time.
- B. Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR** has violated provisions of either the LWO or the SCWRO, or both.
- C. Where under the LWO Section 10.37.6(d), the **CITY'S** Designated Administrative Agency has determined (a) that **CONTRACTOR** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the **CITY** in such circumstances may impound monies otherwise due **CONTRACTOR** in accordance with the following procedures. Impoundment shall mean that from monies due **CONTRACTOR**, **CITY** may deduct the amount determined to be due and owing by **CONTRACTOR** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether **CONTRACTOR** is to continue work following an impoundment shall remain in the sole discretion of the **CITY**. **CONTRACTOR** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.
- D. **CONTRACTOR** shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). **CONTRACTOR** shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from **CONTRACTOR**.

**PSC-32. AMERICANS WITH DISABILITIES ACT**

**CONTRACTOR** hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations. **CONTRACTOR** will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. **CONTRACTOR** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by **CONTRACTOR**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

### **PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time, which requires **CONTRACTOR** to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect **CONTRACTOR'S** fitness and ability to continue performing this Contract.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this Contract, **CONTRACTOR** pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. **CONTRACTOR** further agrees to: (1) notify the **CITY** within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that **CONTRACTOR** is not in compliance with all applicable federal, state and local laws in performance of this Contract; (2) notify the **CITY** within thirty calendar days of all findings by a government agency or court of competent jurisdiction that **CONTRACTOR** has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance; (3) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the **CITY**; and (4) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the **CITY** within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

### **PSC-34. MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM**

**CONTRACTOR** agrees and obligates itself to utilize the services of Minority, Women and Other Business Enterprise firms on a level so designated in its proposal, if any. **CONTRACTOR** certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Personal Services Contracts Greater than \$100,000, if applicable. **CONTRACTOR** shall not change any of these designated subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of the **CITY**, provided that such approval shall not be unreasonably withheld.

### **PSC-35. EQUAL BENEFITS ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of the Contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** will comply with the EBO.
- B. The failure of **CONTRACTOR** to comply with the EBO will be deemed to be a material breach of this Contract by the **CITY**.
- C. If **CONTRACTOR** fails to comply with the EBO the **CITY** may cancel, terminate or suspend this Contract, in whole or in part, and all monies due or to become due under this Contract may be retained by the **CITY**. The **CITY** may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.
- E. If the **CITY'S** Designated Administrative Agency determines that a **CONTRACTOR** has set up or used its contracting entity for the purpose of evading the intent of the EBO, the **CITY** may terminate the Contract. Violation of this provision may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

**CONTRACTOR** shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

“During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles’ Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922.”

**PSC-36. SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in 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](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-4, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

CONTRACT NO. \_\_\_\_\_

BETWEEN

THE CITY OF LOS ANGELES

DEPARTMENT OF RECREATION AND PARKS

AND

CHRIS KELLEY, INC. dba CHILD'S PLAY

FOR FENCE AND WALL INSTALLATION, MAINTENANCE AND/OR REPAIRS

This CONTRACT is made and entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between the City of Los Angeles, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners (hereinafter referred to as CITY), and CHRIS KELLEY, INC. dba CHILD'S PLAY, hereinafter referred to as CONTRACTOR.

#### RECITALS

WHEREAS, the Department of Recreation and Parks (DEPARTMENT) owns various facilities and infrastructure throughout the City of Los Angeles and is responsible for the maintenance and improvements for such facilities and infrastructure; and

WHEREAS, DEPARTMENT requires the services of an experienced and responsible CONTRACTOR to perform 1) Chain-Link and/or Omega Fence, 2) Ornamental Fencing, and 3) Masonry Walls for the DEPARTMENT; and

WHEREAS, a Request for Qualifications (RFQ) for Fence and Wall Installation, Maintenance and/or Repairs was released on September 1, 2016, and nine (9) responses to the RFQ were received on November 3, 2016; and

WHEREAS, the CONTRACTOR'S response met the minimum requirement for the 1) Chain-Link and/or Omega Fence, 2) Ornamental Fencing, and 3) Masonry Walls for the DEPARTMENT; and component as specified in the RFQ; and

WHEREAS, CONTRACTOR has the necessary equipment and staff who possess sufficient knowledge, expertise, and experience required to provide the necessary services and has indicated its willingness to perform such services; and

WHEREAS, CITY, pursuant to Charter Section 371(e)(2) and Los Angeles Administrative Code Section 10.15(a)(2), finds that competitive bidding is not practicable or advantageous as it is necessary for the DEPARTMENT to be able to call on contractors to perform this expert, technical work as-needed and on an occasional, but frequent, basis without engaging in a new competitive process for each individual project to be performed; however, from among as needed contractors each individual project is assigned on the basis of availability of an as-needed contractor to perform the work, the price to be charged and the unique expertise of the as-needed contractor; and,

WHEREAS, CITY, pursuant to Charter Section 372 and Los Angeles Administrative Code Section 10.15(a)(2), finds that obtaining competitive proposals or bids for each individual project for which work may be performed pursuant to this agreement is not reasonably practicable or compatible with the DEPARTMENT's interests of having available as-needed contractors who are assigned various projects on the basis of availability, price and expertise and that it is therefore necessary to have several as-needed contractors for this type of service available when called upon by the DEPARTMENT to perform services; and,

WHEREAS, CITY, pursuant to Charter Section 371(e)(10), finds that use of competitive bidding would be undesirable, impractical or impossible or is otherwise excused by the common law and the Charter because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by the Department to provide as-needed fence and wall installation, maintenance and/or repairs services;

WHEREAS, CITY, pursuant to Charter Section 1022, finds that Department does not have, available in its employ, personnel with sufficient time or necessary expertise to undertake (*this task*) in a timely manner, and it is more feasible, economical and in RAP's best interest, to secure these services by contract with several contractors to perform this work as-needed and on an occasional, but frequent basis, without engaging in a new competitive bidding process for each individual project to be performed; and

NOW, THEREFORE, CITY AND CONTRACTOR, in consideration of the recitals above and of the terms, covenants, and conditions contained herein, agree as follows:

## SECTION 1 - PARTIES TO CONTRACT, REPRESENTATIVES AND NOTICE

### 1.1 Parties

The parties to this Contract are:

DEPARTMENT - The City of Los Angeles, a municipal corporation, Department of Recreation and Parks, acting by and through its Board of Recreation and Park Commissioners, having its principal office located at 221 North Figueroa Street, Room 300, Los Angeles, California 90012.

CONTRACTOR – CHRIS KELLEY, INC. dba CHILD'S PLAY, having its principal office located at 852 Langley Ave, Irvine, CA 92614

### 1.2 Representatives

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

DEPARTMENT'S representative will be:

Michael A. Shull, General Manager  
Department of Recreation and Parks  
221 N. Figueroa St., Suite 350  
Los Angeles, CA 90012

With copies to:

Jimmy Newsom, Senior Management Analyst I  
Department of Recreation and Parks  
Contracts, Finance Division  
6335 Woodley Ave  
Van Nuys, CA 91406

Telephone Number: (818) 756-9294  
Fax Number: (818) 908-9786

CONTRACTOR'S representative will be:

Christopher Childs, C.E.O.  
Chris Kelley, Inc. dba Child's Play  
852 Langley Ave  
Irvine, CA 92614

Telephone Number: (949) 252-1186  
Fax Number: (949) 252-1172  
Email: [Chris@cpparks.com](mailto:Chris@cpparks.com)

### 1.3 Notices

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

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

## SECTION 2 - TERM OF CONTRACT

The term of this contract shall be three (3) years from the date of execution between the CONTRACTOR and CITY, subject to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts.

## SECTION 3 - SERVICES TO BE PERFORMED BY THE CONTRACTOR

### 3.1 Conduct of Operations

- A. At all times, work must conform to all current, relevant Federal, State and Local Municipal Codes and Regulations.
- B. CONTRACTOR shall endeavor to maintain good public relations at all times. The work shall be conducted in a manner that will cause the least possible interference with or annoyance to park patrons or employees.
- C. A qualified supervisor shall be present and readily available to City personnel and the public during hours of operation at each work site. The site supervisor shall be available to the Contract Inspector at all times during normal working hours. Avoiding contact with the Contract Inspector may result in suspension of work without extension.
- D. CONTRACTOR's working hours must coincide with those of the Department of Recreation and Parks (Monday through Friday, 7:00 a.m. – 3:30 p.m., excluding City holidays). The Department of Recreation and Parks must first approve any deviation from these hours and/or work on weekends and/or holidays.
- E. CONTRACTOR shall carefully protect from damage all existing trees, shrubs, plants, fences, and other features. The CONTRACTOR shall be liable for any and all damage(s) caused by contract operations to such trees, shrubs, plants, other growth and features or property. All damaged trees, shrubs, plants, other growth and features, and property shall be replaced or restored to their original condition to the satisfaction of the Contract Inspector at CONTRACTOR's expense.
- F. At all times, traffic control measures should conform to the Work Area Traffic Control Handbook, latest edition, published by Building New, Inc. Pedestrian and vehicular traffic shall be allowed to pass through the work area only under conditions of safety and with as little inconvenience and delay as possible. CONTRACTOR shall provide and maintain adequate barricades and warning devices. Flag persons shall be stationed as reasonably necessary for the safety of persons and vehicles.
- G. The roads and pathways shall be left free of debris at the close of each day's operation.
- H. Contractor will be responsible for all safety requirements and certifications in accordance with CAL-OSHA rules and regulations. It will be the CONTRACTOR's responsibility to assess the work location and implement safety

controls and procedures that are compliant with Title 8 of the California Code of Regulations. All projects will be awarded to CONTRACTOR as a "Single Employer" in accordance with CAL OSHA classifications. CONTRACTOR will be responsible and have full control over all activities as well as safety requirements thereof, for each as-need project awarded.

- I. CONTRACTOR shall notify the Contract Inspector at least twenty-four (24) hours prior to starting the work required by the contract.
- J. If CONTRACTOR, after having officially started said contract, should discontinue work for any cause, CONTRACTOR shall notify the Contract Inspector of intent to do so, and shall further provide the Contract Inspector with the date that operations will resume.
- K. All work shall be completed to the satisfaction of the Department of Recreation and Parks Contract Inspector. Work will be considered complete only when signed off by the Contract Inspector. Work shall be performed to the specifications as determined by RAP.
- L. Failure to comply with any requirement contained herein may result in suspension of work without extension.
- M. The Contract Inspector must approve any request for subcontracting of work prior to such subcontracting.
- N. CONTRACTOR shall provide equipment and personnel for all tasks.

#### SECTION 4 - SERVICES TO BE PROVIDED BY RAP

- 4.1 DEPARTMENT personnel will work cooperatively with the CONTRACTOR to ensure timely approvals of all items required under this contract.
- 4.2 DEPARTMENT will promptly act, review, and make decisions as necessary to permit the orderly progress of this work.

#### SECTION 5 - INSPECTION

- 5.1 CONTRACTOR must request final inspection from DEPARTMENT representative for work completed at each site.
- 5.2 CONTRACTOR will receive written notification for any services and/or delivery determined by the Project Manager or his/her designee to be below an acceptable level. This notification shall be in the form of a "Notice to Correct Unacceptable Service."
- 5.3 CONTRACTOR shall respond in writing to the Project Manager indicating the steps taken to correct the unacceptable service. If unacceptable service is not corrected after CONTRACTOR receives the "Notice to Correct Unacceptable Service," payment may be withheld by DEPARTMENT until corrections are made.
- 5.4 If unacceptable service continues, or if CONTRACTOR receives three (3) or more such notices, DEPARTMENT may terminate the contract as described in PSC-10-

Termination, of the Standard Provisions for City Contracts (Rev. 3/09), attached hereto and incorporated herein by reference as Appendix A.

## SECTION 6 - COMPENSATION AND INVOICING

### 6.1 Compensation

DEPARTMENT will pay CONTRACTOR an amount for service outlined in the "Notice to Proceed" for each individual project. The total for this contract will not exceed Four Million Dollars (\$4,000,000.00) annually. CITY will monitor this not-to-exceed aggregate total.

### 6.2 CONTRACTOR shall inform DEPARTMENT of any additional project costs due to unforeseen delays and unexpected changes to the scope of work. Additional project costs shall be itemized by CONTRACTOR and approved by DEPARTMENT before payment is made to CONTRACTOR.

### 6.3 Invoicing

CONTRACTOR shall invoice upon completion of job by submitting two (2) copies of the invoice, which details the work performed in accordance with the original scope of services and any approved amendments to the scope, within thirty (30) days of completion of service.

CONTRACTOR shall submit invoices to:

Department of Recreation and Parks  
Attention: Jimmy Newsom  
Contracts, Finance Division  
Valley Region  
6335 Woodley Ave  
Van Nuys, CA 91406

All invoices shall be submitted on CONTRACTOR'S letterhead, containing CONTRACTOR'S official logo, or other unique and identifying information such as the name and address of CONTRACTOR. Evidence that the task has been completed, in the form of a report, brochure or photographs, shall be attached to all invoices.

Invoices and supporting documentation shall be prepared at the sole expense and responsibility of CONTRACTOR. DEPARTMENT will not compensate CONTRACTOR for costs incurred in invoice preparation. D may request changes to the content and format of the invoice and supporting documentation at any time. DEPARTMENT reserves the right to request additional supporting documentation to substantiate costs at any time.

Tasks that are completed by subcontractors shall be supported by subcontractor invoices, copies of pages from reports, brochures, photographs, or other unique documentation that substantiates their charges.

Failure to adhere to these policies may result in nonpayment pursuant to Charter Section

262(a), which requires the City Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any City office or department, and to approve demands before they are drawn on the Treasury.

#### SECTION 7 - INCORPORATION OF DOCUMENTS

This Contract and exhibits represent the entire integrated agreement of the parties and supersedes all prior written or oral representations, discussions, and agreements. The following documents are incorporated and made a part hereof by reference:

Appendix A. Standard Provisions for City Contracts (Rev. 3/09)

(Signature Page to Follow)

ATTACHMENT 2

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their respective duly authorized representatives.

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners

By \_\_\_\_\_  
PRESIDENT

By \_\_\_\_\_  
SECRETARY

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

CHRIS KELLEY, INC. dba CHILD'S PLAY

By \_\_\_\_\_

By \_\_\_\_\_  
SECRETARY

Approved as to Form:

MICHAEL N. FEUER  
City Attorney

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

By: \_\_\_\_\_  
DEPUTY CITY ATTORNEY

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 hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" herein in this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one **CONTRACTOR** herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

### **PSC-2. NUMBER OF ORIGINALS**

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the **CITY'S** option, one or more additional original texts of this Contract may also be retained by the City.

### **PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT**

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. 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, and/or procedures that apply to the performance of this Contract.

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 law of a federal, state or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of the Contract shall not be affected thereby.

**PSC-4. 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** hereto;
- 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 the **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

**PSC-5. INTEGRATED CONTRACT**

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, 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 paragraph PSC-6 hereof.

**PSC-6. AMENDMENT**

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-4.

**PSC-7. EXCUSABLE DELAYS**

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

**PSC-8. BREACH**

Except for excusable delays as described in PSC-7, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights

and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

**PSC-9. 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-10. TERMINATION**

**A. TERMINATION FOR CONVENIENCE**

The **CITY** may terminate this Contract for the **CITY'S** convenience at any time by giving **CONTRACTOR** thirty days written notice thereof. Upon receipt of said notice, **CONTRACTOR** shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The **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 affect such termination. Thereafter, **CONTRACTOR** shall have no further claims against the **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon the date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

**B. TERMINATION FOR BREACH OF CONTRACT**

1. Except for excusable delays as provided in PSC-7, 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, the **CITY** may give **CONTRACTOR** written notice of such default. If **CONTRACTOR** does not cure such default or provide a plan to cure such default which is acceptable to the **CITY** within the time permitted by the **CITY**, then the **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. 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 the **CITY** may immediately terminate this Contract.
3. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates the

**CITY'S** lobbying policies, then the **CITY** may immediately terminate this Contract.

4. In the event the **CITY** terminates this Contract as provided in this section, the **CITY** may procure, upon such terms and in such manner as the **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to the **CITY** for all of its costs and damages, including, but not limited, any excess costs for such services.
5. All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.
6. 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-10(A) Termination for Convenience.
7. 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.

#### **PSC-11. INDEPENDENT CONTRACTOR**

**CONTRACTOR** is acting hereunder as an independent contractor and not as an agent or employee of the **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 the **CITY**.

#### **PSC-12. CONTRACTOR'S PERSONNEL**

Unless otherwise provided or approved by the **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. The **CITY** shall have the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** agrees to remove personnel from performing work under this Contract if requested to do so by the **CITY**.

**CONTRACTOR** shall not use subcontractors to assist in performance of this Contract without the prior written approval of the **CITY**. If the **CITY** permits the use of subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of

this Contract. The **CITY** has the right to approve **CONTRACTOR'S** subcontractors, and the **CITY** reserves the right to request replacement of subcontractors. The **CITY** does not have any obligation to pay **CONTRACTOR'S** subcontractors, and nothing herein creates any privity between the **CITY** and the subcontractors.

**PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION**

**CONTRACTOR** may not, unless it has first obtained the written permission of the **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-14. PERMITS**

**CONTRACTOR** and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance hereunder and shall pay any fees required therefor. **CONTRACTOR** certifies to immediately notify the **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

**PSC-15. CLAIMS FOR LABOR AND MATERIALS**

**CONTRACTOR** shall promptly pay when due all amounts payable 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), against **CONTRACTOR'S** rights to payments hereunder, or against the **CITY**, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**PSC-16. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED**

If applicable, **CONTRACTOR** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this Contract, **CONTRACTOR** shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

**PSC-17. 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, in accordance with

requirements prescribed by the **CITY**. These records shall be retained for a period of no less than three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. Said records shall be subject to examination and audit by authorized **CITY** personnel or by the **CITY'S** representative at any time during the term of this Contract or within the three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. **CONTRACTOR** shall provide any reports requested by the **CITY** regarding performance of this Contract. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

**PSC-18. FALSE CLAIMS ACT**

**CONTRACTOR** acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the **CITY** under the False Claims Act (Cal. Gov. Code §§ 12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

**PSC-19. BONDS**

All bonds which may be required hereunder shall conform to **CITY** requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

**PSC-20. 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** undertakes and agrees to defend, indemnify and hold harmless the **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits 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 the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by **CONTRACTOR** or its subcontractors of any tier. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-20 shall survive expiration or termination of this Contract.

**PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION**

**CONTRACTOR**, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the **CITY**, and any of its Boards, Officers, Agents, Employees, Assigns,

and Successors in Interest from and against all suits 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 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 right (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 of any tier, in performing the work under this Contract; or (2) as a result of the **CITY'S** actual or intended use of any Work Product furnished by **CONTRACTOR**, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-21 shall survive expiration or termination of this Contract.

#### **PSC-22. 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, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

#### **PSC-23. OWNERSHIP AND LICENSE**

Unless otherwise provided for herein, all Work Products originated and prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract shall be and remain the exclusive property of the **CITY** for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, 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. **CONTRACTOR** hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by **CONTRACTOR** under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

For all Work Products delivered to the **CITY** that are not originated or prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract, **CONTRACTOR** hereby grants 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 the **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subcontractors performing work under this Contract such that the **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

#### **PSC-24. INSURANCE**

During the term of this Contract and without limiting **CONTRACTOR'S** indemnification of the **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by **CONTRACTOR**, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form General 146 in Exhibit 1 hereto), covering its operations hereunder. Such insurance shall conform to **CITY** requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto) and shall 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-25. DISCOUNT TERMS**

**CONTRACTOR** agrees to offer the **CITY** any discount terms that are offered to its best customers for the goods and services to be provided hereunder and apply such discount to payments made under this Contract which meet the discount terms.

#### **PSC-26. 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-27. NON-DISCRIMINATION**

Unless otherwise exempt, this Contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The **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 the **CITY**. In performing this Contract, **CONTRACTOR** shall not

discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

### **PSC-28. EQUAL EMPLOYMENT PRACTICES**

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **CONTRACTOR** and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of **CITY** contracts. On their or either of their request **CONTRACTOR** shall provide evidence that he or she has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of **CITY** contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has failed to comply with the Equal Employment Practices provisions of a **CITY** contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until **CONTRACTOR** shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the **CITY**, or when an individual bid or proposal is submitted, **CONTRACTOR** shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of **CITY** Contracts.

- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
  - 1. Hiring practices;
  - 2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  - 3. Training and promotional opportunities; and
  - 4. Reasonable accommodations for persons with disabilities.
  
- L. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR'S** Contract with the **CITY**.

**PSC-29. AFFIRMATIVE ACTION PROGRAM**

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
  
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to

their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, **CONTRACTOR** shall certify on an electronic or hard copy form to be supplied, that **CONTRACTOR** has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of **CITY** contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Affirmative Action Program provisions of **CITY** contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has breached the Affirmative Action Program provisions of a **CITY** contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that **CONTRACTOR** has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a **CITY** contract, there may be deducted from the amount payable to **CONTRACTOR** by the **CITY** under the contract, a penalty of ten dollars

(\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a **CITY** contract.

- H. Notwithstanding any other provisions of a **CITY** contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in **CITY** contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. **CONTRACTOR** shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the **CITY**. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, **CONTRACTOR** may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, **CONTRACTOR** must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
  - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
  - 2. **CONTRACTOR** may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the **CITY** with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and **CONTRACTOR**.

- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  2. Classroom preparation for the job when not apprenticeable;
  3. Pre-apprenticeship education and preparation;
  4. Upgrading training and opportunities;
  5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
  6. The entry of qualified women, minority and all other journeymen into the industry; and
  7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the **CITY'S** Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the **CITY** and may be used at the discretion of the **CITY** in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.

- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the **CITY** and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the **CITY**.

**PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS**

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, **CONTRACTOR** will fully comply with all applicable State and Federal employment reporting requirements for **CONTRACTOR'S** employees. **CONTRACTOR** shall also certify (1) that the Principal Owner(s) of **CONTRACTOR** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that **CONTRACTOR** will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, *et seq.* of the California Family Code; and (3) that **CONTRACTOR** will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to obtain compliance of its subcontractors shall constitute a default by **CONTRACTOR** under this Contract, subjecting this Contract to termination where such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

**CONTRACTOR** certifies that, to the best of its knowledge, it is fully complying with the Earnings Assignment Orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

**PSC-31. LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE**

- A. Unless otherwise exempt, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:
1. **CONTRACTOR** assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.
  2. **CONTRACTOR** further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. **CONTRACTOR** shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. **CONTRACTOR** shall deliver the executed pledges from each such subcontractor to the **CITY** within ninety (90) days of the execution of the subcontract. **CONTRACTOR'S** delivery of executed pledges from each such subcontractor shall fully discharge the obligation of **CONTRACTOR** with respect to such pledges and fully discharge the obligation of **CONTRACTOR** to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
  3. **CONTRACTOR**, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the **CITY** with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. **CONTRACTOR** shall post the Notice of Prohibition Against Retaliation provided by the **CITY**.
  4. Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of PSC-31 and shall incorporate the provisions of the LWO and the SCWRO.

5. **CONTRACTOR** shall comply with all rules, regulations and policies promulgated by the **CITY'S** Designated Administrative Agency which may be amended from time to time.
- B. Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR** has violated provisions of either the LWO or the SCWRO, or both.
- C. Where under the LWO Section 10.37.6(d), the **CITY'S** Designated Administrative Agency has determined (a) that **CONTRACTOR** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the **CITY** in such circumstances may impound monies otherwise due **CONTRACTOR** in accordance with the following procedures. Impoundment shall mean that from monies due **CONTRACTOR**, **CITY** may deduct the amount determined to be due and owing by **CONTRACTOR** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether **CONTRACTOR** is to continue work following an impoundment shall remain in the sole discretion of the **CITY**. **CONTRACTOR** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.
- D. **CONTRACTOR** shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). **CONTRACTOR** shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from **CONTRACTOR**.

**PSC-32. AMERICANS WITH DISABILITIES ACT**

**CONTRACTOR** hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations. **CONTRACTOR** will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. **CONTRACTOR** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by **CONTRACTOR**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

### **PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time, which requires **CONTRACTOR** to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect **CONTRACTOR'S** fitness and ability to continue performing this Contract.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this Contract, **CONTRACTOR** pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. **CONTRACTOR** further agrees to: (1) notify the **CITY** within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that **CONTRACTOR** is not in compliance with all applicable federal, state and local laws in performance of this Contract; (2) notify the **CITY** within thirty calendar days of all findings by a government agency or court of competent jurisdiction that **CONTRACTOR** has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance; (3) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the **CITY**; and (4) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the **CITY** within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

### **PSC-34. MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM**

**CONTRACTOR** agrees and obligates itself to utilize the services of Minority, Women and Other Business Enterprise firms on a level so designated in its proposal, if any. **CONTRACTOR** certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Personal Services Contracts Greater than \$100,000, if applicable. **CONTRACTOR** shall not change any of these designated subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of the **CITY**, provided that such approval shall not be unreasonably withheld.

### **PSC-35. EQUAL BENEFITS ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of the Contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** will comply with the EBO.
- B. The failure of **CONTRACTOR** to comply with the EBO will be deemed to be a material breach of this Contract by the **CITY**.
- C. If **CONTRACTOR** fails to comply with the EBO the **CITY** may cancel, terminate or suspend this Contract, in whole or in part, and all monies due or to become due under this Contract may be retained by the **CITY**. The **CITY** may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.
- E. If the **CITY'S** Designated Administrative Agency determines that a **CONTRACTOR** has set up or used its contracting entity for the purpose of evading the intent of the EBO, the **CITY** may terminate the Contract. Violation of this provision may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

**CONTRACTOR** shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

“During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles’ Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922.”

**PSC-36. SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in 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](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-4, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

CONTRACT NO. \_\_\_\_\_

BETWEEN

THE CITY OF LOS ANGELES

DEPARTMENT OF RECREATION AND PARKS

AND

COAST IRON WORKS

FOR FENCE AND WALL INSTALLATION, MAINTENANCE AND/OR REPAIRS

This CONTRACT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the City of Los Angeles, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners (hereinafter referred to as CITY), and COAST IRON WORKS, hereinafter referred to as CONTRACTOR.

#### RECITALS

WHEREAS, the Department of Recreation and Parks (DEPARTMENT) owns various facilities and infrastructure throughout the City of Los Angeles and is responsible for the maintenance and improvements for such facilities and infrastructure; and

WHEREAS, DEPARTMENT requires the services of an experienced and responsible CONTRACTOR to perform Ornamental Fencing for the DEPARTMENT; and

WHEREAS, a Request for Qualifications (RFQ) for Fence and Wall Installation, Maintenance and/or Repairs was released on September 1, 2016, and nine (9) responses to the RFQ were received on November 3, 2016; and

WHEREAS, the CONTRACTOR'S response met the minimum requirement for the Ornamental Fencing component as specified in the RFQ; and

WHEREAS, CONTRACTOR has the necessary equipment and staff who possess sufficient knowledge, expertise, and experience required to provide the necessary services and has indicated its willingness to perform such services; and

WHEREAS, CITY, pursuant to Charter Section 371(e)(2) and Los Angeles Administrative Code Section 10.15(a)(2), finds that competitive bidding is not practicable or advantageous as it is necessary for the DEPARTMENT to be able to call on contractors to perform this expert, technical work as-needed and on an occasional, but frequent, basis without engaging in a new competitive process for each individual project to be performed; however, from among as needed contractors each individual project is assigned on the basis of availability of an as-needed contractor to perform the work, the price to be charged and the unique expertise of the as-needed contractor; and,

WHEREAS, CITY, pursuant to Charter Section 372, finds that obtaining competitive proposals or bids for each individual project for which work may be performed pursuant to this agreement is not reasonably practicable or compatible with the DEPARTMENT's interests of having available as-needed contractors who are assigned various projects on the basis of availability, price and expertise and that it is therefore necessary to have several as-needed contractors for this type of service available when called upon by the DEPARTMENT to perform services; and,

WHEREAS, CITY pursuant to Charter Section 371(e)(10), finds that use of competitive bidding would be undesirable, impractical or impossible or is otherwise excused by the common law and the Charter because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by the Department to provide as-needed fence and wall installation, maintenance and/or repairs services;

WHEREAS, CITY, pursuant to Charter Section 1022, finds that Department does not have, available in its employ, personnel with sufficient time or necessary expertise to undertake (*this task*) in a timely manner, and it is more feasible, economical and in RAP's best interest, to secure these services by contract with several contractors to perform this work as-needed and on an occasional, but frequent basis, without engaging in a new competitive bidding process for each individual project to be performed; and

NOW, THEREFORE, RAP AND CONTRACTOR, in consideration of the recitals above and of the terms, covenants, and conditions contained herein, agree as follows:

## SECTION 1 - PARTIES TO CONTRACT, REPRESENTATIVES AND NOTICE

### 1.1 Parties

The parties to this Contract are:

DEPARTMENT - The City of Los Angeles, a municipal corporation, Department of Recreation and Parks, acting by and through its Board of Recreation and Park Commissioners, having its principal office located at 221 North Figueroa Street, Room 300, Los Angeles, California 90012.

CONTRACTOR – COAST IRON WORKS, having its principal office located at 234 Broad Ave, Wilmington, CA 90744

### 1.2 Representatives

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

DEPARTMENT's representative will be:

Michael A. Shull, General Manager  
Department of Recreation and Parks  
221 N. Figueroa St., Suite 350  
Los Angeles, CA 90012

With copies to:

Jimmy Newsom, Senior Management Analyst I  
Department of Recreation and Parks  
Contracts, Finance Division  
6335 Woodley Ave  
Van Nuys, CA 91406

Telephone Number: (818) 756-9294  
Fax Number: (818) 908-9786

CONTRACTOR'S representative will be:

James Peterson  
Coast Iron Works  
234 Broad Ave.  
Wilmington, CA 90744

Telephone Number: (310) 234-8200

### 1.3 Notices

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

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

## SECTION 2 - TERM OF CONTRACT

The term of this contract shall be three (3) years from the date of execution between the CONTRACTOR and CITY, subject to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts.

## SECTION 3 - SERVICES TO BE PERFORMED BY THE CONTRACTOR

### 3.1 Conduct of Operations

- A. At all times, work must conform to all current, relevant Federal, State and Local Municipal Codes and Regulations.

- B. CONTRACTOR shall endeavor to maintain good public relations at all times. The work shall be conducted in a manner that will cause the least possible interference with or annoyance to park patrons or employees.
- C. A qualified supervisor shall be present and readily available to City personnel and the public during hours of operation at each work site. The site supervisor shall be available to the Contract Inspector at all times during normal working hours. Avoiding contact with the Contract Inspector may result in suspension of work without extension.
- D. CONTRACTOR's working hours must coincide with those of the Department of Recreation and Parks (Monday through Friday, 7:00 a.m. – 3:30 p.m., excluding City holidays). The Department of Recreation and Parks must first approve any deviation from these hours and/or work on weekends and/or holidays.
- E. CONTRACTOR shall carefully protect from damage all existing trees, shrubs, plants, fences, and other features. The CONTRACTOR shall be liable for any and all damage(s) caused by contract operations to such trees, shrubs, plants, other growth and features or property. All damaged trees, shrubs, plants, other growth and features, and property shall be replaced or restored to their original condition to the satisfaction of the Contract Inspector at CONTRACTOR's expense.
- F. At all times, traffic control measures should conform to the Work Area Traffic Control Handbook, latest edition, published by Building New, Inc. Pedestrian and vehicular traffic shall be allowed to pass through the work area only under conditions of safety and with as little inconvenience and delay as possible. CONTRACTOR shall provide and maintain adequate barricades and warning devices. Flag persons shall be stationed as reasonably necessary for the safety of persons and vehicles.
- G. The roads and pathways shall be left free of debris at the close of each day's operation.
- H. Contractor will be responsible for all safety requirements and certifications in accordance with CAL-OSHA rules and regulations. It will be the CONTRACTOR's responsibility to assess the work location and implement safety controls and procedures that are compliant with Title 8 of the California Code of Regulations. All projects will be awarded to CONTRACTOR as a "Single Employer" in accordance with CAL OSHA classifications. CONTRACTOR will be responsible and have full control over all activities as well as safety requirements thereof, for each as-need project awarded.
- I. CONTRACTOR shall notify the Contract Inspector at least twenty-four (24) hours prior to starting the work required by the contract.
- J. If CONTRACTOR, after having officially started said contract, should discontinue work for any cause, CONTRACTOR shall notify the Contract Inspector of intent to do so, and shall further provide the Contract Inspector with the date that

operations will resume.

- K. All work shall be completed to the satisfaction of the Department of Recreation and Parks Contract Inspector. Work will be considered complete only when signed off by the Contract Inspector. Work shall be performed to the specifications as determined by RAP.
- L. Failure to comply with any requirement contained herein may result in suspension of work without extension.
- M. The Contract Inspector must approve any request for subcontracting of work prior to such subcontracting.
- N. CONTRACTOR shall provide equipment and personnel for all tasks.

#### SECTION 4 - SERVICES TO BE PROVIDED BY RAP

- 4.1 DEPARTMENT personnel will work cooperatively with the CONTRACTOR to ensure timely approvals of all items required under this contract.
- 4.2 DEPARTMENT will promptly act, review, and make decisions as necessary to permit the orderly progress of this work.

#### SECTION 5 - INSPECTION

- 5.1 CONTRACTOR must request final inspection from DEPARTMENT representative for work completed at each site.
- 5.2 CONTRACTOR will receive written notification for any services and/or delivery determined by the Project Manager or his/her designee to be below an acceptable level. This notification shall be in the form of a "Notice to Correct Unacceptable Service."
- 5.3 CONTRACTOR shall respond in writing to the Project Manager indicating the steps taken to correct the unacceptable service. If unacceptable service is not corrected after CONTRACTOR receives the "Notice to Correct Unacceptable Service," payment may be withheld by DEPARTMENT until corrections are made.
- 5.4 If unacceptable service continues, or if CONTRACTOR receives three (3) or more such notices, DEPARTMENT may terminate the contract as described in PSC-10-Termination, of the Standard Provisions for City Contracts (Rev. 3/09), attached hereto and incorporated herein by reference as Appendix A.

#### SECTION 6 - COMPENSATION AND INVOICING

##### 6.1 Compensation

DEPARTMENT will pay CONTRACTOR an amount for service outlined in the "Notice to Proceed" for each individual project. The total for this contract will not exceed Four Million Dollars (\$4,000,000.00) annually. CITY will monitor this not-to-exceed aggregate total.

6.2 CONTRACTOR shall inform DEPARTMENT of any additional project costs due to unforeseen delays and unexpected changes to the scope of work. Additional project costs shall be itemized by CONTRACTOR and approved by DEPARTMENT before payment is made to CONTRACTOR.

6.3 Invoicing

CONTRACTOR shall invoice upon completion of job by submitting two (2) copies of the invoice, which details the work performed in accordance with the original scope of services and any approved amendments to the scope, within thirty (30) days of completion of service.

CONTRACTOR shall submit invoices to:

Department of Recreation and Parks  
Attention: Jimmy Newsom  
Contracts, Finance Division  
Valley Region  
6335 Woodley Ave  
Van Nuys, CA 91406

All invoices shall be submitted on CONTRACTOR'S letterhead, containing CONTRACTOR'S official logo, or other unique and identifying information such as the name and address of CONTRACTOR. Evidence that the task has been completed, in the form of a report, brochure or photographs, shall be attached to all invoices.

Invoices and supporting documentation shall be prepared at the sole expense and responsibility of CONTRACTOR. CITY will not compensate CONTRACTOR for costs incurred in invoice preparation. DEPARTMENT may request changes to the content and format of the invoice and supporting documentation at any time. DEPARTMENT reserves the right to request additional supporting documentation to substantiate costs at any time.

Tasks that are completed by subcontractors shall be supported by subcontractor invoices, copies of pages from reports, brochures, photographs, or other unique documentation that substantiates their charges.

Failure to adhere to these policies may result in nonpayment pursuant to Charter Section 262(a), which requires the City Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any City office or department, and to approve demands before they are drawn on the Treasury.

SECTION 7 - INCORPORATION OF DOCUMENTS

This Contract and exhibits represent the entire integrated agreement of the parties and supersedes all prior written or oral representations, discussions, and agreements. The following documents are incorporated and made a part hereof by reference:

Appendix A. Standard Provisions for City Contracts (Rev. 3/09)

(Signature Page to Follow)

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their respective duly authorized representatives.

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

THE CITY OF LOS ANGELES, a municipal  
corporation, acting by and through its Board of  
Recreation and Park Commissioners

By \_\_\_\_\_  
PRESIDENT

By \_\_\_\_\_  
SECRETARY

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

COAST IRON WORKS

By \_\_\_\_\_

By \_\_\_\_\_  
SECRETARY

Approved as to Form:

MICHAEL N. FEUER  
City Attorney

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

By: \_\_\_\_\_  
DEPUTY CITY ATTORNEY

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 hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" herein in this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one **CONTRACTOR** herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

### **PSC-2. NUMBER OF ORIGINALS**

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the **CITY'S** option, one or more additional original texts of this Contract may also be retained by the City.

### **PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT**

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. 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, and/or procedures that apply to the performance of this Contract.

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 law of a federal, state or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of the Contract shall not be affected thereby.

**PSC-4. 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** hereto;
- 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 the **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

**PSC-5. INTEGRATED CONTRACT**

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, 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 paragraph PSC-6 hereof.

**PSC-6. AMENDMENT**

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-4.

**PSC-7. EXCUSABLE DELAYS**

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

**PSC-8. BREACH**

Except for excusable delays as described in PSC-7, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights

and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

**PSC-9. 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-10. TERMINATION**

**A. TERMINATION FOR CONVENIENCE**

The **CITY** may terminate this Contract for the **CITY'S** convenience at any time by giving **CONTRACTOR** thirty days written notice thereof. Upon receipt of said notice, **CONTRACTOR** shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The **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 affect such termination. Thereafter, **CONTRACTOR** shall have no further claims against the **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon the date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

**B. TERMINATION FOR BREACH OF CONTRACT**

1. Except for excusable delays as provided in PSC-7, 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, the **CITY** may give **CONTRACTOR** written notice of such default. If **CONTRACTOR** does not cure such default or provide a plan to cure such default which is acceptable to the **CITY** within the time permitted by the **CITY**, then the **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. 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 the **CITY** may immediately terminate this Contract.
3. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates the

**CITY'S** lobbying policies, then the **CITY** may immediately terminate this Contract.

4. In the event the **CITY** terminates this Contract as provided in this section, the **CITY** may procure, upon such terms and in such manner as the **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to the **CITY** for all of its costs and damages, including, but not limited, any excess costs for such services.
5. All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.
6. 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-10(A) Termination for Convenience.
7. 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.

#### **PSC-11. INDEPENDENT CONTRACTOR**

**CONTRACTOR** is acting hereunder as an independent contractor and not as an agent or employee of the **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 the **CITY**.

#### **PSC-12. CONTRACTOR'S PERSONNEL**

Unless otherwise provided or approved by the **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. The **CITY** shall have the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** agrees to remove personnel from performing work under this Contract if requested to do so by the **CITY**.

**CONTRACTOR** shall not use subcontractors to assist in performance of this Contract without the prior written approval of the **CITY**. If the **CITY** permits the use of subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of

this Contract. The **CITY** has the right to approve **CONTRACTOR'S** subcontractors, and the **CITY** reserves the right to request replacement of subcontractors. The **CITY** does not have any obligation to pay **CONTRACTOR'S** subcontractors, and nothing herein creates any privity between the **CITY** and the subcontractors.

**PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION**

**CONTRACTOR** may not, unless it has first obtained the written permission of the **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-14. PERMITS**

**CONTRACTOR** and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance hereunder and shall pay any fees required therefor. **CONTRACTOR** certifies to immediately notify the **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

**PSC-15. CLAIMS FOR LABOR AND MATERIALS**

**CONTRACTOR** shall promptly pay when due all amounts payable 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), against **CONTRACTOR'S** rights to payments hereunder, or against the **CITY**, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**PSC-16. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED**

If applicable, **CONTRACTOR** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this Contract, **CONTRACTOR** shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

**PSC-17. 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, in accordance with

requirements prescribed by the **CITY**. These records shall be retained for a period of no less than three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. Said records shall be subject to examination and audit by authorized **CITY** personnel or by the **CITY'S** representative at any time during the term of this Contract or within the three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. **CONTRACTOR** shall provide any reports requested by the **CITY** regarding performance of this Contract. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

**PSC-18. FALSE CLAIMS ACT**

**CONTRACTOR** acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the **CITY** under the False Claims Act (Cal. Gov. Code §§ 12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

**PSC-19. BONDS**

All bonds which may be required hereunder shall conform to **CITY** requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

**PSC-20. 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** undertakes and agrees to defend, indemnify and hold harmless the **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits 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 the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by **CONTRACTOR** or its subcontractors of any tier. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-20 shall survive expiration or termination of this Contract.

**PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION**

**CONTRACTOR**, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the **CITY**, and any of its Boards, Officers, Agents, Employees, Assigns,

and Successors in Interest from and against all suits 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 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 right (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 of any tier, in performing the work under this Contract; or (2) as a result of the **CITY'S** actual or intended use of any Work Product furnished by **CONTRACTOR**, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-21 shall survive expiration or termination of this Contract.

#### **PSC-22. 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, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

#### **PSC-23. OWNERSHIP AND LICENSE**

Unless otherwise provided for herein, all Work Products originated and prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract shall be and remain the exclusive property of the **CITY** for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, 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. **CONTRACTOR** hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by **CONTRACTOR** under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

For all Work Products delivered to the **CITY** that are not originated or prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract, **CONTRACTOR** hereby grants 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 the **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subcontractors performing work under this Contract such that the **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

#### **PSC-24. INSURANCE**

During the term of this Contract and without limiting **CONTRACTOR'S** indemnification of the **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by **CONTRACTOR**, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form General 146 in Exhibit 1 hereto), covering its operations hereunder. Such insurance shall conform to **CITY** requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto) and shall 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-25. DISCOUNT TERMS**

**CONTRACTOR** agrees to offer the **CITY** any discount terms that are offered to its best customers for the goods and services to be provided hereunder and apply such discount to payments made under this Contract which meet the discount terms.

#### **PSC-26. 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-27. NON-DISCRIMINATION**

Unless otherwise exempt, this Contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The **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 the **CITY**. In performing this Contract, **CONTRACTOR** shall not

discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

### **PSC-28. EQUAL EMPLOYMENT PRACTICES**

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **CONTRACTOR** and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of **CITY** contracts. On their or either of their request **CONTRACTOR** shall provide evidence that he or she has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of **CITY** contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has failed to comply with the Equal Employment Practices provisions of a **CITY** contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until **CONTRACTOR** shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the **CITY**, or when an individual bid or proposal is submitted, **CONTRACTOR** shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of **CITY** Contracts.

- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
  - 1. Hiring practices;
  - 2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  - 3. Training and promotional opportunities; and
  - 4. Reasonable accommodations for persons with disabilities.
  
- L. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR'S** Contract with the **CITY**.

**PSC-29. AFFIRMATIVE ACTION PROGRAM**

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
  
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to

their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, **CONTRACTOR** shall certify on an electronic or hard copy form to be supplied, that **CONTRACTOR** has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of **CITY** contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Affirmative Action Program provisions of **CITY** contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has breached the Affirmative Action Program provisions of a **CITY** contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that **CONTRACTOR** has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a **CITY** contract, there may be deducted from the amount payable to **CONTRACTOR** by the **CITY** under the contract, a penalty of ten dollars

(\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a **CITY** contract.

- H. Notwithstanding any other provisions of a **CITY** contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in **CITY** contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. **CONTRACTOR** shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the **CITY**. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, **CONTRACTOR** may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, **CONTRACTOR** must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
  - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
  - 2. **CONTRACTOR** may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the **CITY** with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and **CONTRACTOR**.

- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  2. Classroom preparation for the job when not apprenticeable;
  3. Pre-apprenticeship education and preparation;
  4. Upgrading training and opportunities;
  5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
  6. The entry of qualified women, minority and all other journeymen into the industry; and
  7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the **CITY'S** Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the **CITY** and may be used at the discretion of the **CITY** in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.

- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the **CITY** and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the **CITY**.

**PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS**

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, **CONTRACTOR** will fully comply with all applicable State and Federal employment reporting requirements for **CONTRACTOR'S** employees. **CONTRACTOR** shall also certify (1) that the Principal Owner(s) of **CONTRACTOR** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that **CONTRACTOR** will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, *et seq.* of the California Family Code; and (3) that **CONTRACTOR** will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to obtain compliance of its subcontractors shall constitute a default by **CONTRACTOR** under this Contract, subjecting this Contract to termination where such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

**CONTRACTOR** certifies that, to the best of its knowledge, it is fully complying with the Earnings Assignment Orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

**PSC-31. LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE**

- A. Unless otherwise exempt, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:
1. **CONTRACTOR** assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.
  2. **CONTRACTOR** further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. **CONTRACTOR** shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. **CONTRACTOR** shall deliver the executed pledges from each such subcontractor to the **CITY** within ninety (90) days of the execution of the subcontract. **CONTRACTOR'S** delivery of executed pledges from each such subcontractor shall fully discharge the obligation of **CONTRACTOR** with respect to such pledges and fully discharge the obligation of **CONTRACTOR** to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
  3. **CONTRACTOR**, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the **CITY** with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. **CONTRACTOR** shall post the Notice of Prohibition Against Retaliation provided by the **CITY**.
  4. Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of PSC-31 and shall incorporate the provisions of the LWO and the SCWRO.

5. **CONTRACTOR** shall comply with all rules, regulations and policies promulgated by the **CITY'S** Designated Administrative Agency which may be amended from time to time.
- B. Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR** has violated provisions of either the LWO or the SCWRO, or both.
- C. Where under the LWO Section 10.37.6(d), the **CITY'S** Designated Administrative Agency has determined (a) that **CONTRACTOR** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the **CITY** in such circumstances may impound monies otherwise due **CONTRACTOR** in accordance with the following procedures. Impoundment shall mean that from monies due **CONTRACTOR**, **CITY** may deduct the amount determined to be due and owing by **CONTRACTOR** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether **CONTRACTOR** is to continue work following an impoundment shall remain in the sole discretion of the **CITY**. **CONTRACTOR** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.
- D. **CONTRACTOR** shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). **CONTRACTOR** shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from **CONTRACTOR**.

**PSC-32. AMERICANS WITH DISABILITIES ACT**

**CONTRACTOR** hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations. **CONTRACTOR** will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. **CONTRACTOR** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by **CONTRACTOR**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

### **PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time, which requires **CONTRACTOR** to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect **CONTRACTOR'S** fitness and ability to continue performing this Contract.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this Contract, **CONTRACTOR** pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. **CONTRACTOR** further agrees to: (1) notify the **CITY** within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that **CONTRACTOR** is not in compliance with all applicable federal, state and local laws in performance of this Contract; (2) notify the **CITY** within thirty calendar days of all findings by a government agency or court of competent jurisdiction that **CONTRACTOR** has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance; (3) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the **CITY**; and (4) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the **CITY** within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

### **PSC-34. MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM**

**CONTRACTOR** agrees and obligates itself to utilize the services of Minority, Women and Other Business Enterprise firms on a level so designated in its proposal, if any. **CONTRACTOR** certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Personal Services Contracts Greater than \$100,000, if applicable. **CONTRACTOR** shall not change any of these designated subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of the **CITY**, provided that such approval shall not be unreasonably withheld.

### **PSC-35. EQUAL BENEFITS ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of the Contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** will comply with the EBO.
- B. The failure of **CONTRACTOR** to comply with the EBO will be deemed to be a material breach of this Contract by the **CITY**.
- C. If **CONTRACTOR** fails to comply with the EBO the **CITY** may cancel, terminate or suspend this Contract, in whole or in part, and all monies due or to become due under this Contract may be retained by the **CITY**. The **CITY** may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.
- E. If the **CITY'S** Designated Administrative Agency determines that a **CONTRACTOR** has set up or used its contracting entity for the purpose of evading the intent of the EBO, the **CITY** may terminate the Contract. Violation of this provision may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

**CONTRACTOR** shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

“During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles’ Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922.”

**PSC-36. SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in 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](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-4, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

CONTRACT NO. \_\_\_\_\_

BETWEEN

THE CITY OF LOS ANGELES

DEPARTMENT OF RECREATION AND PARKS

AND

CROWN FENCE CO.

FOR FENCE AND WALL INSTALLATION, MAINTENANCE AND/OR REPAIRS

This CONTRACT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the City of Los Angeles, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners (hereinafter referred to as CITY), and CROWN FENCE CO., hereinafter referred to as CONTRACTOR.

#### RECITALS

WHEREAS, the Department of Recreation and Parks (DEPARTMENT) owns various facilities and infrastructure throughout the City of Los Angeles and is responsible for the maintenance and improvements for such facilities and infrastructure; and

WHEREAS, DEPARTMENT requires the services of an experienced and responsible CONTRACTOR to perform Chain-Link and/or Omega Fence fencing for the DEPARTMENT; and

WHEREAS, a Request for Qualifications (RFQ) for Fence and Wall Installation, Maintenance and/or Repairs was released on September 1, 2016, and nine (9) responses to the RFQ were received on November 3, 2016; and

WHEREAS, the CONTRACTOR'S response met the minimum requirement for the Chain-Link and/or Omega Fence component as specified in the RFQ; and

WHEREAS, CONTRACTOR has the necessary equipment and staff who possess sufficient knowledge, expertise, and experience required to provide the necessary services and has indicated its willingness to perform such services; and

WHEREAS, CITY, pursuant to Charter Section 371(e)(2), finds that competitive bidding is not practicable or advantageous as it is necessary for the DEPARTMENT to be able to call on contractors to perform this expert, technical work as-needed and on an occasional, but frequent, basis without engaging in a new competitive process for each individual project to be performed; however, from among as needed contractors each individual project is assigned on the basis of availability of an as-needed contractor to perform the work, the price to be charged and the unique expertise of the as-needed contractor; and,

WHEREAS, CITY, pursuant to Charter Section 372, finds that obtaining competitive proposals or bids for each individual project for which work may be performed pursuant to this agreement is not reasonably practicable or compatible with the DEPARTMENT's interests of having available as-needed contractors who are assigned various projects on the basis of availability, price and expertise and that it is therefore necessary to have several as-needed contractors for this type of service available when called upon by the DEPARTMENT to perform services; and,

WHEREAS, CITY, pursuant to Charter Section 371(e)(10), that use of competitive bidding would be undesirable, impractical or impossible or is otherwise excused by the common law and the Charter because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by the Department to provide as-needed fence and wall installation, maintenance and /or repairs services;

WHEREAS, CITY, pursuant to Charter Section 1022, finds that Department does not have, available in its employ, personnel with sufficient time or necessary expertise to undertake (*this task*) in a timely manner, and it is more feasible, economical and in RAP's best interest, to secure these services by contract with several contractors to perform this work as-needed and on an occasional, but frequent basis, without engaging in a new competitive bidding process for each individual project to be performed; and

NOW, THEREFORE, CITY AND CONTRACTOR, in consideration of the recitals above and of the terms, covenants, and conditions contained herein, agree as follows:

## SECTION 1 - PARTIES TO CONTRACT, REPRESENTATIVES AND NOTICE

### 1.1 Parties

The parties to this Contract are:

DEPARTMENT - The City of Los Angeles, a municipal corporation, Department of Recreation and Parks, acting by and through its Board of Recreation and Park Commissioners, having its principal office located at 221 North Figueroa Street, Room 300, Los Angeles, California 90012.

CONTRACTOR – CROWN FENCE CO., having its principal office located at 12118 Bloomfield Ave, Santa Fe Springs, CA 90670

1.2 Representatives

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

DEPARTMENT'S representative will be:

Michael A. Shull, General Manager  
Department of Recreation and Parks  
221 N. Figueroa St., Suite 380  
Los Angeles, CA 90012

With copies to:

Jimmy Newsom, Senior Management Analyst I  
Department of Recreation and Parks  
Contracts, Finance Division  
6335 Woodley Ave  
Van Nuys, CA 91406

Telephone Number: (818)756-9294  
Fax Number: (818) 908-9786

CONTRACTOR'S representative will be:

Carlos Punzalan  
Crown Fence Co.  
12118 Bloomfield Ave.  
Santa Fe Springs, CA 90670

Telephone Number: (562) 824-0729  
Fax Number: (562) 864-2529

1.3 Notices

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

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

## SECTION 2 - TERM OF CONTRACT

The term of this contract shall be three (3) years from the date of execution between the CONTRACTOR and CITY, subject to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts.

## SECTION 3 - SERVICES TO BE PERFORMED BY THE CONTRACTOR

### 3.1 Conduct of Operations

- A. At all times, work must conform to all current, relevant Federal, State and Local Municipal Codes and Regulations.
- B. CONTRACTOR shall endeavor to maintain good public relations at all times. The work shall be conducted in a manner that will cause the least possible interference with or annoyance to park patrons or employees.
- C. A qualified supervisor shall be present and readily available to City personnel and the public during hours of operation at each work site. The site supervisor shall be available to the Contract Inspector at all times during normal working hours. Avoiding contact with the Contract Inspector may result in suspension of work without extension.
- D. CONTRACTOR's working hours must coincide with those of the Department of Recreation and Parks (Monday through Friday, 7:00 a.m. – 3:30 p.m., excluding City holidays). The Department of Recreation and Parks must first approve any deviation from these hours and/or work on weekends and/or holidays.
- E. CONTRACTOR shall carefully protect from damage all existing trees, shrubs, plants, fences, and other features. The CONTRACTOR shall be liable for any and all damage(s) caused by contract operations to such trees, shrubs, plants, other growth and features or property. All damaged trees, shrubs, plants, other growth and features, and property shall be replaced or restored to their original condition to the satisfaction of the Contract Inspector at CONTRACTOR's expense.
- F. At all times, traffic control measures should conform to the Work Area Traffic Control Handbook, latest edition, published by Building New, Inc. Pedestrian and vehicular traffic shall be allowed to pass through the work area only under conditions of safety and with as little inconvenience and delay as possible. CONTRACTOR shall provide and maintain adequate

barricades and warning devices. Flag persons shall be stationed as reasonably necessary for the safety of persons and vehicles.

- G. The roads and pathways shall be left free of debris at the close of each day's operation.
- H. Contractor will be responsible for all safety requirements and certifications in accordance with CAL-OSHA rules and regulations. It will be the CONTRACTOR's responsibility to assess the work location and implement safety controls and procedures that are compliant with Title 8 of the California Code of Regulations. All projects will be awarded to CONTRACTOR as a "Single Employer" in accordance with CAL OSHA classifications. CONTRACTOR will be responsible and have full control over all activities as well as safety requirements thereof, for each as-need project awarded.
- I. CONTRACTOR shall notify the Contract Inspector at least twenty-four (24) hours prior to starting the work required by the contract.
- J. If CONTRACTOR, after having officially started said contract, should discontinue work for any cause, CONTRACTOR shall notify the Contract Inspector of intent to do so, and shall further provide the Contract Inspector with the date that operations will resume.
- K. All work shall be completed to the satisfaction of the Department of Recreation and Parks Contract Inspector. Work will be considered complete only when signed off by the Contract Inspector. Work shall be performed to the specifications as determined by RAP.
- L. Failure to comply with any requirement contained herein may result in suspension of work without extension.
- M. The Contract Inspector must approve any request for subcontracting of work prior to such subcontracting.
- N. CONTRACTOR shall provide equipment and personnel for all tasks.

#### SECTION 4 - SERVICES TO BE PROVIDED BY RAP

- 4.1 DEPARTMENT personnel will work cooperatively with the CONTRACTOR to ensure timely approvals of all items required under this contract.
- 4.2 DEPARTMENT will promptly act, review, and make decisions as necessary to permit the orderly progress of this work.

## SECTION 5 - INSPECTION

- 5.1 CONTRACTOR must request final inspection from DEPARTMENT representative for work completed at each site.
- 5.2 CONTRACTOR will receive written notification for any services and/or delivery determined by the Project Manager or his/her designee to be below an acceptable level. This notification shall be in the form of a "Notice to Correct Unacceptable Service."
- 5.3 CONTRACTOR shall respond in writing to the Project Manager indicating the steps taken to correct the unacceptable service. If unacceptable service is not corrected after CONTRACTOR receives the "Notice to Correct Unacceptable Service," payment may be withheld by DEPARTMENT until corrections are made.
- 5.4 If unacceptable service continues, or if CONTRACTOR receives three (3) or more such notices, DEPARTMENT may terminate the contract as described in PSC-10-Termination, of the Standard Provisions for City Contracts (Rev. 3/09), attached hereto and incorporated herein by reference as Appendix A.

## SECTION 6 - COMPENSATION AND INVOICING

### 6.1 Compensation

DEPARTMENT will pay CONTRACTOR an amount for service outlined in the "Notice to Proceed" for each individual project. The total for this contract will not exceed Four Million Dollars (\$4,000,000.00) annually. CITY will monitor this not-to-exceed aggregate total.

- 6.2 CONTRACTOR shall inform DEPARTMENT of any additional project costs due to unforeseen delays and unexpected changes to the scope of work. Additional project costs shall be itemized by CONTRACTOR and approved by DEPARTMENT before payment is made to CONTRACTOR.

### 6.3 Invoicing

CONTRACTOR shall invoice upon completion of job by submitting two (2) copies of the invoice, which details the work performed in accordance with the original scope of services and any approved amendments to the scope, within thirty (30) days of completion of service.

CONTRACTOR shall submit invoices to:

Department of Recreation and Parks  
Attention: Jimmy Newsom  
Contracts, Finance Division  
Valley Region  
6335 Woodley Ave  
Van Nuys, CA 91406

All invoices shall be submitted on CONTRACTOR'S letterhead, containing CONTRACTOR'S official logo, or other unique and identifying information such as the name and address of CONTRACTOR. Evidence that the task has been completed, in the form of a report, brochure or photographs, shall be attached to all invoices.

Invoices and supporting documentation shall be prepared at the sole expense and responsibility of CONTRACTOR. CITY will not compensate CONTRACTOR for costs incurred in invoice preparation. DEPARTMENT may request changes to the content and format of the invoice and supporting documentation at any time. DEPARTMENT reserves the right to request additional supporting documentation to substantiate costs at any time.

Tasks that are completed by subcontractors shall be supported by subcontractor invoices, copies of pages from reports, brochures, photographs, or other unique documentation that substantiates their charges.

Failure to adhere to these policies may result in nonpayment pursuant to Charter Section 262(a), which requires the City Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any City office or department, and to approve demands before they are drawn on the Treasury.

## SECTION 7 - INCORPORATION OF DOCUMENTS

This Contract and exhibits represent the entire integrated agreement of the parties and supersedes all prior written or oral representations, discussions, and agreements. The following documents are incorporated and made a part hereof by reference:

Appendix A. Standard Provisions for City Contracts (Rev. 3/09)

(Signature Page to Follow)

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their respective duly authorized representatives.

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

THE CITY OF LOS ANGELES, a municipal  
corporation, acting by and through its Board  
of Recreation and Park Commissioners

By \_\_\_\_\_  
PRESIDENT

By \_\_\_\_\_  
SECRETARY

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

CROWN FENCE CO.

By \_\_\_\_\_

By \_\_\_\_\_  
SECRETARY

Approved as to Form:

MICHAEL N. FEUER  
City Attorney

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

By: \_\_\_\_\_  
DEPUTY CITY ATTORNEY

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 hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" herein in this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one **CONTRACTOR** herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

### **PSC-2. NUMBER OF ORIGINALS**

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the **CITY'S** option, one or more additional original texts of this Contract may also be retained by the City.

### **PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT**

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. 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, and/or procedures that apply to the performance of this Contract.

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 law of a federal, state or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of the Contract shall not be affected thereby.

**PSC-4. 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** hereto;
- 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 the **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

**PSC-5. INTEGRATED CONTRACT**

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, 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 paragraph PSC-6 hereof.

**PSC-6. AMENDMENT**

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-4.

**PSC-7. EXCUSABLE DELAYS**

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

**PSC-8. BREACH**

Except for excusable delays as described in PSC-7, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights

and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

**PSC-9. 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-10. TERMINATION**

**A. TERMINATION FOR CONVENIENCE**

The **CITY** may terminate this Contract for the **CITY'S** convenience at any time by giving **CONTRACTOR** thirty days written notice thereof. Upon receipt of said notice, **CONTRACTOR** shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The **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 affect such termination. Thereafter, **CONTRACTOR** shall have no further claims against the **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon the date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

**B. TERMINATION FOR BREACH OF CONTRACT**

1. Except for excusable delays as provided in PSC-7, 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, the **CITY** may give **CONTRACTOR** written notice of such default. If **CONTRACTOR** does not cure such default or provide a plan to cure such default which is acceptable to the **CITY** within the time permitted by the **CITY**, then the **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. 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 the **CITY** may immediately terminate this Contract.
3. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates the

**CITY'S** lobbying policies, then the **CITY** may immediately terminate this Contract.

4. In the event the **CITY** terminates this Contract as provided in this section, the **CITY** may procure, upon such terms and in such manner as the **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to the **CITY** for all of its costs and damages, including, but not limited, any excess costs for such services.
5. All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.
6. 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-10(A) Termination for Convenience.
7. 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.

#### **PSC-11. INDEPENDENT CONTRACTOR**

**CONTRACTOR** is acting hereunder as an independent contractor and not as an agent or employee of the **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 the **CITY**.

#### **PSC-12. CONTRACTOR'S PERSONNEL**

Unless otherwise provided or approved by the **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. The **CITY** shall have the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** agrees to remove personnel from performing work under this Contract if requested to do so by the **CITY**.

**CONTRACTOR** shall not use subcontractors to assist in performance of this Contract without the prior written approval of the **CITY**. If the **CITY** permits the use of subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of

this Contract. The **CITY** has the right to approve **CONTRACTOR'S** subcontractors, and the **CITY** reserves the right to request replacement of subcontractors. The **CITY** does not have any obligation to pay **CONTRACTOR'S** subcontractors, and nothing herein creates any privity between the **CITY** and the subcontractors.

**PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION**

**CONTRACTOR** may not, unless it has first obtained the written permission of the **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-14. PERMITS**

**CONTRACTOR** and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance hereunder and shall pay any fees required therefor. **CONTRACTOR** certifies to immediately notify the **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

**PSC-15. CLAIMS FOR LABOR AND MATERIALS**

**CONTRACTOR** shall promptly pay when due all amounts payable 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), against **CONTRACTOR'S** rights to payments hereunder, or against the **CITY**, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**PSC-16. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED**

If applicable, **CONTRACTOR** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this Contract, **CONTRACTOR** shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

**PSC-17. 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, in accordance with

requirements prescribed by the **CITY**. These records shall be retained for a period of no less than three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. Said records shall be subject to examination and audit by authorized **CITY** personnel or by the **CITY'S** representative at any time during the term of this Contract or within the three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. **CONTRACTOR** shall provide any reports requested by the **CITY** regarding performance of this Contract. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

**PSC-18. FALSE CLAIMS ACT**

**CONTRACTOR** acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the **CITY** under the False Claims Act (Cal. Gov. Code §§ 12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

**PSC-19. BONDS**

All bonds which may be required hereunder shall conform to **CITY** requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

**PSC-20. 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** undertakes and agrees to defend, indemnify and hold harmless the **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits 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 the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by **CONTRACTOR** or its subcontractors of any tier. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-20 shall survive expiration or termination of this Contract.

**PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION**

**CONTRACTOR**, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the **CITY**, and any of its Boards, Officers, Agents, Employees, Assigns,

and Successors in Interest from and against all suits 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 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 right (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 of any tier, in performing the work under this Contract; or (2) as a result of the **CITY'S** actual or intended use of any Work Product furnished by **CONTRACTOR**, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-21 shall survive expiration or termination of this Contract.

#### **PSC-22. 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, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

#### **PSC-23. OWNERSHIP AND LICENSE**

Unless otherwise provided for herein, all Work Products originated and prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract shall be and remain the exclusive property of the **CITY** for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, 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. **CONTRACTOR** hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by **CONTRACTOR** under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

For all Work Products delivered to the **CITY** that are not originated or prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract, **CONTRACTOR** hereby grants 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 the **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subcontractors performing work under this Contract such that the **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

#### **PSC-24. INSURANCE**

During the term of this Contract and without limiting **CONTRACTOR'S** indemnification of the **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by **CONTRACTOR**, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form General 146 in Exhibit 1 hereto), covering its operations hereunder. Such insurance shall conform to **CITY** requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto) and shall 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-25. DISCOUNT TERMS**

**CONTRACTOR** agrees to offer the **CITY** any discount terms that are offered to its best customers for the goods and services to be provided hereunder and apply such discount to payments made under this Contract which meet the discount terms.

#### **PSC-26. 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-27. NON-DISCRIMINATION**

Unless otherwise exempt, this Contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The **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 the **CITY**. In performing this Contract, **CONTRACTOR** shall not

discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

#### **PSC-28. EQUAL EMPLOYMENT PRACTICES**

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **CONTRACTOR** and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of **CITY** contracts. On their or either of their request **CONTRACTOR** shall provide evidence that he or she has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of **CITY** contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has failed to comply with the Equal Employment Practices provisions of a **CITY** contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until **CONTRACTOR** shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the **CITY**, or when an individual bid or proposal is submitted, **CONTRACTOR** shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of **CITY** Contracts.

- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
  - 1. Hiring practices;
  - 2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  - 3. Training and promotional opportunities; and
  - 4. Reasonable accommodations for persons with disabilities.
  
- L. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR'S** Contract with the **CITY**.

**PSC-29. AFFIRMATIVE ACTION PROGRAM**

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
  
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to

their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, **CONTRACTOR** shall certify on an electronic or hard copy form to be supplied, that **CONTRACTOR** has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of **CITY** contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Affirmative Action Program provisions of **CITY** contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has breached the Affirmative Action Program provisions of a **CITY** contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that **CONTRACTOR** has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a **CITY** contract, there may be deducted from the amount payable to **CONTRACTOR** by the **CITY** under the contract, a penalty of ten dollars

(\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a **CITY** contract.

- H. Notwithstanding any other provisions of a **CITY** contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in **CITY** contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. **CONTRACTOR** shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the **CITY**. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, **CONTRACTOR** may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, **CONTRACTOR** must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
  - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
  - 2. **CONTRACTOR** may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the **CITY** with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and **CONTRACTOR**.

- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  2. Classroom preparation for the job when not apprenticeable;
  3. Pre-apprenticeship education and preparation;
  4. Upgrading training and opportunities;
  5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
  6. The entry of qualified women, minority and all other journeymen into the industry; and
  7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the **CITY'S** Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the **CITY** and may be used at the discretion of the **CITY** in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.

- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the **CITY** and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the **CITY**.

**PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS**

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, **CONTRACTOR** will fully comply with all applicable State and Federal employment reporting requirements for **CONTRACTOR'S** employees. **CONTRACTOR** shall also certify (1) that the Principal Owner(s) of **CONTRACTOR** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that **CONTRACTOR** will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, *et seq.* of the California Family Code; and (3) that **CONTRACTOR** will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to obtain compliance of its subcontractors shall constitute a default by **CONTRACTOR** under this Contract, subjecting this Contract to termination where such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

**CONTRACTOR** certifies that, to the best of its knowledge, it is fully complying with the Earnings Assignment Orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

**PSC-31. LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE**

- A. Unless otherwise exempt, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:
1. **CONTRACTOR** assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.
  2. **CONTRACTOR** further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. **CONTRACTOR** shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. **CONTRACTOR** shall deliver the executed pledges from each such subcontractor to the **CITY** within ninety (90) days of the execution of the subcontract. **CONTRACTOR'S** delivery of executed pledges from each such subcontractor shall fully discharge the obligation of **CONTRACTOR** with respect to such pledges and fully discharge the obligation of **CONTRACTOR** to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
  3. **CONTRACTOR**, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the **CITY** with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. **CONTRACTOR** shall post the Notice of Prohibition Against Retaliation provided by the **CITY**.
  4. Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of PSC-31 and shall incorporate the provisions of the LWO and the SCWRO.

5. **CONTRACTOR** shall comply with all rules, regulations and policies promulgated by the **CITY'S** Designated Administrative Agency which may be amended from time to time.
- B. Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR** has violated provisions of either the LWO or the SCWRO, or both.
- C. Where under the LWO Section 10.37.6(d), the **CITY'S** Designated Administrative Agency has determined (a) that **CONTRACTOR** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the **CITY** in such circumstances may impound monies otherwise due **CONTRACTOR** in accordance with the following procedures. Impoundment shall mean that from monies due **CONTRACTOR**, **CITY** may deduct the amount determined to be due and owing by **CONTRACTOR** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether **CONTRACTOR** is to continue work following an impoundment shall remain in the sole discretion of the **CITY**. **CONTRACTOR** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.
- D. **CONTRACTOR** shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). **CONTRACTOR** shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from **CONTRACTOR**.

**PSC-32. AMERICANS WITH DISABILITIES ACT**

**CONTRACTOR** hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations. **CONTRACTOR** will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. **CONTRACTOR** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by **CONTRACTOR**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

### **PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time, which requires **CONTRACTOR** to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect **CONTRACTOR'S** fitness and ability to continue performing this Contract.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this Contract, **CONTRACTOR** pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. **CONTRACTOR** further agrees to: (1) notify the **CITY** within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that **CONTRACTOR** is not in compliance with all applicable federal, state and local laws in performance of this Contract; (2) notify the **CITY** within thirty calendar days of all findings by a government agency or court of competent jurisdiction that **CONTRACTOR** has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance; (3) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the **CITY**; and (4) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the **CITY** within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

### **PSC-34. MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM**

**CONTRACTOR** agrees and obligates itself to utilize the services of Minority, Women and Other Business Enterprise firms on a level so designated in its proposal, if any. **CONTRACTOR** certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Personal Services Contracts Greater than \$100,000, if applicable. **CONTRACTOR** shall not change any of these designated subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of the **CITY**, provided that such approval shall not be unreasonably withheld.

### **PSC-35. EQUAL BENEFITS ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of the Contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** will comply with the EBO.
- B. The failure of **CONTRACTOR** to comply with the EBO will be deemed to be a material breach of this Contract by the **CITY**.
- C. If **CONTRACTOR** fails to comply with the EBO the **CITY** may cancel, terminate or suspend this Contract, in whole or in part, and all monies due or to become due under this Contract may be retained by the **CITY**. The **CITY** may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.
- E. If the **CITY'S** Designated Administrative Agency determines that a **CONTRACTOR** has set up or used its contracting entity for the purpose of evading the intent of the EBO, the **CITY** may terminate the Contract. Violation of this provision may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

**CONTRACTOR** shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

“During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles’ Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922.”

**PSC-36. SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in 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](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-4, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

CONTRACT NO. \_\_\_\_\_

BETWEEN

THE CITY OF LOS ANGELES

DEPARTMENT OF RECREATION AND PARKS

AND

DEFENCE COMPANY

FOR FENCE AND WALL INSTALLATION, MAINTENANCE AND/OR REPAIRS

This CONTRACT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the City of Los Angeles, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners (hereinafter referred to as CITY), and DEFENCE COMPANY., hereinafter referred to as CONTRACTOR.

#### RECITALS

WHEREAS, the Department of Recreation and Parks (DEPARTMENT) owns various facilities and infrastructure throughout the City of Los Angeles and is responsible for the maintenance and improvements for such facilities and infrastructure; and

WHEREAS, DEPARTMENT requires the services of an experienced and responsible CONTRACTOR to perform Chain-Link and/or Omega Fence for the DEPARTMENT; and

WHEREAS, a Request for Qualifications (RFQ) for Fence and Wall Installation, Maintenance and/or Repairs was released on September 1, 2016, and nine (9) responses to the RFQ were received on November 3, 2016; and

WHEREAS, the CONTRACTOR'S response met the minimum requirement for the Chain-Link and/or Omega Fence component as specified in the RFQ; and

WHEREAS, CONTRACTOR has the necessary equipment and staff who possess sufficient knowledge, expertise, and experience required to provide the necessary services and has indicated its willingness to perform such services; and

WHEREAS, CITY, pursuant to Charter Section 371(e)(2) and Los Angeles Administrative Code Section 10.15(a)(2), finds that competitive bidding is not practicable or advantageous as it is necessary for the DEPARTMENT to be able to call on contractors to perform this work expert, technical as-needed and on an occasional, but frequent, basis without engaging in a new competitive process for each individual project to be performed; however, from among as needed contractors each individual project is assigned on the basis of availability of an as-needed contractor to perform the work, the price to be charged and the unique expertise of the as-needed contractor; and,

WHEREAS, CITY, pursuant to Charter Section 372, finds that obtaining competitive proposals or bids for each individual project for which work may be performed pursuant to this agreement is not reasonably practicable or compatible with the DEPARTMENT's interests of having available as-needed contractors who are assigned various projects on the basis of availability, price and expertise and that it is therefore necessary to have several as-needed contractors for this type of service available when called upon by the DEPARTMENT to perform services; and,

WHEREAS, CITY, pursuant to Charter Section 371(e)(10), finds that use of competitive bidding would be undesirable, impractical or impossible or is otherwise excused by the common law and the Charter because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by the Department to provide as-needed fence and wall installation, maintenance and/or repairs services;

WHEREAS, CITY, pursuant to Charter Section 1022, finds that Department does not have, available in its employ, personnel with sufficient time or necessary expertise to undertake (*this task*) in a timely manner, and it is more feasible, economical and in RAP's best interest, to secure these services by contract with several contractors to perform this work as-needed and on an occasional, but frequent basis, without engaging in a new competitive bidding process for each individual project to be performed; and

NOW, THEREFORE, CITY AND CONTRACTOR, in consideration of the recitals above and of the terms, covenants, and conditions contained herein, agree as follows:

## SECTION 1 - PARTIES TO CONTRACT, REPRESENTATIVES AND NOTICE

### 1.1 Parties

The parties to this Contract are:

DEPARTMENT - The City of Los Angeles, a municipal corporation, Department of Recreation and Parks, acting by and through its Board of Recreation and Park Commissioners, having its principal office located at 221 North Figueroa Street, Room 300, Los Angeles, California 90012.

CONTRACTOR – DEFENCE COMPANY, having its principal office located at 14528 Los Angeles St, Baldwin Park, CA 91706.

1.2 Representatives

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

DEPARTMENT'S representative will be:

Michael A. Shull, General Manager  
Department of Recreation and Parks  
221 N. Figueroa St., Suite 350  
Los Angeles, CA 90012

With copies to:

Jimmy Newsom, Senior Management Analyst I  
Department of Recreation and Parks  
Contracts, Finance Division  
6335 Woodley Ave  
Van Nuys, CA 91406

Telephone Number: (818) 756-9294  
Fax Number: (818) 908-9786

CONTRACTOR'S representative will be:

Susan Gutierrez, V.P., C.F.O.  
Defence Company.  
14528 Los Angeles St.  
Baldwin Park, CA 91706

Telephone Number: (626) 338-2288  
Fax Number: (626) 470-9723

1.3 Notices

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

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

## SECTION 2 - TERM OF CONTRACT

The term of this contract shall be three (3) years from the date of execution between the CONTRACTOR and CITY, subject to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts.

## SECTION 3 - SERVICES TO BE PERFORMED BY THE CONTRACTOR

### 3.1 Conduct of Operations

- A. At all times, work must conform to all current, relevant Federal, State and Local Municipal Codes and Regulations.
- B. CONTRACTOR shall endeavor to maintain good public relations at all times. The work shall be conducted in a manner that will cause the least possible interference with or annoyance to park patrons or employees.
- C. A qualified supervisor shall be present and readily available to City personnel and the public during hours of operation at each work site. The site supervisor shall be available to the Contract Inspector at all times during normal working hours. Avoiding contact with the Contract Inspector may result in suspension of work without extension.
- D. CONTRACTOR's working hours must coincide with those of the Department of Recreation and Parks (Monday through Friday, 7:00 a.m. – 3:30 p.m., excluding City holidays). The Department of Recreation and Parks must first approve any deviation from these hours and/or work on weekends and/or holidays.
- E. CONTRACTOR shall carefully protect from damage all existing trees, shrubs, plants, fences, and other features. The CONTRACTOR shall be liable for any and all damage(s) caused by contract operations to such trees, shrubs, plants, other growth and features or property. All damaged trees, shrubs, plants, other growth and features, and property shall be replaced or restored to their original condition to the satisfaction of the Contract Inspector at CONTRACTOR's expense.
- F. At all times, traffic control measures should conform to the Work Area Traffic Control Handbook, latest edition, published by Building New, Inc. Pedestrian and vehicular traffic shall be allowed to pass through the work area only under conditions of safety and with as little inconvenience and delay as possible. CONTRACTOR shall provide and maintain adequate

barricades and warning devices. Flag persons shall be stationed as reasonably necessary for the safety of persons and vehicles.

- G. The roads and pathways shall be left free of debris at the close of each day's operation.
- H. Contractor will be responsible for all safety requirements and certifications in accordance with CAL-OSHA rules and regulations. It will be the CONTRACTOR's responsibility to assess the work location and implement safety controls and procedures that are compliant with Title 8 of the California Code of Regulations. All projects will be awarded to CONTRACTOR as a "Single Employer" in accordance with CAL OSHA classifications. CONTRACTOR will be responsible and have full control over all activities as well as safety requirements thereof, for each as-need project awarded.
- I. CONTRACTOR shall notify the Contract Inspector at least twenty-four (24) hours prior to starting the work required by the contract.
- J. If CONTRACTOR, after having officially started said contract, should discontinue work for any cause, CONTRACTOR shall notify the Contract Inspector of intent to do so, and shall further provide the Contract Inspector with the date that operations will resume.
- K. All work shall be completed to the satisfaction of the Department of Recreation and Parks Contract Inspector. Work will be considered complete only when signed off by the Contract Inspector. Work shall be performed to the specifications as determined by RAP.
- L. Failure to comply with any requirement contained herein may result in suspension of work without extension.
- M. The Contract Inspector must approve any request for subcontracting of work prior to such subcontracting.
- N. CONTRACTOR shall provide equipment and personnel for all tasks.

#### SECTION 4 - SERVICES TO BE PROVIDED BY RAP

- 4.1 DEPARTMENT personnel will work cooperatively with the CONTRACTOR to ensure timely approvals of all items required under this contract.
- 4.2 DEPARTMENT will promptly act, review, and make decisions as necessary to permit the orderly progress of this work.

## SECTION 5 - INSPECTION

- 5.1 CONTRACTOR must request final inspection from DEPARTMENT representative for work completed at each site.
- 5.2 CONTRACTOR will receive written notification for any services and/or delivery determined by the Project Manager or his/her designee to be below an acceptable level. This notification shall be in the form of a "Notice to Correct Unacceptable Service."
- 5.3 CONTRACTOR shall respond in writing to the Project Manager indicating the steps taken to correct the unacceptable service. If unacceptable service is not corrected after CONTRACTOR receives the "Notice to Correct Unacceptable Service," payment may be withheld by DEPARTMENT until corrections are made.
- 5.4 If unacceptable service continues, or if CONTRACTOR receives three (3) or more such notices, DEPARTMENT may terminate the contract as described in PSC-10-Termination, of the Standard Provisions for City Contracts (Rev. 3/09), attached hereto and incorporated herein by reference as Appendix A.

## SECTION 6 - COMPENSATION AND INVOICING

### 6.1 Compensation

DEPARTMENT will pay CONTRACTOR an amount for service outlined in the "Notice to Proceed" for each individual project. The total for this contract will not exceed Four Million Dollars (\$4,000,000.00) annually. CITY will monitor this not-to-exceed aggregate total.

- 6.2 CONTRACTOR shall inform DEPARTMENT of any additional project costs due to unforeseen delays and unexpected changes to the scope of work. Additional project costs shall be itemized by CONTRACTOR and approved by DEPARTMENT before payment is made to CONTRACTOR.

### 6.3 Invoicing

CONTRACTOR shall invoice upon completion of job by submitting two (2) copies of the invoice, which details the work performed in accordance with the original scope of services and any approved amendments to the scope, within thirty (30) days of completion of service.

CONTRACTOR shall submit invoices to:

Department of Recreation and Parks

Attention: Jimmy Newsom  
Contracts, Finance Division  
Valley Region  
6335 Woodley Ave  
Van Nuys, CA 91406

All invoices shall be submitted on CONTRACTOR'S letterhead, containing CONTRACTOR'S official logo, or other unique and identifying information such as the name and address of CONTRACTOR. Evidence that the task has been completed, in the form of a report, brochure or photographs, shall be attached to all invoices.

Invoices and supporting documentation shall be prepared at the sole expense and responsibility of CONTRACTOR. CITY will not compensate CONTRACTOR for costs incurred in invoice preparation. DEPARTMENT may request changes to the content and format of the invoice and supporting documentation at any time. DEPARTMENT reserves the right to request additional supporting documentation to substantiate costs at any time.

Tasks that are completed by subcontractors shall be supported by subcontractor invoices, copies of pages from reports, brochures, photographs, or other unique documentation that substantiates their charges.

Failure to adhere to these policies may result in nonpayment pursuant to Charter Section 262(a), which requires the City Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any City office or department, and to approve demands before they are drawn on the Treasury.

## SECTION 7 - INCORPORATION OF DOCUMENTS

This Contract and exhibits represent the entire integrated agreement of the parties and supersedes all prior written or oral representations, discussions, and agreements. The following documents are incorporated and made a part hereof by reference:

Appendix A. Standard Provisions for City Contracts (Rev. 3/09)

(Signature Page to Follow)

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their respective duly authorized representatives.

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners

By \_\_\_\_\_  
PRESIDENT

By \_\_\_\_\_  
SECRETARY

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

DEFENCE COMPANY

By \_\_\_\_\_

By \_\_\_\_\_  
SECRETARY

Approved as to Form:

MICHAEL N. FEUER  
City Attorney

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

By: \_\_\_\_\_  
DEPUTY CITY ATTORNEY

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 hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" herein in this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one **CONTRACTOR** herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

### **PSC-2. NUMBER OF ORIGINALS**

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the **CITY'S** option, one or more additional original texts of this Contract may also be retained by the City.

### **PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT**

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. 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, and/or procedures that apply to the performance of this Contract.

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 law of a federal, state or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of the Contract shall not be affected thereby.

**PSC-4. 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** hereto;
- 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 the **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

**PSC-5. INTEGRATED CONTRACT**

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, 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 paragraph PSC-6 hereof.

**PSC-6. AMENDMENT**

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-4.

**PSC-7. EXCUSABLE DELAYS**

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

**PSC-8. BREACH**

Except for excusable delays as described in PSC-7, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights

and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

**PSC-9. 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-10. TERMINATION**

**A. TERMINATION FOR CONVENIENCE**

The **CITY** may terminate this Contract for the **CITY'S** convenience at any time by giving **CONTRACTOR** thirty days written notice thereof. Upon receipt of said notice, **CONTRACTOR** shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The **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 affect such termination. Thereafter, **CONTRACTOR** shall have no further claims against the **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon the date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

**B. TERMINATION FOR BREACH OF CONTRACT**

1. Except for excusable delays as provided in PSC-7, 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, the **CITY** may give **CONTRACTOR** written notice of such default. If **CONTRACTOR** does not cure such default or provide a plan to cure such default which is acceptable to the **CITY** within the time permitted by the **CITY**, then the **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. 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 the **CITY** may immediately terminate this Contract.
3. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates the

**CITY'S** lobbying policies, then the **CITY** may immediately terminate this Contract.

4. In the event the **CITY** terminates this Contract as provided in this section, the **CITY** may procure, upon such terms and in such manner as the **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to the **CITY** for all of its costs and damages, including, but not limited, any excess costs for such services.
5. All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.
6. 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-10(A) Termination for Convenience.
7. 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.

#### **PSC-11. INDEPENDENT CONTRACTOR**

**CONTRACTOR** is acting hereunder as an independent contractor and not as an agent or employee of the **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 the **CITY**.

#### **PSC-12. CONTRACTOR'S PERSONNEL**

Unless otherwise provided or approved by the **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. The **CITY** shall have the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** agrees to remove personnel from performing work under this Contract if requested to do so by the **CITY**.

**CONTRACTOR** shall not use subcontractors to assist in performance of this Contract without the prior written approval of the **CITY**. If the **CITY** permits the use of subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of

this Contract. The **CITY** has the right to approve **CONTRACTOR'S** subcontractors, and the **CITY** reserves the right to request replacement of subcontractors. The **CITY** does not have any obligation to pay **CONTRACTOR'S** subcontractors, and nothing herein creates any privity between the **CITY** and the subcontractors.

**PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION**

**CONTRACTOR** may not, unless it has first obtained the written permission of the **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-14. PERMITS**

**CONTRACTOR** and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance hereunder and shall pay any fees required therefor. **CONTRACTOR** certifies to immediately notify the **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

**PSC-15. CLAIMS FOR LABOR AND MATERIALS**

**CONTRACTOR** shall promptly pay when due all amounts payable 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), against **CONTRACTOR'S** rights to payments hereunder, or against the **CITY**, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**PSC-16. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED**

If applicable, **CONTRACTOR** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this Contract, **CONTRACTOR** shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

**PSC-17. 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, in accordance with

requirements prescribed by the **CITY**. These records shall be retained for a period of no less than three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. Said records shall be subject to examination and audit by authorized **CITY** personnel or by the **CITY'S** representative at any time during the term of this Contract or within the three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. **CONTRACTOR** shall provide any reports requested by the **CITY** regarding performance of this Contract. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

**PSC-18. FALSE CLAIMS ACT**

**CONTRACTOR** acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the **CITY** under the False Claims Act (Cal. Gov. Code §§ 12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

**PSC-19. BONDS**

All bonds which may be required hereunder shall conform to **CITY** requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

**PSC-20. 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** undertakes and agrees to defend, indemnify and hold harmless the **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits 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 the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by **CONTRACTOR** or its subcontractors of any tier. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-20 shall survive expiration or termination of this Contract.

**PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION**

**CONTRACTOR**, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the **CITY**, and any of its Boards, Officers, Agents, Employees, Assigns,

and Successors in Interest from and against all suits 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 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 right (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 of any tier, in performing the work under this Contract; or (2) as a result of the **CITY'S** actual or intended use of any Work Product furnished by **CONTRACTOR**, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-21 shall survive expiration or termination of this Contract.

#### **PSC-22. 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, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

#### **PSC-23. OWNERSHIP AND LICENSE**

Unless otherwise provided for herein, all Work Products originated and prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract shall be and remain the exclusive property of the **CITY** for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, 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. **CONTRACTOR** hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by **CONTRACTOR** under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

For all Work Products delivered to the **CITY** that are not originated or prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract, **CONTRACTOR** hereby grants 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 the **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subcontractors performing work under this Contract such that the **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

#### **PSC-24. INSURANCE**

During the term of this Contract and without limiting **CONTRACTOR'S** indemnification of the **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by **CONTRACTOR**, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form General 146 in Exhibit 1 hereto), covering its operations hereunder. Such insurance shall conform to **CITY** requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto) and shall 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-25. DISCOUNT TERMS**

**CONTRACTOR** agrees to offer the **CITY** any discount terms that are offered to its best customers for the goods and services to be provided hereunder and apply such discount to payments made under this Contract which meet the discount terms.

#### **PSC-26. 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-27. NON-DISCRIMINATION**

Unless otherwise exempt, this Contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The **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 the **CITY**. In performing this Contract, **CONTRACTOR** shall not

discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

### **PSC-28. EQUAL EMPLOYMENT PRACTICES**

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **CONTRACTOR** and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of **CITY** contracts. On their or either of their request **CONTRACTOR** shall provide evidence that he or she has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of **CITY** contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has failed to comply with the Equal Employment Practices provisions of a **CITY** contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until **CONTRACTOR** shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the **CITY**, or when an individual bid or proposal is submitted, **CONTRACTOR** shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of **CITY** Contracts.

- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
  - 1. Hiring practices;
  - 2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  - 3. Training and promotional opportunities; and
  - 4. Reasonable accommodations for persons with disabilities.
  
- L. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR'S** Contract with the **CITY**.

**PSC-29. AFFIRMATIVE ACTION PROGRAM**

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
  
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to

their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, **CONTRACTOR** shall certify on an electronic or hard copy form to be supplied, that **CONTRACTOR** has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of **CITY** contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Affirmative Action Program provisions of **CITY** contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has breached the Affirmative Action Program provisions of a **CITY** contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that **CONTRACTOR** has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a **CITY** contract, there may be deducted from the amount payable to **CONTRACTOR** by the **CITY** under the contract, a penalty of ten dollars

(\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a **CITY** contract.

- H. Notwithstanding any other provisions of a **CITY** contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in **CITY** contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. **CONTRACTOR** shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the **CITY**. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, **CONTRACTOR** may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, **CONTRACTOR** must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
  - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
  - 2. **CONTRACTOR** may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the **CITY** with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and **CONTRACTOR**.

- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  2. Classroom preparation for the job when not apprenticeable;
  3. Pre-apprenticeship education and preparation;
  4. Upgrading training and opportunities;
  5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
  6. The entry of qualified women, minority and all other journeymen into the industry; and
  7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the **CITY'S** Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the **CITY** and may be used at the discretion of the **CITY** in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.

- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the **CITY** and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the **CITY**.

**PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS**

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, **CONTRACTOR** will fully comply with all applicable State and Federal employment reporting requirements for **CONTRACTOR'S** employees. **CONTRACTOR** shall also certify (1) that the Principal Owner(s) of **CONTRACTOR** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that **CONTRACTOR** will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, *et seq.* of the California Family Code; and (3) that **CONTRACTOR** will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to obtain compliance of its subcontractors shall constitute a default by **CONTRACTOR** under this Contract, subjecting this Contract to termination where such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

**CONTRACTOR** certifies that, to the best of its knowledge, it is fully complying with the Earnings Assignment Orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

**PSC-31. LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE**

- A. Unless otherwise exempt, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:
1. **CONTRACTOR** assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.
  2. **CONTRACTOR** further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. **CONTRACTOR** shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. **CONTRACTOR** shall deliver the executed pledges from each such subcontractor to the **CITY** within ninety (90) days of the execution of the subcontract. **CONTRACTOR'S** delivery of executed pledges from each such subcontractor shall fully discharge the obligation of **CONTRACTOR** with respect to such pledges and fully discharge the obligation of **CONTRACTOR** to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
  3. **CONTRACTOR**, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the **CITY** with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. **CONTRACTOR** shall post the Notice of Prohibition Against Retaliation provided by the **CITY**.
  4. Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of PSC-31 and shall incorporate the provisions of the LWO and the SCWRO.

5. **CONTRACTOR** shall comply with all rules, regulations and policies promulgated by the **CITY'S** Designated Administrative Agency which may be amended from time to time.
- B. Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR** has violated provisions of either the LWO or the SCWRO, or both.
- C. Where under the LWO Section 10.37.6(d), the **CITY'S** Designated Administrative Agency has determined (a) that **CONTRACTOR** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the **CITY** in such circumstances may impound monies otherwise due **CONTRACTOR** in accordance with the following procedures. Impoundment shall mean that from monies due **CONTRACTOR**, **CITY** may deduct the amount determined to be due and owing by **CONTRACTOR** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether **CONTRACTOR** is to continue work following an impoundment shall remain in the sole discretion of the **CITY**. **CONTRACTOR** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.
- D. **CONTRACTOR** shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). **CONTRACTOR** shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from **CONTRACTOR**.

**PSC-32. AMERICANS WITH DISABILITIES ACT**

**CONTRACTOR** hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations. **CONTRACTOR** will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. **CONTRACTOR** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by **CONTRACTOR**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

### **PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time, which requires **CONTRACTOR** to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect **CONTRACTOR'S** fitness and ability to continue performing this Contract.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this Contract, **CONTRACTOR** pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. **CONTRACTOR** further agrees to: (1) notify the **CITY** within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that **CONTRACTOR** is not in compliance with all applicable federal, state and local laws in performance of this Contract; (2) notify the **CITY** within thirty calendar days of all findings by a government agency or court of competent jurisdiction that **CONTRACTOR** has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance; (3) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the **CITY**; and (4) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the **CITY** within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

### **PSC-34. MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM**

**CONTRACTOR** agrees and obligates itself to utilize the services of Minority, Women and Other Business Enterprise firms on a level so designated in its proposal, if any. **CONTRACTOR** certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Personal Services Contracts Greater than \$100,000, if applicable. **CONTRACTOR** shall not change any of these designated subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of the **CITY**, provided that such approval shall not be unreasonably withheld.

### **PSC-35. EQUAL BENEFITS ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of the Contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** will comply with the EBO.
- B. The failure of **CONTRACTOR** to comply with the EBO will be deemed to be a material breach of this Contract by the **CITY**.
- C. If **CONTRACTOR** fails to comply with the EBO the **CITY** may cancel, terminate or suspend this Contract, in whole or in part, and all monies due or to become due under this Contract may be retained by the **CITY**. The **CITY** may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.
- E. If the **CITY'S** Designated Administrative Agency determines that a **CONTRACTOR** has set up or used its contracting entity for the purpose of evading the intent of the EBO, the **CITY** may terminate the Contract. Violation of this provision may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

**CONTRACTOR** shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

“During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles’ Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922.”

**PSC-36. SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in 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](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-4, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

CONTRACT NO. \_\_\_\_\_

BETWEEN

THE CITY OF LOS ANGELES

DEPARTMENT OF RECREATION AND PARKS

AND

IZURIETA FENCE COMPANY

FOR FENCE AND WALL INSTALLATION, MAINTENANCE AND/OR REPAIRS

This CONTRACT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the City of Los Angeles, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners (hereinafter referred to as CITY), and IZURIETA FENCE COMPANY, hereinafter referred to as CONTRACTOR.

RECITALS

WHEREAS, the Department of Recreation and Parks (DEPARTMENT) owns various facilities and infrastructure throughout the City of Los Angeles and is responsible for the maintenance and improvements for such facilities and infrastructure; and

WHEREAS, DEPARTMENT requires the services of an experienced and responsible CONTRACTOR to perform Chain-Link and/or Omega Fencing for the DEPARTMENT; and

WHEREAS, a Request for Qualifications (RFQ) for Fence and Wall Installation, Maintenance and/or Repairs was released on September 1, 2016, and nine (9) responses to the RFQ were received on November 3, 2016; and

WHEREAS, the CONTRACTOR'S response met the minimum requirement for the Chain-Link and/or Omega Fencing component as specified in the RFQ; and

WHEREAS, CONTRACTOR has the necessary equipment and staff who possess sufficient knowledge, expertise, and experience required to provide the necessary services and has indicated its willingness to perform such services; and

WHEREAS, CITY, pursuant to Charter Section 371(e)(2) and Los Angeles Administrative Code Section 10.15(a)(2), finds that competitive bidding is not practicable or advantageous as it is necessary for the DEPARTMENT to be able to call on contractors to perform this expert, technical work as-needed and on an occasional, but frequent, basis without engaging in a new competitive process for each individual project to be performed; however, from among as needed contractors each individual project is assigned on the basis of availability of an as-needed contractor to perform the work, the price to be charged and the unique expertise of the as-needed contractor; and,

WHEREAS, CITY, pursuant to Charter Section 372, finds that obtaining competitive proposals or bids for each individual project for which work may be performed pursuant to this agreement is not reasonably practicable or compatible with the DEPARTMENT's interests of having available as-needed contractors who are assigned various projects on the basis of availability, price and expertise and that it is therefore necessary to have several as-needed contractors for this type of service available when called upon by the DEPARTMENT to perform services; and,

WHEREAS, CITY, pursuant to Charter Section 371(e)(10), finds that use of competitive bidding would be undesirable, impractical or impossible or is otherwise excused by the common law and the Charter because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by the Department to provide as-needed fence and wall installation, maintenance and repairs services;

WHEREAS, CITY, pursuant to Charter Section 1022, finds that Department does not have, available in its employ, personnel with sufficient time or necessary expertise to undertake (*this task*) in a timely manner, and it is more feasible, economical and in RAP's best interest, to secure these services by contract with several contractors to perform this work as-needed and on an occasional, but frequent basis, without engaging in a new competitive bidding process for each individual project to be performed; and

NOW, THEREFORE, CITY AND CONTRACTOR, in consideration of the recitals above and of the terms, covenants, and conditions contained herein, agree as follows:

## SECTION 1 - PARTIES TO CONTRACT, REPRESENTATIVES AND NOTICE

### 1.1 Parties

The parties to this Contract are:

DEPARTMENT - The City of Los Angeles, a municipal corporation, Department of Recreation and Parks, acting by and through its Board of Recreation and Park Commissioners, having its principal office located at 221 North Figueroa Street, Room 300, Los Angeles, California 90012.

CONTRACTOR – IZURIETA FENCE COMPANY, having its principal office located at 3000 Gilroy Street, Los Angeles, CA 90039

### 1.2 Representatives

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

DEPARTMENT's representative will be:

Michael A. Shull, General Manager  
Department of Recreation and Parks  
221 N. Figueroa St., Suite 350  
Los Angeles, CA 90012

With copies to:

Jimmy Newsom, Senior Management Analyst I  
Department of Recreation and Parks  
Contracts, Finance Division  
6335 Woodley Ave  
Van Nuys, CA 91405

Telephone Number: (818) 756-9294  
Fax Number: (818) 908-9786

CONTRACTOR'S representative will be:

Peter Izurieta, President  
Izurieta Fence Company  
3000 Gilroy Street  
Los Angeles, CA 90039

Telephone Number: (323) 661-4759  
Fax Number: (323) 661-4774

### 1.3 Notices

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

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

## SECTION 2 - TERM OF CONTRACT

The term of this contract shall be three (3) years from the date of execution between the CONTRACTOR and CITY, subject to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts.

## SECTION 3 - SERVICES TO BE PERFORMED BY THE CONTRACTOR

### 3.1 Conduct of Operations

- A. At all times, work must conform to all current, relevant Federal, State and Local Municipal Codes and Regulations.

- B. CONTRACTOR shall endeavor to maintain good public relations at all times. The work shall be conducted in a manner that will cause the least possible interference with or annoyance to park patrons or employees.
- C. A qualified supervisor shall be present and readily available to City personnel and the public during hours of operation at each work site. The site supervisor shall be available to the Contract Inspector at all times during normal working hours. Avoiding contact with the Contract Inspector may result in suspension of work without extension.
- D. CONTRACTOR's working hours must coincide with those of the Department of Recreation and Parks (Monday through Friday, 7:00 a.m. – 3:30 p.m., excluding City holidays). The Department of Recreation and Parks must first approve any deviation from these hours and/or work on weekends and/or holidays.
- E. CONTRACTOR shall carefully protect from damage all existing trees, shrubs, plants, fences, and other features. The CONTRACTOR shall be liable for any and all damage(s) caused by contract operations to such trees, shrubs, plants, other growth and features or property. All damaged trees, shrubs, plants, other growth and features, and property shall be replaced or restored to their original condition to the satisfaction of the Contract Inspector at CONTRACTOR's expense.
- F. At all times, traffic control measures should conform to the Work Area Traffic Control Handbook, latest edition, published by Building New, Inc. Pedestrian and vehicular traffic shall be allowed to pass through the work area only under conditions of safety and with as little inconvenience and delay as possible. CONTRACTOR shall provide and maintain adequate barricades and warning devices. Flag persons shall be stationed as reasonably necessary for the safety of persons and vehicles.
- G. The roads and pathways shall be left free of debris at the close of each day's operation.
- H. Contractor will be responsible for all safety requirements and certifications in accordance with CAL-OSHA rules and regulations. It will be the CONTRACTOR's responsibility to assess the work location and implement safety controls and procedures that are compliant with Title 8 of the California Code of Regulations. All projects will be awarded to CONTRACTOR as a "Single Employer" in accordance with CAL OSHA classifications. CONTRACTOR will be responsible and have full control over all activities as well as safety requirements thereof, for each as-need project awarded.
- I. CONTRACTOR shall notify the Contract Inspector at least twenty-four (24) hours prior to starting the work required by the contract.
- J. If CONTRACTOR, after having officially started said contract, should discontinue work for any cause, CONTRACTOR shall notify the Contract Inspector of intent to do so, and shall further provide the Contract Inspector with the date that operations will resume.

- K. All work shall be completed to the satisfaction of the Department of Recreation and Parks' Contract Inspector. Work will be considered complete only when signed off by the Contract Inspector. Work shall be performed to the specifications as determined by RAP.
- L. Failure to comply with any requirement contained herein may result in suspension of work without extension.
- M. The Contract Inspector must approve any request for subcontracting of work prior to such subcontracting.
- N. CONTRACTOR shall provide equipment and personnel for all tasks.

#### SECTION 4 - SERVICES TO BE PROVIDED BY RAP

- 4.1 DEPARTMENT personnel will work cooperatively with the CONTRACTOR to ensure timely approvals of all items required under this contract.
- 4.2 DEPARTMENT will promptly act, review, and make decisions as necessary to permit the orderly progress of this work.

#### SECTION 5 - INSPECTION

- 5.1 CONTRACTOR must request final inspection from DEPARTMENT representative for work completed at each site.
- 5.2 CONTRACTOR will receive written notification for any services and/or delivery determined by the Project Manager or his/her designee to be below an acceptable level. This notification shall be in the form of a "Notice to Correct Unacceptable Service."
- 5.3 CONTRACTOR shall respond in writing to the Project Manager indicating the steps taken to correct the unacceptable service. If unacceptable service is not corrected after CONTRACTOR receives the "Notice to Correct Unacceptable Service," payment may be withheld by DEPARTMENT until corrections are made.
- 5.4 If unacceptable service continues, or if CONTRACTOR receives three (3) or more such notices, DEPARTMENT may terminate the contract as described in PSC-10-Termination, of the Standard Provisions for City Contracts (Rev. 3/09), attached hereto and incorporated herein by reference as Appendix A.

#### SECTION 6 - COMPENSATION AND INVOICING

##### 6.1 Compensation

DEPARTMENT will pay CONTRACTOR an amount for service outlined in the "Notice to Proceed" for each individual project. The total for this contract will not exceed Four Million Dollars (\$4,000,000.00) annually. CITY will monitor this not-to-exceed aggregate total.

6.2 CONTRACTOR shall inform DEPARTMENT of any additional project costs due to unforeseen delays and unexpected changes to the scope of work. Additional project costs shall be itemized by CONTRACTOR and approved by DEPARTMENT before payment is made to CONTRACTOR.

6.3 Invoicing

CONTRACTOR shall invoice upon completion of job by submitting two (2) copies of the invoice, which details the work performed in accordance with the original scope of services and any approved amendments to the scope, within thirty (30) days of completion of service.

CONTRACTOR shall submit invoices to:

Department of Recreation and Parks  
Attention: Jimmy Newsom  
Contracts, Finance Division  
Valley Region  
6335 Woodley Ave  
Van Nuys, CA 91406

All invoices shall be submitted on CONTRACTOR'S letterhead, containing CONTRACTOR'S official logo, or other unique and identifying information such as the name and address of CONTRACTOR. Evidence that the task has been completed, in the form of a report, brochure or photographs, shall be attached to all invoices.

Invoices and supporting documentation shall be prepared at the sole expense and responsibility of CONTRACTOR. CITY will not compensate CONTRACTOR for costs incurred in invoice preparation. DEPARTMENT may request changes to the content and format of the invoice and supporting documentation at any time. DEPARTMENT reserves the right to request additional supporting documentation to substantiate costs at any time.

Tasks that are completed by subcontractors shall be supported by subcontractor invoices, copies of pages from reports, brochures, photographs, or other unique documentation that substantiates their charges.

Failure to adhere to these policies may result in nonpayment pursuant to Charter Section 262(a), which requires the City Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any City office or department, and to approve demands before they are drawn on the Treasury.

#### SECTION 7 - INCORPORATION OF DOCUMENTS

This Contract and exhibits represent the entire integrated agreement of the parties and supersedes all prior written or oral representations, discussions, and agreements. The following documents are incorporated and made a part hereof by reference:

Appendix A. Standard Provisions for City Contracts (Rev. 3/09)

(Signature Page to Follow)

ATTACHMENT 6

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their respective duly authorized representatives.

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

THE CITY OF LOS ANGELES, a municipal  
corporation, acting by and through its Board of  
Recreation and Park Commissioners

By \_\_\_\_\_  
PRESIDENT

By \_\_\_\_\_  
SECRETARY

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

IZURIETA FENCE COMPANY

By \_\_\_\_\_

By \_\_\_\_\_  
SECRETARY

Approved as to Form:

MICHAEL N. FEUER  
City Attorney

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

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

DEPUTY CITY ATTORNEY

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 hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" herein in this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one **CONTRACTOR** herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

### **PSC-2. NUMBER OF ORIGINALS**

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the **CITY'S** option, one or more additional original texts of this Contract may also be retained by the City.

### **PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT**

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. 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, and/or procedures that apply to the performance of this Contract.

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 law of a federal, state or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of the Contract shall not be affected thereby.

**PSC-4. 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** hereto;
- 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 the **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

**PSC-5. INTEGRATED CONTRACT**

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, 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 paragraph PSC-6 hereof.

**PSC-6. AMENDMENT**

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-4.

**PSC-7. EXCUSABLE DELAYS**

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

**PSC-8. BREACH**

Except for excusable delays as described in PSC-7, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights

and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

**PSC-9. 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-10. TERMINATION**

**A. TERMINATION FOR CONVENIENCE**

The **CITY** may terminate this Contract for the **CITY'S** convenience at any time by giving **CONTRACTOR** thirty days written notice thereof. Upon receipt of said notice, **CONTRACTOR** shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The **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 affect such termination. Thereafter, **CONTRACTOR** shall have no further claims against the **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon the date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

**B. TERMINATION FOR BREACH OF CONTRACT**

1. Except for excusable delays as provided in PSC-7, 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, the **CITY** may give **CONTRACTOR** written notice of such default. If **CONTRACTOR** does not cure such default or provide a plan to cure such default which is acceptable to the **CITY** within the time permitted by the **CITY**, then the **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. 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 the **CITY** may immediately terminate this Contract.
3. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates the

**CITY'S** lobbying policies, then the **CITY** may immediately terminate this Contract.

4. In the event the **CITY** terminates this Contract as provided in this section, the **CITY** may procure, upon such terms and in such manner as the **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to the **CITY** for all of its costs and damages, including, but not limited, any excess costs for such services.
5. All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.
6. 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-10(A) Termination for Convenience.
7. 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.

#### **PSC-11. INDEPENDENT CONTRACTOR**

**CONTRACTOR** is acting hereunder as an independent contractor and not as an agent or employee of the **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 the **CITY**.

#### **PSC-12. CONTRACTOR'S PERSONNEL**

Unless otherwise provided or approved by the **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. The **CITY** shall have the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** agrees to remove personnel from performing work under this Contract if requested to do so by the **CITY**.

**CONTRACTOR** shall not use subcontractors to assist in performance of this Contract without the prior written approval of the **CITY**. If the **CITY** permits the use of subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of

this Contract. The **CITY** has the right to approve **CONTRACTOR'S** subcontractors, and the **CITY** reserves the right to request replacement of subcontractors. The **CITY** does not have any obligation to pay **CONTRACTOR'S** subcontractors, and nothing herein creates any privity between the **CITY** and the subcontractors.

**PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION**

**CONTRACTOR** may not, unless it has first obtained the written permission of the **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-14. PERMITS**

**CONTRACTOR** and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance hereunder and shall pay any fees required therefor. **CONTRACTOR** certifies to immediately notify the **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

**PSC-15. CLAIMS FOR LABOR AND MATERIALS**

**CONTRACTOR** shall promptly pay when due all amounts payable 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), against **CONTRACTOR'S** rights to payments hereunder, or against the **CITY**, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**PSC-16. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED**

If applicable, **CONTRACTOR** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this Contract, **CONTRACTOR** shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

**PSC-17. 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, in accordance with

requirements prescribed by the **CITY**. These records shall be retained for a period of no less than three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. Said records shall be subject to examination and audit by authorized **CITY** personnel or by the **CITY'S** representative at any time during the term of this Contract or within the three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. **CONTRACTOR** shall provide any reports requested by the **CITY** regarding performance of this Contract. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

**PSC-18. FALSE CLAIMS ACT**

**CONTRACTOR** acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the **CITY** under the False Claims Act (Cal. Gov. Code §§ 12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

**PSC-19. BONDS**

All bonds which may be required hereunder shall conform to **CITY** requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

**PSC-20. 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** undertakes and agrees to defend, indemnify and hold harmless the **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits 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 the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by **CONTRACTOR** or its subcontractors of any tier. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-20 shall survive expiration or termination of this Contract.

**PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION**

**CONTRACTOR**, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the **CITY**, and any of its Boards, Officers, Agents, Employees, Assigns,

and Successors in Interest from and against all suits 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 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 right (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 of any tier, in performing the work under this Contract; or (2) as a result of the **CITY'S** actual or intended use of any Work Product furnished by **CONTRACTOR**, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-21 shall survive expiration or termination of this Contract.

#### **PSC-22. 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, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

#### **PSC-23. OWNERSHIP AND LICENSE**

Unless otherwise provided for herein, all Work Products originated and prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract shall be and remain the exclusive property of the **CITY** for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, 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. **CONTRACTOR** hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by **CONTRACTOR** under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

For all Work Products delivered to the **CITY** that are not originated or prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract, **CONTRACTOR** hereby grants 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 the **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subcontractors performing work under this Contract such that the **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

#### **PSC-24. INSURANCE**

During the term of this Contract and without limiting **CONTRACTOR'S** indemnification of the **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by **CONTRACTOR**, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form General 146 in Exhibit 1 hereto), covering its operations hereunder. Such insurance shall conform to **CITY** requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto) and shall 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-25. DISCOUNT TERMS**

**CONTRACTOR** agrees to offer the **CITY** any discount terms that are offered to its best customers for the goods and services to be provided hereunder and apply such discount to payments made under this Contract which meet the discount terms.

#### **PSC-26. 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-27. NON-DISCRIMINATION**

Unless otherwise exempt, this Contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The **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 the **CITY**. In performing this Contract, **CONTRACTOR** shall not

discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

### **PSC-28. EQUAL EMPLOYMENT PRACTICES**

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **CONTRACTOR** and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of **CITY** contracts. On their or either of their request **CONTRACTOR** shall provide evidence that he or she has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of **CITY** contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has failed to comply with the Equal Employment Practices provisions of a **CITY** contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until **CONTRACTOR** shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the **CITY**, or when an individual bid or proposal is submitted, **CONTRACTOR** shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of **CITY** Contracts.

- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
  - 1. Hiring practices;
  - 2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  - 3. Training and promotional opportunities; and
  - 4. Reasonable accommodations for persons with disabilities.
  
- L. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR'S** Contract with the **CITY**.

**PSC-29. AFFIRMATIVE ACTION PROGRAM**

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
  
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to

their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, **CONTRACTOR** shall certify on an electronic or hard copy form to be supplied, that **CONTRACTOR** has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of **CITY** contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Affirmative Action Program provisions of **CITY** contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has breached the Affirmative Action Program provisions of a **CITY** contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that **CONTRACTOR** has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a **CITY** contract, there may be deducted from the amount payable to **CONTRACTOR** by the **CITY** under the contract, a penalty of ten dollars

(\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a **CITY** contract.

- H. Notwithstanding any other provisions of a **CITY** contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in **CITY** contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. **CONTRACTOR** shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the **CITY**. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, **CONTRACTOR** may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, **CONTRACTOR** must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
  - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
  - 2. **CONTRACTOR** may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the **CITY** with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and **CONTRACTOR**.

- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  2. Classroom preparation for the job when not apprenticeable;
  3. Pre-apprenticeship education and preparation;
  4. Upgrading training and opportunities;
  5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
  6. The entry of qualified women, minority and all other journeymen into the industry; and
  7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the **CITY'S** Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the **CITY** and may be used at the discretion of the **CITY** in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.

- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the **CITY** and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the **CITY**.

**PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS**

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, **CONTRACTOR** will fully comply with all applicable State and Federal employment reporting requirements for **CONTRACTOR'S** employees. **CONTRACTOR** shall also certify (1) that the Principal Owner(s) of **CONTRACTOR** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that **CONTRACTOR** will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, *et seq.* of the California Family Code; and (3) that **CONTRACTOR** will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to obtain compliance of its subcontractors shall constitute a default by **CONTRACTOR** under this Contract, subjecting this Contract to termination where such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

**CONTRACTOR** certifies that, to the best of its knowledge, it is fully complying with the Earnings Assignment Orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

**PSC-31. LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE**

- A. Unless otherwise exempt, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:
1. **CONTRACTOR** assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.
  2. **CONTRACTOR** further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. **CONTRACTOR** shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. **CONTRACTOR** shall deliver the executed pledges from each such subcontractor to the **CITY** within ninety (90) days of the execution of the subcontract. **CONTRACTOR'S** delivery of executed pledges from each such subcontractor shall fully discharge the obligation of **CONTRACTOR** with respect to such pledges and fully discharge the obligation of **CONTRACTOR** to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
  3. **CONTRACTOR**, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the **CITY** with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. **CONTRACTOR** shall post the Notice of Prohibition Against Retaliation provided by the **CITY**.
  4. Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of PSC-31 and shall incorporate the provisions of the LWO and the SCWRO.

5. **CONTRACTOR** shall comply with all rules, regulations and policies promulgated by the **CITY'S** Designated Administrative Agency which may be amended from time to time.
- B. Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR** has violated provisions of either the LWO or the SCWRO, or both.
- C. Where under the LWO Section 10.37.6(d), the **CITY'S** Designated Administrative Agency has determined (a) that **CONTRACTOR** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the **CITY** in such circumstances may impound monies otherwise due **CONTRACTOR** in accordance with the following procedures. Impoundment shall mean that from monies due **CONTRACTOR**, **CITY** may deduct the amount determined to be due and owing by **CONTRACTOR** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether **CONTRACTOR** is to continue work following an impoundment shall remain in the sole discretion of the **CITY**. **CONTRACTOR** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.
- D. **CONTRACTOR** shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). **CONTRACTOR** shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from **CONTRACTOR**.

**PSC-32. AMERICANS WITH DISABILITIES ACT**

**CONTRACTOR** hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations. **CONTRACTOR** will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. **CONTRACTOR** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by **CONTRACTOR**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

### **PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time, which requires **CONTRACTOR** to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect **CONTRACTOR'S** fitness and ability to continue performing this Contract.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this Contract, **CONTRACTOR** pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. **CONTRACTOR** further agrees to: (1) notify the **CITY** within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that **CONTRACTOR** is not in compliance with all applicable federal, state and local laws in performance of this Contract; (2) notify the **CITY** within thirty calendar days of all findings by a government agency or court of competent jurisdiction that **CONTRACTOR** has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance; (3) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the **CITY**; and (4) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the **CITY** within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

### **PSC-34. MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM**

**CONTRACTOR** agrees and obligates itself to utilize the services of Minority, Women and Other Business Enterprise firms on a level so designated in its proposal, if any. **CONTRACTOR** certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Personal Services Contracts Greater than \$100,000, if applicable. **CONTRACTOR** shall not change any of these designated subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of the **CITY**, provided that such approval shall not be unreasonably withheld.

### **PSC-35. EQUAL BENEFITS ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of the Contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** will comply with the EBO.
- B. The failure of **CONTRACTOR** to comply with the EBO will be deemed to be a material breach of this Contract by the **CITY**.
- C. If **CONTRACTOR** fails to comply with the EBO the **CITY** may cancel, terminate or suspend this Contract, in whole or in part, and all monies due or to become due under this Contract may be retained by the **CITY**. The **CITY** may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.
- E. If the **CITY'S** Designated Administrative Agency determines that a **CONTRACTOR** has set up or used its contracting entity for the purpose of evading the intent of the EBO, the **CITY** may terminate the Contract. Violation of this provision may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

**CONTRACTOR** shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

“During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles’ Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922.”

**PSC-36. SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in 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](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-4, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

CONTRACT NO. \_\_\_\_\_

BETWEEN

THE CITY OF LOS ANGELES

DEPARTMENT OF RECREATION AND PARKS

AND

JUDGE NETTING, INC.

FOR FENCE AND WALL INSTALLATION, MAINTENANCE AND/OR REPAIRS

This CONTRACT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the City of Los Angeles, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners (hereinafter referred to as CITY), and JUDGE NETTING, INC., hereinafter referred to as CONTRACTOR.

RECITALS

WHEREAS, the Department of Recreation and Parks (DEPARTMENT) owns various facilities and infrastructure throughout the City of Los Angeles and is responsible for the maintenance and improvements for such facilities and infrastructure; and

WHEREAS, DEPARTMENT requires the services of an experienced and responsible CONTRACTOR to perform Sports Netting/Fencing for the DEPARTMENT; and

WHEREAS, a Request for Qualifications (RFQ) for Fence and Wall Installation, Maintenance and/or Repairs was released on September 1, 2016, and nine (9) responses to the RFQ were received on November 3, 2016; and

WHEREAS, the CONTRACTOR'S response met the minimum requirement for the Sports Netting/Fencing component as specified in the RFQ; and

WHEREAS, CONTRACTOR has the necessary equipment and staff who possess sufficient knowledge, expertise, and experience required to provide the necessary services and has indicated its willingness to perform such services; and

WHEREAS, CITY, pursuant to Charter Section 371(e)(2) and Los Angeles Administrative Code Section 10.15(a)(2), finds that competitive bidding is not practicable or advantageous as it is necessary for the DEPARTMENT to be able to call on contractors to perform this expert, technical work as-needed and on an occasional, but frequent, basis without engaging in a new competitive process for each individual project to be performed; however, from among as needed contractors each individual project is assigned on the basis of availability of an as-needed contractor to perform the work, the price to be charged and the unique expertise of the as-needed contractor; and,

WHEREAS, CITY, pursuant to Charter Section 372, finds that obtaining competitive proposals or bids for each individual project for which work may be performed pursuant to this agreement is not reasonably practicable or compatible with the DEPARTMENT's interests of having available as-needed contractors who are assigned various projects on the basis of availability, price and expertise and that it is therefore necessary to have several as-needed contractors for this type of service available when called upon by the DEPARTMENT to perform services; and,

WHEREAS, CITY, pursuant to Charter Section 371(e)(10), finds that use of competitive bidding would be undesirable, impractical or impossible or is otherwise excused by the common law and the Charter because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by the Department to provide as-needed fence and wall installation, maintenance and repairs services;

WHEREAS, CITY, pursuant to Charter Section 1022, finds that Department does not have, available in its employ, personnel with sufficient time or necessary expertise to undertake (*this task*) in a timely manner, and it is more feasible, economical and in RAP's best interest, to secure these services by contract with several contractors to perform this work as-needed and on an occasional, but frequent basis, without engaging in a new competitive bidding process for each individual project to be performed; and

NOW, THEREFORE, CITY AND CONTRACTOR, in consideration of the recitals above and of the terms, covenants, and conditions contained herein, agree as follows:

## SECTION 1 - PARTIES TO CONTRACT, REPRESENTATIVES AND NOTICE

### 1.1 Parties

The parties to this Contract are:

DEPARTMENT - The City of Los Angeles, a municipal corporation, Department of Recreation and Parks, acting by and through its Board of Recreation and Park Commissioners, having its principal office located at 221 North Figueroa Street, Room 300, Los Angeles, California 90012.

CONTRACTOR – JUDGE NETTING, INC., having its principal office located at 427 E.17th St, #489, Costa Mesa, CA 92627

### 1.2 Representatives

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

DEPARTMENT's representative will be:

Michael A. Shull, General Manager  
Department of Recreation and Parks  
221 N. Figueroa St., Suite 350  
Los Angeles, CA 90012

With copies to:

Jimmy Newsom, Senior Management Analyst I  
Department of Recreation and Parks  
Contracts, Finance Division  
6335 Woodley Ave  
Van Nuys, CA 91405

Telephone Number: (818) 756-9294  
Fax Number: (818) 908-9786

CONTRACTOR'S representative will be:

Daniel Judge, President  
Judge Netting, Inc.  
427 E. 17th St, #489  
Costa Mesa, CA 92627

Telephone Number: (714) 265-2200  
Fax Number: (714) 265-2400

### 1.3 Notices

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

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

## SECTION 2 - TERM OF CONTRACT

The term of this contract shall be three (3) years from the date of execution between the CONTRACTOR and CITY, subject to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts.

## SECTION 3 - SERVICES TO BE PERFORMED BY THE CONTRACTOR

### 3.1 Conduct of Operations

- A. At all times, work must conform to all current, relevant Federal, State and Local Municipal Codes and Regulations.

- B. CONTRACTOR shall endeavor to maintain good public relations at all times. The work shall be conducted in a manner that will cause the least possible interference with or annoyance to park patrons or employees.
- C. A qualified supervisor shall be present and readily available to City personnel and the public during hours of operation at each work site. The site supervisor shall be available to the Contract Inspector at all times during normal working hours. Avoiding contact with the Contract Inspector may result in suspension of work without extension.
- D. CONTRACTOR's working hours must coincide with those of the Department of Recreation and Parks (Monday through Friday, 7:00 a.m. – 3:30 p.m., excluding City holidays). The Department of Recreation and Parks must first approve any deviation from these hours and/or work on weekends and/or holidays.
- E. CONTRACTOR shall carefully protect from damage all existing trees, shrubs, plants, fences, and other features. The CONTRACTOR shall be liable for any and all damage(s) caused by contract operations to such trees, shrubs, plants, other growth and features or property. All damaged trees, shrubs, plants, other growth and features, and property shall be replaced or restored to their original condition to the satisfaction of the Contract Inspector at CONTRACTOR's expense.
- F. At all times, traffic control measures should conform to the Work Area Traffic Control Handbook, latest edition, published by Building New, Inc. Pedestrian and vehicular traffic shall be allowed to pass through the work area only under conditions of safety and with as little inconvenience and delay as possible. CONTRACTOR shall provide and maintain adequate barricades and warning devices. Flag persons shall be stationed as reasonably necessary for the safety of persons and vehicles.
- G. The roads and pathways shall be left free of debris at the close of each day's operation.
- H. Contractor will be responsible for all safety requirements and certifications in accordance with CAL-OSHA rules and regulations. It will be the CONTRACTOR's responsibility to assess the work location and implement safety controls and procedures that are compliant with Title 8 of the California Code of Regulations. All projects will be awarded to CONTRACTOR as a "Single Employer" in accordance with CAL OSHA classifications. CONTRACTOR will be responsible and have full control over all activities as well as safety requirements thereof, for each as-need project awarded.
- I. CONTRACTOR shall notify the Contract Inspector at least twenty-four (24) hours prior to starting the work required by the contract.
- J. If CONTRACTOR, after having officially started said contract, should discontinue work for any cause, CONTRACTOR shall notify the Contract Inspector of intent to do so, and shall further provide the Contract Inspector with the date that operations will resume.

- K. All work shall be completed to the satisfaction of the Department of Recreation and Parks' Contract Inspector. Work will be considered complete only when signed off by the Contract Inspector. Work shall be performed to the specifications as determined by RAP.
- L. Failure to comply with any requirement contained herein may result in suspension of work without extension.
- M. The Contract Inspector must approve any request for subcontracting of work prior to such subcontracting.
- N. CONTRACTOR shall provide equipment and personnel for all tasks.

#### SECTION 4 - SERVICES TO BE PROVIDED BY RAP

- 4.1 DEPARTMENT personnel will work cooperatively with the CONTRACTOR to ensure timely approvals of all items required under this contract.
- 4.2 DEPARTMENT will promptly act, review, and make decisions as necessary to permit the orderly progress of this work.

#### SECTION 5 - INSPECTION

- 5.1 CONTRACTOR must request final inspection from DEPARTMENT representative for work completed at each site.
- 5.2 CONTRACTOR will receive written notification for any services and/or delivery determined by the Project Manager or his/her designee to be below an acceptable level. This notification shall be in the form of a "Notice to Correct Unacceptable Service."
- 5.3 CONTRACTOR shall respond in writing to the Project Manager indicating the steps taken to correct the unacceptable service. If unacceptable service is not corrected after CONTRACTOR receives the "Notice to Correct Unacceptable Service," payment may be withheld by DEPARTMENT until corrections are made.
- 5.4 If unacceptable service continues, or if CONTRACTOR receives three (3) or more such notices, DEPARTMENT may terminate the contract as described in PSC-10-Termination, of the Standard Provisions for City Contracts (Rev. 3/09), attached hereto and incorporated herein by reference as Appendix A.

#### SECTION 6 - COMPENSATION AND INVOICING

##### 6.1 Compensation

DEPARTMENT will pay CONTRACTOR an amount for service outlined in the "Notice to Proceed" for each individual project. The total for this contract will not exceed Four Million Dollars (\$4,000,000.00) annually. CITY will monitor this not-to-exceed aggregate total.

- 6.2 CONTRACTOR shall inform DEPARTMENT of any additional project costs due to

unforeseen delays and unexpected changes to the scope of work. Additional project costs shall be itemized by CONTRACTOR and approved by DEPARTMENT before payment is made to CONTRACTOR.

### 6.3 Invoicing

CONTRACTOR shall invoice upon completion of job by submitting two (2) copies of the invoice, which details the work performed in accordance with the original scope of services and any approved amendments to the scope, within thirty (30) days of completion of service.

CONTRACTOR shall submit invoices to:

Department of Recreation and Parks  
Attention: Jimmy Newsom  
Contracts, Finance Division  
Valley Region  
6335 Woodley Ave  
Van Nuys, CA 91406

All invoices shall be submitted on CONTRACTOR'S letterhead, containing CONTRACTOR'S official logo, or other unique and identifying information such as the name and address of CONTRACTOR. Evidence that the task has been completed, in the form of a report, brochure or photographs, shall be attached to all invoices.

Invoices and supporting documentation shall be prepared at the sole expense and responsibility of CONTRACTOR. CITY will not compensate CONTRACTOR for costs incurred in invoice preparation. DEPARTMENT may request changes to the content and format of the invoice and supporting documentation at any time. DEPARTMENT reserves the right to request additional supporting documentation to substantiate costs at any time.

Tasks that are completed by subcontractors shall be supported by subcontractor invoices, copies of pages from reports, brochures, photographs, or other unique documentation that substantiates their charges.

Failure to adhere to these policies may result in nonpayment pursuant to Charter Section 262(a), which requires the City Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any City office or department, and to approve demands before they are drawn on the Treasury.

#### SECTION 7 - INCORPORATION OF DOCUMENTS

This Contract and exhibits represent the entire integrated agreement of the parties and supersedes all prior written or oral representations, discussions, and agreements. The following documents are incorporated and made a part hereof by reference:

Appendix A. Standard Provisions for City Contracts (Rev. 3/09)

(Signature Page to Follow)

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their respective duly authorized representatives.

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

THE CITY OF LOS ANGELES, a municipal  
corporation, acting by and through its Board of  
Recreation and Park Commissioners

By \_\_\_\_\_  
PRESIDENT

By \_\_\_\_\_  
SECRETARY

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

JUDGE NETTING, INC

By \_\_\_\_\_

By \_\_\_\_\_  
SECRETARY

Approved as to Form:

MICHAEL N. FEUER  
City Attorney

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

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

DEPUTY CITY ATTORNEY

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 hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" herein in this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one **CONTRACTOR** herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

### **PSC-2. NUMBER OF ORIGINALS**

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the **CITY'S** option, one or more additional original texts of this Contract may also be retained by the City.

### **PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT**

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. 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, and/or procedures that apply to the performance of this Contract.

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 law of a federal, state or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of the Contract shall not be affected thereby.

**PSC-4. 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** hereto;
- 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 the **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

**PSC-5. INTEGRATED CONTRACT**

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, 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 paragraph PSC-6 hereof.

**PSC-6. AMENDMENT**

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-4.

**PSC-7. EXCUSABLE DELAYS**

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

**PSC-8. BREACH**

Except for excusable delays as described in PSC-7, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights

and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

**PSC-9. 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-10. TERMINATION**

**A. TERMINATION FOR CONVENIENCE**

The **CITY** may terminate this Contract for the **CITY'S** convenience at any time by giving **CONTRACTOR** thirty days written notice thereof. Upon receipt of said notice, **CONTRACTOR** shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The **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 affect such termination. Thereafter, **CONTRACTOR** shall have no further claims against the **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon the date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

**B. TERMINATION FOR BREACH OF CONTRACT**

1. Except for excusable delays as provided in PSC-7, 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, the **CITY** may give **CONTRACTOR** written notice of such default. If **CONTRACTOR** does not cure such default or provide a plan to cure such default which is acceptable to the **CITY** within the time permitted by the **CITY**, then the **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. 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 the **CITY** may immediately terminate this Contract.
3. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates the

**CITY'S** lobbying policies, then the **CITY** may immediately terminate this Contract.

4. In the event the **CITY** terminates this Contract as provided in this section, the **CITY** may procure, upon such terms and in such manner as the **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to the **CITY** for all of its costs and damages, including, but not limited, any excess costs for such services.
5. All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.
6. 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-10(A) Termination for Convenience.
7. 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.

#### **PSC-11. INDEPENDENT CONTRACTOR**

**CONTRACTOR** is acting hereunder as an independent contractor and not as an agent or employee of the **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 the **CITY**.

#### **PSC-12. CONTRACTOR'S PERSONNEL**

Unless otherwise provided or approved by the **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. The **CITY** shall have the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** agrees to remove personnel from performing work under this Contract if requested to do so by the **CITY**.

**CONTRACTOR** shall not use subcontractors to assist in performance of this Contract without the prior written approval of the **CITY**. If the **CITY** permits the use of subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of

this Contract. The **CITY** has the right to approve **CONTRACTOR'S** subcontractors, and the **CITY** reserves the right to request replacement of subcontractors. The **CITY** does not have any obligation to pay **CONTRACTOR'S** subcontractors, and nothing herein creates any privity between the **CITY** and the subcontractors.

**PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION**

**CONTRACTOR** may not, unless it has first obtained the written permission of the **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-14. PERMITS**

**CONTRACTOR** and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance hereunder and shall pay any fees required therefor. **CONTRACTOR** certifies to immediately notify the **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

**PSC-15. CLAIMS FOR LABOR AND MATERIALS**

**CONTRACTOR** shall promptly pay when due all amounts payable 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), against **CONTRACTOR'S** rights to payments hereunder, or against the **CITY**, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**PSC-16. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED**

If applicable, **CONTRACTOR** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this Contract, **CONTRACTOR** shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

**PSC-17. 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, in accordance with

requirements prescribed by the **CITY**. These records shall be retained for a period of no less than three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. Said records shall be subject to examination and audit by authorized **CITY** personnel or by the **CITY'S** representative at any time during the term of this Contract or within the three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. **CONTRACTOR** shall provide any reports requested by the **CITY** regarding performance of this Contract. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

**PSC-18. FALSE CLAIMS ACT**

**CONTRACTOR** acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the **CITY** under the False Claims Act (Cal. Gov. Code §§ 12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

**PSC-19. BONDS**

All bonds which may be required hereunder shall conform to **CITY** requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

**PSC-20. 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** undertakes and agrees to defend, indemnify and hold harmless the **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits 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 the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by **CONTRACTOR** or its subcontractors of any tier. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-20 shall survive expiration or termination of this Contract.

**PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION**

**CONTRACTOR**, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the **CITY**, and any of its Boards, Officers, Agents, Employees, Assigns,

and Successors in Interest from and against all suits 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 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 right (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 of any tier, in performing the work under this Contract; or (2) as a result of the **CITY'S** actual or intended use of any Work Product furnished by **CONTRACTOR**, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-21 shall survive expiration or termination of this Contract.

#### **PSC-22. 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, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

#### **PSC-23. OWNERSHIP AND LICENSE**

Unless otherwise provided for herein, all Work Products originated and prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract shall be and remain the exclusive property of the **CITY** for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, 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. **CONTRACTOR** hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by **CONTRACTOR** under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

For all Work Products delivered to the **CITY** that are not originated or prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract, **CONTRACTOR** hereby grants 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 the **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subcontractors performing work under this Contract such that the **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

#### **PSC-24. INSURANCE**

During the term of this Contract and without limiting **CONTRACTOR'S** indemnification of the **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by **CONTRACTOR**, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form General 146 in Exhibit 1 hereto), covering its operations hereunder. Such insurance shall conform to **CITY** requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto) and shall 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-25. DISCOUNT TERMS**

**CONTRACTOR** agrees to offer the **CITY** any discount terms that are offered to its best customers for the goods and services to be provided hereunder and apply such discount to payments made under this Contract which meet the discount terms.

#### **PSC-26. 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-27. NON-DISCRIMINATION**

Unless otherwise exempt, this Contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The **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 the **CITY**. In performing this Contract, **CONTRACTOR** shall not

discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

### **PSC-28. EQUAL EMPLOYMENT PRACTICES**

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **CONTRACTOR** and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of **CITY** contracts. On their or either of their request **CONTRACTOR** shall provide evidence that he or she has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of **CITY** contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has failed to comply with the Equal Employment Practices provisions of a **CITY** contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until **CONTRACTOR** shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the **CITY**, or when an individual bid or proposal is submitted, **CONTRACTOR** shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of **CITY** Contracts.

- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
  - 1. Hiring practices;
  - 2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  - 3. Training and promotional opportunities; and
  - 4. Reasonable accommodations for persons with disabilities.
  
- L. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR'S** Contract with the **CITY**.

**PSC-29. AFFIRMATIVE ACTION PROGRAM**

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
  
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to

their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, **CONTRACTOR** shall certify on an electronic or hard copy form to be supplied, that **CONTRACTOR** has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of **CITY** contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Affirmative Action Program provisions of **CITY** contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has breached the Affirmative Action Program provisions of a **CITY** contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that **CONTRACTOR** has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a **CITY** contract, there may be deducted from the amount payable to **CONTRACTOR** by the **CITY** under the contract, a penalty of ten dollars

(\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a **CITY** contract.

- H. Notwithstanding any other provisions of a **CITY** contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in **CITY** contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. **CONTRACTOR** shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the **CITY**. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, **CONTRACTOR** may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, **CONTRACTOR** must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
  - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
  - 2. **CONTRACTOR** may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the **CITY** with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and **CONTRACTOR**.

- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  2. Classroom preparation for the job when not apprenticeable;
  3. Pre-apprenticeship education and preparation;
  4. Upgrading training and opportunities;
  5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
  6. The entry of qualified women, minority and all other journeymen into the industry; and
  7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the **CITY'S** Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the **CITY** and may be used at the discretion of the **CITY** in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.

- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the **CITY** and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the **CITY**.

**PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS**

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, **CONTRACTOR** will fully comply with all applicable State and Federal employment reporting requirements for **CONTRACTOR'S** employees. **CONTRACTOR** shall also certify (1) that the Principal Owner(s) of **CONTRACTOR** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that **CONTRACTOR** will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, *et seq.* of the California Family Code; and (3) that **CONTRACTOR** will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to obtain compliance of its subcontractors shall constitute a default by **CONTRACTOR** under this Contract, subjecting this Contract to termination where such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

**CONTRACTOR** certifies that, to the best of its knowledge, it is fully complying with the Earnings Assignment Orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

**PSC-31. LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE**

- A. Unless otherwise exempt, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:
1. **CONTRACTOR** assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.
  2. **CONTRACTOR** further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. **CONTRACTOR** shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. **CONTRACTOR** shall deliver the executed pledges from each such subcontractor to the **CITY** within ninety (90) days of the execution of the subcontract. **CONTRACTOR'S** delivery of executed pledges from each such subcontractor shall fully discharge the obligation of **CONTRACTOR** with respect to such pledges and fully discharge the obligation of **CONTRACTOR** to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
  3. **CONTRACTOR**, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the **CITY** with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. **CONTRACTOR** shall post the Notice of Prohibition Against Retaliation provided by the **CITY**.
  4. Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of PSC-31 and shall incorporate the provisions of the LWO and the SCWRO.

5. **CONTRACTOR** shall comply with all rules, regulations and policies promulgated by the **CITY'S** Designated Administrative Agency which may be amended from time to time.
- B. Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR** has violated provisions of either the LWO or the SCWRO, or both.
- C. Where under the LWO Section 10.37.6(d), the **CITY'S** Designated Administrative Agency has determined (a) that **CONTRACTOR** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the **CITY** in such circumstances may impound monies otherwise due **CONTRACTOR** in accordance with the following procedures. Impoundment shall mean that from monies due **CONTRACTOR**, **CITY** may deduct the amount determined to be due and owing by **CONTRACTOR** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether **CONTRACTOR** is to continue work following an impoundment shall remain in the sole discretion of the **CITY**. **CONTRACTOR** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.
- D. **CONTRACTOR** shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). **CONTRACTOR** shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from **CONTRACTOR**.

**PSC-32. AMERICANS WITH DISABILITIES ACT**

**CONTRACTOR** hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations. **CONTRACTOR** will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. **CONTRACTOR** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by **CONTRACTOR**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

### **PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time, which requires **CONTRACTOR** to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect **CONTRACTOR'S** fitness and ability to continue performing this Contract.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this Contract, **CONTRACTOR** pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. **CONTRACTOR** further agrees to: (1) notify the **CITY** within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that **CONTRACTOR** is not in compliance with all applicable federal, state and local laws in performance of this Contract; (2) notify the **CITY** within thirty calendar days of all findings by a government agency or court of competent jurisdiction that **CONTRACTOR** has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance; (3) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the **CITY**; and (4) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the **CITY** within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

### **PSC-34. MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM**

**CONTRACTOR** agrees and obligates itself to utilize the services of Minority, Women and Other Business Enterprise firms on a level so designated in its proposal, if any. **CONTRACTOR** certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Personal Services Contracts Greater than \$100,000, if applicable. **CONTRACTOR** shall not change any of these designated subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of the **CITY**, provided that such approval shall not be unreasonably withheld.

### **PSC-35. EQUAL BENEFITS ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of the Contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** will comply with the EBO.
- B. The failure of **CONTRACTOR** to comply with the EBO will be deemed to be a material breach of this Contract by the **CITY**.
- C. If **CONTRACTOR** fails to comply with the EBO the **CITY** may cancel, terminate or suspend this Contract, in whole or in part, and all monies due or to become due under this Contract may be retained by the **CITY**. The **CITY** may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.
- E. If the **CITY'S** Designated Administrative Agency determines that a **CONTRACTOR** has set up or used its contracting entity for the purpose of evading the intent of the EBO, the **CITY** may terminate the Contract. Violation of this provision may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

**CONTRACTOR** shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

“During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles’ Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922.”

**PSC-36. SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in 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](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-4, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

CONTRACT NO. \_\_\_\_\_

BETWEEN

THE CITY OF LOS ANGELES

DEPARTMENT OF RECREATION AND PARKS

AND

UNITED RIGGERS AND ERECTORS, INC.

FOR FENCE AND WALL INSTALLATION, MAINTENANCE AND/OR REPAIRS

This CONTRACT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the City of Los Angeles, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners (hereinafter referred to as CITY), and UNITED RIGGERS AND ERECTORS, INC., hereinafter referred to as CONTRACTOR.

RECITALS

WHEREAS, the Department of Recreation and Parks (DEPARTMENT) owns various facilities and infrastructure throughout the City of Los Angeles and is responsible for the maintenance and improvements for such facilities and infrastructure; and

WHEREAS, DEPARTMENT requires the services of an experienced and responsible CONTRACTOR to perform 1) Ornamental Fencing, and 2) Masonry Walls for the DEPARTMENT; and

WHEREAS, a Request for Qualifications (RFQ) for Fence and Wall Installation, Maintenance and/or Repairs was released on September 1, 2016, and nine (9) responses to the RFQ were received on November 3, 2016; and

WHEREAS, the CONTRACTOR'S response met the minimum requirement for the 1) Ornamental Fencing, and 2) Masonry Walls components as specified in the RFQ; and

WHEREAS, CONTRACTOR has the necessary equipment and staff who possess sufficient knowledge, expertise, and experience required to provide the necessary services and has indicated its willingness to perform such services; and

WHEREAS, CITY, pursuant to Charter Section 371(e)(2) and Los Angeles Administrative Code Section 10.15(a)(2), finds that competitive bidding is not practicable or advantageous as it is necessary for the DEPARTMENT to be able to call on contractors to perform this expert, technical work as-needed and on an occasional, but frequent, basis without engaging in a new competitive process for each individual project to be performed; however, from among as needed contractors each individual project is assigned on the basis of availability of an as-needed contractor to perform the work, the price to be charged and the unique expertise of the as-needed contractor; and,

WHEREAS, CITY, pursuant to Charter Section 372, finds that obtaining competitive proposals or bids for each individual project for which work may be performed pursuant to this agreement is not reasonably practicable or compatible with the DEPARTMENT's interests of having available as-needed contractors who are assigned various projects on the basis of availability, price and expertise and that it is therefore necessary to have several as-needed contractors for this type of service available when called upon by the DEPARTMENT to perform services; and,

WHEREAS, CITY, pursuant to Charter Section 371(e)(10), finds that use of competitive bidding would be undesirable, impractical or impossible or is otherwise excused by the common law and the Charter because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by the Department to provide as-needed fence and wall installation, maintenance and repairs services;

WHEREAS, CITY, pursuant to Charter Section 1022, finds that Department does not have, available in its employ, personnel with sufficient time or necessary expertise to undertake (*this task*) in a timely manner, and it is more feasible, economical and in RAP's best interest, to secure these services by contract with several contractors to perform this work as-needed and on an occasional, but frequent basis, without engaging in a new competitive bidding process for each individual project to be performed; and

NOW, THEREFORE, CITY AND CONTRACTOR, in consideration of the recitals above and of the terms, covenants, and conditions contained herein, agree as follows:

## SECTION 1 - PARTIES TO CONTRACT, REPRESENTATIVES AND NOTICE

### 1.1 Parties

The parties to this Contract are:

DEPARTMENT - The City of Los Angeles, a municipal corporation, Department of Recreation and Parks, acting by and through its Board of Recreation and Park Commissioners, having its principal office located at 221 North Figueroa Street, Room 300, Los Angeles, California 90012.

CONTRACTOR – UNITED RIGGERS AND ERECTOR, INC. having its principal office located at 4188 Valley Blvd., Walnut, CA 91789

### 1.2 Representatives

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

DEPARTMENT's representative will be:

Michael A. Shull, General Manager  
Department of Recreation and Parks  
221 N. Figueroa St., Suite 350  
Los Angeles, CA 90012

With copies to:

Jimmy Newsom, Senior Management Analyst I  
Department of Recreation and Parks  
Contracts, Finance Division  
6335 Woodley Ave  
Van Nuys, CA 91405

Telephone Number: (818) 756-9294  
Fax Number: (818) 908-9786

CONTRACTOR'S representative will be:

Brian D. Kelley, C.E.O.  
United Riggers and Erector, Inc.  
4188 Valley Blvd.  
Walnut, CA 91789

Telephone Number: (909) 978-0400  
Fax Number: (909) 978-0410  
[bkelly@urenet.com](mailto:bkelly@urenet.com)

Thomas Larsen  
(562) 755 – 1363  
[Thomas.larsen@att.net](mailto:Thomas.larsen@att.net)

### 1.3 Notices

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

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

## SECTION 2 - TERM OF CONTRACT

The term of this contract shall be three (3) years from the date of execution between the CONTRACTOR and CITY, subject to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts.

## SECTION 3 - SERVICES TO BE PERFORMED BY THE CONTRACTOR

### 3.1 Conduct of Operations

- A. At all times, work must conform to all current, relevant Federal, State and Local Municipal Codes and Regulations.
- B. CONTRACTOR shall endeavor to maintain good public relations at all times. The work shall be conducted in a manner that will cause the least possible interference with or annoyance to park patrons or employees.
- C. A qualified supervisor shall be present and readily available to City personnel and the public during hours of operation at each work site. The site supervisor shall be available to the Contract Inspector at all times during normal working hours. Avoiding contact with the Contract Inspector may result in suspension of work without extension.
- D. CONTRACTOR's working hours must coincide with those of the Department of Recreation and Parks (Monday through Friday, 7:00 a.m. – 3:30 p.m., excluding City holidays). The Department of Recreation and Parks must first approve any deviation from these hours and/or work on weekends and/or holidays.
- E. CONTRACTOR shall carefully protect from damage all existing trees, shrubs, plants, fences, and other features. The CONTRACTOR shall be liable for any and all damage(s) caused by contract operations to such trees, shrubs, plants, other growth and features or property. All damaged trees, shrubs, plants, other growth and features, and property shall be replaced or restored to their original condition to the satisfaction of the Contract Inspector at CONTRACTOR's expense.
- F. At all times, traffic control measures should conform to the Work Area Traffic Control Handbook, latest edition, published by Building New, Inc. Pedestrian and vehicular traffic shall be allowed to pass through the work area only under conditions of safety and with as little inconvenience and delay as possible. CONTRACTOR shall provide and maintain adequate barricades and warning devices. Flag persons shall be stationed as reasonably necessary for the safety of persons and vehicles.
- G. The roads and pathways shall be left free of debris at the close of each day's operation.
- H. Contractor will be responsible for all safety requirements and certifications in accordance with CAL-OSHA rules and regulations. It will be the CONTRACTOR's responsibility to assess the work location and implement safety controls and procedures that are compliant with Title 8 of the California Code of Regulations. All projects will be awarded to CONTRACTOR as a "Single Employer" in accordance with CAL OSHA classifications. CONTRACTOR will be responsible and have full control over all activities as well as safety requirements thereof, for each as-need project awarded.
- I. CONTRACTOR shall notify the Contract Inspector at least twenty-four (24) hours prior to starting the work required by the contract.

- J. If CONTRACTOR, after having officially started said contract, should discontinue work for any cause, CONTRACTOR shall notify the Contract Inspector of intent to do so, and shall further provide the Contract Inspector with the date that operations will resume.
- K. All work shall be completed to the satisfaction of the Department of Recreation and Parks' Contract Inspector. Work will be considered complete only when signed off by the Contract Inspector. Work shall be performed to the specifications as determined by RAP.
- L. Failure to comply with any requirement contained herein may result in suspension of work without extension.
- M. The Contract Inspector must approve any request for subcontracting of work prior to such subcontracting.
- N. CONTRACTOR shall provide equipment and personnel for all tasks.

#### SECTION 4 - SERVICES TO BE PROVIDED BY RAP

- 4.1 DEPARTMENT personnel will work cooperatively with the CONTRACTOR to ensure timely approvals of all items required under this contract.
- 4.2 DEPARTMENT will promptly act, review, and make decisions as necessary to permit the orderly progress of this work.

#### SECTION 5 - INSPECTION

- 5.1 CONTRACTOR must request final inspection from DEPARTMENT representative for work completed at each site.
- 5.2 CONTRACTOR will receive written notification for any services and/or delivery determined by the Project Manager or his/her designee to be below an acceptable level. This notification shall be in the form of a "Notice to Correct Unacceptable Service."
- 5.3 CONTRACTOR shall respond in writing to the Project Manager indicating the steps taken to correct the unacceptable service. If unacceptable service is not corrected after CONTRACTOR receives the "Notice to Correct Unacceptable Service," payment may be withheld by DEPARTMENT until corrections are made.
- 5.4 If unacceptable service continues, or if CONTRACTOR receives three (3) or more such notices, DEPARTMENT may terminate the contract as described in PSC-10-Termination, of the Standard Provisions for City Contracts (Rev. 3/09), attached hereto and incorporated herein by reference as Appendix A.

#### SECTION 6 - COMPENSATION AND INVOICING

##### 6.1 Compensation

DEPARTMENT will pay CONTRACTOR an amount for service outlined in the "Notice to

Proceed" for each individual project. The total for this contract will not exceed Four Million Dollars (\$4,000,000.00) annually. CITY will monitor this not-to-exceed aggregate total.

6.2 CONTRACTOR shall inform DEPARTMENT of any additional project costs due to unforeseen delays and unexpected changes to the scope of work. Additional project costs shall be itemized by CONTRACTOR and approved by DEPARTMENT before payment is made to CONTRACTOR.

6.3 Invoicing

CONTRACTOR shall invoice upon completion of job by submitting two (2) copies of the invoice, which details the work performed in accordance with the original scope of services and any approved amendments to the scope, within thirty (30) days of completion of service.

CONTRACTOR shall submit invoices to:

Department of Recreation and Parks  
Attention: Jimmy Newsom  
Contracts, Finance Division  
Valley Region  
6335 Woodley Ave  
Van Nuys, CA 91406

All invoices shall be submitted on CONTRACTOR'S letterhead, containing CONTRACTOR'S official logo, or other unique and identifying information such as the name and address of CONTRACTOR. Evidence that the task has been completed, in the form of a report, brochure or photographs, shall be attached to all invoices.

Invoices and supporting documentation shall be prepared at the sole expense and responsibility of CONTRACTOR. CITY will not compensate CONTRACTOR for costs incurred in invoice preparation. DEPARTMENT may request changes to the content and format of the invoice and supporting documentation at any time. DEPARTMENT reserves the right to request additional supporting documentation to substantiate costs at any time.

Tasks that are completed by subcontractors shall be supported by subcontractor invoices, copies of pages from reports, brochures, photographs, or other unique documentation that substantiates their charges.

Failure to adhere to these policies may result in nonpayment pursuant to Charter Section 262(a), which requires the City Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any City office or department, and to approve demands before they are drawn on the Treasury.

#### SECTION 7 - INCORPORATION OF DOCUMENTS

This Contract and exhibits represent the entire integrated agreement of the parties and supersedes all prior written or oral representations, discussions, and agreements. The following documents are incorporated and made a part hereof by reference:

Appendix A. Standard Provisions for City Contracts (Rev. 3/09)

(Signature Page to Follow)

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their respective duly authorized representatives.

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

THE CITY OF LOS ANGELES, a municipal  
corporation, acting by and through its Board of  
Recreation and Park Commissioners

By \_\_\_\_\_  
PRESIDENT

By \_\_\_\_\_  
SECRETARY

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

UNITED RIGGERS AND ERECTORS, INC.

By \_\_\_\_\_

By \_\_\_\_\_  
SECRETARY

Approved as to Form:  
  
MICHAEL N. FEUER  
City Attorney

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

By: \_\_\_\_\_  
DEPUTY CITY ATTORNEY

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 hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" herein in this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one **CONTRACTOR** herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

### **PSC-2. NUMBER OF ORIGINALS**

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the **CITY'S** option, one or more additional original texts of this Contract may also be retained by the City.

### **PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT**

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. 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, and/or procedures that apply to the performance of this Contract.

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 law of a federal, state or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of the Contract shall not be affected thereby.

**PSC-4. 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** hereto;
- 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 the **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

**PSC-5. INTEGRATED CONTRACT**

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, 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 paragraph PSC-6 hereof.

**PSC-6. AMENDMENT**

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-4.

**PSC-7. EXCUSABLE DELAYS**

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

**PSC-8. BREACH**

Except for excusable delays as described in PSC-7, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights

and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

**PSC-9. 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-10. TERMINATION**

**A. TERMINATION FOR CONVENIENCE**

The **CITY** may terminate this Contract for the **CITY'S** convenience at any time by giving **CONTRACTOR** thirty days written notice thereof. Upon receipt of said notice, **CONTRACTOR** shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The **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 affect such termination. Thereafter, **CONTRACTOR** shall have no further claims against the **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon the date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

**B. TERMINATION FOR BREACH OF CONTRACT**

1. Except for excusable delays as provided in PSC-7, 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, the **CITY** may give **CONTRACTOR** written notice of such default. If **CONTRACTOR** does not cure such default or provide a plan to cure such default which is acceptable to the **CITY** within the time permitted by the **CITY**, then the **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. 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 the **CITY** may immediately terminate this Contract.
3. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates the

**CITY'S** lobbying policies, then the **CITY** may immediately terminate this Contract.

4. In the event the **CITY** terminates this Contract as provided in this section, the **CITY** may procure, upon such terms and in such manner as the **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to the **CITY** for all of its costs and damages, including, but not limited, any excess costs for such services.
5. All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.
6. 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-10(A) Termination for Convenience.
7. 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.

#### **PSC-11. INDEPENDENT CONTRACTOR**

**CONTRACTOR** is acting hereunder as an independent contractor and not as an agent or employee of the **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 the **CITY**.

#### **PSC-12. CONTRACTOR'S PERSONNEL**

Unless otherwise provided or approved by the **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. The **CITY** shall have the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** agrees to remove personnel from performing work under this Contract if requested to do so by the **CITY**.

**CONTRACTOR** shall not use subcontractors to assist in performance of this Contract without the prior written approval of the **CITY**. If the **CITY** permits the use of subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of

this Contract. The **CITY** has the right to approve **CONTRACTOR'S** subcontractors, and the **CITY** reserves the right to request replacement of subcontractors. The **CITY** does not have any obligation to pay **CONTRACTOR'S** subcontractors, and nothing herein creates any privity between the **CITY** and the subcontractors.

**PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION**

**CONTRACTOR** may not, unless it has first obtained the written permission of the **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-14. PERMITS**

**CONTRACTOR** and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance hereunder and shall pay any fees required therefor. **CONTRACTOR** certifies to immediately notify the **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

**PSC-15. CLAIMS FOR LABOR AND MATERIALS**

**CONTRACTOR** shall promptly pay when due all amounts payable 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), against **CONTRACTOR'S** rights to payments hereunder, or against the **CITY**, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**PSC-16. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED**

If applicable, **CONTRACTOR** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this Contract, **CONTRACTOR** shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

**PSC-17. 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, in accordance with

requirements prescribed by the **CITY**. These records shall be retained for a period of no less than three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. Said records shall be subject to examination and audit by authorized **CITY** personnel or by the **CITY'S** representative at any time during the term of this Contract or within the three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. **CONTRACTOR** shall provide any reports requested by the **CITY** regarding performance of this Contract. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

**PSC-18. FALSE CLAIMS ACT**

**CONTRACTOR** acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the **CITY** under the False Claims Act (Cal. Gov. Code §§ 12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

**PSC-19. BONDS**

All bonds which may be required hereunder shall conform to **CITY** requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

**PSC-20. 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** undertakes and agrees to defend, indemnify and hold harmless the **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits 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 the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by **CONTRACTOR** or its subcontractors of any tier. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-20 shall survive expiration or termination of this Contract.

**PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION**

**CONTRACTOR**, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the **CITY**, and any of its Boards, Officers, Agents, Employees, Assigns,

and Successors in Interest from and against all suits 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 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 right (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 of any tier, in performing the work under this Contract; or (2) as a result of the **CITY'S** actual or intended use of any Work Product furnished by **CONTRACTOR**, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-21 shall survive expiration or termination of this Contract.

#### **PSC-22. 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, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

#### **PSC-23. OWNERSHIP AND LICENSE**

Unless otherwise provided for herein, all Work Products originated and prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract shall be and remain the exclusive property of the **CITY** for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, 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. **CONTRACTOR** hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by **CONTRACTOR** under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

For all Work Products delivered to the **CITY** that are not originated or prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract, **CONTRACTOR** hereby grants 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 the **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subcontractors performing work under this Contract such that the **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

#### **PSC-24. INSURANCE**

During the term of this Contract and without limiting **CONTRACTOR'S** indemnification of the **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by **CONTRACTOR**, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form General 146 in Exhibit 1 hereto), covering its operations hereunder. Such insurance shall conform to **CITY** requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto) and shall 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-25. DISCOUNT TERMS**

**CONTRACTOR** agrees to offer the **CITY** any discount terms that are offered to its best customers for the goods and services to be provided hereunder and apply such discount to payments made under this Contract which meet the discount terms.

#### **PSC-26. 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-27. NON-DISCRIMINATION**

Unless otherwise exempt, this Contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The **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 the **CITY**. In performing this Contract, **CONTRACTOR** shall not

discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

#### **PSC-28. EQUAL EMPLOYMENT PRACTICES**

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **CONTRACTOR** and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of **CITY** contracts. On their or either of their request **CONTRACTOR** shall provide evidence that he or she has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of **CITY** contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has failed to comply with the Equal Employment Practices provisions of a **CITY** contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until **CONTRACTOR** shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the **CITY**, or when an individual bid or proposal is submitted, **CONTRACTOR** shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of **CITY** Contracts.

- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
  - 1. Hiring practices;
  - 2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  - 3. Training and promotional opportunities; and
  - 4. Reasonable accommodations for persons with disabilities.
  
- L. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR'S** Contract with the **CITY**.

**PSC-29. AFFIRMATIVE ACTION PROGRAM**

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
  
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to

their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, **CONTRACTOR** shall certify on an electronic or hard copy form to be supplied, that **CONTRACTOR** has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of **CITY** contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Affirmative Action Program provisions of **CITY** contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has breached the Affirmative Action Program provisions of a **CITY** contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that **CONTRACTOR** has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a **CITY** contract, there may be deducted from the amount payable to **CONTRACTOR** by the **CITY** under the contract, a penalty of ten dollars

(\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a **CITY** contract.

- H. Notwithstanding any other provisions of a **CITY** contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in **CITY** contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. **CONTRACTOR** shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the **CITY**. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, **CONTRACTOR** may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, **CONTRACTOR** must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
  - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
  - 2. **CONTRACTOR** may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the **CITY** with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and **CONTRACTOR**.

- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  2. Classroom preparation for the job when not apprenticeable;
  3. Pre-apprenticeship education and preparation;
  4. Upgrading training and opportunities;
  5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
  6. The entry of qualified women, minority and all other journeymen into the industry; and
  7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the **CITY'S** Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the **CITY** and may be used at the discretion of the **CITY** in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.

- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the **CITY** and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the **CITY**.

**PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS**

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, **CONTRACTOR** will fully comply with all applicable State and Federal employment reporting requirements for **CONTRACTOR'S** employees. **CONTRACTOR** shall also certify (1) that the Principal Owner(s) of **CONTRACTOR** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that **CONTRACTOR** will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, *et seq.* of the California Family Code; and (3) that **CONTRACTOR** will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to obtain compliance of its subcontractors shall constitute a default by **CONTRACTOR** under this Contract, subjecting this Contract to termination where such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

**CONTRACTOR** certifies that, to the best of its knowledge, it is fully complying with the Earnings Assignment Orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

**PSC-31. LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE**

- A. Unless otherwise exempt, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:
1. **CONTRACTOR** assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.
  2. **CONTRACTOR** further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. **CONTRACTOR** shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. **CONTRACTOR** shall deliver the executed pledges from each such subcontractor to the **CITY** within ninety (90) days of the execution of the subcontract. **CONTRACTOR'S** delivery of executed pledges from each such subcontractor shall fully discharge the obligation of **CONTRACTOR** with respect to such pledges and fully discharge the obligation of **CONTRACTOR** to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
  3. **CONTRACTOR**, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the **CITY** with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. **CONTRACTOR** shall post the Notice of Prohibition Against Retaliation provided by the **CITY**.
  4. Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of PSC-31 and shall incorporate the provisions of the LWO and the SCWRO.

5. **CONTRACTOR** shall comply with all rules, regulations and policies promulgated by the **CITY'S** Designated Administrative Agency which may be amended from time to time.
- B. Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR** has violated provisions of either the LWO or the SCWRO, or both.
- C. Where under the LWO Section 10.37.6(d), the **CITY'S** Designated Administrative Agency has determined (a) that **CONTRACTOR** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the **CITY** in such circumstances may impound monies otherwise due **CONTRACTOR** in accordance with the following procedures. Impoundment shall mean that from monies due **CONTRACTOR**, **CITY** may deduct the amount determined to be due and owing by **CONTRACTOR** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether **CONTRACTOR** is to continue work following an impoundment shall remain in the sole discretion of the **CITY**. **CONTRACTOR** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.
- D. **CONTRACTOR** shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). **CONTRACTOR** shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from **CONTRACTOR**.

**PSC-32. AMERICANS WITH DISABILITIES ACT**

**CONTRACTOR** hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations. **CONTRACTOR** will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. **CONTRACTOR** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by **CONTRACTOR**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

### **PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time, which requires **CONTRACTOR** to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect **CONTRACTOR'S** fitness and ability to continue performing this Contract.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this Contract, **CONTRACTOR** pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. **CONTRACTOR** further agrees to: (1) notify the **CITY** within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that **CONTRACTOR** is not in compliance with all applicable federal, state and local laws in performance of this Contract; (2) notify the **CITY** within thirty calendar days of all findings by a government agency or court of competent jurisdiction that **CONTRACTOR** has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance; (3) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the **CITY**; and (4) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the **CITY** within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

### **PSC-34. MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM**

**CONTRACTOR** agrees and obligates itself to utilize the services of Minority, Women and Other Business Enterprise firms on a level so designated in its proposal, if any. **CONTRACTOR** certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Personal Services Contracts Greater than \$100,000, if applicable. **CONTRACTOR** shall not change any of these designated subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of the **CITY**, provided that such approval shall not be unreasonably withheld.

### **PSC-35. EQUAL BENEFITS ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of the Contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** will comply with the EBO.
- B. The failure of **CONTRACTOR** to comply with the EBO will be deemed to be a material breach of this Contract by the **CITY**.
- C. If **CONTRACTOR** fails to comply with the EBO the **CITY** may cancel, terminate or suspend this Contract, in whole or in part, and all monies due or to become due under this Contract may be retained by the **CITY**. The **CITY** may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.
- E. If the **CITY'S** Designated Administrative Agency determines that a **CONTRACTOR** has set up or used its contracting entity for the purpose of evading the intent of the EBO, the **CITY** may terminate the Contract. Violation of this provision may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

**CONTRACTOR** shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

“During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles’ Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922.”

**PSC-36. SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in 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](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-4, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

CONTRACT NO. \_\_\_\_\_

BETWEEN

THE CITY OF LOS ANGELES

DEPARTMENT OF RECREATION AND PARKS

AND

WEST COAST NETTING

FOR FENCE AND WALL INSTALLATION, MAINTENANCE AND/OR REPAIRS

This CONTRACT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the City of Los Angeles, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners (hereinafter referred to as CITY), and WEST COAST NETTING, hereinafter referred to as CONTRACTOR.

#### RECITALS

WHEREAS, the Department of Recreation and Parks (DEPARTMENT) owns various facilities and infrastructure throughout the City of Los Angeles and is responsible for the maintenance and improvements for such facilities and infrastructure; and

WHEREAS, DEPARTMENT requires the services of an experienced and responsible CONTRACTOR to perform Sports Netting/Fencing for the DEPARTMENT; and

WHEREAS, a Request for Qualifications (RFQ) for Fence and Wall Installation, Maintenance and/or Repairs was released on September 1, 2016, and nine (9) responses to the RFQ were received on November 3, 2016; and

WHEREAS, the CONTRACTOR'S response met the minimum requirement for the Sports Netting/Fencing component as specified in the RFQ; and

WHEREAS, CONTRACTOR has the necessary equipment and staff who possess sufficient knowledge, expertise, and experience required to provide the necessary services and has indicated its willingness to perform such services; and

WHEREAS, CITY, pursuant to Charter Section 371(e)(2) and Los Angeles Administrative Code Section 10.15(a)(2), finds that competitive bidding is not practicable or advantageous as it is necessary for the DEPARTMENT to be able to call on contractors to perform this expert, technical work as-needed and on an occasional, but frequent, basis without engaging in a new competitive process for each individual project to be performed; however, from among as needed contractors each individual project is assigned on the basis of availability of an as-needed contractor to perform the work, the price to be charged and the unique expertise of the as-needed contractor; and,

WHEREAS, CITY, pursuant to Charter Section 372, finds that obtaining competitive proposals or bids for each individual project for which work may be performed pursuant to this agreement is not reasonably practicable or compatible with the DEPARTMENT's interests of having available as-needed contractors who are assigned various projects on the basis of availability, price and expertise and that it is therefore necessary to have several as-needed contractors for this type of service available when called upon by the DEPARTMENT to perform services; and,

WHEREAS, CITY, pursuant to Charter Section 371(e)(10), finds that use of competitive bidding would be undesirable, impractical or impossible or is otherwise excused by the common law and the Charter because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by the Department to provide as-needed fence and wall installation, maintenance and repairs services;

WHEREAS, CITY, pursuant to Charter Section 1022, finds that Department does not have, available in its employ, personnel with sufficient time or necessary expertise to undertake (*this task*) in a timely manner, and it is more feasible, economical and in RAP's best interest, to secure these services by contract with several contractors to perform this work as-needed and on an occasional, but frequent basis, without engaging in a new competitive bidding process for each individual project to be performed; and

NOW, THEREFORE, CITY AND CONTRACTOR, in consideration of the recitals above and of the terms, covenants, and conditions contained herein, agree as follows:

## SECTION 1 - PARTIES TO CONTRACT, REPRESENTATIVES AND NOTICE

### 1.1 Parties

The parties to this Contract are:

DEPARTMENT - The City of Los Angeles, a municipal corporation, Department of Recreation and Parks, acting by and through its Board of Recreation and Park Commissioners, having its principal office located at 221 North Figueroa Street, Room 300, Los Angeles, California 90012.

CONTRACTOR – WEST COAST NETTING, having its principal office located at 5075 Flightline Dr., Kingman, AZ 86401

### 1.2 Representatives

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

DEPARTMENT's representative will be:

Michael A. Shull, General Manager  
Department of Recreation and Parks  
221 N. Figueroa St., Suite 350  
Los Angeles, CA 90012

With copies to:

Jimmy Newsom, Senior Management Analyst I  
Department of Recreation and Parks  
Contracts, Finance Division  
6335 Woodley Ave  
Van Nuys, CA 91405

Telephone Number: (818) 756-9294  
Fax Number: (818) 908-9786

CONTRACTOR'S representative will be:

Kim Wirth, Secretary  
West Coast Netting  
5075 Flightline Dr.  
Kingman, AZ 86401

Telephone Number: (928) 692-1144  
Fax Number: (928) 692-1501  
[Kwirth@westcoastnetting.com](mailto:Kwirth@westcoastnetting.com)

Dan Kirkland, President  
(928) 692-1144  
[dkirkland@westcoastnetting.com](mailto:dkirkland@westcoastnetting.com)

### 1.3 Notices

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

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

## SECTION 2 - TERM OF CONTRACT

The term of this contract shall be three (3) years from the date of execution between the CONTRACTOR and CITY, subject to earlier termination by DEPARTMENT as provided in Appendix A – The Standard Provisions for City Contracts.

## SECTION 3 - SERVICES TO BE PERFORMED BY THE CONTRACTOR

### 3.1 Conduct of Operations

- A. At all times, work must conform to all current, relevant Federal, State and Local Municipal Codes and Regulations.
- B. CONTRACTOR shall endeavor to maintain good public relations at all times. The work shall be conducted in a manner that will cause the least possible interference with or annoyance to park patrons or employees.

- C. A qualified supervisor shall be present and readily available to City personnel and the public during hours of operation at each work site. The site supervisor shall be available to the Contract Inspector at all times during normal working hours. Avoiding contact with the Contract Inspector may result in suspension of work without extension.
- D. CONTRACTOR's working hours must coincide with those of the Department of Recreation and Parks (Monday through Friday, 7:00 a.m. – 3:30 p.m., excluding City holidays). The Department of Recreation and Parks must first approve any deviation from these hours and/or work on weekends and/or holidays.
- E. CONTRACTOR shall carefully protect from damage all existing trees, shrubs, plants, fences, and other features. The CONTRACTOR shall be liable for any and all damage(s) caused by contract operations to such trees, shrubs, plants, other growth and features or property. All damaged trees, shrubs, plants, other growth and features, and property shall be replaced or restored to their original condition to the satisfaction of the Contract Inspector at CONTRACTOR's expense.
- F. At all times, traffic control measures should conform to the Work Area Traffic Control Handbook, latest edition, published by Building New, Inc. Pedestrian and vehicular traffic shall be allowed to pass through the work area only under conditions of safety and with as little inconvenience and delay as possible. CONTRACTOR shall provide and maintain adequate barricades and warning devices. Flag persons shall be stationed as reasonably necessary for the safety of persons and vehicles.
- G. The roads and pathways shall be left free of debris at the close of each day's operation.
- H. Contractor will be responsible for all safety requirements and certifications in accordance with CAL-OSHA rules and regulations. It will be the CONTRACTOR's responsibility to assess the work location and implement safety controls and procedures that are compliant with Title 8 of the California Code of Regulations. All projects will be awarded to CONTRACTOR as a "Single Employer" in accordance with CAL OSHA classifications. CONTRACTOR will be responsible and have full control over all activities as well as safety requirements thereof, for each as-need project awarded.
- I. CONTRACTOR shall notify the Contract Inspector at least twenty-four (24) hours prior to starting the work required by the contract.
- J. If CONTRACTOR, after having officially started said contract, should discontinue work for any cause, CONTRACTOR shall notify the Contract Inspector of intent to do so, and shall further provide the Contract Inspector with the date that operations will resume.
- K. All work shall be completed to the satisfaction of the Department of Recreation and Parks' Contract Inspector. Work will be considered complete only when signed off by the Contract Inspector. Work shall be performed to the

specifications as determined by RAP.

- L. Failure to comply with any requirement contained herein may result in suspension of work without extension.
- M. The Contract Inspector must approve any request for subcontracting of work prior to such subcontracting.
- N. CONTRACTOR shall provide equipment and personnel for all tasks.

#### SECTION 4 - SERVICES TO BE PROVIDED BY RAP

- 4.1 DEPARTMENT personnel will work cooperatively with the CONTRACTOR to ensure timely approvals of all items required under this contract.
- 4.2 DEPARTMENT will promptly act, review, and make decisions as necessary to permit the orderly progress of this work.

#### SECTION 5 - INSPECTION

- 5.1 CONTRACTOR must request final inspection from DEPARTMENT representative for work completed at each site.
- 5.2 CONTRACTOR will receive written notification for any services and/or delivery determined by the Project Manager or his/her designee to be below an acceptable level. This notification shall be in the form of a "Notice to Correct Unacceptable Service."
- 5.3 CONTRACTOR shall respond in writing to the Project Manager indicating the steps taken to correct the unacceptable service. If unacceptable service is not corrected after CONTRACTOR receives the "Notice to Correct Unacceptable Service," payment may be withheld by DEPARTMENT until corrections are made.
- 5.4 If unacceptable service continues, or if CONTRACTOR receives three (3) or more such notices, DEPARTMENT may terminate the contract as described in PSC-10-Termination, of the Standard Provisions for City Contracts (Rev. 3/09), attached hereto and incorporated herein by reference as Appendix A.

#### SECTION 6 - COMPENSATION AND INVOICING

##### 6.1 Compensation

DEPARTMENT will pay CONTRACTOR an amount for service outlined in the "Notice to Proceed" for each individual project. The total for this contract will not exceed Four Million Dollars (\$4,000,000.00) annually. CITY will monitor this not-to-exceed aggregate total.

- 6.2 CONTRACTOR shall inform DEPARTMENT of any additional project costs due to unforeseen delays and unexpected changes to the scope of work. Additional project costs shall be itemized by CONTRACTOR and approved by DEPARTMENT before payment is made to CONTRACTOR.

6.3 Invoicing

CONTRACTOR shall invoice upon completion of job by submitting two (2) copies of the invoice, which details the work performed in accordance with the original scope of services and any approved amendments to the scope, within thirty (30) days of completion of service.

CONTRACTOR shall submit invoices to:

Department of Recreation and Parks  
Attention: Jimmy Newsom  
Contracts, Finance Division  
Valley Region  
6335 Woodley Ave  
Van Nuys, CA 91406

All invoices shall be submitted on CONTRACTOR'S letterhead, containing CONTRACTOR'S official logo, or other unique and identifying information such as the name and address of CONTRACTOR. Evidence that the task has been completed, in the form of a report, brochure or photographs, shall be attached to all invoices.

Invoices and supporting documentation shall be prepared at the sole expense and responsibility of CONTRACTOR. CITY will not compensate CONTRACTOR for costs incurred in invoice preparation. DEPARTMENT may request changes to the content and format of the invoice and supporting documentation at any time. DEPARTMENT reserves the right to request additional supporting documentation to substantiate costs at any time.

Tasks that are completed by subcontractors shall be supported by subcontractor invoices, copies of pages from reports, brochures, photographs, or other unique documentation that substantiates their charges.

Failure to adhere to these policies may result in nonpayment pursuant to Charter Section 262(a), which requires the City Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any City office or department, and to approve demands before they are drawn on the Treasury.

#### SECTION 7 - INCORPORATION OF DOCUMENTS

This Contract and exhibits represent the entire integrated agreement of the parties and supersedes all prior written or oral representations, discussions, and agreements. The following documents are incorporated and made a part hereof by reference:

Appendix A. Standard Provisions for City Contracts (Rev. 3/09)

(Signature Page to Follow)

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their respective duly authorized representatives.

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

THE CITY OF LOS ANGELES, a municipal  
corporation, acting by and through its Board of  
Recreation and Park Commissioners

By \_\_\_\_\_  
PRESIDENT

By \_\_\_\_\_  
SECRETARY

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

WEST COAST NETTING

By \_\_\_\_\_

By \_\_\_\_\_  
SECRETARY

Approved as to Form:

MICHAEL N. FEUER  
City Attorney

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

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

DEPUTY CITY ATTORNEY

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 hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" herein in this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one **CONTRACTOR** herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

### **PSC-2. NUMBER OF ORIGINALS**

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the **CITY'S** option, one or more additional original texts of this Contract may also be retained by the City.

### **PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT**

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. 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, and/or procedures that apply to the performance of this Contract.

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 law of a federal, state or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of the Contract shall not be affected thereby.

**PSC-4. 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** hereto;
- 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 the **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

**PSC-5. INTEGRATED CONTRACT**

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, 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 paragraph PSC-6 hereof.

**PSC-6. AMENDMENT**

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-4.

**PSC-7. EXCUSABLE DELAYS**

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

**PSC-8. BREACH**

Except for excusable delays as described in PSC-7, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights

and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

**PSC-9. 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-10. TERMINATION**

**A. TERMINATION FOR CONVENIENCE**

The **CITY** may terminate this Contract for the **CITY'S** convenience at any time by giving **CONTRACTOR** thirty days written notice thereof. Upon receipt of said notice, **CONTRACTOR** shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The **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 affect such termination. Thereafter, **CONTRACTOR** shall have no further claims against the **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon the date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

**B. TERMINATION FOR BREACH OF CONTRACT**

1. Except for excusable delays as provided in PSC-7, 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, the **CITY** may give **CONTRACTOR** written notice of such default. If **CONTRACTOR** does not cure such default or provide a plan to cure such default which is acceptable to the **CITY** within the time permitted by the **CITY**, then the **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. 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 the **CITY** may immediately terminate this Contract.
3. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates the

**CITY'S** lobbying policies, then the **CITY** may immediately terminate this Contract.

4. In the event the **CITY** terminates this Contract as provided in this section, the **CITY** may procure, upon such terms and in such manner as the **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to the **CITY** for all of its costs and damages, including, but not limited, any excess costs for such services.
5. All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.
6. 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-10(A) Termination for Convenience.
7. 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.

#### **PSC-11. INDEPENDENT CONTRACTOR**

**CONTRACTOR** is acting hereunder as an independent contractor and not as an agent or employee of the **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 the **CITY**.

#### **PSC-12. CONTRACTOR'S PERSONNEL**

Unless otherwise provided or approved by the **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. The **CITY** shall have the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** agrees to remove personnel from performing work under this Contract if requested to do so by the **CITY**.

**CONTRACTOR** shall not use subcontractors to assist in performance of this Contract without the prior written approval of the **CITY**. If the **CITY** permits the use of subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of

this Contract. The **CITY** has the right to approve **CONTRACTOR'S** subcontractors, and the **CITY** reserves the right to request replacement of subcontractors. The **CITY** does not have any obligation to pay **CONTRACTOR'S** subcontractors, and nothing herein creates any privity between the **CITY** and the subcontractors.

**PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION**

**CONTRACTOR** may not, unless it has first obtained the written permission of the **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-14. PERMITS**

**CONTRACTOR** and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance hereunder and shall pay any fees required therefor. **CONTRACTOR** certifies to immediately notify the **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

**PSC-15. CLAIMS FOR LABOR AND MATERIALS**

**CONTRACTOR** shall promptly pay when due all amounts payable 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), against **CONTRACTOR'S** rights to payments hereunder, or against the **CITY**, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**PSC-16. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED**

If applicable, **CONTRACTOR** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this Contract, **CONTRACTOR** shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

**PSC-17. 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, in accordance with

requirements prescribed by the **CITY**. These records shall be retained for a period of no less than three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. Said records shall be subject to examination and audit by authorized **CITY** personnel or by the **CITY'S** representative at any time during the term of this Contract or within the three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. **CONTRACTOR** shall provide any reports requested by the **CITY** regarding performance of this Contract. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

**PSC-18. FALSE CLAIMS ACT**

**CONTRACTOR** acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the **CITY** under the False Claims Act (Cal. Gov. Code §§ 12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

**PSC-19. BONDS**

All bonds which may be required hereunder shall conform to **CITY** requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

**PSC-20. 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** undertakes and agrees to defend, indemnify and hold harmless the **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits 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 the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by **CONTRACTOR** or its subcontractors of any tier. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-20 shall survive expiration or termination of this Contract.

**PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION**

**CONTRACTOR**, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the **CITY**, and any of its Boards, Officers, Agents, Employees, Assigns,

and Successors in Interest from and against all suits 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 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 right (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 of any tier, in performing the work under this Contract; or (2) as a result of the **CITY'S** actual or intended use of any Work Product furnished by **CONTRACTOR**, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-21 shall survive expiration or termination of this Contract.

#### **PSC-22. 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, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

#### **PSC-23. OWNERSHIP AND LICENSE**

Unless otherwise provided for herein, all Work Products originated and prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract shall be and remain the exclusive property of the **CITY** for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, 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. **CONTRACTOR** hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by **CONTRACTOR** under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

For all Work Products delivered to the **CITY** that are not originated or prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract, **CONTRACTOR** hereby grants 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 the **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subcontractors performing work under this Contract such that the **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

#### **PSC-24. INSURANCE**

During the term of this Contract and without limiting **CONTRACTOR'S** indemnification of the **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by **CONTRACTOR**, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form General 146 in Exhibit 1 hereto), covering its operations hereunder. Such insurance shall conform to **CITY** requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto) and shall 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-25. DISCOUNT TERMS**

**CONTRACTOR** agrees to offer the **CITY** any discount terms that are offered to its best customers for the goods and services to be provided hereunder and apply such discount to payments made under this Contract which meet the discount terms.

#### **PSC-26. 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-27. NON-DISCRIMINATION**

Unless otherwise exempt, this Contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The **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 the **CITY**. In performing this Contract, **CONTRACTOR** shall not

discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

#### **PSC-28. EQUAL EMPLOYMENT PRACTICES**

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **CONTRACTOR** and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of **CITY** contracts. On their or either of their request **CONTRACTOR** shall provide evidence that he or she has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of **CITY** contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has failed to comply with the Equal Employment Practices provisions of a **CITY** contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until **CONTRACTOR** shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the **CITY**, or when an individual bid or proposal is submitted, **CONTRACTOR** shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of **CITY** Contracts.

- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
  - 1. Hiring practices;
  - 2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  - 3. Training and promotional opportunities; and
  - 4. Reasonable accommodations for persons with disabilities.
  
- L. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR'S** Contract with the **CITY**.

**PSC-29. AFFIRMATIVE ACTION PROGRAM**

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
  
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to

their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, **CONTRACTOR** shall certify on an electronic or hard copy form to be supplied, that **CONTRACTOR** has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of **CITY** contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Affirmative Action Program provisions of **CITY** contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has breached the Affirmative Action Program provisions of a **CITY** contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that **CONTRACTOR** has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a **CITY** contract, there may be deducted from the amount payable to **CONTRACTOR** by the **CITY** under the contract, a penalty of ten dollars

(\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a **CITY** contract.

- H. Notwithstanding any other provisions of a **CITY** contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in **CITY** contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. **CONTRACTOR** shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the **CITY**. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, **CONTRACTOR** may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, **CONTRACTOR** must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
  - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
  - 2. **CONTRACTOR** may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the **CITY** with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and **CONTRACTOR**.

- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  2. Classroom preparation for the job when not apprenticeable;
  3. Pre-apprenticeship education and preparation;
  4. Upgrading training and opportunities;
  5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
  6. The entry of qualified women, minority and all other journeymen into the industry; and
  7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the **CITY'S** Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the **CITY** and may be used at the discretion of the **CITY** in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.

- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the **CITY** and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the **CITY**.

**PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS**

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, **CONTRACTOR** will fully comply with all applicable State and Federal employment reporting requirements for **CONTRACTOR'S** employees. **CONTRACTOR** shall also certify (1) that the Principal Owner(s) of **CONTRACTOR** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that **CONTRACTOR** will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, *et seq.* of the California Family Code; and (3) that **CONTRACTOR** will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to obtain compliance of its subcontractors shall constitute a default by **CONTRACTOR** under this Contract, subjecting this Contract to termination where such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

**CONTRACTOR** certifies that, to the best of its knowledge, it is fully complying with the Earnings Assignment Orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

**PSC-31. LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE**

- A. Unless otherwise exempt, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:
1. **CONTRACTOR** assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.
  2. **CONTRACTOR** further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. **CONTRACTOR** shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. **CONTRACTOR** shall deliver the executed pledges from each such subcontractor to the **CITY** within ninety (90) days of the execution of the subcontract. **CONTRACTOR'S** delivery of executed pledges from each such subcontractor shall fully discharge the obligation of **CONTRACTOR** with respect to such pledges and fully discharge the obligation of **CONTRACTOR** to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
  3. **CONTRACTOR**, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the **CITY** with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. **CONTRACTOR** shall post the Notice of Prohibition Against Retaliation provided by the **CITY**.
  4. Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of PSC-31 and shall incorporate the provisions of the LWO and the SCWRO.

5. **CONTRACTOR** shall comply with all rules, regulations and policies promulgated by the **CITY'S** Designated Administrative Agency which may be amended from time to time.
- B. Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR** has violated provisions of either the LWO or the SCWRO, or both.
- C. Where under the LWO Section 10.37.6(d), the **CITY'S** Designated Administrative Agency has determined (a) that **CONTRACTOR** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the **CITY** in such circumstances may impound monies otherwise due **CONTRACTOR** in accordance with the following procedures. Impoundment shall mean that from monies due **CONTRACTOR**, **CITY** may deduct the amount determined to be due and owing by **CONTRACTOR** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether **CONTRACTOR** is to continue work following an impoundment shall remain in the sole discretion of the **CITY**. **CONTRACTOR** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.
- D. **CONTRACTOR** shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). **CONTRACTOR** shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from **CONTRACTOR**.

**PSC-32. AMERICANS WITH DISABILITIES ACT**

**CONTRACTOR** hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations. **CONTRACTOR** will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. **CONTRACTOR** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by **CONTRACTOR**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

### **PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time, which requires **CONTRACTOR** to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect **CONTRACTOR'S** fitness and ability to continue performing this Contract.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this Contract, **CONTRACTOR** pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. **CONTRACTOR** further agrees to: (1) notify the **CITY** within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that **CONTRACTOR** is not in compliance with all applicable federal, state and local laws in performance of this Contract; (2) notify the **CITY** within thirty calendar days of all findings by a government agency or court of competent jurisdiction that **CONTRACTOR** has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance; (3) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the **CITY**; and (4) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the **CITY** within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

### **PSC-34. MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM**

**CONTRACTOR** agrees and obligates itself to utilize the services of Minority, Women and Other Business Enterprise firms on a level so designated in its proposal, if any. **CONTRACTOR** certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Personal Services Contracts Greater than \$100,000, if applicable. **CONTRACTOR** shall not change any of these designated subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of the **CITY**, provided that such approval shall not be unreasonably withheld.

### **PSC-35. EQUAL BENEFITS ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of the Contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** will comply with the EBO.
- B. The failure of **CONTRACTOR** to comply with the EBO will be deemed to be a material breach of this Contract by the **CITY**.
- C. If **CONTRACTOR** fails to comply with the EBO the **CITY** may cancel, terminate or suspend this Contract, in whole or in part, and all monies due or to become due under this Contract may be retained by the **CITY**. The **CITY** may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.
- E. If the **CITY'S** Designated Administrative Agency determines that a **CONTRACTOR** has set up or used its contracting entity for the purpose of evading the intent of the EBO, the **CITY** may terminate the Contract. Violation of this provision may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

**CONTRACTOR** shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

“During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles’ Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922.”

**PSC-36. SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in 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](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-4, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

**BOARD REPORT**

NO. 17-025

DATE February 15, 2017

C.D. 10

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: JIM GILLIAM CHILD CARE CENTER – CALIFORNIA DEPARTMENT OF EDUCATION 2017-2018 CALIFORNIA CENTER-BASED CHILD CARE AND CALIFORNIA STATE PRESCHOOL PROGRAM – AUTHORIZATION OF CONTINUED FUNDING APPLICATION FOR SUBSIDIZED PRESCHOOL SERVICES; ACCEPTANCE OF GRANT FUNDS

AP Diaz	_____	* V. Israel	_____
R. Barajas	_____	N. Williams	_____
H. Fujita	_____		

  
 \_\_\_\_\_  
 General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Retroactively authorize the Department of Recreation and Parks (RAP) to submit a continued funding application to the California Department of Education (CDE) for funding at the current levels of Six Thousand, Five Hundred Ninety-Six Dollars (\$6,596.00) for the Fiscal Year (FY) 2017-2018 California Center-Based Child Care (CCTR), if awarded, and Two Hundred Ninety-Five Thousand, Four Hundred Eighty-Seven Dollars (\$295,487.00) for the FY 2017-2018 California State Preschool Program (CSPP), if awarded, for subsidized preschool services at the Jim Gilliam Child Care Center, subject to Mayor and City Council consideration;
2. Direct RAP staff to transmit a copy of the continued funding application documents to the Mayor, Office of the City Administrative Officer (CAO), Office of the Chief Legislative Analyst (CLA), and to the City Clerk for Committee and City Council approval before accepting and receiving the grant award, pursuant to Los Angeles Administrative Code Section 14.6 et seq. as may be amended;
3. Authorize RAP's General Manager to accept and receive from CDE continued funding of Six Thousand, Five Hundred Ninety-Six Dollars (\$6,596.00) under the FY 2017-2018 CCTR, if awarded, and Two Hundred Ninety-Five Thousand, Four Hundred Eighty-Seven Dollars (\$295,487.00) under the FY 2017-2018 CSPP, if awarded, for subsidized preschool services at the Jim Gilliam Child Care Center, subject to the approval of the Mayor and City Council;

## BOARD REPORT

PG. 2 NO. 17-025

4. Designate RAP's General Manager, Chief Financial Officer, or Assistant General Manager, as the agent to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the implementation and completion of the project(s);
5. Authorize RAP's Chief Accounting Employee to establish the necessary account and/or to appropriate funding received within "Recreation and Parks Grant" Fund 205 to accept the FY 2017-2018 CCTR continued funding, if awarded, in the amount of Six Thousand, Five Hundred Ninety-Six Dollars (\$6,596.00), and the 2017-2018 CSPP continued funding, if awarded, in the amount of Two Hundred Ninety-Five Thousand, Four Hundred Eighty-Seven Dollars (\$295,487.00), from the CDE for subsidized preschool services at the Jim Gilliam Child Care Center; and,
6. Authorize RAP's Chief Accounting Employee to make any technical changes, as may be necessary to effectuate the intent of these funds.

### SUMMARY

In November 2016, RAP was notified that the CDE would begin receiving applications for continued funding for FY 2017-2018 childcare and preschool programs in November 2016. As a current recipient of CCTR funding which subsidizes child care for two to three year olds, and CSPP funding which provides subsidy for pre-kindergarteners, RAP is eligible to apply for continuation of existing levels of funding in each program. For the FY 2016-2017, RAP was authorized up to Six Thousand, Five Hundred Ninety-Six Dollars (\$6,596.00), under CCTR and up to Two Hundred Ninety-Five Thousand, Four Hundred Eighty-Seven Dollars (\$295,487.00) under the CSPP Program, for the Jim Gilliam Child Care Center program. If awarded continued funding for FY 2017-2018, RAP will continue to use the funding to provide subsidized preschool services at the Jim Gilliam Child Care Center for eligible children ages three to five years old. These awards are maximum reimbursable amounts with payments made by the CDE based on RAP's quarterly reports of actual enrollment, attendance, and expenses.

For twenty-one (21) years since January of 1996, RAP has received CDE funds to provide child care services at the Jim Gilliam Child Care Center, which serves children of families with incomes at or below the seventy-five percent (75%) of the State median income level. The Jim Gilliam Child Care Center is RAP's first licensed preschool program with a licensed capacity to serve forty-five (45) children, and is currently operating at full capacity as the Center is located within a high need area. These grant funds make it possible for as many as thirty-two (32) children to receive subsidized full-day preschool services. As studies have shown, preschool programming helps children develop academic, cognitive, and behavioral skills that have proven to increase their chances for future success. The full-day services also give participants' parents, who would otherwise be unable to afford these services, the opportunity to seek employment, or return to school in hopes of creating better economic opportunities for their families.

The continuation funding application for FY 2017-18 was submitted before the deadline of December 1, 2016. Award amounts are typically announced once the State of California budget for the subject fiscal year is approved.

BOARD REPORT

PG. 3 NO. 17-025

FISCAL IMPACT STATEMENT

The acceptance of this CDE grant does not require match funding. The grants assist RAP by providing additional funding to continue the subsidized preschool program at the Jim Gilliam Child Care Center.

This Report was prepared by Jennifer Sapone, Senior Management Analyst I, Partnership Division.

**BOARD REPORT**

NO. 17-026

DATE February 15, 2017

C.D. 9

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: RALPH M. PARSONS PRESCHOOL AT EXPO CENTER – CALIFORNIA DEPARTMENT OF EDUCATION 2017-2018 CALIFORNIA STATE PRESCHOOL PROGRAM EXPANSION – AUTHORIZATION FOR FUNDING APPLICATION FOR SUBSIDIZED PRESCHOOL SERVICES; ACCEPTANCE OF GRANT FUNDS

AP Diaz	_____	*V. Israel	
R. Barajas	_____	N. Williams	_____
H. Fujita	_____		

  
\_\_\_\_\_

General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

**RECOMMENDATIONS**

1. Retroactively authorize the Department of Recreation and Parks (RAP) to submit a funding application to the California Department of Education (CDE) for the amount of Three Hundred Twenty-Three Thousand, Three Hundred Seventeen Dollars (\$323,317.00), in funding under the Fiscal Year (FY) 2017-2018 California State Preschool Program (CSPP) Expansion for subsidized preschool services at the Ralph M. Parsons Preschool within EXPO Center, subject to Mayor and City Council consideration;
2. Direct RAP staff to transmit a copy of the funding application to the Mayor, Office of the City Administrative Officer (CAO), Office of the Chief Legislative Analyst (CLA), and to the City Clerk for Committee and City Council approval before accepting and receiving the grant award, pursuant to Los Angeles Administrative Code Section 14.6 et seq. as may be amended;
3. Authorize RAP's General Manager to accept and receive funding from CDE in the amount of Three Hundred Twenty-Three Thousand, Three Hundred Seventeen Dollars (\$323,317.00), under the FY 2017-2018 CSPP, if awarded, for subsidized preschool services at the Ralph M. Parsons Preschool within EXPO Center, subject to the approval of the Mayor and City Council;
4. Designate RAP's General Manager, Chief Financial Officer, or Assistant General Manager, as the agent to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the implementation and completion of the project(s);

## BOARD REPORT

PG. 2 NO. 17-026

5. Authorize RAP's Chief Accounting Employee to establish the necessary account and/or to appropriate funding received within "Recreation and Parks Grant" Fund 205 to accept the FY 2017-2018 CSPP funding, if awarded, in the amount of Three Hundred Twenty-Three Thousand, Three Hundred Seventeen Dollars (\$323,317.00) from the CDE for subsidized preschool services at the Ralph M. Parsons Preschool within EXPO Center; and,
6. Authorize RAP's Chief Accounting Employee to make any technical changes, as may be necessary to effectuate the intent of these funds.

### SUMMARY

The Ralph M. Parsons Preschool within EXPO Center (Parsons) is a State-licensed preschool able to serve up to ninety (90) children ages three to five. In 2006, RAP received an initial grant from the Los Angeles Universal Preschool (LAUP) to subsidize thirty-two (32) children for a half-day preschool at Parsons. LAUP is the local non-profit organization which has received and distributed a portion of funds generated from the 1998 passage of Proposition 10, the Tobacco Tax, to eligible preschool providers in Los Angeles. Since the initial grant award, RAP has continued to receive a grant annually to subsidize about one-third (1/3) of the Parsons preschool enrollment while the remaining preschool slots are enrolled with children whose families pay customary fees, which typically amount to Eighty Dollars (\$80.00) per week for half-day preschool to One Hundred Forty Dollars (\$140.00) for full-day preschool. Funding from LAUP to Ralph M. Parsons ended in FY 2015-2016. Effective FY 2016-2017 CDE provided funding in the amount of \$323,317 for Ralph M. Parsons. The original grant amount of \$307,972 was changed in Amendment 01 to \$323,317.

LAUP has communicated to RAP that previously available LAUP grant funds are no longer available. In seeking alternative funding sources to continue to help low-income families within the EXPO Center service area, RAP staff learned that the CDE has funding to expand the number of grantees under the CSPP program and would be conducting a competitive process for preschools to apply for new funding. The Request for Proposals documents were promulgated by the CDE in November 2016, and RAP attended both on-line and local seminars to learn about the process of applying on behalf of Parsons. Based on the CDE formulas, the application to fund full-time enrollment for thirty (30) full-time preschool children is for a maximum reimbursable amount of Three Hundred Twenty-Three Thousand, Three Hundred Seventeen Dollars (\$323,317.00). If awarded this funding for FY 2017-2018, RAP will be able to provide child care services at Parsons for thirty (30) full-time four-year-olds from families with incomes at or below the seventy-five percent (75%) of the State median income level.

Studies have shown that preschool programming helps children develop academic, cognitive, and behavioral skills that have proven to increase their chances for future success. The full day services also give participants' parents, who would otherwise be unable to afford these services, the opportunity to seek employment or return to school in hopes of creating better economic opportunities for their families.

## BOARD REPORT

PG. 3 NO. 17-026

The FY 2017-18 application was submitted before the deadline of December 1, 2016. Awards and amounts are typically announced once the State of California budget for the subject fiscal year is approved.

### FISCAL IMPACT STATEMENT

The acceptance of this CDE grant does not require match funding. The grants assist RAP by providing additional funding to continue the subsidized preschool program at the Ralph M. Parsons Preschool within EXPO Center and improve services from half-day to full-day services.

This report was prepared by Jennifer Sapone, Senior Management Analyst I, Partnership Division.

**BOARD REPORT**

NO. 17-028

DATE February 15, 2017

C.D. 10

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: LAFAYETTE PARK – OUTDOOR PARK IMPROVEMENTS (PRJ1394A) PROJECT; WESTSIDE NEIGHBORHOOD PARK – OUTDOOR PARK IMPROVEMENTS (PRJ20051) PROJECT – FINAL ACCEPTANCE OF VARIOUS QIMBY FUNDED PROJECTS

<i>for</i>	AP Diaz _____	V. Israel _____
	*R. Barajas <u>C&amp;D</u>	N. Williams _____
	H. Fujita _____	

  
\_\_\_\_\_  
General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Accept the work performed for the Lafayette Park – Outdoor Park Improvements (PRJ1394A) Project, constructed by the Department of Recreation and Parks' (RAP) staff and as-needed pre-qualified on-call vendors, as outlined in the Summary of this Report;
2. Accept the work performed for the Westside Neighborhood Park – Outdoor Park Improvements (PRJ20051) Project, constructed by RAP staff and as-needed pre-qualified on-call vendors, as outlined in the Summary of this Report; and,
3. Authorize RAP's Chief Accounting Employee to make technical corrections as necessary to carry out the intent of this Report.

SUMMARY

Lafayette Park – Outdoor Park Improvements (PRJ1394A) Project

Lafayette Park is located at 625 South Lafayette Park Place in the Westlake area of the City. This 9.72-acre facility provides a variety of services and programs to the community, including baseball, basketball, soccer, gymnasium and community center, and a skate park. Approximately 32,020 City residents live within a one-half mile walking distance of the Park.

The Lafayette Park – Outdoor Park Improvements (PRJ1394A) Project included the installation of a new irrigation system, benches, landscaping, a drinking fountain, and related site amenities.

## BOARD REPORT

PG. 2 NO. 17-028

The Board of Recreation and Parks Commissioners (Board) approved the allocation of Two Hundred Thousand Dollars (\$200,000.00) in Quimby Fees (Report No. 09-051).

The Lafayette Park – Outdoor Park Improvements (PRJ1394A) Project is complete. All the funds for this Project were fully expended, and there are no funds available for reallocation to other projects.

### Westside Neighborhood Park – Outdoor Park Improvements (PRJ20051) Project

Westside Neighborhood Park is located at 3085 Clyde Avenue in the Mid-City area of the City. This 1.21-acre facility currently provides a Universally Accessible Playground (UAP), outdoor fitness equipment and basketball courts. Approximately 2,905 City residents live within a one-half mile walking distance of the Park.

The Westside Neighborhood Park – Outdoor Park Improvements (PRJ20051) Project included the development of a new Universally Accessible Playground, outdoor fitness equipment, basketball courts, as well as a new perimeter fence, landscaping, and walkways.

The Board approved the allocation of Nine Hundred Fifty Thousand, Nine Hundred Twenty-One Dollars (\$950,921.00) in Quimby Fees (Report Nos. 09-213 and 12-199).

The Westside Neighborhood Park – Outdoor Park Improvements (PRJ20051) Project is complete. A total amount of One Hundred Forty-Eight Thousand, Two Hundred Forty-Nine Dollars and One Cent (\$148,249.01) is currently available for reallocation to other projects.

### ENVIRONMENTAL IMPACT STATEMENT:

The Recommendations in the current Board action will not result in any additional environmental impacts, and are therefore covered by the existing California Environmental Quality Act (CEQA) exemptions. No additional CEQA documentation required.

### FISCAL IMPACT STATEMENT

The approval of this Report will have no fiscal impact on RAP's General Fund.

This Report was prepared by Meghan Luera, Management Assistant, Planning, Maintenance and Construction Branch.

**BOARD REPORT**

NO. 17-029

DATE February 15, 2017

C.D. 14

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: CITY HALL PARK – PARK RESTORATION (PRJ20465) PROJECT; EVERGREEN RECREATION CENTER – OUTDOOR PARK RESTORATION (PRJ20123) PROJECT; HOLLENBECK PARK – SKATEBOARD PLAZA IMPROVEMENTS (PRJ20281) PROJECT; HOSTETTER PARK – BUILDING AND OUTDOOR IMPROVEMENTS (20506) PROJECT; PERSHING SQUARE – PALM COURT IMPROVEMENTS (PRJ1396A) PROJECT – FINAL ACCEPTANCE OF VARIOUS QUIMBY FUNDED PROJECTS

 AP Diaz _____	V. Israel _____
*R. Barajas  _____	N. Williams _____
H. Fujita _____	

  
\_\_\_\_\_  
General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Accept the work performed for the City Hall Park – Park Restoration (PRJ20465) Project, constructed by the Department of Recreation and Parks (RAP) staff and/or as-needed pre-qualified on-call vendors, as outlined in the Summary of this Report;
2. Accept the work performed for the Evergreen Recreation Center – Outdoor Park Improvements (PRJ20123) Project, constructed by RAP staff and/or as-needed pre-qualified on-call vendors, as outlined in the Summary of this Report;
3. Accept the work performed for the Hollenbeck Park – Skateboard Plaza Improvements (PRJ20281) Project, constructed by RAP staff and/or as-needed pre-qualified on-call vendors, as outlined in the Summary of this Report;
4. Accept the work performed for Hostetter Park – Building and Outdoor Improvements (PRJ20506) Project, constructed by RAP staff and/or as-needed pre-qualified on-call vendors, as outlined in the Summary of this Report;
5. Accept the work performed for the Pershing Square – Palm Court Improvements (PRJ1396A) Project, constructed by RAP staff and/or as-needed pre-qualified on-call vendors, as outlined in the Summary of this Report;

## BOARD REPORT

PG. 2 NO. 17-029

6. Authorize RAP's Chief Accounting Employee to make technical corrections as necessary to carry out the intent of this Report.

### SUMMARY

#### City Hall Park – Park Restoration (PRJ20465) Project

City Hall Park is located at 200 North Spring Street, in the Downtown Los Angeles community of the City. Approximately 6,798 City residents live within a one-half mile walking distance of the Park. This 1.71-acre park encompasses the lawn areas and open space immediately surrounding City Hall. City Hall and City Hall Park are City of Los Angeles Historic Cultural Monument (Monument No. 150).

The City Hall Park – Park Restoration (PRJ20465) Project included improvements to the turf, landscaping and irrigation infrastructure, as well as repairing damages caused by the Occupy L.A. two-month encampment (Report No. 12-034).

The Board of Recreation and Parks Commissioners (Board) approved the allocation of Four Hundred Ninety Thousand Dollars (\$490,000.00) in Quimby Fees (Report Nos. 10-303, 12-184, and 16-173).

The City Hall Park – Park Restoration (PRJ20465) Project is complete. A total amount of Two Hundred One Thousand, Two Hundred Ninety-Four Dollars and Eighty-Four Cents (\$201,294.84) is currently available for reallocation to other projects.

#### Evergreen Recreation Center – Outdoor Park Improvements (PRJ20123) Project

Evergreen Recreation Center is located at 2839 East 4th Street in the Boyle Heights area of the City. This 6.66-acre facility provides a variety of services and programs to the surrounding neighborhood, including a recreation center, a senior center, basketball courts, children's play area, multipurpose fields, and a child care facility. Approximately 11,612 City residents live within a one-half mile walking distance of the Park.

The Evergreen Recreation Center – Outdoor Park Improvements (PRJ20123) Project included the installation of outdoor fitness equipment, walking paths, related site improvements, and renovation of a play area.

The Board approved the allocation of Two Hundred Seventy-Four Thousand, Six Hundred Forty-Two Dollars and Ninety-One Cents (\$274,642.91) in Zone Change Fees (Report Nos. 09-069, 10-024, and 13-108).

The Evergreen Recreation Center – Outdoor Park Improvements (PRJ20123) Project is complete. A total amount of Three Thousand, Four Hundred Ninety-Eight Dollars and Twenty-Two Cents (\$3,498.22) is currently available for reallocation to other projects.

## BOARD REPORT

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### Hollenbeck Park – Skateboard Plaza Improvements (PRJ20281) Project

Hollenbeck Park is located at 415 South Saint Louis Street in the Boyle Heights area of the City. This 18.30-acre facility provides a children's play area, community center building, Skate Park, and a lake for the use of the surrounding community. Approximately 13,715 City residents live within a one-half mile walking distance of the Park.

The Hollenbeck Park – Skateboard Plaza Improvements (PRJ20281) Project included renovation of the skateboard plaza.

The Board approved the allocation of Two Hundred Twenty-Two Thousand, Nine Hundred Thirty-Five Dollars and Ninety-Three Cents (\$221,935.93) in Quimby Fees (Report No. 10-024).

The Hollenbeck Park – Skateboard Plaza Improvements (PRJ20281) Project is complete. A total amount of Five Cents (\$0.05) available is currently available for reallocation to other projects.

### Hostetter Park – Building and Outdoor Improvements (PRJ20506) Project

Hostetter Park is located at 3141 East Olympic Boulevard in the Boyle Heights area of the City. This 3.46-acre facility provides multipurpose fields, a swimming pool, a play area, a senior center, and a gymnasium building for the surrounding community. Approximately 9,203 City residents live within a one-half mile walking distance of the Park.

The Hostetter Park – Building and Outdoor Improvements (PRJ20506) Project included improvements to the gymnasium and senior citizens buildings, including upgrades to the Heating, Ventilation, and Air Conditioning (HVAC) systems, mechanical and plumbing systems, roofs, floors, and related facility improvements, as well as improvements to the multipurpose fields and associated amenities.

The Board approved the allocation of Two Hundred Fifty Thousand Dollars (\$250,000.00) in Quimby Fees (Report No. 10-306).

The Hostetter Park – Building and Outdoor Improvements (PRJ20506) Project is complete. A total amount of One Hundred Forty-Three Dollars and Ninety Cents (\$143.90) is currently available for reallocation to other projects.

### Pershing Square – Palm Court Improvements (PRJ1396A) Project

Pershing Square is a 5.02-acre park, located at 525 South Olive Street, in the Jewelry District of Downtown Los Angeles. It is located atop a parking lot structure. This recreation facility, the City's most urban park, is host to special events and annual events for the community, including rallies, concerts and ice skating. Approximately 13,541 City residents live within a one-half mile walking distance of the Park.

## BOARD REPORT

PG. 4 NO. 17-029

The Pershing Square – Palm Court Improvements (PRJ1396A) Project included the replacement of the palm court with green lawn areas, low water-use colorful planting areas and decomposed granite pathways, installation of a smart irrigation system in the Palm Court and Pershing Square.

The Board approved the allocation of One Hundred Eighty-Five Thousand, Four Hundred Twenty-Four Dollars and Sixty-Seven Cents (\$185,424.67) in Quimby Fees (Report Nos. 09-209 and 14-134).

The Pershing Square – Palm Court Improvements (PRJ1396A) Project is complete. All the funds for this Project were fully expended, and there are no funds available for reallocation to other projects.

### ENVIRONMENTAL IMPACT STATEMENT:

The Recommendations in the current Board action will not result in any additional environmental impacts, and are therefore covered by the existing CEQA exemptions. No additional CEQA documentation required.

### FISCAL IMPACT STATEMENT

The approval of this Report will have no fiscal impact on RAP's General Fund.

This Report was prepared by Meghan Luera, Management Assistant, Planning, Maintenance and Construction Branch.

**BOARD REPORT**

NO. 17-030

DATE February 15, 2017

C.D. 11

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: BARRINGTON RECREATION CENTER – PLAY AREA RENOVATION (PRJ20800) PROJECT; MAR VISTA RECREATION CENTER – BUILDING IMPROVEMENTS (PRJ1602F) PROJECT; MAR VISTA RECREATION CENTER – LIGHTING REHABILITATION (PRJ20528) PROJECT; MAR VISTA RECREATION CENTER – OUTDOOR IMPROVEMENTS (PRJ1310B) PROJECT; OAKWOOD RECREATION CENTER – BUILDING AND OUTDOOR IMPROVEMENTS (PRJ1901B) PROJECT; STONER RECREATION CENTER – BUILDING AND OUTDOOR IMPROVEMENTS (PRJ1900B) PROJECT; VENICE BEACH – OUTDOOR PARK IMPROVEMENTS (PRJ20551) PROJECT; VENICE HIGH SCHOOL POOL – POOL AND BATHHOUSE IMPROVEMENTS (PRJ1502N) PROJECT – FINAL ACCEPTANCE OF VARIOUS QUIMBY FUNDED PROJECTS

AP Diaz	_____	V. Israel	_____
<i>for</i> *R. Barajas	<u>CSD</u>	N. Williams	_____
H. Fujita	_____		

  
\_\_\_\_\_

General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Accept the work performed for the Barrington Recreation Center – Play Area Renovation (PRJ20800) Project, constructed by the Department of Recreation and Parks (RAP) staff and/or as-needed pre-qualified on-call vendors, as outlined in the Summary of this Report;
2. Accept the work performed for the Mar Vista Recreation Center – Building Improvements (PRJ1602F) Project, constructed by RAP staff and/or as-needed pre-qualified on-call vendors, as outlined in the Summary of this Report;
3. Accept the work performed for the Mar Vista Recreation Center – Lighting Rehabilitation (PRJ20528) Project, constructed by RAP staff and/or as-needed pre-qualified on-call vendors, as outlined in the Summary of this Report;
4. Accept the work performed for the Mar Vista Recreation Center – Outdoor Improvements (PRJ1310B) Project, constructed by RAP staff and/or as-needed pre-qualified on-call vendors, as outlined in the Summary of this Report;

## BOARD REPORT

PG. 2 NO. 17-030

5. Accept the work performed for the Oakwood Recreation Center – Building and Outdoor (PRJ1901B) Project, constructed by RAP staff and/or as-needed pre-qualified on-call vendors, as outlined in the Summary of this Report;
6. Accept the work performed for the Stoner Recreation Center – Building and Outdoor Improvements (PRJ1900B) Project, constructed by RAP staff and/or as-needed pre-qualified on-call vendors, as outlined in the Summary of this Report;
7. Accept the work performed for the Venice Beach – Outdoor Park Improvements (PRJ20551) Project, constructed by RAP staff and/or as-needed pre-qualified on-call vendors, as outlined in the Summary of this Report;
8. Accept the work performed for the Venice High School Pool – Pool and Bathhouse Improvements (PRJ1502N) Project, constructed by RAP staff and/or as-needed pre-qualified on-call vendors, as outlined in the Summary of this Report; and,
9. Authorize RAP's Chief Accounting Employee to make technical corrections as necessary to carry out the intent of this Report.

### SUMMARY

#### Barrington Recreation Center – Play Area Renovation (PRJ20800) Project

Barrington Recreation Center is located at 333 South Barrington Avenue in the Brentwood community of the City. This 18.64-acre property features a recreation center, play area and basketball court; and provides numerous programs for the use of the surrounding community. Approximately 3,877 City residents live within a one-half mile walking distance of the Park.

The Barrington Recreation Center – Play Area Renovation (PRJ20800) Project included replacement of the existing children's play area, and renovation and improvement of the adjacent outdoor park areas.

The Board of Recreation and Parks Commissioners (Board) approved the allocation of Five Hundred Twenty-Five Thousand Dollars (\$525,000.00) in Quimby Fees (Report No. 14-030).

The Barrington Recreation Center – Play Area Renovation (PRJ20800) Project is complete. A total amount of One Hundred Two Thousand, Twenty-Eight Dollars and Fifty-Three Cents (\$102,028.53) is currently available for reallocation to other projects.

#### Mar Vista Recreation Center – Building Improvements (PRJ1602F) Project

Mar Vista Recreation Center is located at 11430 Woodbine Avenue in the Mar Vista area of the City. This 18.69-acre facility provides a variety of services and programs to the surrounding community, including baseball, basketball, soccer, teen, and adult programs. Approximately 10,687 City residents live within a one-half mile walking distance of the Park.

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The Mar Vista Recreation Center – Building Improvements (PRJ1602F) Project included renovation and replacement of the existing heating system, as well as installation of a new air conditioning system.

The Board approved the allocation of Four Hundred Nine Thousand, Eight Hundred Seventy-Four Dollars and Thirty-Three Cents (\$409,874.33) in Quimby Fees (Report Nos. 08-56, 10-036, and 14-214).

The Mar Vista Recreation Center – Building Improvements (PRJ1602F) Project is complete. A total amount of One Thousand, Three Hundred Ninety-Two Dollars and Fifty-Two Cents (\$1,392.52) is currently available for reallocation to other projects.

### Mar Vista Recreation Center – Lighting Rehabilitation (PRJ20528) Project

The Mar Vista Recreation Center – Lighting Rehabilitation (PRJ20528) Project included renovation and improvement of the existing outdoor lighting at the basketball courts, tennis courts, roller hockey rink, and sports fields.

The Board approved the allocation of Four Hundred Forty-Nine Thousand, Seven Hundred Eighty-Five Dollars and Eighty-Nine Cents (\$449,785.89) in Quimby Fees (Report No. 12-070).

The Mar Vista Recreation Center – Lighting Rehabilitation (PRJ20528) Project is complete. A total amount of Two Thousand, Five Hundred Forty-Nine Dollars and Forty-Eight Cents (\$2,549.48) is currently available for reallocation to other projects.

### Mar Vista Recreation Center – Outdoor Improvements (PRJ1310B) Project

The Mar Vista Recreation Center – Outdoor Improvements (PRJ1310B) Project included improvements to the existing fencing and irrigation, as well as the addition of a jogging path and outdoor exercise equipment.

The Board approved the allocation of Four Hundred Fifty Thousand, Seven Hundred Forty-Four Dollars and Seventy-Three Cents (\$450,744.73) in Quimby Fees (Report Nos. 08-198 and 12-070).

The Mar Vista Recreation Center – Outdoor Improvements (PRJ1310B) Project is complete. A total amount of One Thousand, Seven Hundred Dollars (\$1,700.00) is currently available for reallocation to other projects.

### Oakwood Recreation Center – Building and Outdoor Improvements (PRJ1901B) Project

Oakwood Recreation Center is located at 767 California Street in the Venice area of the City. This 3.72-acre facility provides a variety of services and programs to the surrounding community, including baseball, basketball, soccer, after-school and teen club programs. Approximately 8,335 City residents live within a one-half mile walking distance of the Park.

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The Oakwood Recreation Center – Building and Outdoor (PRJ1901B) Project included a security system, new roof, kitchen and restroom refurbishment to the recreation center and sports field, outdoor improvements such as ball field diamond refurbishment, and fencing.

The Board approved the allocation of Six Hundred Fourteen Thousand, Eight Hundred Sixteen Dollars and Ninety-Three (\$614,816.93) in Quimby Fees (Report No. 08-198).

The Oakwood Recreation Center – Building and Outdoor (PRJ1901B) Project is complete. A total amount of Five Thousand, One Hundred Forty-Six Dollars and Thirty-Seven Cents (\$5,146.37) is currently available for reallocation to other projects.

### Stoner Recreation Center – Building and Outdoor Improvements (PRJ1900B) Project

Stoner Recreation Center is located at 1835 Stoner Avenue in the West Los Angeles area of the City. Several projects have been identified as necessary for continued operations at this facility. This 8.65-acre facility provides a variety of services and programs to the surrounding community, including baseball, basketball, football, soccer, ballet, science and senior programs. Stoner Recreation Center also includes both a swimming pool and a future universal accessible playground. Approximately 11,928 City residents live within a one-half mile walking distance of the Park.

The Stoner Recreation Center – Building and Outdoor Improvements (PRJ1900B) Project included building and outdoor improvements including air conditioning, fencing, windscreens, gym lighting, recreation center doors, tennis court resurfacing, and lighting.

The Board approved the allocation of Six Hundred Forty-Two Thousand, Six Hundred Fifty-Two Dollars (\$642,652.00) in Quimby and Zone Change fees (Report No. 08-198).

The Stoner Recreation Center – Building and Outdoor Improvements (PRJ1900B) Project is complete. A total amount of Thirty-Eight Thousand, Eight Hundred Sixteen Dollars and Sixty-Seven Cents (\$38,816.67) is currently available for reallocation to other projects.

### Venice Beach – Outdoor Park Improvements (PRJ20551) Project

Venice Beach is located at 1800 Ocean Front Walk in the Venice area of the City. This 178.0-acre facility provides a variety of services and programs to the surrounding community, including basketball, handball, tennis and volleyball courts. Venice Beach also includes the Venice Boardwalk. Approximately 13,233 City residents live within a one-half mile walking distance of the Park.

The Venice Beach – Outdoor Park Improvements (PRJ20551) Project included improvements to the outdoor park areas, including refurbishment of the existing paddle tennis courts, restroom buildings, outdoor fitness area, as well as the installation of benches, trash receptacles, fencing, and related site amenities.

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The Board approved the allocation of Two Hundred Fifty Thousand Dollars (\$250,000.00) in Quimby fees (Report No. 11-267).

The Venice Beach – Outdoor Park Improvements (PRJ20551) Project is complete. All the funds for this Project were fully expended, and there are no funds available for reallocation to other projects.

### Venice High School Pool – Pool and Bathhouse Improvements (PRJ1502N) Project

Venice High School Pool is an indoor pool facility located at 2490 Walgrove Avenue in the Venice area of the City. This 0.37-acre facility provides a variety of aquatic programs to the Los Angeles Unified School District and to the surrounding community, including water polo, lifeguard training, swimming lessons and other programs. Approximately 6,402 City residents live within a one-half mile walking distance of Venice High School Pool.

The Venice High School Pool – Pool and Bathhouse Improvements (PRJ1502N) Project included renovation of existing pool and bathhouse.

The Board approved the allocation of Five Hundred Three Thousand, Sixty-Three Dollars and Fifty-Four Cents (\$503,063.54) in Quimby fees (Report No. 08-198).

The Venice High School Pool – Pool and Bathhouse Improvements (PRJ1502N) Project is complete. All the funds for this Project were fully expended, and there are no funds available for reallocation to other projects.

### ENVIRONMENTAL IMPACT STATEMENT:

The Recommendations in the current Board action will not result in any additional environmental impacts, and are therefore covered by the existing California Environmental Quality Act (CEQA) exemptions. No additional CEQA documentation required.

### FISCAL IMPACT STATEMENT

The approval of this Report will have no fiscal impact on RAP's General Fund.

This Report was prepared by Meghan Luera, Management Assistant, Planning, Maintenance and Construction Branch.

**BOARD REPORT**

NO. 17-031

DATE February 15, 2017

C.D. 2

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: NORTH WEDDINGTON PARK – DONATION OF A UNIVERSALLY ACCESSIBLE PLAYGROUND AND RESTROOMS FROM SHANE’S INSPIRATION (PRJ21106); ALLOCATION OF QUIMBY FEES; CATEGORICAL EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO ARTICLE III, SECTION 1 CLASS 1(1), (14) AND CLASS 11(3), (6) OF THE CITY CEQA GUIDELINES REGARDING MINOR ALTERATIONS TO EXISTING FACILITIES AND THE REPLACEMENT OF MINOR STRUCTURES ACCESSORY TO EXISTING INSTITUTIONAL FACILITIES

AP Diaz	_____	*V. Israel	_____
R. Barajas	_____	N. Williams	_____
H. Fujita	_____		

  
 \_\_\_\_\_  
 General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

**RECOMMENDATIONS**

1. Approve a proposed Gift Agreement (Agreement) with Shane’s Inspiration, a California public benefit, nonprofit organization, attached hereto as Attachment 1, stipulating the terms and conditions for a donation to the Department of Recreation and Parks (RAP), consisting of the planning, design, purchase, and installation of a Universally Accessible Playground (UAP) and pre-fabricated Americans with Disabilities Act (ADA) compliant restrooms at North Weddington Park (Park), valued at approximately One Million, One Hundred Thousand Dollars (\$1,100,000.00), subject to the approval of the Mayor and of the City Attorney as to form;
2. Accept the Donation subject to the completion and approval of a post-development inspection of the UAP and pre-fabricated ADA compliant restrooms (collectively, “Improvements”) by the RAP Planning, Maintenance and Construction Branch (PMC), and that appropriate recognition be given to the Donor;
3. Approve the naming of the donated playground as “Rocket’s Universe”;
4. Conceptually approve the installation of Donor Recognition Signage in the form of a bronze plaque (22” x 32”), as described herein;
5. Authorize PMC staff to issue a Right-Of-Entry Permit (ROE) to the Donor and their contractors, stipulating the terms and conditions for the installation of the Improvements, including ingress-egress through the Park for access and staging;

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6. Authorize the Department of Recreation and Parks (RAP) Chief Accounting Employee to transfer Two Hundred Twenty-Five Thousand Dollars (\$225,000.00) in Quimby Fees from the Quimby Fees Account No. 89460K-00 to the North Weddington Park Account No. 89460K-NP;
7. Approve the allocation of Two Hundred Twenty-Five Thousand Dollars (\$225,000.00) in Quimby Fees from North Weddington Park Account No. 89460K-NP for the Project;
8. Find that the proposed Project is categorically exempt from the California Environmental Quality Act (CEQA), and direct RAP staff to file a Notice of Exemption (NOE);
9. Authorize RAP's Chief Accounting Employee to prepare a check to the Los Angeles County Clerk in the amount of Seventy-Five Dollars (\$75.00) for the purpose of filing a Notice of Exemption;
10. Direct the Board Secretary to transmit the Agreement to the Mayor per Executive Directive No. 3 (Villaraigosa Series), and to the City Attorney for approval as to form;
11. Authorize the Board President and Secretary to execute the proposed Agreement subsequent to all necessary approvals; and
12. Authorize RAP's Chief Accounting Employee to make technical corrections as necessary to carry out the intent of this Report.

### SUMMARY

RAP has been offered a donation from Shane's Inspiration, valued at approximately One Million, One Hundred Thousand Dollars (\$1,100,000.00), consisting of the planning, design, purchase, and installation of a new UAP and pre-fabricated ADA compliant restrooms (collectively referred to herein as "the Donation") at North Weddington Park (Park), located at 10844 Acama Street, North Hollywood, CA 91602, in Council District 2.

Shane's Inspiration has been incorporated since the year 2000 as a California 501(c)(3) nonprofit public benefit corporation (Donor), with the mission of creating inclusive playgrounds and programs that unite children of all abilities and disabilities, in honor of Shane, the child of Catherine Curry-Williams and Scott Williams, who was born with spinal muscular atrophy. The organization has grown throughout the world into a network of sixty-three (63) inclusive playgrounds, with seventy-five (75) playgrounds in development and over forty thousand (40,000) children in over one hundred fifty (150) schools who benefit from the education and outreach programs that they offer.

The Donor will install a UAP through funding secured from private funding sources, including the family of John Taylor "Rocket" Williams, IV, to replace the existing, traditional playground that currently sits on a six thousand (6,000) square foot sand pit. The custom designed UAP play structure and sensory (touch and sound) play elements will accommodate the recreational

## BOARD REPORT

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needs of children of all abilities. In addition to the UAP play equipment and sensory elements, the Donation also includes the installation of resilient surfacing for the entire play space with a small quantity of sand for sensory play only, and an expansion of the current playground footprint to the east to allow room for multiple swings; in addition to shade, fencing, and other site amenities such as benches and tables that will be upgraded as part of the Project's design and Improvements.

The Board of Recreation and Park Commissioners (Board), Facility Repair and Maintenance Task Force reviewed and supported the proposed Project's conceptual design plans on February 17, 2016. The Donor subsequently presented the Project to the local community initially on June 8, 2016, during which community input was obtained in order to address community needs and desires related to the replacement of the existing playground equipment. Revisions to the proposed plans were made and then presented to the community again on December 6, 2016, at which point the revised design plans were overwhelmingly accepted by the community.

The Donor's landscape architect prepared the UAP Project Conceptual Design Plans included in the proposed Agreement (Attachment 1) as Exhibit-A, which have been reviewed and approved by the RAP's PMC Branch. In addition to overseeing the coordination of the Project, PMC is also assisting with the planning and design of the pre-fabricated ADA compliant restrooms. Upon PMC's review of the proposed plans, it was determined that the prefabricated ADA compliant restroom that the Donor was contemplating was not sufficient to serve the overall demands of the Park, RAP determined that it would be in the best interest of the Park and the community for a larger prefabricated ADA compliant restroom building to be installed. Based on preliminary cost estimates, RAP identified available funding in the approximate amount of Two Hundred Twenty-Five Thousand Dollars (\$225,000.00), and agreed to contribute such funding towards the proposed Project. This estimated amount of required gap-funding is a result of RAP's desire for a larger restroom building in order to better serve the needs of the community.

Through PMC, RAP will contract with existing on-call contractors already under contract with RAP. RAP shall pay the on-call contractors directly for the portion(s) of the Project funded by RAP's contribution. PMC will issue a Right-Of Entry Permit (ROE) authorizing the Donor and their contractors and subcontractors to access the Project area, including ingress-egress through the Park and certain areas for storage and staging, as illustrated by the Site Map included in the proposed Agreement as Exhibit-C.

Shane's Inspiration will assume sole responsibility for funding the Project in accordance with the Project Budget attached to the proposed Agreement as Exhibit B, and shall contract directly with licensed contractors and vendors, and pay related invoice payments directly to the same. In accordance with the terms and conditions of the proposed Agreement, the Donor shall confirm to RAP in writing prior to commencement of installation activities, that Project funding in the amount of One Million, One Hundred Thousand Dollars (\$1,100,000.00) is secured and available for Project implementation.

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Pursuant to the Donor's request, and in accordance with the RAP Naming Policy which allows RAP to consider naming proposals for park amenities in recognition of substantial contributions from outside entities, subject to approval by the Board, and requiring that "a donation, gift, sponsorship, and/or other contribution from an outside entity that presents a decisive benefit and shows a direct connection to a Park Asset and serves the interests of the City and its residents"; it is recommended that the Board consider naming the UAP, "Rocket's Universe". This generous gift is being provided in honor of John Taylor "Rocket" Williams IV, who unfortunately suffered from Congenital Disorders of Glycosylation (CDG) and passed away at a very young age as a toddler in 2008. On behalf of the family of John Taylor "Rocket" Williams IV, who have generously funded this important Project, Shane's Inspiration is honored to present this gift of a new inclusive playground area to the City of Los Angeles.

It is recommended that the Board conceptually approve the installation of recognition signage in the form of a bronze plaque (22" x 32"), in accordance with the RAP Sponsorship Recognition Policy that reads as follows:

CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
THANKS AND ACKNOWLEDGES  
THIS GIFT FROM THE FAMILY OF  
JOHN TAYLOR "ROCKET" WILLIAMS IV

PROJECT FUNDING

Upon approval of this report, Two Hundred Twenty-Five Thousand Dollars (\$225,000.00) in Quimby Fees from the Quimby Fees Account No. 89460K-00 can be transferred to the North Weddington Park Center Account No. 89460K-NP and allocated to the Project.

These Quimby Fees were collected within five (5) miles of North Weddington Park, which is the standard distance for the allocation of the Quimby Fees to community recreational facilities pursuant to Los Angeles Municipal Code Section 12.33 E.3.

FUNDING SOURCE MATRIX

Source	Fund/Dept/Acct	Amount	Percentage
Donation	N/A	\$1,100,000.00	83%
Quimby Fees	302/89/89460K-NP	\$ 225,000.00	17%
<b>Total</b>		<b>\$1,325,000.00</b>	<b>100%</b>

PROJECT CONSTRUCTION

RAP Staff has determined that sufficient funding has been identified for the construction of the Project. Construction of this Project is currently anticipated to begin in March 2017.

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### ENVIRONMENTAL IMPACT STATEMENT

The proposed Project consists of exterior alterations to an existing facility with negligible or no expansion of use of the issuance of a Right-Of-Entry Permit, and of the placement of play equipment, benches, tables, fence, shading, and pre-fabricated restrooms in an existing institutional facility. Therefore, RAP staff recommends that the Board determine that the proposed Project is categorically exempt without exception from the California Environmental Quality Act (CEQA) pursuant to Article III, Section 1, Class 1 (1), (14) and Class 11 (3), (6) of the City CEQA Guidelines.

### FISCAL IMPACT STATEMENT

Approval of the proposed Agreement and acceptance of the associated Donation will have no adverse financial impact on RAP's General Fund, as the planning, design, purchase, and installation of the Improvements will be funded primarily by the Donor, and RAP's contribution of funding will be through available Quimby funding. The future annual maintenance of the Improvements is estimated at approximately Ten Thousand Dollars (\$10,000.00), and will be funded through the RAP annual budget process, as maintenance of the existing playground and restrooms is currently being performed under the current budget of Eighteen Thousand, Two Hundred Four Dollars and Sixty Cents (\$18,204.60), for North Weddington Park. The current cost to maintain the outdoor sand is Eight Thousand, Two Hundred Twenty-Two Dollars and Seventy-Six Cents (\$8,222.76). This cost will be reduced following the completion of the Project, considering that the outdoor sand will be replaced by resilient surfacing and only a small amount of sand will be used for sensory play.

This Report was prepared by Joel Alvarez, Senior Management Analyst II, and Edneisha Lee, Management Assistant, Partnership Division.

### LIST OF ATTACHMENT(S)

- 1) Proposed Gift Agreement

**AGREEMENT  
BETWEEN THE CITY OF LOS ANGELES  
AND  
SHANE'S INSPIRATION  
FOR THE INSTALLATION OF A UNIVERSAL ACCESS (INCLUSIVE) PLAYGROUND AND  
PREFABRICATED ADA COMPLIANT RESTROOMS  
AT NORTH WEDDINGTON RECREATION CENTER**

THIS AGREEMENT ("AGREEMENT") is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, ("EFFECTIVE DATE") by and between the City of Los Angeles, a municipal corporation acting by and through its Board of Recreation and Park Commissioners ("CITY") and Shane's Inspiration, a California non-profit organization ("FOUNDATION"). CITY and FOUNDATION may be referred to herein individually as "PARTY," or collectively as "PARTIES."

WHEREAS, CITY, through its Department of Recreation and Parks ("RAP") operates and maintains real property commonly known as North Weddington Recreation Center ("PARK"), located at 10844 Acama Street, North Hollywood, CA 91602; and,

WHEREAS, CITY desires to promote and enhance recreational play among youth in Los Angeles that is inclusive of all physical abilities, by providing recreational opportunities for physically challenged youth and children through the installation of Universal Access Play Areas and other related amenities at parks and recreational facilities; and,

WHEREAS, FOUNDATION has been incorporated since the year 2000 as a California 501(c)(3) nonprofit public benefit corporation, with the mission of creating inclusive playgrounds and programs that unite children of all disabilities, in honor of Shane, the child of Catherine Curry-Williams and Scott Williams who was born with spinal muscular atrophy; and,

WHEREAS, the organization has grown throughout the world into a network of sixty-three (63) inclusive playgrounds, with seventy-five (75) playgrounds in development, and over forty thousand (40,000) children in over one hundred fifty (150) schools who benefit from the education and outreach programs that they offer; and,

WHEREAS, FOUNDATION, through funding provided by the family of John Taylor "Rocket" Williams IV, has offered and agreed to fund the planning, design, purchase, and installation of a Universally Accessible Playground (UAP) and prefabricated Americans with Disabilities Act (ADA) compliant restrooms ("IMPROVEMENTS") at the PARK, pursuant to project plans and specifications mutually approved by PARTIES, and will enter into contract(s) directly with licensed contractor(s), subcontractors, and/or vendors (collectively, "CONTRACTORS"), for the purchase, design, and installation of the IMPROVEMENTS, at no cost to CITY; and,

WHEREAS, IMPROVEMENTS shall generally consist of the redesign of the existing play area, removal of existing playground equipment, replacement of existing sand with resilient surfacing, installation of new universally accessible play equipment and ancillary amenities, and installation of prefabricated ADA compliant restrooms as described more fully in Section 3 below, pursuant to plans and specifications ("PLANS") approved by the RAP Planning, Maintenance and Construction Branch (PMC) in accordance with the terms and conditions of this AGREEMENT; and,

WHEREAS, RAP upon review of the proposed IMPROVEMENTS determined that the size of the prefabricated ADA compliant restroom being proposed within the project budget is not sufficient to properly serve the needs of the PARK and its visitors, further determined that it would be in the best interest of the PARK and park-goers, to contribute funding in the amount of approximately Two Hundred Twenty-Five Thousand Dollars (\$225,000.00) towards the project so that a larger prefabricated ADA compliant restroom building could be installed, to better serve the community as a whole; and,

WHEREAS, FOUNDATION has agreed to donate the major portion of the project as a gift to the CITY, the completed IMPROVEMENTS ("GIFT"), estimated in value up to One Million, One Hundred Thousand Dollars (\$1,100,000.00); and,

WHEREAS, CITY has agreed to accept this GIFT upon completion of the IMPROVEMENTS, subject to completion and approval of a post-development inspection of the UAP and prefabricated ADA compliant restrooms by PMC as provided for herein.

NOW THEREFORE, in consideration of the foregoing, and the terms and conditions set forth herein and the performance thereof, PARTIES hereby agree as follows:

1. PARTIES

FOUNDATION: Shane's Inspiration  
15213 Burbank Boulevard  
Sherman Oaks, CA 91411

CITY: City of Los Angeles  
Department of Recreation and Parks  
221 N. Figueroa Street, Suite 350  
Los Angeles, CA 90012

2. FUNDING:

Prior to the commencement of any refurbishment and/or installation activities, FOUNDATION shall confirm to RAP in writing that all necessary funding to ensure the completion of the IMPROVEMENTS has been secured. It is understood that FOUNDATION has funding secured in the amount of One Million, One Hundred Thousand Dollars (\$1,100,000.00) for purposes stipulated in this AGREEMENT.

RAP has agreed to contribute funding in the approximate amount of Two Hundred Twenty-Five Thousand Dollars (\$225,000.00) to be paid directly to "on-call" contractors already under contract with RAP. It is understood by PARTIES that this contribution of gap-funding by RAP is in response to RAP's desire for a larger restroom building that will better serve the needs of the community, than would the previously planned, prefabricated ADA compliant building contemplated under the original conceptual design.

3. CONSTRUCTION OF IMPROVEMENTS:

Subject to the termination and other provisions set forth in this AGREEMENT, FOUNDATION shall contract directly with CONTRACTORS for the purchase, design, and installation of the IMPROVEMENTS, including coordination of related work with such CONTRACTORS hired by FOUNDATION, subject to project oversight by PMC.

IMPROVEMENTS, as described by the Project Conceptual Design and Project Cost Estimate, attached hereto and incorporated herein by reference as Exhibit-A and Exhibit-B, respectively, shall be performed in accordance with the following guidelines and requirements. FOUNDATION shall pay all costs associated with the design and installation of the IMPROVEMENTS.

A. Design and Location:

- (i) IMPROVEMENTS shall be installed in accordance with the Project Conceptual Design depicted in Exhibit-A of this AGREEMENT, within the designated area of the PARK where the existing play area and restroom are located ("PREMISES"), as illustrated on the attached Site Map attached hereto and incorporated herein by reference as Exhibit-C; pursuant to the terms and conditions of a Right-Of-Entry permit ("ROE") issued by PMC authorizing FOUNDATION and/or CONTRACTORS to access the PREMISES and PARK for purposes of installing the IMPROVEMENTS, including any necessary areas for staging and storage in coordination with PMC.
- (ii) FOUNDATION agrees to obtain prior written approval from RAP for any subsequently proposed modifications, additions, or changes to the design or location of the IMPROVEMENTS.

B. Installation of IMPROVEMENTS:

- (i) RAP shall issue, or has issued, an ROE authorizing access to the PREMISES and PARK for the performance of installing the IMPROVEMENTS, including ingress-egress and use of certain areas for staging and storage, subject to prior coordination with RAP staff on-site.
- (ii) IMPROVEMENTS shall consist of the design of a new universal access play area, removal of existing playground equipment and sand, renovation of the playground's existing six thousand (6,000) square foot sand pit to include custom play structure(s) and sensory (touch and sound) play elements; expansion of the existing playground footprint to the north to allow room for multiple swings; installation of resilient surfacing for the entire play space with a small quantity of sand for sensory play only; replacement of benches and tables; and installation of prefabricated ADA compliant restrooms, as illustrated herein by Exhibit-A;
- (iii) FOUNDATION and CITY have jointly approved the above scope of work pursuant to approved PLANS.
- (iv) FOUNDATION and CONTRACTORS shall be the lead agency(s) with respect to overseeing the completion of the IMPROVEMENTS, including the completion of environmental clearances and any other permits required by law, subject to coordination with and oversight by PMC. All costs and filing of documents required for obtaining said clearances, approvals and authorizations, shall be borne by FOUNDATION.
- (v) PARTIES shall jointly approve any and all change orders related to the design and/or installation of the IMPROVEMENTS. FOUNDATION shall provide CITY

advanced notification and copies of all change order requests prior to any approvals or related action.

- (vi) FOUNDATION agree to provide RAP with approved "As-Built" plans (if applicable) within thirty (30) days from the Notice of Completion.
- (vii) RAP shall contract with and pay related invoices up to the estimated amount of approximately One Hundred Seventy-Five, Thousand Dollars (\$175,000.00), directly to the on-call contractors performing the IMPROVEMENTS.

C. RAP Access to IMPROVEMENTS:

RAP shall have access to PARK and IMPROVEMENTS in the performance of normal operations during performance of the Scope of Work associated with the completion of IMPROVEMENTS. RAP shall take all necessary precautions to ensure that such access does not interfere with Scope of Work activities.

D. Hazardous Materials:

Except for fuels, lubricants and products associated with equipment and/or maintenance-related substances, FOUNDATION and CONTRACTORS will not cause or allow the presence, use, storage, or disposal of any hazardous substances on or about PARK without prior written consent of RAP. In the event of spillage, leakage, or escape of any hazardous substance onto the PARK, FOUNDATION and CONTRACTORS shall immediately notify RAP.

If spillage, leakage, or escape of hazardous substances was caused by FOUNDATION or CONTRACTORS, FOUNDATION or CONTRACTORS shall promptly remove or cause to be removed, to the satisfaction of RAP, any such substance from the affected area. In addition to any costs associated with the removal of such hazardous substances, FOUNDATION shall also be responsible for reimbursing RAP for any cost or expense that RAP may have incurred due to said spillage, leakage, or escape of any hazardous substances, in accordance with any federal, state, local or other authoritative agency's laws and regulations. Notwithstanding the foregoing, FOUNDATION shall have no responsibility regarding any spill, leak, or escape associated with any of RAP's actions on or adjacent to the PARK.

4. POST CONSTRUCTION

- A. Upon completion of construction, RAP shall conduct a Post-Development Inspection to ensure that the IMPROVEMENTS have been developed pursuant to the approved Scope of Work and in compliance with the terms and conditions of this AGREEMENT.
- B. Following the RAP's acceptance of the completed IMPROVEMENTS and subsequent to opening of the IMPROVEMENTS to the public, FOUNDATION shall have no involvement, whether financial or otherwise, with the use, operation, maintenance, landscaping, repair, insurance, programming or modifications of IMPROVEMENTS.

- C. It is understood by PARTIES that the IMPROVEMENTS shall generally be open to the members of the public free of charge, subject to local rules, regulations, ordinances, and laws which may include provisions related to hours of operation, age limits, acknowledgement of risk by users the IMPROVEMENTS, and the prohibition of alcohol and illegal drugs.
- D. It is also understood by PARTIES that there shall generally be no limit to the use of the IMPROVEMENTS to any select group of persons; however, RAP may issue permit(s) for the use of the IMPROVEMENTS by members of a particular group or organization for limited periods of time.
- E. IMPROVEMENTS shall be maintained by RAP in accordance with established standards.

5. TERM AND TERMINATION

- A. The term of this AGREEMENT ("TERM") shall commence upon the EFFECTIVE DATE stipulated on page one of this AGREEMENT. Except for the continuing obligations of CITY set forth in this AGREEMENT (such as maintenance of IMPROVEMENTS), and unless otherwise terminated pursuant to the terms and conditions contained herein, this AGREEMENT shall expire one (1) year from the EFFECTIVE DATE of this AGREEMENT, or upon acceptance of the completed IMPROVEMENTS by RAP (or CITY?) following the post development inspection, whichever occurs first. Any amendment, extension, or modification to this AGREEMENT shall be executed pursuant to the written mutual agreement of PARTIES, with prior approval by the City Attorney and final approval by the Board of Recreation and Park Commissioners ("BOARD").
- B. FOUNDATION may terminate this AGREEMENT, in their sole discretion, immediately upon written notice to RAP, and shall not be liable to RAP for any reason for terminating this AGREEMENT if:
  - (i) CITY uses, or authorizes use of the IMPROVEMENTS in any way restricted by this AGREEMENT;
  - (ii) The IMPROVEMENTS scope of work has not begun within six (6) months from the EFFECTIVE DATE due to delays caused directly by RAP;
  - (iii) The IMPROVEMENTS and/or PARK cease to be owned or operated by CITY, or CITY changes the use of the IMPROVEMENTS or PARK, or CITY changes or restricts public access to the IMPROVEMENTS;
  - (iv) In the FOUNDATION's sole opinion, IMPROVEMENTS or the activities held thereon, are determined to be harmful, degrading or diluting to the reputation of FOUNDATION, the FOUNDATION's name, or that of their affiliates;
  - (v) FOUNDATION, prior to the commencement of construction, is unable to obtain all funding required to pay for the completion of the IMPROVEMENTS; or
  - (vi) CITY materially breaches any term or condition of this AGREEMENT.

- C. This AGREEMENT shall be terminated if either PARTY ceases to conduct its business or shall make any involuntary assignment of either its assets or its business for the benefit of creditors; or if a trustee or receiver is appointed to administer or conduct the party's business affairs; or, if any insolvency proceedings are conducted against a party and are not terminated or dismissed within forty-five (45) days, then the other party may terminate this AGREEMENT with immediate effect upon written notice to such party.

6. PUBLICITY

- A. PARTIES shall acknowledge one another as co-contributors in written material(s), news releases, and related marketing or publicity materials, including but not limited to, an initial press conference and/or dedication ceremony, as determined by PARTIES.
- B. PARTIES agree to assist and cooperate in a mutually acceptable grand-opening and/or dedication event at the PARK, as determined by PARTIES.
- C. PARTIES also shall have the right to publicize, show photographs of, use the name of, and otherwise promote their respective contributions to the IMPROVEMENTS.
- D. CITY and FOUNDATION acknowledge that each of the PARTIES' names and other intellectual property of CITY and FOUNDATION have substantial goodwill. CITY further acknowledges and agrees that all use of the FOUNDATION name pursuant to this AGREEMENT shall inure to the sole and exclusive benefit of FOUNDATION and CITY agrees to use the FOUNDATION name solely in accordance with the terms and conditions set forth in this AGREEMENT. Additionally, FOUNDATION further acknowledges and agrees that all use of the CITY name pursuant to this AGREEMENT shall inure to the sole and exclusive benefit of CITY and FOUNDATION agrees to use the CITY name solely in accordance with the terms and conditions set forth in this AGREEMENT.
- E. PARTIES agree to cooperate and coordinate with respect to the nature, text, and timing of any press release or public announcement(s) concerning the existence of the GIFT, the IMPROVEMENTS, and/or this AGREEMENT; the use or promotion of IMPROVEMENTS; and/or the acquisition of any additional real property at or near the PARK or construction of any other improvements at the PARK impacting the IMPROVEMENTS, except as may be legally required by applicable laws, regulations, or judicial order:
  - (i) PARTIES agree to notify each other in writing of any press release, public announcement, marketing or promotion of the IMPROVEMENTS. Further, any press release, public announcement, marketing materials, or brochures prepared by any of the PARTIES, shall appropriately acknowledge the contributions of the PARTIES;
  - (ii) To the extent stipulated in any grant agreement, partnership agreement, donation agreement, or other agreement, PARTIES shall duly notify any grantors, donors, partners or other party, and each other, prior to any public or media event publicizing the accomplishments funded by any grant agreement

or other funding source, and shall provide the opportunity for attendance and participation by grantor, donor, partner, or other respective representatives;

- (iii) PARTIES shall coordinate the scheduling and organization of any public or media event to provide the opportunity for attendance and participation by officials and/or representatives of CITY and FOUNDATION; including elected officials and public officials. Similarly, any document, written report, or brochure prepared by either CITY or FOUNDATION, in whole or in part, pursuant to the acquisition of property and/or construction of improvements, shall contain any acknowledgements required under any related grant agreement, partnership agreement, donation agreement or other agreement or funding source; and,
- (iv) FOUNDATION agrees that any public release or distribution of information related to the IMPROVEMENTS, this AGREEMENT, and/or any related project, programs or services, shall include the following statement at the beginning or introduction of such release:

“In collaboration with the City of Los Angeles  
Department of Recreation and Parks”

7. USE OF MARKS

Notwithstanding any provision herein, neither of the PARTIES shall use the other's trademarks, trade-names or logos (each, a “Mark”) without the prior written approval of the other. Each Mark shall remain the sole and exclusive intellectual property of the respective party.

8. NAME AND SIGNAGE

- A. At the sole discretion of CITY, IMPROVEMENTS shall be officially named “Rocket's Universe” as requested by FOUNDATION and approved by the BOARD in accordance with RAP policy.
- B. FOUNDATION shall be recognized for their generosity through appropriate signage at the UAP in the form of a bronze plaque not to exceed 22” x 32” in size, acknowledging the GIFT, and conceptually conveying the following message mutually approved by PARTIES and the BOARD in accordance with RAP Policy:

CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
THANKS AND ACKNOWLEDGES  
THIS GIFT FROM THE FAMILY OF  
JOHN TAYLOR “ROCKET” WILLIAMS, IV

- C. FOUNDATION shall have the right (but not the obligation) to place and remove its own logo(s) and/ or trademark(s) on or around the IMPROVEMENTS, subject to the prior approval of RAP pursuant to RAP policy and procedures.

- D. CITY shall maintain the right to use the name of the IMPROVEMENTS in conducting RAP operations and events. For purposes of clarification, CITY shall have no right to use the FOUNDATION name in any manner that suggests FOUNDATION is a sponsor or co-sponsor of any daily operations or events at the IMPROVEMENTS to which they are not affiliated or sponsoring. No other company, entity or individual's name shall be used in connection with IMPROVEMENTS during the TERM, without RAP's prior written approval.
- E. CITY shall, upon the expiration or termination of this AGREEMENT, cease and desist from all use of the FOUNDATION name and other intellectual property of FOUNDATION, in any way (including without limitation removal from all signage related to the IMPROVEMENTS).

9. FILMING

It is the policy of the City of Los Angeles (LA City) to facilitate the use of LA City properties as film locations when appropriate. RAP has established a Park Film Office to coordinate the use of PARK for film production purposes. All fees for use of PARK by film production companies shall be established and collected in accordance with LA City and RAP policies. FOUNDATION shall not charge any fees for film production conducted on the Premises. The Park Film Office may be reached at (323) 644-6220 for further information and requirements.

10. REPRESENTATIONS AND WARRANTIES

- A. FOUNDATION represents and warrants that it has the right and power to enter into and perform this AGREEMENT, and to grant the rights granted herein.
- B. CITY represents and warrants that it has the right and power to enter into and perform this AGREEMENT, and that it will comply with all applicable rules, regulations, ordinances and laws related to the use and operation of IMPROVEMENTS and PARK.

11. INDEMNIFICATION

Each of the PARTIES agree to defend, indemnify and hold the other harmless from all loss, expense or liability for injury or death to persons and for damage, actual or alleged, to tangible property arising out of or resulting from the acts or omissions of the indemnifying PARTY, or any other person subject to supervision or control by the indemnifying PARTY, in the performance of this AGREEMENT.

In the event of third-party loss caused by the negligence, wrongful act or omission of more than one PARTY, each PARTY hereto shall bear financial responsibility in proportion to its percentage of fault as may be mutually agreed between them or may be judicially determined.

## 12. INSURANCE

### A. Insurance by FOUNDATION and Contractor(s) hired by FOUNDATION

FOUNDATION and/or CONTRACTOR hired by FOUNDATION shall be insured as a requirement of this AGREEMENT in the amount of coverage(s) specified on Form 146R attached hereto and incorporated herein as Exhibit-D, and shall additionally insure the City of Los Angeles for the same coverage amounts. FOUNDATION and/or CONTRACTOR shall maintain during the term of this AGREEMENT, evidence of insurance acceptable to City Administrative Officer, Risk Management, prior to the performance of this AGREEMENT.

### B. City Self-insurance

The City of Los Angeles is permissively self-insured for Workers' Compensation under California law. The City self-administers, defends, settles and pays third party claims for injury, death or PARK damage. Protection under this program is warranted to meet or exceed five million dollars per occurrence.

### C. Adjustment of Insurance Levels

CITY reserves the right, during the TERM of this AGREEMENT, to change the amounts and types of required insurance coverage(s) with ninety (90) days written notice to FOUNDATION.

### D. Bonds

As determined by the RAP Planning, Maintenance and Construction Branch (PMC), RAP may require, at its sole discretion, that prior to the initiation of any construction or installation activities for any development phase of the IMPROVEMENTS, FOUNDATION is to file with CITY a surety bond and/or performance bond, reasonably satisfactory to CITY, in amounts specified in advance by CITY and for purposes noted below.

If such a bond is required, it must be executed by a corporate surety ("SURETY"), licensed and/or authorized to issue such bonds in the State of California. FOUNDATION and/or CONTRACTOR, employee or agent of FOUNDATION, involved in the development of the IMPROVEMENTS will pay all bond premiums, costs, and incidentals. The bond must be executed by the FOUNDATION, CONTRACTORS, and SURETY; the signature of the authorized SURETY agent must be notarized. In the event a bond is required, FOUNDATION will provide an amount equal to one hundred percent (100%) of the construction contract price in order to satisfy potential claims of material suppliers and of mechanics and laborers employed in the construction of the IMPROVEMENTS. The bond is to be maintained in full force and effect until the work as shown on the approved PLANS is substantially completed and accepted by FOUNDATION and CITY, and until all claims for materials and labor are paid.

In the event the bond becomes insufficient, FOUNDATION and/or CONTRACTOR shall make the bond sufficient within ten (10) business days following receipt of notice from CITY. Should SURETY become unsatisfactory to CITY, notice shall be

given to FOUNDATION to that effect. Changes in the scope of work or extensions of time made pursuant to any construction contract do not release FOUNDATION and/or CONTRACTORS from their bond obligations.

13. LIMITATIONS OF LIABILITY

The PARTIES understand and agree that this AGREEMENT sets forth the intent of the parties but does not guarantee that IMPROVEMENTS will be constructed.

14. BOOKS AND RECORDS

FOUNDATION and CITY shall maintain records, including records of financial transactions, pertaining to the performance of this AGREEMENT, in their original form, in accordance with requirements prescribed by CITY and FOUNDATION. These records shall be retained for a period of the lesser of three (3) years after termination of this AGREEMENT or ten (10) years from the date of the record. Said records shall be subject to examination and audit by authorized CITY or FOUNDATION personnel or by their representative(s) at any time during the TERM of this AGREEMENT, or within the three years following the termination date of this AGREEMENT.

15. GENERAL

- A. This AGREEMENT sets forth the entire understanding of the PARTIES hereto, with respect to the subject matter hereof. There are no other representations, understandings, or agreements between the PARTIES relative to such subject matter. Any variation or amendment to this AGREEMENT shall be in writing and signed by all PARTIES.
- B. Nothing herein contained shall constitute a partnership or joint venture by the PARTIES of this AGREEMENT. This AGREEMENT is not intended for the benefit of any non-party.
- C. This AGREEMENT shall be governed by and construed in accordance with the laws of the State of California, without regard to its principles of conflicts of law. PARTIES consent to the sole and exclusive jurisdiction and venue in the Federal or State courts in Los Angeles County, California, and agree that all disputes based on or arising out of this AGREEMENT shall only be submitted to and determined by said courts, which shall have sole and exclusive jurisdiction.
- D. Any notices required to be given under this AGREEMENT shall be sent by courier and addressed to the PARTIES as follows:

CITY:                      City of Los Angeles  
                                 Department of Recreation and Parks  
                                 3900 Chevy Chase Drive  
                                 Los Angeles, CA 90039

Attention: Partnership Division

Copy To: City of Los Angeles  
Department of Recreation and Parks  
Planning, Maintenance and Construction Branch  
221 North Figueroa Street, Suite 400  
Los Angeles, CA 90012

Attn: Assistant General Manager

FOUNDATION: Shane's Inspiration  
15213 Burbank Boulevard  
Sherman Oaks, CA 91411

Attention: Mr. Brad Thornton  
Senior Vice President, Global Project Development

- E. Notices shall be deemed received when delivered by courier. PARTIES may change the person and address to which notice shall be given by giving notice of such change pursuant to the provisions of this AGREEMENT.
- F. The provisions of this AGREEMENT that, by their nature, are intended to survive, shall survive the expiration or earlier termination of this AGREEMENT.
- G. No right, obligation, duty, benefit or promise of this AGREEMENT, or any portion thereof, may be assigned by either party without the express written consent of the other party; provided that the FOUNDATION may assign to an affiliate with prior written consent by CITY.
- H. If any provision of this AGREEMENT is declared or determined to be unlawful, invalid or unconstitutional, that declaration shall not in any manner affect the legality of the remaining provisions, and each provision of this AGREEMENT shall be deemed to be separate and severable from every other provision.

16. RATIFICATION:

At the request of RAP, and because of the need therefore, FOUNDATION began performance of the responsibilities herein required prior to the execution hereof. By its execution hereof, RAP hereby accepts such service subject to all the terms, covenants, and condition of this AGREEMENT, and ratifies its AGREEMENT with FOUNDATION for such services.

17. INCORPORATION OF DOCUMENTS

This AGREEMENT and incorporated documents represent the entire integrated agreement of the parties and supersedes all prior written or oral representations, discussions, and agreements. The following documents are incorporated and made a part hereof by reference.

Exhibit-A: Project Conceptual Design  
Exhibit-B: Shane's Inspiration Project Cost Estimate  
Exhibit-C: Site Map

Exhibit-D: Insurance Requirements

The order of precedence in resolving conflicting language, if any, in the documents shall be: 1) This AGREEMENT exclusive of attachments; 2) Exhibit-A; 3) Exhibit-B; 4) Exhibit-C; and Exhibit-D.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, PARTIES have executed this AGREEMENT as of the date first written above.

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its BOARD OF RECREATION AND PARK COMMISSIONERS

By \_\_\_\_\_  
PRESIDENT

By \_\_\_\_\_  
SECRETARY

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_

SHANE'S INSPIRATION, a California nonprofit organization

By \_\_\_\_\_

Title: \_\_\_\_\_

By \_\_\_\_\_

Title: \_\_\_\_\_

Approved as to Form:

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

MICHAEL N. FEUER,  
City Attorney

By \_\_\_\_\_

DEPUTY CITY ATTORNEY

Exhibit-A  
(1 of 2)

Project Conceptual Design

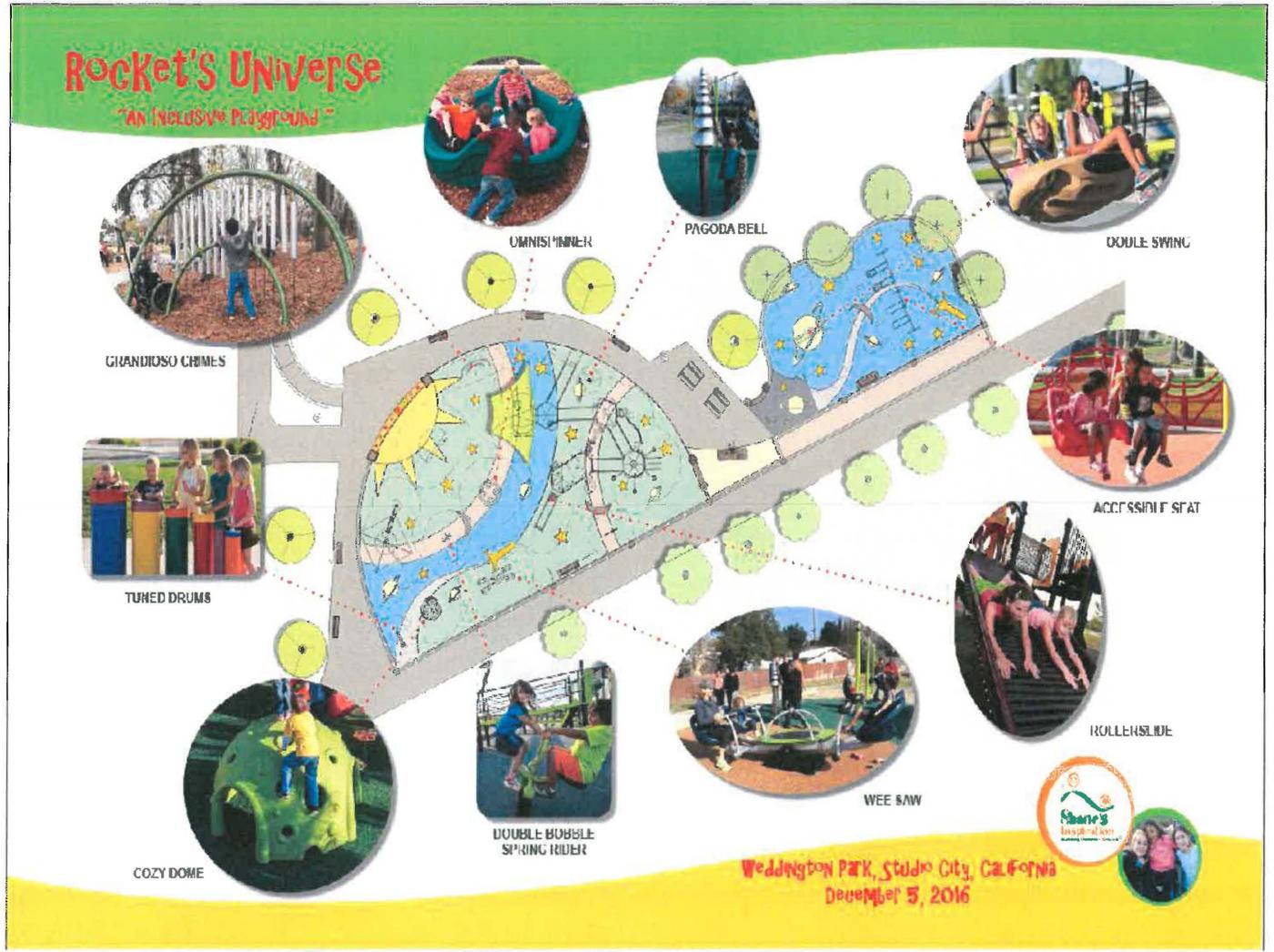


Exhibit-A  
(2 of 2)

Project Conceptual Design



Exhibit-B  
(1 of 3)

Project Cost Estimate



ROCKET'S UNIVERSE		Preliminary Cost Estimate			9/9/2016
DESCRIPTION					COST
<b>PRE-DESIGN PHASE</b>					
Site Meetings (Rec&Parks/Forestry/Client					\$3,400
Community Meeting					\$3,000
Site Survey					\$4,000
<b>DESIGN PHASE</b>					
Conceptual Design					\$8,000
Design Development					\$15,000
Construction Documents					\$30,000
Design Presentations @ each phase of completion					\$3,600
<b>CONSTRUCTION PHASE</b>					
Pre-construction meeting					\$3,800
Site Layout					
Sub-consultant coordination (Fencing/Signage/Surfacing)					
<b>CONSTRUCTION MANAGEMENT</b>					
Concrete Form Approvals					\$4,200
Equipment Layout & Approval					
Fencing Layout & Approval					
Surfacing Layout					
Surfacing Graphics					
ADA Site Evaluation					
Construction Meetings					
<b>Total Soft Costs</b>					<b>\$75,000</b>
<b>BUILDING CONSTRUCTION</b>					
Restroom					
Utility hook-ups					
ADA Access Ramp					
Parking re-stripe					
Concrete Flatwork Repair					
<b>Area Subtotal</b>					<b>\$ 223,857</b>

Exhibit-B  
(2 of 3)

Project Cost Estimate

DESCRIPTION	UNIT	QTY.	UNIT PRICE	EXTENDED PRICE	INSTALLED PRICE
<b>SITE CONSTRUCTION</b>					
Mobilization:	LS	1	\$ 5,000.00	\$ 5,000	\$ 5,000
Storage/Trash Container, Portable Toilet/Wash, Site Layout, Dust/Erosion Control, Final Clean-up					
<b>Demolition:</b>					
Clear and grub existing turf area	SF	3500	\$ 0.25	\$ 875	\$ 875
Remove Play Equipment (per post)	EA	39	\$ 100.00	\$ 3,900	\$ 3,900
Remove Existing Fence (per post)	EA	6	\$ 100.00	\$ 600	\$ 600
Remove section of existing concrete	SF	700	\$ 1.00	\$ 700	\$ 700
Remove Existing Sand	SF	5325	\$ 1.00	\$ 5,325	\$ 5,325
Remove Existing Sump	EA	1	\$ 500.00	\$ 500	\$ 500
Temporary Fencing	LF	678	\$ 15.00	\$ 10,170	\$ 10,170
<b>Construction:</b>					
Rough Grading, Import, Export	SF	3500	\$ 0.65	\$ 2,275	\$ 2,275
Fine Grading	SF				
Install Concrete Ramp w/ Handrail	EA	1	\$6,000	\$ 6,000	\$ 6,000
Safety Audit and Drop Test	EA	1	\$1,500	\$ 1,500	\$ 1,500
Themed Entry Wall with signage	EA	1	\$10,000	\$ 10,000	\$ 14,000
TSTF Signage	EA	2	\$1,620	\$ 3,240	\$ 4,536
4'high Theme Fencing	LF	233	\$ 175	\$ 40,775	\$ 40,775
Modify Irrigation	Allow	1	\$1,500	\$ 1,500	\$ 1,500
<b>Area Subtotal</b>				\$ 92,360	\$ 97,656
<b>Furnish &amp; install 2-12 play area</b>					
Space Themed Play Structure	EA	1	\$136,500	\$ 136,500	\$ 191,100
Moon Balance Beam & Steppers					
Sway Fun Rocket Ship					
Planetary Wall	Ea	1	\$ 40,000	\$ 40,000	\$ 56,000
Space Sand Table	Ea	1	\$ 30,000	\$ 30,000	\$ 42,000
<b>Independent Elements</b>					
<b>Spinning</b>					
Omnispinner	Ea	1	\$ 6,840	\$ 6,840	\$ 9,576
<b>Rocking</b>					
Wee-Saw	Ea	1	\$ 8,875	\$ 8,875	\$ 12,425
Dbl Bobble Spring Rider	Ea	1	\$ 1,675	\$ 1,675	\$ 2,345
<b>Balancing</b>					
Moon Beam/Rock Climbers	Ea	1	\$ 15,300	\$ 15,300	\$ 21,420
<b>Sensory Elements</b>					
Sensory Space Wall	Ea	1	\$ 40,000	\$ 40,000	\$ 56,000
Abacus	Ea	1	\$ 4,500	\$ 4,500	\$ 6,300
Cozy Dome	Ea	1	\$ 3,600	\$ 3,600	\$ 5,040

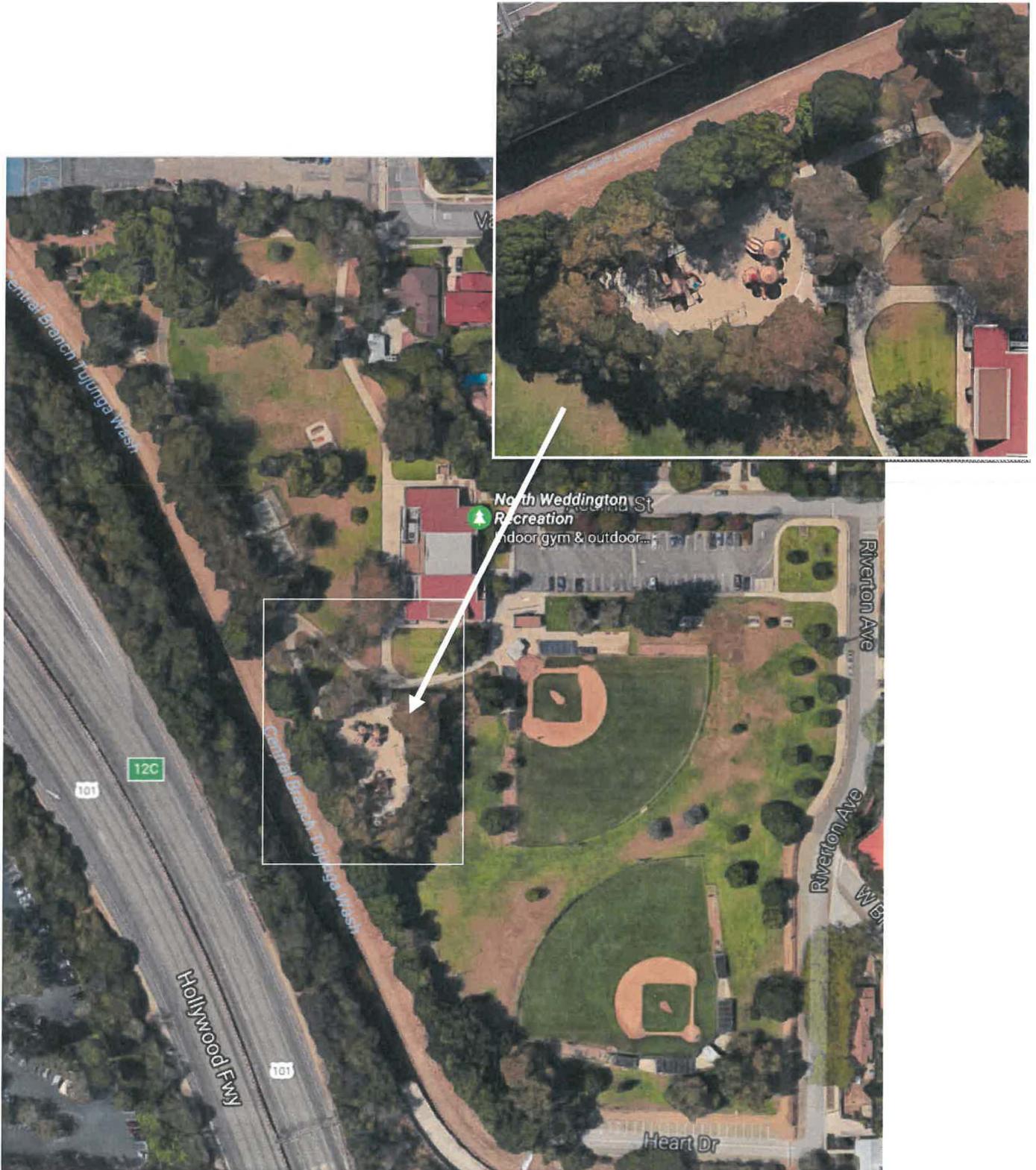
Exhibit-B  
(3 of 3)

Project Cost Estimate

<b>Music Elements</b>						
Pagoda Bell	EA	1	\$3,180	\$ 3,180	\$ 4,452	
Contrabass Chimes	EA	1	\$ 4,900	\$ 4,900	\$ 6,615	
Tuned Drums	Ea	1	\$2,700	\$ 2,700	\$ 3,780	
Rubberized surfacing w/Concrete base	Ea	6,080	\$ 20	\$ 121,600	\$ 121,600	
Shanes Welcome Sign	EA	1	\$1,200	\$ 1,200	\$ 1,680	
<b>Area Subtotal</b>				\$ 420,870	\$ 540,333	
<b>Furnish &amp; install Swing play area</b>						
<b>Swing Bays</b>						
(2) Belt, (2) Bucket, (2) Highback	Ea	1	\$7,800	\$ 7,800	\$ 10,920	
Oodle Swing	Ea	1	\$ 4,715	\$ 4,715	\$ 6,601	
Rubberized surfacing	SF	3,050	\$20	\$ 61,000	\$ 61,000	
<b>Area Subtotal</b>				\$ 73,515	\$ 78,521	
<b>Total</b>				\$ 586,745	\$ 1,015,367	
						Contractors general conditions 4%
						\$ 37,615
						Contingency 5%
						\$ 47,018
<b>ESTIMATED CONSTRUCT COST:</b>				\$ 586,745	\$ 1,100,000	

Exhibit-C

Site Map



**Exhibit-D**

**Insurance Requirements and Instructions**

Form Gen 146 (Rev. 3/09)

**Required Insurance and Minimum Limits**

Name: Shane's Inspiration's Contractor(s) Date: 01/05/2017

Agreement/Reference: Installation Of A Universal Access Playground at North Weddington Park

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

	Limits				
<input checked="" type="checkbox"/> <b>Workers' Compensation - Workers' Compensation (WC) and Employer's Liability (EL)</b>					
<input checked="" type="checkbox"/> Waiver of Subrogation in favor of City <span style="margin-left: 200px;"><input type="checkbox"/> Longshore &amp; Harbor Workers</span> <span style="margin-left: 200px;"><input type="checkbox"/> Jones Act</span>	<table border="0" style="width:100%;"> <tr> <td style="width:50%;"><b>WC</b></td> <td style="width:50%;"><b>Statutory</b></td> </tr> <tr> <td>EL</td> <td align="right">\$1,000,000</td> </tr> </table>	<b>WC</b>	<b>Statutory</b>	EL	\$1,000,000
<b>WC</b>	<b>Statutory</b>				
EL	\$1,000,000				
<input checked="" type="checkbox"/> <b>General Liability</b>	<b>\$1,000,000</b>				
<input checked="" type="checkbox"/> Products/Completed Operations <span style="margin-left: 200px;"><input type="checkbox"/> Sexual Misconduct</span> <input type="checkbox"/> Fire Legal Liability <input type="checkbox"/>					
<input checked="" type="checkbox"/> <b>Automobile Liability</b> (for any and all vehicles used for this contract, other than commuting to/from work) <span style="float: right;"><b>\$1,000,000</b></span>					
<input type="checkbox"/> <b>Professional Liability</b> (Errors and Omissions) Discovery Period <u>12 Months After Completion of Work or Date of Termination</u>					
<input type="checkbox"/> <b>Property Insurance</b> (to cover replacement cost of building - as determined by insurance company) <input type="checkbox"/> All Risk Coverage <span style="margin-left: 200px;"><input type="checkbox"/> Boiler and Machinery</span> <input type="checkbox"/> Flood <span style="margin-left: 200px;"><input type="checkbox"/> Builder's Risk</span> <input type="checkbox"/> Earthquake <span style="margin-left: 200px;"><input type="checkbox"/></span>					
<input type="checkbox"/> <b>Pollution Liability</b>					
<input type="checkbox"/> <b>Surety Bonds - Performance and Payment (Labor and Materials) Bonds</b> <span style="float: right;">100% of the contract price</span>					
<input type="checkbox"/> <b>Crime Insurance</b>					

Other: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

## CITY OF LOS ANGELES

### INSTRUCTIONS AND INFORMATION ON COMPLYING WITH CITY INSURANCE REQUIREMENTS

(Share this information with your insurance agent or broker.)

**1. Agreement/Reference** All evidence of insurance must identify the nature of your business with the CITY. Clearly show any assigned number of a bid, contract, lease, permit, etc. or give the project name and the job site or street address to ensure that your submission will be properly credited. Provide the **types of coverage and minimum dollar amounts** specified on the Required Insurance and Minimum Limits sheet (Form Gen. 146) included in your CITY documents.

**2. When to submit** Normally, no work may begin until a CITY insurance certificate approval number ("CA number") has been obtained, so insurance documents should be submitted as early as practicable. For **As-needed Contracts**, insurance need not be submitted until a specific job has been awarded. **Design Professionals** coverage for new construction work may be submitted simultaneously with final plans and drawings, but before construction commences.

**3. Acceptable Evidence and Approval** Electronic submission is the preferred method of submitting your documents. **Track4LA™** is the CITY's online insurance compliance system and is designed to make the experience of submitting and retrieving insurance information quick and easy. The system is designed to be used primarily by insurance brokers and agents as they submit client insurance certificates directly to the City. It uses the standard insurance industry form known as the **ACORD 25 Certificate of Liability Insurance** in electronic format. Track4LA™ advantages include standardized, universally accepted forms, paperless approval transactions (24 hours, 7 days per week), and security checks and balances. The easiest and quickest way to obtain approval of your insurance is to have your insurance broker or agent access **Track4LA™** at <http://track4la.lacity.org> and follow the instructions to register and submit the appropriate proof of insurance on your behalf.

Insurance industry certificates other than the ACORD 25 may be accepted. **All** Certificates must provide a thirty (30) days' cancellation notice provision (ten (10) days for non-payment of premium) AND an Additional Insured Endorsement naming the CITY an additional insured completed by your insurance company or its designee. If the policy includes an automatic or blanket additional insured endorsement, the Certificate must state the CITY is an automatic or blanket additional insured. An endorsement naming the CITY an Additional Named Insured and Loss Payee as Its Interests May Appear is required on PARK policies. All evidence of insurance must be authorized by a person with authority to bind coverage, whether that is the authorized agent/broker or insurance underwriter.

#### Acceptable Alternatives to **Acord Certificates and other Insurance Certificates:**

- A **copy of the full insurance policy** which contains a thirty (30) days' cancellation notice provision (ten (10) days for non-payment of premium) and additional insured and/or loss-payee status, when appropriate, for the CITY.
- **Binders and Cover Notes** are also acceptable as interim evidence for up to 90 days from date of approval.

Additional Insured Endorsements DO NOT apply to the following:

- Indication of compliance with statute, such as Workers' Compensation Law.

- Professional Liability insurance.

Completed **Insurance Industry Certificates other than ACORD 25 Certificates** can be sent electronically ([CAO.insurance.bonds@lacity.org](mailto:CAO.insurance.bonds@lacity.org)) or faxed to the Office of the City Administrative Officer, Risk Management (213) 978-7616. **Please note that submissions other than through Track4LATM will delay the insurance approval process as documents will have to be manually processed.**

Verification of approved insurance and bonds may be obtained by checking **Track4LA™**, the CITY's online insurance compliance system, at <http://track4la.lacity.org>.

**4. Renewal** When an existing policy is renewed, have your insurance broker or agent submit a new Acord 25 Certificate through **Track4LA™** at <http://track4la.lacity.org> or submit an Insurance Industry Certificate or a renewal endorsement as outlined in Section 3 above. If your policy number changes you must also submit a new Additional Insured Endorsement with an Insurance Industry Certificate.

**5. Alternative Programs/Self-Insurance** Risk financing mechanisms such as Risk Retention Groups, Risk Purchasing Groups, off-shore carriers, captive insurance programs and self-insurance programs are subject to separate approval after the CITY has reviewed the relevant audited financial statements. To initiate a review of your program, you should complete the Applicant's Declaration of Self Insurance form (<http://cao.lacity.org/risk/InsuranceForms.htm>) to the Office of the City Administrative Officer, Risk Management for consideration.

**6. General Liability** insurance covering your operations (and products, where applicable) is required whenever the CITY is at risk of third-party claims which may arise out of your work or your presence or special event on City premises. **Sexual Misconduct** coverage is a required coverage when the work performed involves minors. **Fire Legal Liability** is required for persons occupying a portion of CITY premises. (Information on two CITY insurance programs, the SPARTA program, an optional source of low-cost insurance which meets the most minimum requirements, and the Special Events Liability Insurance Program, which provides liability coverage for short-term special events on CITY premises or streets, is available at ([www.2sparta.com](http://www.2sparta.com)), or by calling (800) 420-0555.)

**7. Automobile Liability** insurance is required only when vehicles are used in performing the work of your Contract or when they are driven off-road on CITY premises; it is not required for simple commuting unless CITY is paying mileage. However, compliance with California law requiring auto liability insurance is a contractual requirement.

**8. Errors and Omissions** coverage will be specified on a project-by-project basis if you are working as a licensed or other professional. The length of the claims discovery period required will vary with the circumstances of the individual job.

**9. Workers' Compensation and Employer's Liability** insurance are not required for single-person contractors. However, under state law these coverages (or a copy of the state's Consent to Self-Insure) must be provided if you have any employees at any time during the period of this contract. Contractors with no employees must complete a Request for Waiver of Workers' Compensation Insurance Requirement (<http://cao.lacity.org/risk/InsuranceForms.htm>). **A Waiver of Subrogation** on the coverage is required only for jobs where your employees are working on CITY premises under hazardous conditions, e.g., uneven terrain, scaffolding, caustic chemicals, toxic materials, power tools, etc. The Waiver of Subrogation waives the insurer's right to recover (from the CITY) any workers' compensation paid to an injured employee of the contractor.

10. **Property Insurance** is required for persons having exclusive use of premises or equipment owned or controlled by the CITY. **Builder's Risk/Course of Construction** is required during construction projects and should include building materials in transit and stored at the project site.

11. **Surety** coverage may be required to guarantee performance of work and payment to vendors and suppliers. A **Crime Policy** may be required to handle CITY funds or securities, and under certain other conditions. **Specialty coverages** may be needed for certain operations. For assistance in obtaining the CITY required bid, performance and payment surety bonds, please see the City of Los Angeles Bond Assistance Program website address at <http://cao.lacity.org/risk/BondAssistanceProgram.pdf> or call (213) 258-3000 for more information.

**BOARD REPORT**

NO. 17-032

DATE: February 15, 2017

C.D. 14

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: HAZARD PARK AND RECREATION CENTER – DONATION OF COMPUTER EQUIPMENT FROM THE UNIVERSITY OF SOUTHERN CALIFORNIA, KECK MEDICINE OF UNIVERSITY OF SOUTHERN CALIFORNIA

AP Diaz	_____	*V. Israel	
R. Barajas	_____	N. Williams	_____
H. Fujita	_____		

  
 \_\_\_\_\_  
 General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATION

Accept a donation from University of Southern California (USC), Keck Medicine of USC, consisting of new computer equipment and software licenses, as described in the Summary of this Report, and that appropriate recognition be given to the donor.

SUMMARY

The Department of Recreation and Parks (RAP) has received a generous offer for a donation of six Dell desktop computers, six Microsoft Office software licenses, six Dell 22-inch computer monitors, and one Hewlett Packard laser jet printer from USC, Keck Medicine of USC for Hazard Park and Recreation Center (Center), located at 2230 Norfolk Street, Los Angeles, California 90033, in the Boyle Heights community of Los Angeles. The donation is valued at Six Thousand, Three Hundred Eighty Dollars and Forty-Seven Cents (\$6,380.47), which includes the equipment and warranties.

Keck Hospital of USC and Norris Cancer Center (Keck Medicine of USC) is located within close proximity to the Center and is supportive in helping to address the needs of the community. The computer equipment being donated will be installed at the Center's computer lab and will be used by the community free of charge, including access to the internet in accordance with RAP standard protocols and requirements. RAP Systems staff reviewed the specifications and technical details of the computer equipment, and confirmed that the equipment is acceptable for the public's use at the Center. The donated computer equipment will be installed by RAP Systems staff to ensure that it is performed in accordance with RAP standards.

USC has benefited the Center in the past through monetary donations through the Los Angeles Parks Foundation. These donations were used towards various capital improvements such as the

BOARD REPORT

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refurbishment of existing restrooms, gymnasium and outdoor basketball courts, installation of a new jogging path, fitness equipment, security upgrades and a new children's play area.

FISCAL IMPACT STATEMENT

Acceptance of this donation of new computer equipment results in no fiscal impact to the RAP General Fund.

This Report was prepared by Joel Alvarez, Senior Management Analyst II, Partnership Division.

**BOARD REPORT**

NO. 17-033

DATE February 15, 2017

C.D. 1

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: LINCOLN PARK RECREATION CENTER – POOL AND BATHHOUSE REPLACEMENT (PRJ1504P) (W.O. #E1907715) PROJECT — ESCROW AGREEMENT FOR SECURITY DEPOSITS IN LIEU OF RETENTION

AP Diaz \_\_\_\_\_

V. Israel \_\_\_\_\_

*Jur* \*R. Barajas *CRD*

N. Williams \_\_\_\_\_

H. Fujita \_\_\_\_\_

*M. [Signature]*  
General Manager

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Approve the request of G2K Construction, Inc., to enter into an Escrow Agreement, herein included as Attachment 1, with the City of Los Angeles for Security Deposits in Lieu of Retention for the Lincoln Park Recreation Center – Pool and Bathhouse Replacement (PRJ1504P) (W.O. #E1907715) Project (Project), Contract No. 3555, subject to the approval of the City Attorney as to form; and,
2. Authorize the Board President and Secretary to execute the proposed Escrow Agreement upon the City Attorney’s approval as to form.

SUMMARY

The Department of Recreation and Parks (RAP) is in receipt of a request from G2K Construction, Inc. (Contractor), general contractor for the Project, Contract No. 3555, to enter into an Escrow Agreement for Security Deposits in Lieu of Retention.

Pursuant to Section 22300 of the Public Contract Code of the State of California, the Contractor has the option to deposit securities with an Escrow Agent as a substitute for retention earnings required to be withheld by the City on Construction Contract No. 3555 (Contract) entered for the Project in the amount of Seven Million, Six Hundred Eighty-Four Thousand Dollars (\$7,684,000.00). Alternatively, on written request of the Contractor, the City may make payments of the retention earnings directly to the Escrow Agent.

When the City makes payment of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of the Contractor until such time as the escrow created under the Contract is terminated. The Contractor may direct the investment of the payments into securities. All terms and conditions of the Escrow Agreement, and the rights and responsibilities of the parties, shall be equally applicable and binding when the City pays the Escrow Agent directly.

BOARD REPORT

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NO. 17-033

FISCAL IMPACT STATEMENT

There is no fiscal impact on RAP's General Fund as the monies have already been appropriated for this Project.

This Report was prepared by Iris Davis, Commission Executive Assistant I.

LIST OF ATTACHMENT(S)

- 1) Proposed Escrow Agreement

**ESCROW AGREEMENT FOR SECURITY DEPOSITS IN LIEU  
OF RETENTION – AGREEMENT BETWEEN THE CITY OF LOS ANGELES AND  
G2K CONSTRUCTION, INC.**

This Escrow Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the City of Los Angeles, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners, whose address is 221 N. Figueroa Street, Suite 300, Los Angeles, California 90012, hereinafter called OWNER; G2K CONSTRUCTION, INC., whose address is 28348 Roadside Drive, # 205, Agoura Hills, CA 91301, hereinafter called CONTRACTOR; and Mechanics Bank, whose address is 18400 Von Karman, Suite 1100, Irvine, CA 92612, hereinafter called ESCROW AGENT.

For the consideration hereinafter set forth, the OWNER, CONTRACTOR, and ESCROW AGENT agree as follows:

1. Pursuant to Section 22300 of the Public Contract Code of the State of California, CONTRACTOR has the option to deposit securities with ESCROW AGENT as a substitute for retention earnings required to be withheld by OWNER pursuant to Construction Contract No. 3555, hereinafter referred to as CONTRACT, entered into between the OWNER and CONTRACTOR for the Lincoln Park Recreation Center – Pool and Bathhouse Replacement Project (PRJ1504P) (W.O. #E1907715) in the amount of SEVEN MILLION, SIX HUNDRED EIGHTY-FOUR THOUSAND DOLLARS (\$7,684,000.00) executed October 4, 2016. Alternatively, on written request of the CONTRACTOR, the OWNER shall make payments of the retention earnings directly to the ESCROW AGENT. When CONTRACTOR deposits the securities as a substitute for CONTRACT earnings, the ESCROW AGENT shall notify the OWNER within ten (10) days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the CONTRACT between the OWNER and CONTRACTOR. Securities shall be held in the name of the City of Los Angeles, Board of Recreation and Park Commissioners, and shall designate the CONTRACTOR as the beneficial owner.

2. The OWNER shall make progress payments to the CONTRACTOR for such funds which otherwise would be withheld from progress payments pursuant to the CONTRACT provisions, provided that the ESCROW AGENT holds securities in the form and amount specified above.

3. When the OWNER makes payment of retentions earned directly to the ESCROW AGENT, the ESCROW AGENT shall hold them for the benefit of the

CONTRACTOR until such time as the escrow created under this Contract is terminated. The CONTRACTOR may direct the investment of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the OWNER pays the ESCROW AGENT directly.

4. The CONTRACTOR shall be responsible for paying all fees for the expenses incurred by ESCROW AGENT in administering the escrow account and all expenses of the OWNER. These expenses and payment terms shall be determined by the OWNER, CONTRACTOR and ESCROW AGENT.

5. The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of CONTRACTOR and shall be subject to withdrawal by CONTRACTOR at any time and from time to time without notice to the OWNER.

6. CONTRACTOR shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to ESCROW AGENT accompanied by written authorization from OWNER to the ESCROW AGENT that OWNER consents to the withdrawal of the amount sought to be withdrawn by CONTRACTOR.

7. The OWNER shall have a right to draw upon the securities in the event of default by the CONTRACTOR. Upon seven (7) days' written notice to the ESCROW AGENT from the OWNER of the default, the ESCROW AGENT shall immediately convert the securities to cash and shall distribute the cash as instructed by the OWNER.

8. Upon receipt of written notification from the OWNER certifying that the CONTRACT is final and complete, and that the CONTRACTOR has complied with all requirements and procedures applicable to the CONTRACT, ESCROW AGENT shall release to CONTRACTOR all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payment of fees and charges.

9. The ESCROW AGENT shall rely on the written notifications from the OWNER and the CONTRACTOR pursuant to Sections 5 to 8, inclusive, of this agreement and the OWNER and CONTRACTOR shall hold ESCROW AGENT harmless from ESCROW AGENT'S release and disbursement of the securities and interest as set forth above.

10. The names of the persons who are authorized to give written notice or to receive written notice on behalf of the OWNER and on behalf of the CONTRACTOR in connection with the foregoing, and exemplars of their respective signatures are as follows:

On Behalf of the Owner:

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

221 N. Figueroa Street, Suite 300  
Los Angeles, CA 90012  
\_\_\_\_\_  
Address

On Behalf of the Contractor:

\_\_\_\_\_  
President  
Title

\_\_\_\_\_  
Emilia G. Levy  
Name

\_\_\_\_\_  
Signature

28348 Roadside Dr. # 305  
Agoura Hills, CA 91301  
\_\_\_\_\_  
Address

On Behalf of Escrow Agent:

\_\_\_\_\_  
Senior Vice-President  
Title

\_\_\_\_\_  
Jamie Rebatin  
Name

\_\_\_\_\_  
Signature

Mechanics Bank  
18400 Von Karman, Suite 1100  
Irvine, CA 92612  
\_\_\_\_\_  
Address

At the time the Escrow Account is opened, the OWNER and CONTRACTOR shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their proper officers on the date first set forth above.

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20 \_\_\_\_

THE CITY OF LOS ANGELES, a  
municipal corporation, acting by and  
through the Board of Recreation and  
Park Commissioners

BY \_\_\_\_\_  
President

BY \_\_\_\_\_  
Secretary

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20 \_\_\_\_

G2K Construction, Inc.

BY \_\_\_\_\_  
President

BY \_\_\_\_\_  
Secretary

Executed this \_\_\_\_\_ day  
of \_\_\_\_\_, 20 \_\_\_\_

MECHANICS BANK

BY \_\_\_\_\_  
Senior Vice-President

APPROVED AS TO FORM  
MICHAEL N. FEUER,  
City Attorney

\_\_\_\_\_

\_\_\_\_\_  
Deputy City Attorney

Dated \_\_\_\_\_

The undersigned, Name of International Fidelity Insurance Company, Surety for CONTRACTOR on both its faithful performance and payment bonds, hereby gives its consent to terms of this Agreement and to the release of moneys to CONTRACTOR provided for herein.

INTERNATIONAL FIDELITY INSURANCE

BY \_\_\_\_\_  
Attorney-In-Fact

**BOARD REPORT**

NO. 17-034

DATE February 15, 2017

C.D. 1

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: ACCEPTANCE OF FLAT TOP PROPERTY DONATION: FINAL AUTHORIZATION TO ACQUIRE PROPERTY FOR PARK PURPOSES; AND CATEGORICAL EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT ARTICLE 19, SECTION 15325 (f) (ACQUISITION TO PRESERVE OPEN SPACE OR LANDS FOR PARK PURPOSES) OF CALIFORNIA CEQA GUIDELINES

AP Diaz	_____	V. Israel	_____
<i>for</i> *R. Barajas	<i>CSD</i>	N. Williams	_____
H. Fujita	_____		

  
 \_\_\_\_\_  
 General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Adopt the Resolution, herein included as Attachment 1, authorizing Department of Recreation and Parks (RAP) staff to request the assistance of the Department of General Services (GSD) and other City entities, per Charter Section 594(a) and (b), in accepting and obtaining fee title to approximately 36.37 acres, or 1,583,569 square feet, of hill top open space property, located in the Montecito Heights area of North East Los Angeles for the preservation of open space and the development of a passive use park, identified as Flat Top Park;
2. Authorize the Department's Chief Accounting Employee to use RAP's Real Estate Leasing Account or an undetermined RAP funding account to pay for closing and title cost related to the acquisition; and, to establish the necessary funding accounts to maintain the park site, and to accept and/or authorize transfer of the necessary monies to fund the maintenance of said park to the appropriate City Department accounts for the Flat Top Park Acquisition and to make technical corrections as necessary to acquire and maintain the park property;
3. Approve the use of an undetermined RAP account to be named "Flat Top Park " for the Maintenance Costs of the Flat Top property or other related costs as recommended by City Council Office District 1 upon approval of City Council Motion transferring funds for the Maintenance of Flat Top;
4. Upon the approval of City Council actions approving the transfer of \$225,000 to RAP for maintenance of said Park, Staff recommends that the Board authorize staff to

BOARD REPORT

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- coordinate acquisition activities with the Department of General Services, and any other Department needed to obtain the necessary funding approvals to expedite the purchase of said property as recommend by Council action and approval by the Board; and,
5. Grant final approval to accept the Donation of the property upon the completion of the following acquisition due diligence, and contingent on the following conditions at no cost to RAP:
    - A. Appropriate California Environmental Quality Act (CEQA) documentation will have been completed;
    - B. All environmental assessments, Phase I, and Phase II if needed, will have been completed and satisfied prior to close of escrow;
    - C. The Department of General Services have negotiated a purchase price that is consistent with their professional opinion of market value; and,
    - D. Clearance/resolution of all encumbrances and any Title issues prior to closing of escrow; and,
  6. In order to expedite the acquisition of the proposed acquisition project, authorize the Board President and Board Secretary to execute the Donation Agreement (Agreement) upon receipt of the necessary approvals, request and grant authority to GSD and City Attorney's Office to review, negotiate, draft and finalize and execute forthwith an Agreement on behalf of the Board, if necessary, pending final review and approval by GSD Asset Management Division and, subject to the approval of the City Attorney as to form and legality, and upon completion and approval of all conditions indicated in this Report;
  7. Authorize the Board Secretary to execute the escrow instructions and to accept the grant deed for the subject property, as approved by the City Attorney, which shall be set apart and dedicated as park property in perpetuity;
  8. Find that the project is categorically exempt from the provisions of the California Environmental Quality Act; and,
  9. Authorize RAP's Chief Accounting Employees to make technical changes as necessary to carry out the intent of this Report, establish the necessary accounts to acquire the project site, and to accept and transfer the necessary monies to fund the acquisition and/or maintenance to the appropriate City Department accounts or escrow company account in order to expeditiously complete the acquisition and maintenance of the parcel identified as Flat Top Park.

## BOARD REPORT

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### SUMMARY

On August 13, 2014, through Report No. 14-220 (Attachment 2), the Board granted preliminary approval to proceed with the acquisition of the Flat Top Property for park and open space purposes.

With the support from Councilmember Gilbert Cedillo, First Council District, RAP staff is recommending the acquisition/acceptance of the donation of the parcel identified as Flat Top located in the North East Los Angeles Community Plan Area. The parcel measures approximately 36.37 acres of hill top open space property or 1,583,569 square feet. The property consists of various hillside lots. The property is located in the Montecito Heights area of North East Los Angeles near Montecito Drive, Thomas Street, and Fenn Street. Councilmember Cedillo and RAP are interested in acquiring the property for the open space and or park development in order to expand the recreational activities, such as hiking trails in the area and for the preservation of open space. The proposed acquisition will provide more recreational open space for the surrounding community and City of Los Angeles at large. RAP staff believes that the acquisition would also protect the existing landscape, preserving the open space and the historic surrounding area of the site of the Church of the Foursquare Gospel, which transmitted its signal from that location, as well as protect the public's enjoyment of the unobstructed views that are present from Flat Top Hill. CD 1 would like to see the acquisition proceed so that the area continues to be preserved and protected as open space while expanding the protected hill areas and open space area that will help preserve and protect the unique range of hills and topography of North East Hills.

The parcel identified as Flat Top Park, and identified in Exhibit A for information only, is located in the Community Plan Area of North East Los Angeles. The parcel measures approximately 36.37 acres of hill top open space property or 1,583,569 square feet. It is situated adjacent to Historic telecommunications facilities and towers. The property is a rugged and steeply-sloped parcels, residentially-zoned ([Q]RE20-1D). The GSD Asset Management Division will provide a Class "A" appraisal or formal appraisal of estimate of value for the property for title insurance purposes. Funds will be made available for the maintenance of the site by CD 1 for 2½ years in the amount of Two Hundred Twenty-Five Thousand Dollars (\$225,000.00). Said Funds will be transferred to RAP by Council Motion at a later time, to be deposited into a RAP fund and account entitled Flat Top Park.

### Property Value and Acquisition Details

To determine the fair market value for the aforementioned property identified as Flat Top Park, GSD will use a Formal Appraisal prepared by an independent appraiser. As of the drafting of this Report, the Appraisal is being prepared. The estimated value of the appraisal will help determine title insurance value to protect the City of Los Angeles. Once GSD concurs with appraiser's valuation methodology, it will be used to arrive at the value for the subject property. GSD is aware that this is a donation to RAP for park purposes and, at no cost to RAP or the City, will be approved by GSD for acquisition upon completion of all due diligence and that is consistent with their professional expertise.

## BOARD REPORT

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The current owner of the Flat Top property has agreed to donate the property to RAP. The owners of the aforementioned property and GSD Asset Management Division have agreed to a final purchase price of Zero Dollars (\$0.00). It is estimated that an additional Six Thousand Dollars (\$6,000.00) is required for payment of closing fees, bringing the total property acquisition cost to Six Thousand Dollars (\$6,000.00). Escrow costs and related pre-acquisition costs will be funded by Council District 1 funds or RAP Real Estate funds. Funds for the acquisition and/or Maintenance of the subject property are to be made available from RAP's Fund "Flat Top Park". CD 1 has agreed to commit maintenance funds for the maintenance of the site for 2½ years at an amount of Two Hundred Twenty-Five Dollars (\$225,000.00). At this time, a development plan for the community is not available. It is not expected at this time that the parcel will be developed, but instead will be left as open space to preserve its aesthetic qualities and beauty that CD 1 and the surrounding community want to preserve. There is no additional information on any future development plans or costs. This Report only addresses the acquisition of the property identified as Flat Top Park.

### Funding Sources

CD 1 has indicated that sufficient funding is available for the acquisition of parcel identified as Flat Top Park, and has been reassured by the owner that any unpaid liens, title issues or fees, or pending obligations will be resolved before the acquisition can be completed. Estimated costs for the donation are approximately Six Thousand Dollars (\$6,000.00). City staff is unable to determine an accurate complete total, which would include closing costs, as this information has not been made available to date. City staff does however estimate that up to an additional Six Thousand Dollars (\$6,000.00) in closing costs fees will be needed to complete the acquisition. GSD and RAP will verify correct costs prior to closing of escrow. Recreation and Parks Fund "Flat Top Park" is expected to be used to pay for all acquisition related costs such as appraisals, environmental site assessments costs, escrow closing costs, and site preparation.

### Pending Issues

Before the acceptance/acquisition of the donation of the Flat Top property can be completed, all issues that have to do with title must be resolved. Currently, the property owner has indicated that there are easement(s) that need to be corrected and recorded relating to access. GSD staff has also indicated that County Records need to be corrected to reflect the correct boundaries of the property in question. An appraisal needs to be prepared to determine title insurance value. The property owner has also indicated that there are pending grants that may affect funding as it relates to maintenance obligations. City staff needs to ensure that any obligation of any grant or agreement in place for the operation, maintenance, and/or development must be reviewed first prior to any assignment that will require Board and/or Council Approval as to not obligate RAP or the City unnecessarily. RAP will welcome any grant or outside funding that is used to maintain or develop the site, but RAP must be included and notified in the initial processes of review and proposal of any grant application that affects Flat Top Park. The property owner has also informed RAP that there are certain outstanding financial obligations that need to be paid related to administrative and maintenance costs. CD 1 has assured RAP that any unpaid obligations will be the responsibility of the owner and said costs will not be part of this transaction. RAP staff recommends that this donation be accepted at no cost to RAP with the

## BOARD REPORT

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possible exception of closing escrow costs and related pre-acquisition costs and other due diligence cost.

### NEEDS ASSESSMENT

The proposed Flat Top Park donation/acquisition will add and expand the area served for this regional area of 3,675 residents. An estimated 1,944 residents live within a one-half mile walking distance of the proposed Flat Top Park acquisition who are not currently served. An un-estimated number of tourist and others will also be served by the addition/expansion of the Regional Park and expansion of trails within the region known as the South East portion of the Rim of the Valley Corridor, which Federal State, County and City officials have been trying to complete for several decades. Completion and inclusion of this area could potentially qualify the area for additional Federal and State funds as part of the Rim of the Valley Corridor.

### TREE AND SHADE

Flat Top Park is an open space, hillside area full of wild landscape and chaparral featuring native vegetation/plants typical of region and the larger Santa Monica Mountains region with some rare species. It is expected that the area will remain natural and preserved as open space.

In addition to CD 1, the Assistant General Manager of the Planning, Maintenance and Construction Branch and the Superintendent of the Metro Region have been consulted and concur with the staff recommendations.

### ENVIRONMENTAL IMPACT STATEMENT

Environmental due diligence in the form of a Phase I Environmental Site Assessment (ESA) has been performed for the subject property in accordance with the American Society for Testing and Materials (ASTM) Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessments (Standard Designation E 1527-05) approved in November 2005 and the United States Environmental Protection Agency (US EPA) 40 CFR Part 312 Standards and Practices for All Appropriate Inquiries (AAI) – Final Rule adopted November 1, 2006. No evidence of Recognized Environmental Conditions (RECs) was found on the property, and no further site investigation would be required. The Phase I ESA Report dated November 2016 is on file in the Department's Real Estate Division.

The proposed project consists of the acquisition of property with the intent to preserve open space for park purposes. Therefore, staff recommends that the Board determine that the acquisition of the project site is categorically exempt from the provisions of California Environmental Quality Act (CEQA), pursuant to Article 19, Section 15325, Class 25 (f) of the State CEQA Guidelines.

BOARD REPORT

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FISCAL IMPACT STATEMENT

The proposed park acquisition will require an increase in maintenance cost demands, and will require a budget increase that will be requested through the RAP's General Fund budget request.

As indicated in the Summary of this Report, the proposed park is not expected to be developed at this time, and therefore there is no fiscal impact to the RAP's General Fund for development of the site at this time. Maintenance for the area is also expected to be minimal as the site will remain natural open space. Once this acquisition is completed, operational maintenance costs will be determined. CD 1 has indicated that it will transfer maintenance funds for the maintenance of the Flat Top property for 2½ years. Any unpaid obligations will be the responsibility of the property owner, and will need to be addressed prior to the donation and acquisition of the property. Upon project completion, a request for funding will be submitted in future RAP annual budget requests.

This Report was prepared by John Barraza, Management Analyst II in Real Estate and Asset Management Unit, Planning, Maintenance and Construction Branch.

LIST OF ATTACHMENT(S)

- 1) Proposed Resolution
- 2) Board Report No. 14-220
- 3) Park Analysis Report
- 4) Exhibit A

RESOLUTION NO. \_\_\_\_\_

WHEREAS, First City Council District Office has recommended the acquisition of the Flat Top Property (Property) and has committed itself to transferring funds for the maintenance of Property to RAP; and,

WHEREAS, On August 13, 2014, through Report No. 14-220, the Board of Recreation and Park Commissioners (Board) granted preliminary approval to proceed with the acquisition of Property for park and open space purposes; and,

WHEREAS, Board granted approval to proceed with the purchase of the property upon the completion of the preliminary acquisition activities, and contingent on the following conditions:

- A. Appropriate California Environmental Quality Act (CEQA) documentation will have been completed;
- B. All environmental assessments, Phase I, and Phase II if needed, will have been completed and satisfied prior to close of escrow
- C. The Department of General Services will negotiate a purchase price that is consistent with their professional opinion of market value;
- D. All and any Title issues will have been cleared or resolved prior to closing of escrow; and,

WHEREAS, Property is approximately 36.37 acres or 1,583,569 square feet of hill top open space property, located in the Montecito Heights area of North East Los Angeles; and,

WHEREAS, The acquisition of the Property will protect the area and surrounding open space area that will help preserve and protect the unique Montecito Heights Hills topography; and,

WHEREAS, Property is a rugged and steeply-sloped parcel, residentially-zoned and,

WHEREAS, GSD will use a Formal Appraisal to assess the property value for title insurance purposes; and,

WHEREAS, GSD and Owner have agreed to a donation of property for Zero Dollars (\$0.00) for the Property; and,

WHEREAS, It is estimated that an additional Six Thousand Dollars (\$6,000.00) is required for payment of escrow fees, bringing the total property acquisition cost to Six Thousand Dollars (\$6,000.00); and,

WHEREAS, Escrow costs and related pre-acquisition costs will be funded from the RAP Real Estate fund or a Recreation and Parks fund to be established as a later time, to be named "Flat Top Park", when Council approves the transfer of funds to RAP fund for maintenance and related acquisition costs; and,

WHEREAS, this acquisition will add and protect open space in the area and bring more recreational opportunities and potential funding to the entire City through expanded availability of recreational activities and facilities and inclusion as part of the Rim of the Valley Corridor; and,

WHEREAS, the Phase I Environmental Site Assessment report indicates that no evidence of Recognized Environmental Conditions (RECs) was found on the property, and no further site investigation is required, that therefore there is no environmental impediment to the Department of Recreation and Parks (RAP) acquiring the site for public use; and,

NOW, THEREFORE, BE IT RESOLVED by the Board of Recreation and Park Commissioners that GSD be requested to finalize the acceptance and acquisition of the 36.37 acres of hill top open space property or 1,583,569 square feet, located in the area North East Los Angeles identified as Flat Top Park, in accordance with the provisions of Charter Section 594 (a) and (b); and,

BE IT FURTHER RESOLVED that the Board requests and grants authority to GSD and City Attorney's Office to negotiate, draft, finalize and execute a Donation Agreement pending final review and approval by GSD and, subject to the approval of the City Attorney as to form; and,

BE IT FURTHER RESOLVED that the Board President and Board Secretary be authorized to execute the Donation Agreement upon receipt of the necessary approvals from the City Attorney's Office and the –aforementioned stated conditions with special attention to the Resolution of all pending environmental and title issues; and,

BE IT FURTHER RESOLVED that the Board approve the use of Recreation and Parks funds in an account to be determined at later time and identified as “Flat Top Park” for the acquisition and related costs of the vacant parcel identified as the Flat Top acquisition; and,

BE IT FURTHER RESOLVED that the GSD Asset Management Division, RAP's Chief Accounting Employee be authorized use RAP Real Estate Leasing account to pay for Title and closing costs or related acquisition costs; and, to make technical corrections as necessary, to establish the necessary accounts to acquire if necessary the project site, and to accept and transfer the necessary monies to fund the acquisition and or Maintenance to the appropriate City Department accounts or escrow company account in order to expeditiously complete the acquisition and maintenance of the parcel identified as Flat Top, and;

BE IT FURTHER RESOLVED that the Board Secretary is directed to execute the escrow instructions and accept the grant deed for the subject property for the acquisition and expansion of the property to be known as the “Flat Top Park” as approved by the City Attorney, which shall be set apart and dedicated as park property in perpetuity.

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of a Resolution adopted by the Board of Recreation and Park Commissioners of the City of Los Angeles at its Meeting held on \_\_\_\_\_, 20\_\_\_\_ (Board Report No. \_\_\_\_\_).

\_\_\_\_\_  
Armando X. Bencomo, Secretary

Resolution No. \_\_\_\_\_

**APPROVED**

**AUG 13 2014**

**BOARD OF RECREATION  
& PARK COMMISSIONERS**

REPORT OF GENERAL MANAGER

NO. 14-220

DATE August 13, 2014

C.D. 1

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: FLAT TOP PARK – PRELIMINARY AUTHORIZATION TO PROCEED WITH THE ACQUISITION OF PROPERTY FOR PARK PURPOSES

<i>for</i>	R. Adams	<u>                    </u>	V. Israel	<u>                    </u>
	*R. Barajas	<u>CSP</u>	K. Regan	<u>                    </u>
	H. Fujita	<u>                    </u>	N. Williams	<u>                    </u>

*M. [Signature]*  
General Manager

Approved                      Disapproved                      Withdrawn                     

RECOMMENDATIONS:

That the Board:

1. Authorize the Department of Recreation and Parks (RAP) to initiate the process for the possible acquisition of real property, consisting of five (5) parcels totaling approximately 1,583,569 square feet or 36.37 acres, located in the Montecito Heights area of East Los Angeles for the preservation of open space and the development of a passive use park, as described in the Summary of this Report;
2. Authorize staff to coordinate acquisition activities with the Department of General Services (GSD), and other Departments as necessary, and to obtain the necessary environmental clearances and funding approvals to expedite the purchase of said property; and,
3. Upon the completion of the preliminary acquisition activities, direct staff to return to the Board of Recreation and Park Commissioners (Board) with escrow instructions and related documents for the Board’s final approval to acquire the property, contingent on the following conditions:
  - A. Funding will have been made available for the acquisition of the property through Proposition A – LA County funds and/or other funding source yet unidentified;
  - B. Appropriate California Environmental Quality Act (CEQA) documentation will have been completed;
  - C. All environmental assessments, Phase I, and Phase II if needed, will have been completed and satisfied prior to close of escrow;

## REPORT OF GENERAL MANAGER

PG. 2

NO. 14-220

- D. Class "A" Appraisal will have been prepared and approved by GSD; and,
- E. The GSD will have negotiated a purchase price that is consistent with their professional opinion of market value.

SUMMARY:

RAP, with the support from the Councilmember for the 1st District, is considering the acquisition of the five (5) parcels identified by the following Los Angeles County Assessor's Parcel Numbers (APN): 5206-017-003, 5207-027-004, 5207-028-005, 5207-028-006, and 5207-028-008 located in the Montecito Heights area of East Los Angeles (Exhibit A1-8). The parcels are immediately adjacent to RAP's Mount Olympus Park. All five (5) parcels together measure approximately 1,583,569 square feet or 36.37 acres. The property is vacant and consists of hillside land and prominent views. The property features both walking trails and high value habitat. RAP is interested in acquiring the property for the development of a passive use park and the preservation of open space in the area. GSD, Asset Management Division, will provide a Class "A" appraisal of estimate of value for the property.

As currently envisioned, North East Trees (NET), a RAP partner in other endeavors, will acquire the property using Proposition A funds available to them. NET will then transfer the property to the City of Los Angeles (City), and enter into an operations and maintenance agreement with RAP to provide maintenance and operations responsibilities. Upon completion of necessary due diligence work and the drafting of an agreement with NET, RAP staff will present the proposed acquisition and agreement to the Board for consideration and final approval.

The California Environmental Quality Act (CEQA) and the Phase I Environmental Site Assessment are currently being completed. Both the CEQA documentation and the Phase I Environmental Site Assessment will be completed and made available for review prior to making a determination on the possibility of acquiring this property.

This project has the support from Council District 1. In addition, the Assistant General Manager of Planning, Construction and Maintenance Branch has been consulted and concurs with staff's recommendations.

FISCAL IMPACT STATEMENT:

There is no fiscal impact to RAP' General Fund with the approval of the preliminary authorization to proceed with the acquisition of the property.

This Report was prepared by Cid Macaraeg, Sr. Management Analyst II, Real Estate and Asset Management.

**Address:**  
17 2049 N ESPERANZA AVE 60293  
APN: 145-0025-02  
APN# CONNECTION

**Childrental Title:**  
Assessing Value  
Determine Property Value  
Priority of address required

**Availability - Parcel Projects:**

- Parcel Details Report (R.A.S.)
- Parcel Profile Report (R.C.P.)
- Property Address Report (R.A.S.)
- Parcel History Report (R.S.S.)
- Parcel Street Zone Report
- Parcel to In Report
- Parcel Description Report
- Public Services Report
- Parcel Street View Street
- Current Assessment Report
- Uniform Parcel Line Report
- LA City Land Property Report
- LA City Land Report

\*: Unassigned Number  
Please read our Disclaimer

**LAYERS**

- BOE Permits
- BOE Capital Improvement Projects
- Non-BOE Public Works Reservations
- Permit Year Completions
- Public Works Reservation System (PWRSS)
- Map Noise
- Bureau of Street Lighting
- Bureau of Street Services
- Census 2010
- City Planning Department
- DMAP
- Fire Department
- General Services Department
- Geographical
- Housing Department
- Hydrographic Information
- JALDOT
- LUPP
- LUPD Schools
- Mayor's Office
- Metro Bus and Metro Rail
- Information and Field Department
- Survey Information
- Zoning Information
- Stormwater Information
- Street Information
- Special Area
- Maps and Address
- Landbase
- Job Building Footprints
- City Boundary Overlay
- City Elements
- City Landbase Lines / Parcel Outline
- City Permits (Outline)
- City Permits

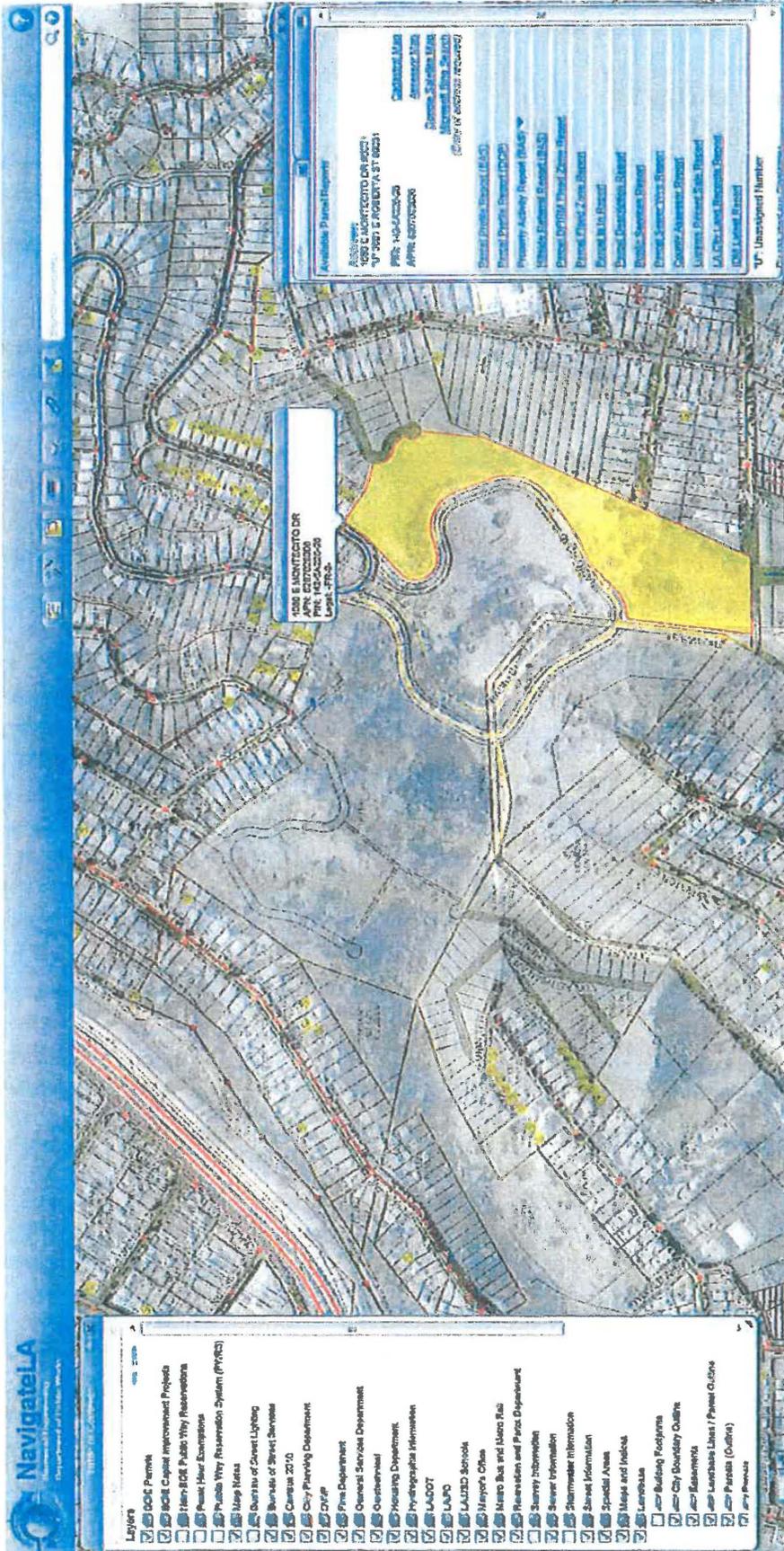
**US49 N ESPERANZA AVE**  
APN: 145-0025-02  
APN# CONNECTION



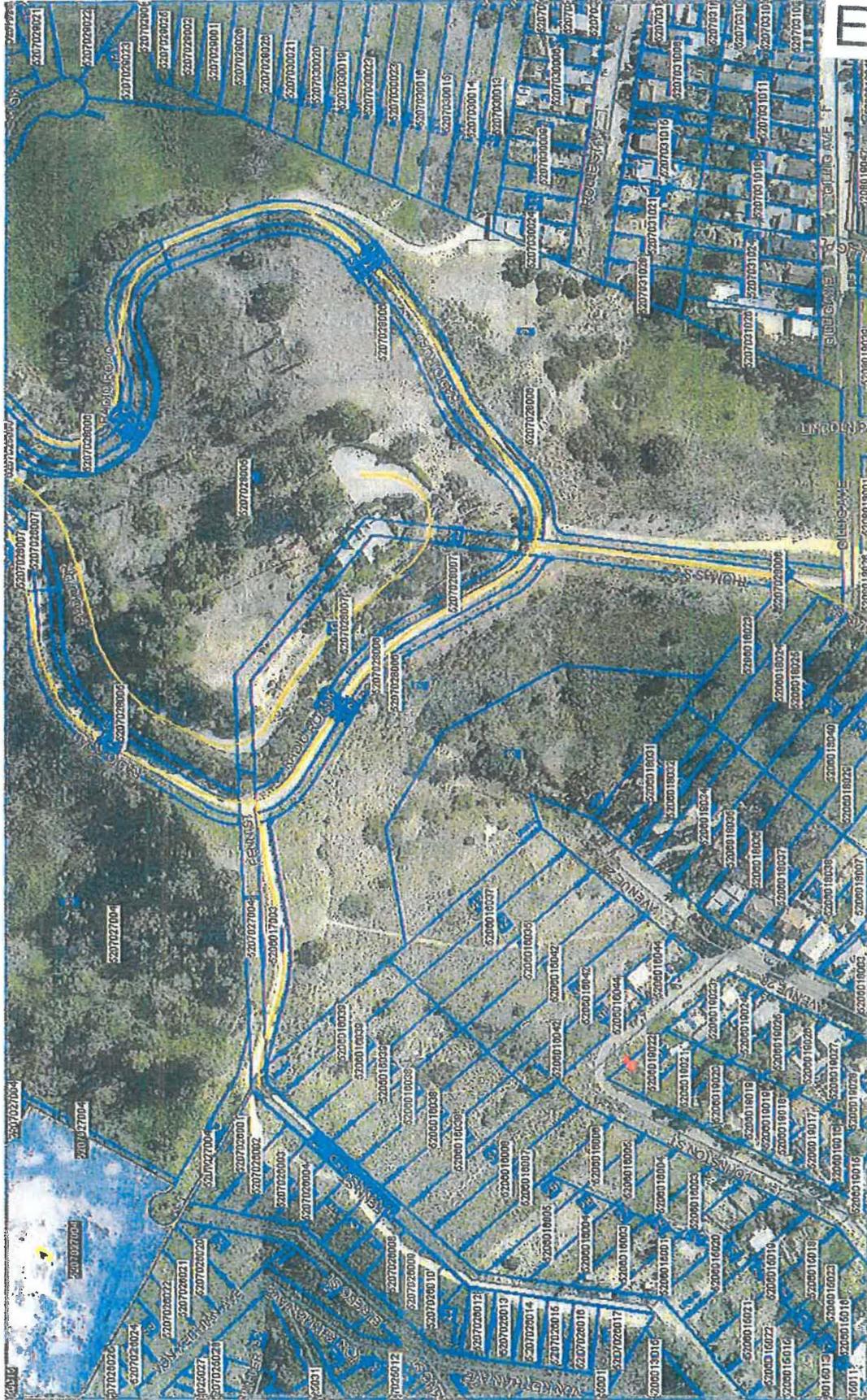
# Exhibit A3

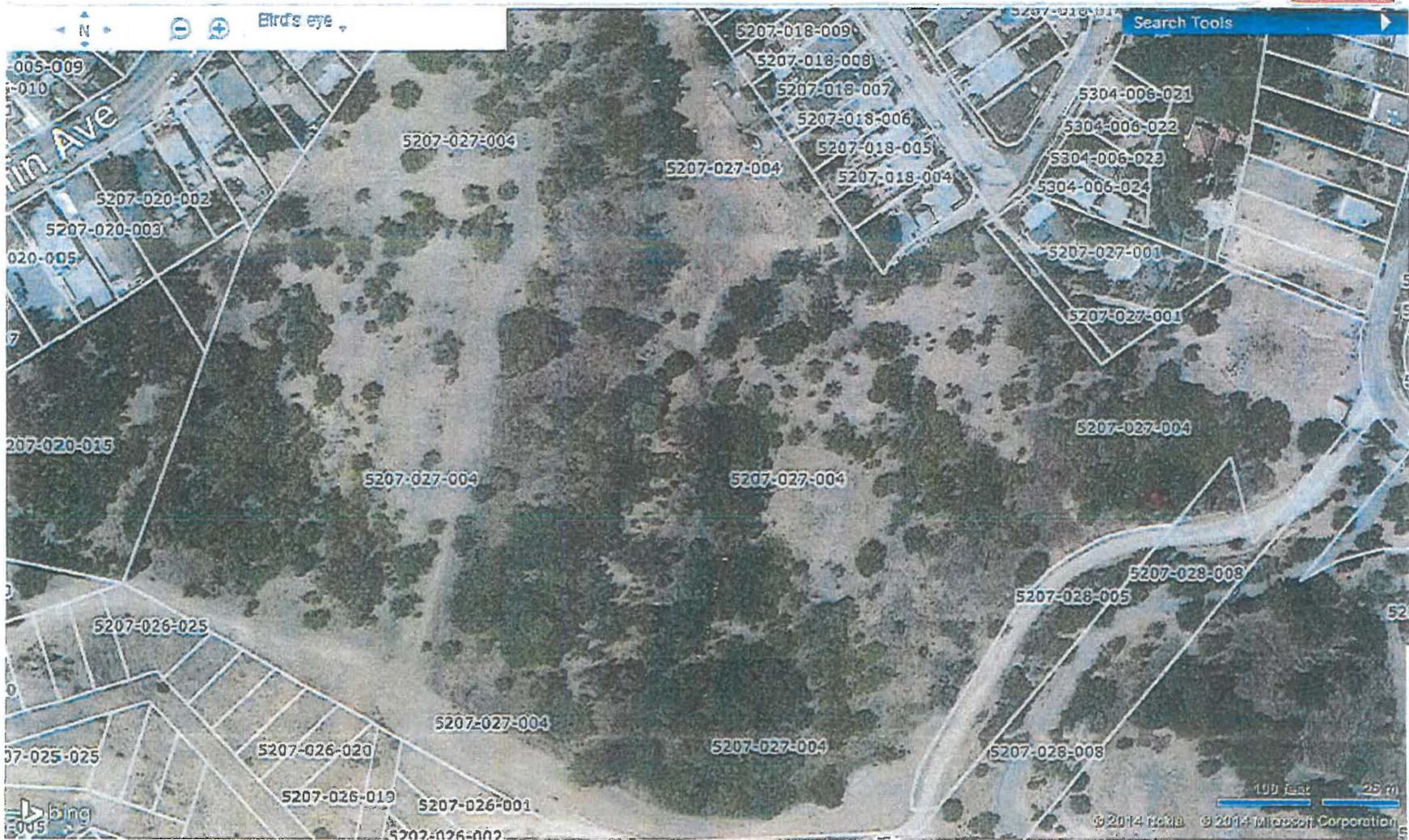


# Exhibit A4



# Exhibit A5





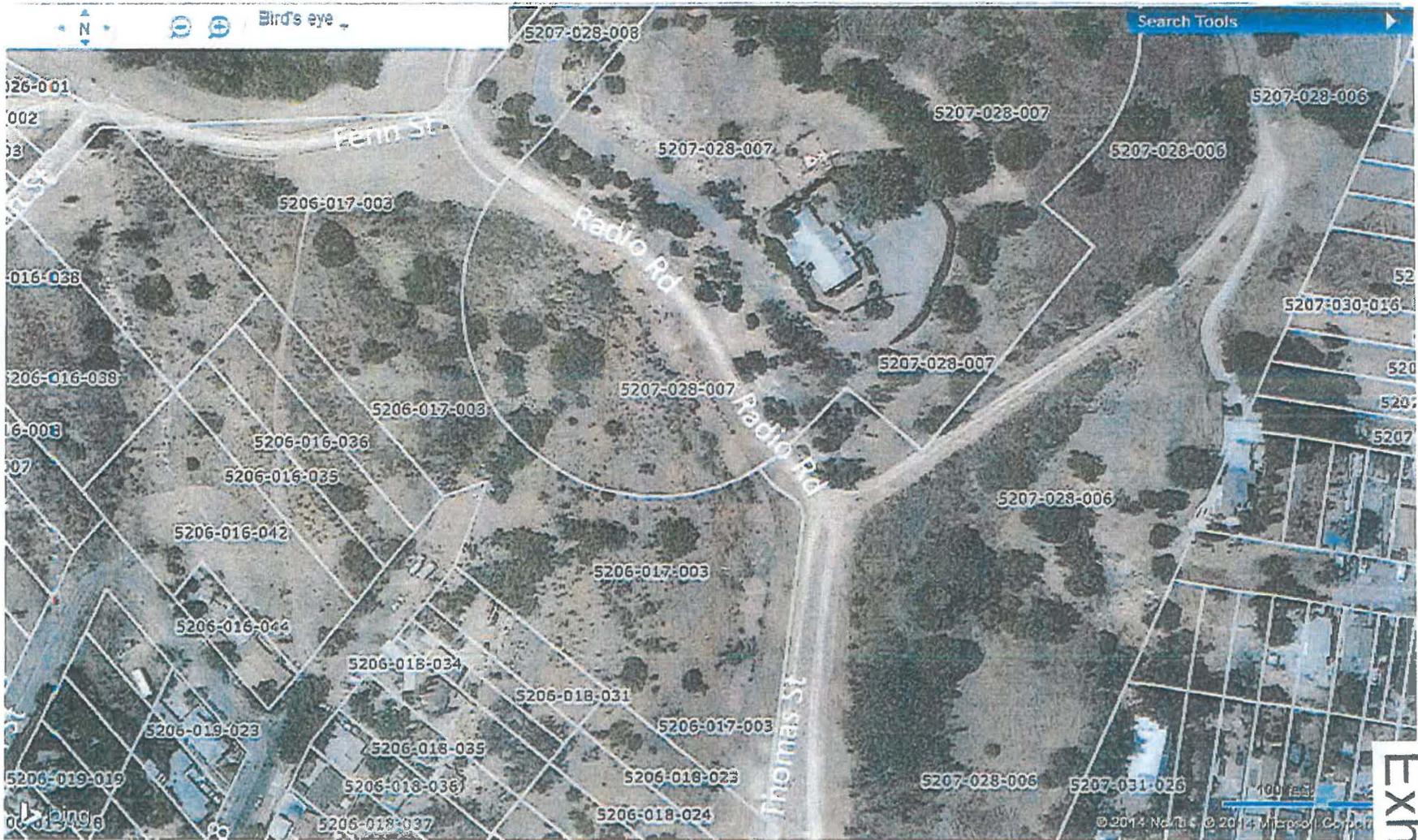


Exhibit A7

ATTACHMENT 2

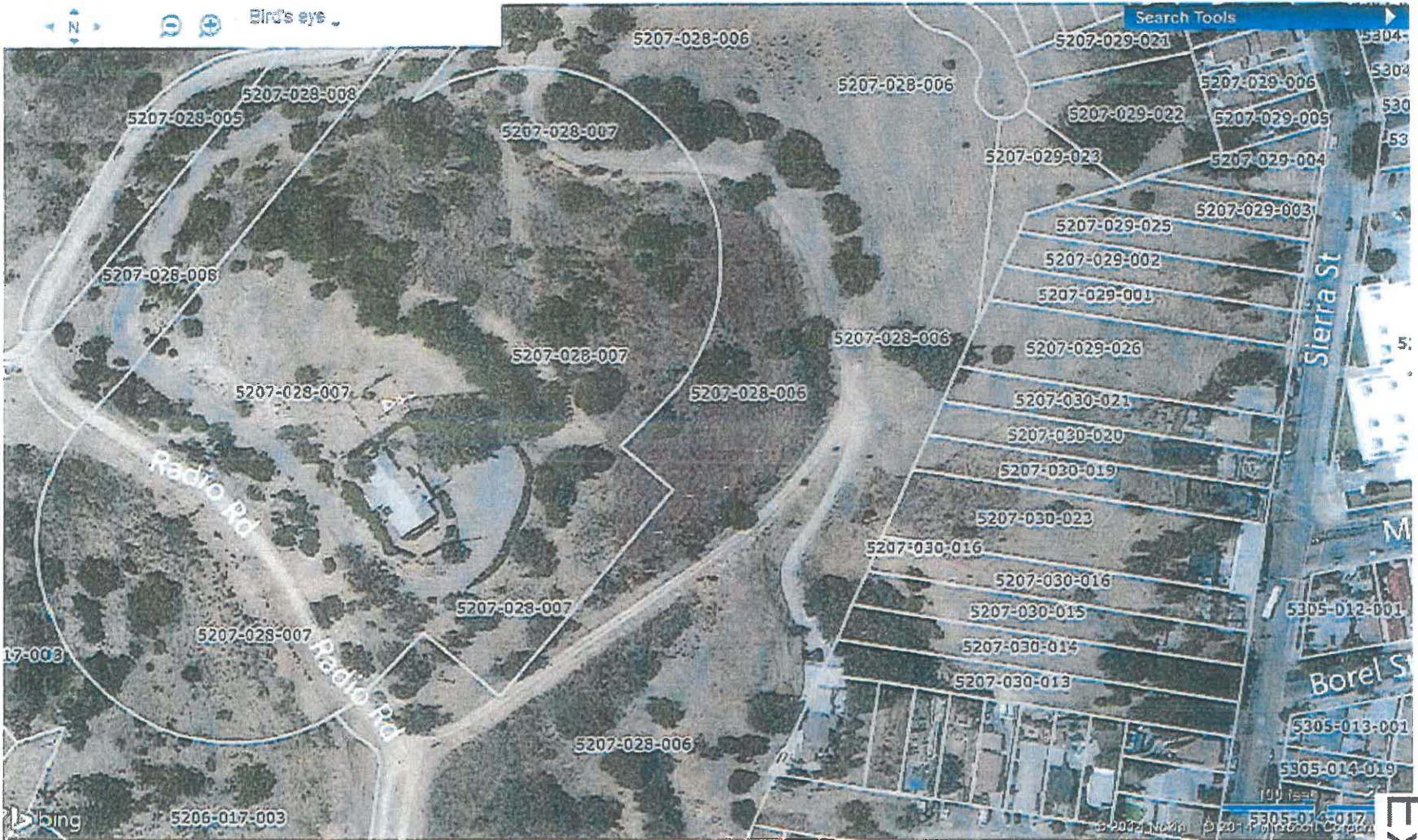
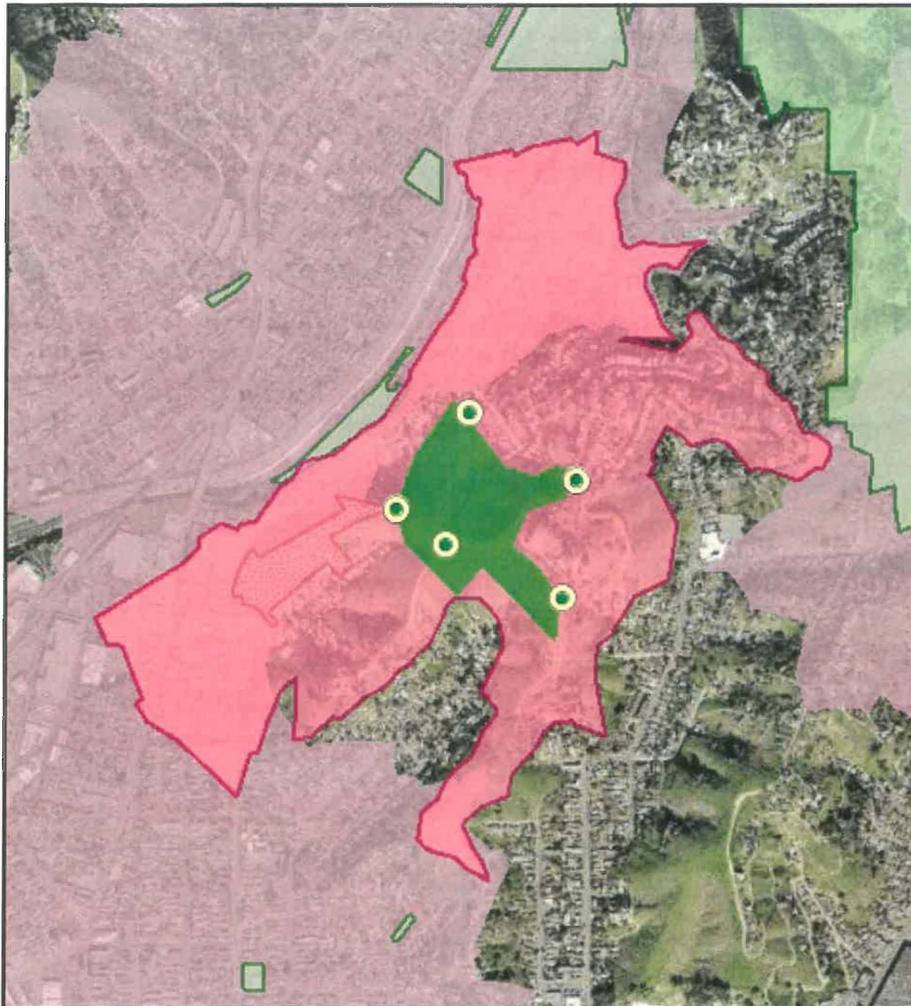


Exhibit A8



**EQUITABLE PARKS & AMENITIES  
DECISION SUPPORT SYSTEM**

# Park Analysis Report



## Scenario Information

Scenario Name:

Flat Top

Description:

Scenario Type:

New Park

Park Class:

Improved

Baseline Dataset\*:

All Parks (RAP and Non-RAP)

\*The baseline dataset is the existing parks dataset whose service areas are used to calculate the currently non-served metrics given below in blue. These residents and households, which would be served by the proposed park, are not currently served by any existing park in the baseline dataset.

## Population and Age Breakdown

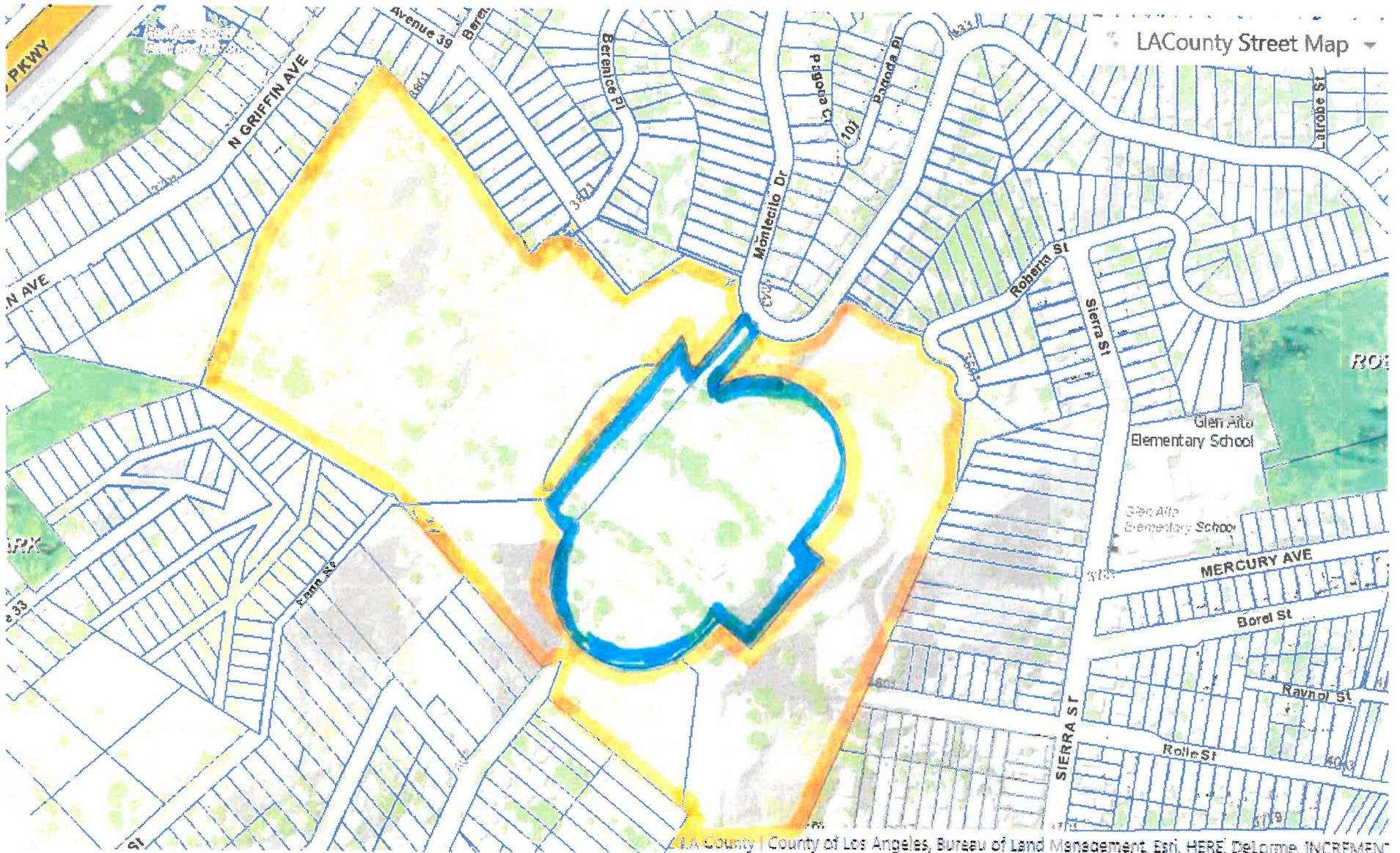
## Household and Income Breakdown

	Total Residents Served:	Currently Non-Served Residents Served:
Residents Served:	3,675	1,944
<i>Residents Served by Age</i>		
Under Age 5:	261	131
Age 5 to 9:	232	119
Age 10 to 14:	248	118
Age 15 to 17:	164	74
Age 18 to 64:	2,412	1,285
Age 65 and Over:	358	217

	Total Households Served:	Currently Non-Served Households Served:
Households Served:	1,100	624
<i>Households Served by Annual Income</i>		
Under \$25,000:	298	148
\$25,000 to \$34,999:	129	63
\$35,000 to \$49,999:	179	104
\$50,000 to \$74,999:	119	53
\$75,000 and Over:	375	256

Source: Census/ACS 2010

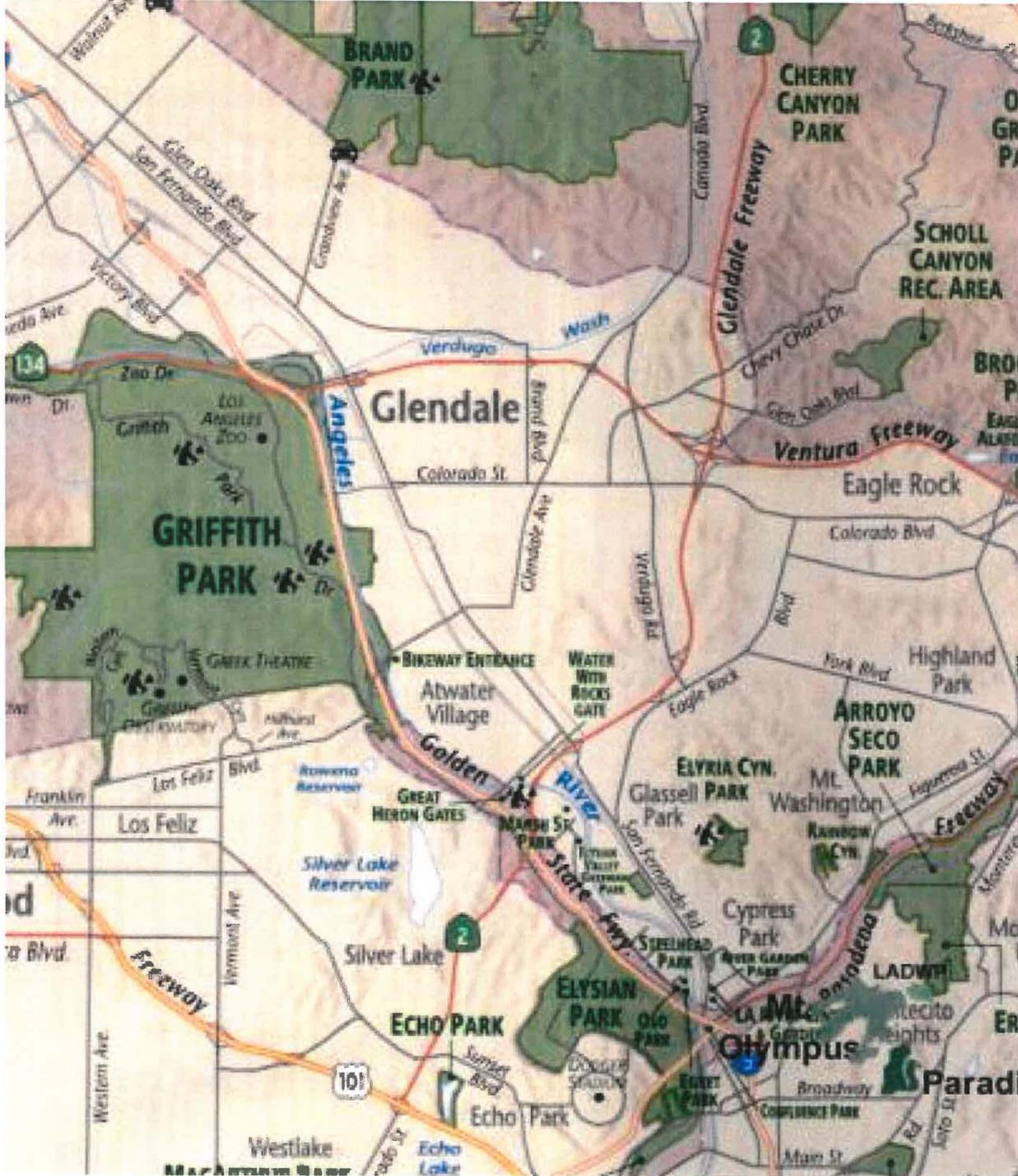




Property Owners:

North East Trees: 

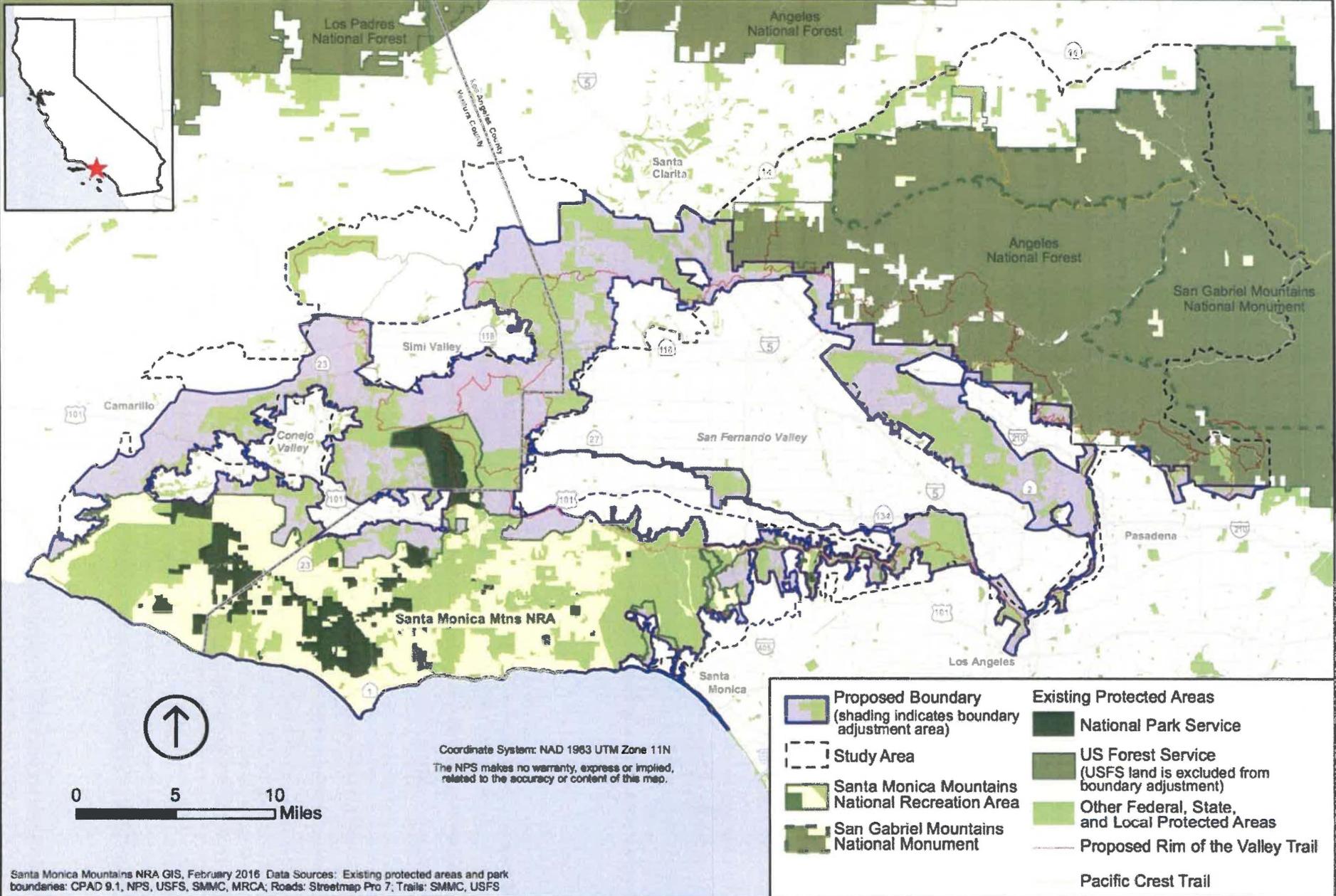
International Church Of The Foursquare Gospel: 



# Selected Alternative

Santa Monica Mountains National Recreation Area Boundary Adjustment with Cooperative Conservation Emphasis

National Park Service  
U.S. Department of the Interior



- |   |   |
|---|---|
| Proposed Boundary<br>(shading indicates boundary adjustment area) | Existing Protected Areas  |
| Study Area  | National Park Service   |
| Santa Monica Mountains National Recreation Area                   | US Forest Service<br>(USFS land is excluded from boundary adjustment) |
| San Gabriel Mountains National Monument                           | Other Federal, State, and Local Protected Areas                       |
|   | Proposed Rim of the Valley Trail                                      |
|   | Pacific Crest Trail   |

Santa Monica Mountains NRA GIS, February 2016 Data Sources: Existing protected areas and park boundaries: CPAD 9.1, NPS, USFS, SMMC, MRCA; Roads: Streetmap Pro 7; Trails: SMMC, USFS

**BOARD REPORT**

**NO.** 17-035

**DATE** February 15, 2017

**C.D.** 11

**BOARD OF RECREATION AND PARK COMMISSIONERS**

**SUBJECT: VETERANS' BARRINGTON PARK – VETERANS MEMORIAL AND PARK BEAUTIFICATION (PRJ21091) PROJECT – FINAL PLANS – ALLOCATION OF QUIMBY FEES**

AP Diaz \_\_\_\_\_

V. Israel \_\_\_\_\_

*JWR* \*R. Barajas *CRD*

N. Williams \_\_\_\_\_

H. Fujita \_\_\_\_\_

  
\_\_\_\_\_  
General Manager

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Approve the final plans and specifications for the Veterans' Barrington Park – Veterans Memorial and Park Beautification (PRJ21091) Project (Attachment No. 1);
2. Recommend that the City Council request that the City Attorney's Office draft an ordinance to amend Los Angeles Municipal Code (LAMC) Section 63.44 B.2(d)(vi) in order to authorize the designated fenced area consisting of approximately 0.75 acres in Veterans' Barrington Park as an off-lease dog exercise and training area, for final approval by City Council;
3. Recommend that the City Council approve the ordinance amending LAMC Section 63.44 B.2(d), as prepared by the City Attorney;
4. Authorize the Department of Recreation and Parks' (RAP) Chief Accounting Employee to transfer Two Hundred Thousand Dollars (\$200,000.00) in Quimby Fees from the Quimby Fees Account No. 89460K-00 to the Barrington Recreation Center Account No. 89460K-BE;
5. Approve the allocation of Two Hundred Thousand Dollars (\$200,000.00) in Quimby Fees from Barrington Recreation Center Account No. 89460K-BE for the Veterans' Barrington Park – Veterans Memorial and Park Beautification (PRJ21091) Project; and,
6. Authorize the RAP's Chief Accounting Employee to make technical corrections as necessary to carry out the intent of this Report.

## BOARD REPORT

PG. 2 NO. 17-035

### SUMMARY

Veterans' Barrington Park is located at 333 South Barrington Avenue, on property owned by the United States Department of Veteran Affairs (USDVA) and licensed to RAP. This approximately 9.82-acre park provides several sports fields, a parking lot, picnic areas, and an off-leash dog park. Approximately Nine Hundred Twenty-One (921) residents live within a one-half mile walking distance of Veterans' Barrington Park. Due to the facilities, features, programs, and services it provides, Veterans' Barrington Park meets the standard for a Community Park, as defined in the City's Public Recreation Plan.

The Board of Recreation and Park Commissioners (Board) previously approved a Revocable License Agreement with USDVA (Attachment No. 2) for the use of Veterans' Barrington Park (Report No. 16-169). As a part of that Revocable License Agreement, RAP agreed to:

- Within one year after the Effective Date of the Agreement, reduce the current size of the off-leash dog park by 50% and convert the reduced area to green space.
- Within one year after the Effective Date of the Agreement, work with the USDVA and the local community to design, commission, erect and dedicate a memorial to Veterans (comprising a United States Flag and a plaque dedicating the Veterans' Barrington Park to Veterans) to be located in the Park. RAP shall be responsible for up to a maximum cost of One Hundred Thousand Dollars (\$100,000.00) for this memorial.
- A beautification program in consultation with the USDVA in order to improve the appearance of the Park and its facilities. The cost of this beautification program shall not exceed Fifty Thousand Dollars (\$50,000.00).

RAP staff has completed the final plans and specifications for the Veterans' Barrington Park – Veterans Memorial and Park Beautification (PRJ21091) Project (Project). The Project proposes the relocation and redevelopment of the current off-leash dog park, the development of a veterans' memorial adjacent to the existing parking lot, and the various landscaping improvements throughout the Park. The relocated dog exercise and training area would be approximately thirty-three thousand (33,000) square feet (0.75 acres). The final design of the proposed improvements is illustrated on Attachment No. 1.

The design of the veterans' memorial portion of the Project has not been finalized at this time. RAP provided USDVA with multiple layout options for the monument, and the USDVA plans to solicit input from veterans on the selection of the monument type and any accompanying graphics and information. The layout of the plaza space has been selected by the Veterans' group; however, the group still needs to select the actual design of the commemorative piece. Once RAP receives input from USDVA on the veterans' memorial, RAP staff can finalize the design of the monument.

RAP staff estimates these improvements will cost approximately Two Hundred Thousand Dollars (\$200,000.00).

BOARD REPORT

PG. 3 NO. 17-035

OFF LEASH DOG EXERCISE AREAS – LOS ANGELES MUNICIPAL CODE

Los Angeles Municipal Code (LAMC) Section 63.44 B.2(d) prohibits dogs off-leash in City parks, unless they are at City parks or portions of City parks approved and designated as dog exercise and training areas by the Board and approved by the City Council by ordinance.

An ordinance amending LAMC Section 63.44 B.2(d) to establish an off-leash dog exercise area at Barrington Park was approved by City Council on February 11, 2002 (Council File No. 02-0094). That ordinance (Ordinance No. 174,426) established that the dog exercise and training area be located on “a portion of Barrington Park consisting of 1.4 acres as designated on the site plan contained in Council File No. 02-0094 which shall be appropriately designated within the park and enclosed by fencing as indicated on the site plan”.

RAP staff recommends that LAMC Section 63.44 B.2(d) be amended by the City Council so it accurately describes the new name, location, and size of the off-lease dog exercise and training area at Veterans' Barrington Park, as discussed in the Summary of this Report.

PROJECT FUNDING

Upon approval of this Report, Two Hundred Thousand Dollars (\$200,000.00) in Quimby Fees from the Quimby Fees can be transferred from the Quimby Fees Account No. 89460K-00 to the Barrington Recreation Center Account No. 89460K-BE and allocated to the Veterans' Barrington Park – Veterans Memorial and Park Beautification (PRJ21091) Project.

The total funding available for the Veterans Barrington Park – Veterans Memorial and Park Beautification (PRJ21091) Project would be Two Hundred Thousand Dollars (\$200,000.00).

These Quimby Fees were collected within five miles of Veterans' Barrington Park, which is the standard distance for the allocation of the Quimby Fees to community recreational facilities pursuant to Los Angeles Municipal Code Section 12.33 E.3.

FUNDING SOURCE MATRIX

<b>Source</b>	<b>Fund/Dept/Acct</b>	<b>Amount</b>	<b>Percentage</b>
Quimby Fees	302/89/89460K-BE	\$200,000.00	100%
<b>Total</b>		\$200,000.00	100%

PROJECT CONSTRUCTION

RAP staff has determined that sufficient funding has been identified for the construction of the Veterans Barrington Park – Veterans Memorial and Park Beautification (PRJ21091) Project. Construction of this Project is currently anticipated to begin in May 2017.

## BOARD REPORT

PG. 4      NO. 17-035

### TREES AND SHADE

The approval of this Project will have no impact on existing trees or shade at Veterans' Barrington Park. Eight (new Liriodendron Tulipifera (Tulip Trees) are proposed to be added to Veterans' Barrington Park as a part of this Project.

### ENVIRONMENTAL IMPACT STATEMENT

RAP staff has determined that the subject Project is a continuation of an existing project approved on August 10, 2016 (Report No. 16-169) that is exempted from CEQA [Class 1 (14) and Class 11 (1, 3, and 6)]. The work funded by the current Board action will not result in any additional environmental impacts, and is therefore covered by the existing CEQA exemption. No additional CEQA documentation is required.

### FISCAL IMPACT STATEMENT

The approval of this allocation of Quimby Fees will have no fiscal impact on RAP's General Fund. The estimated costs for the design, development, and construction of the proposed park improvements are anticipated to be funded by Quimby Fees or funding sources other than RAP's General Fund.

The maintenance of the proposed park improvements can be performed by current RAP staff with no overall impact to existing maintenance service at this facility.

This Report was prepared by Darryl Ford, Senior Management Analyst I, Planning, Construction and Maintenance Branch, Department of Recreation and Parks.

### LIST OF ATTACHMENTS

- 1) Final plans and specifications for the Veterans' Barrington Park – Veterans Memorial and Park Beautification (PRJ21091) Project
- 2) Revocable License Agreement between the United States Department of Veterans Affairs and the City of Los Angeles

Final plans and specifications for the Veterans' Barrington Park - Veterans  
Memorial and Park Beautification (PRJ21091) Project

*To be distributed at a later date.*

**Revocable License  
By and Between  
the United States Department of Veterans Affairs  
and  
the City of Los Angeles Regarding  
Veterans' Barrington Park (formerly known as Barrington Park)**

This REVOCABLE LICENSE (this "Revocable License") is entered into by and between the United States Department of Veterans Affairs ("VA"), as licensor, and the City of Los Angeles, acting by and through its Department of Recreation and Parks (the "City"), as licensee, effective as of SEPTEMBER 1, 2016 (the "Effective Date").

**Recitals**

- A. By entering into this Revocable License, VA and the City wish to confirm and memorialize their mutual understandings of the terms and conditions pursuant to which VA will allow the City and local community to access and use the Veterans' Park (as defined in Section 1 below) and the City will provide continued recreational programming for the principal benefit of Veterans and their families, while permitting use by the general community not inconsistent with that use. The parties agree and acknowledge that (i) the primary purpose of the Veterans' Park will be to principally benefit Veterans and their families, (ii) the Veterans' Park is part of the West Los Angeles Campus of VA, and (iii) that the general community can use Veterans' Park so long as the use is coordinated with and receives prior written approval of VA. VA agrees to provide a timely reply to all requests and that VA approval will not be unreasonably withheld should no conflict exist with use by Veterans and their families.
- B. The parties are entering into this Revocable License in recognition of VA's goal to revitalize the West Los Angeles Campus into a welcoming and vibrant community for Veterans of the Greater Los Angeles area, and help end Veterans homelessness in Greater Los Angeles.
- C. In the spirit of good faith and cooperation, and with the recognition, respect, and reverence for the achievements and sacrifices that countless men and women of our nation's Armed Forces and their families have sacrificed for this country, the parties hereby acknowledge and agree that the City will provide support and services on VA's West Los Angeles Campus for the principal benefit of Veterans and their families, as provided in this agreement.
- D. VA acknowledges its intent that the Veterans' Park remain a park so long as the Secretary of the VA determines in his or her sole discretion that VA and Veterans and their families do not have a need for alternate use of the land.

### Section 1. Definitions

“City” has the meaning set forth in the Preamble hereto.

“Contractor” means each person or firm, who through contractual or other arrangements with the City, provides services, benefits or performs work on the property that is the subject of this Revocable License.

“Dog Park” is used herein in accordance with the meaning thereof as used in the Los Angeles Municipal Code and is intended to refer to an “off-leash dog park” wherein un-leashed dogs are permitted.

“Effective Date” has the meaning set forth in the Preamble hereto.

“Laws” has the meaning set forth in Section 2.G.

“Principally benefit Veterans and their families” means that the resource or service is provided primarily to Veterans and their families; or that the resource or service is designed for the particular needs of Veterans and their families, and the benefit of the resource or service to the general public is included but ancillary to the intended benefit to Veterans and their families. Resources or services whose only benefit to Veterans and their families is the generation of revenue for VA are hereby excluded from this definition.

“Revocable License” has the meaning set forth in the Preamble hereto.

“Term” has the meaning set forth in Section 2.A.1.

“VA” has the meaning set forth in the Preamble hereto.

“Veteran” means a person who served in the active military, naval or air service.

“Veterans’ Park” refers to the real property (a) known as “Barrington Park” prior to the Effective Date and to be known as “Veterans’ Barrington Park” commencing as of the Effective Date (as depicted in Exhibit A below), and (b) located on VA’s West Los Angeles Campus at 333 South Barrington Ave., Los Angeles, CA 90049; provided, that, as of and following the Effective Date, the Veterans’ Park for which this Revocable License is given shall not include the parking area used for the Veterans’ Park as of immediately prior to the Effective Date.

### Section 2. Terms and Conditions

#### A. Revocable License; Term.

1. Subject to the other terms and conditions of this Revocable License, VA, as licensor, hereby grants to the City, as licensee, a revocable license for the use of the real property known prior to the Effective Date as “Barrington Park” and located on VA’s West Los Angeles Campus at 333 S. Barrington Ave., Los Angeles, CA 90049, for a term of three (3) years from the Effective Date (the “Term”). The Term shall have the possibility of renewal or extension subject to VA’s discretion, including the following factors:
  - 2.

- a. the City providing VA with a written notice of its desire to extend the Term, not less than one year before it is set to expire;
  - b. VA, upon receiving such notice from the City, determines that an arrangement with the City as contemplated herein is still a need as part of VA's intent to revitalize the campus to provide improved services to Veterans and their families; and
  - c. there being no outstanding uncured defaults on the part of the City under this Revocable License, and the City has provided the monetary consideration to VA and services to Veterans as required in this agreement.
2. The parties agree that this Revocable License does not include, involve, regard, or extend to the parking area associated with the real property, as shown on Exhibit A. VA will be permitted to use that parking areas for purposes subject to its sole and absolute discretion, including converting the parking area into a paid parking location, which VA will operate, either directly or through a separate contract. Use of the parking does not preclude paid use of parking by the general public using the park. The City will have no claim of right to any of the parking proceeds generated.
  3. Notwithstanding the foregoing, VA may terminate this Revocable License at any time, including during the Term, upon 180 days' written notice to the City. Further, VA may reduce the boundaries of the real property licensed under this Revocable License at any time, including during the Term, upon 180 day' written notice to the City.
  4. In the event that VA revokes this Revocable License prior to expiration of the Term, VA will return a pro-rated amount of the license fee set forth in Section 2.D.1(a) to the City to the extent previously paid.
  5. Notwithstanding the foregoing, nothing in this Revocable License shall limit the ability of VA to make use of Veterans' Park, including for the conduct of Veteran-centric programs to be offered by VA in connection with Veterans' Park. The City and VA will undertake best efforts to ensure that conflicts will not occur between any VA-sponsored activities or programs, and any other scheduled activities or programs.

**B. Name of Park.**

1. The City shall rename the Park "Veterans' Barrington Park." and shall refer to the Veterans' Park solely by that name, effective as of the Effective Date. VA and the City mutually agree to take all appropriate measures to effectuate this change in the name of the Veterans' Park.
2. Such measures include, but are not limited to, posting promptly, and in any event, within ten (10) days following the Effective Date, notices at the Veterans' Park; within thirty (30) days, signage at Veterans' Park; and within sixty (60) days, notices on the City's websites and other electronic media profiles (such as on Facebook, Twitter, YouTube, and Instagram), which give notice of and effectuate this change in name of the Veterans' Park.

C. Permitted Uses of Veterans' Park.

1. Subject to the terms and conditions of this Revocable License, the City is licensed to permit access to the Veterans' Park by both Veterans and their families and non-Veterans and their families for the uses of the Veterans' Park currently in effect as of the Effective Date (as adjusted to reflect the first-claim and high-priority access to be afforded to Veterans and their families), as well the other permitted uses specified herein. The City shall require all dogs at the Veterans' Park to be kept on a leash unless the dogs are otherwise physically present in an area designated as a "Dog Park" as described later in this agreement.
2. Veteran Priority Access and Use of the Veterans' Park: VA and the City agree that the purpose of the Veterans' Park is to principally benefit Veterans and their families, and that the general community can use Veterans' Park, so long as such use receives VA's prior written approval. Any such approval must be reviewed by VA and renewed not less than annually. Veterans and their families will be given first claim and priority access to the Veterans' Park and to all resources of the Veterans' Park, above all non-Veterans and their families unless it conflicts with a previously coordinated and approved general community use. Veterans shall be permitted to request to use the Veterans' Park upon submitting a written request to VA with a copy to the City, indicating the proposed activity, date, and time for the activity. Such requests may include for example, social events, athletic events, recreational league events, graduation events, etc. VA will advise the City of the request and provide a written reply to the requestor within ten (10) working days, plus any additional time that VA and the requestor agree to in writing. All such events shall be conducted in a manner that is in compliance with applicable Federal, State, and local laws and regulations.
3. The City shall develop and prominently post signage and park rules that give full force and effect to Section 2.C.2 above. Signage and park rules will be prominently and permanently posted, including, without limitation, on the City's websites. The City shall comply with this Section 2.C.3 promptly and in any event no later than thirty (30) days following the Effective Date. The City will provide VA with a reasonable opportunity to review and comment upon such signage and park rules before they are posted or otherwise distributed.
4. Subject to the terms and conditions of this Revocable License, the City is licensed to provide non-Veterans and their families with access to resources of the Veterans' Park.
5. Dog Park Area:
  - A. The City will also use its best efforts to find one or more alternative locations off VA property, to relocate the Dog Park, and to identify those locations to VA and the local community within 180 days after the Effective Date.
  - B. The City will within one (1) year of the Effective Date and at no cost to VA, take all steps necessary to reduce the Dog Park by up to 50% of its current size, convert the eliminated portion of the Dog Park to green

space by, among other steps, removing the existing wood chips in that area and adjust the existing fence so that it will enclose only the remaining area of the Dog Park. For the avoidance of doubt, the parties agree that VA has discretion both during the term of this Revocable License and thereafter to decrease the reduced Dog Park area further (including, for example, for the provision of training facilities associated with the Dog Park) or eliminate the area in its entirety, if VA determines in consultation with the local Veteran community that doing so is in the interest of VA and Veterans. However, all costs associated with reconfiguring the dog park further beyond the initial 50% reduction shall be done at no cost to the City.

- C. Within ten (10) days of the Effective Date, the City will provide notices to the local community regarding the planned up to 50% reduction in the size of the existing Dog Park. The City notices shall be advertised conspicuously throughout the Dog Park area and on City's website, and shall in no way criticize VA for the reduction closure of the Dog Park. The City will provide VA with a reasonable opportunity to review and comment upon such notices before they are finalized, posted, and distributed.
6. Within thirty (30) days of the Effective Date, the City shall post notices stating that the parking area of the Veterans' Park will be converted to a paid parking location, and providing notice of the anticipated start date for parking enforcement, which VA will determine. All costs associated with paid parking including but not limited to parking meters, pay stations, staffing, enforcement and/or fee collection shall be the responsibility of VA. The City shall be responsible for the parking lot general maintenance associated with trash pickup and landscape maintenance only.

**D. License Fee; Other City Obligations.**

- 1. In addition to the agreements and mutual promises set forth above, the City shall furnish the following consideration in exchange for this Revocable License:
  - (a) The City (through its Department of Recreation and Parks), agrees during the term of this agreement to advertise and promote the hiring of Veterans at City parks (with emphasis at Veterans' Barrington Park). In addition, the City agrees to hire Veterans at a total annual cost of not less than Two Hundred Thousand Dollars (\$200,000), and provide a written report by February 1 of each year, detailing the extent to which the City has met this requirement for the previous year. Upon VA receiving each such report, VA shall have the right to review and audit the report, and have sole discretion as appropriate to: (i) require that any underage that exists in terms of the City having failed to meet the \$200K/year requirement for the prior year, to be carried over to the next year of the agreement (for the City to meet that underage amount plus the \$200,000 per year requirement for that next year); with the caveat that, (ii) if the City encounters an underage in meeting the \$200,000 per year in the Veteran hiring requirement for two consecutive years during the term of this agreement, VA shall be permitted to require that the City pay to VA the

dollar amount of the underage as an annual rental payment, which the City shall pay to VA within forty-five (45) days of the invoice from VA.

- (b) The City will continue to provide maintenance and staffing of the Veterans' Park by City personnel (as modified by Section E.1) at no less than current standards, and in any event, the City shall at all times keep the premises in a sanitary condition satisfactory to VA.
- (c) The City in coordination with GLA, will assist with planning, and help implement activities at the Veterans' Park that will be open to Veterans and their families, Activities may include (but not be limited to) athletic, recreational, rehabilitation, social or therapeutic sports league programs. Activities will be planned in consultation with Veterans, Veterans Service Organizations, and the community.
- (d) During the Term, the City will assist VA with coordination for use of the Veterans' Park for VA-sponsored events, such as Veteran-focused concerts and movie nights, and will allow up to three (3) such events per year at no cost, subject to VA's responsibility to pay all other costs incurred in connection with the events.
- (e) By no later than six (6) months after the Effective Date, the City will establish, publicly announce, and commence at least one (1) athletic, recreational, rehabilitation, or sports league programs for Veterans during the Fall, Winter and Spring seasons.
- (f) The City will work with VA and the local community to design, commission, erect, and dedicate a memorial (comprising a U.S. flag and plaque dedicating the Veterans' Park to Veterans) to Veterans to be located in Veterans' Park. This dedication of this memorial will take place no later than one (1) year after the Effective Date. The City will be responsible for up to a maximum of \$100,000 in out-of-pocket costs for this memorial. The purpose of this memorial will be to honor Veterans and to educate both Veterans as well as the broader community about the Veteran-centric nature of Veterans' Park.
- (g) The City will conduct a beautification program in consultation with VA in order to improve the appearance of Veterans' Park and its facilities. The cost of this beautification program will be borne exclusively by the City but shall not exceed \$50,000 in direct out-of-pocket costs to the City. This beautification program shall be completed no later than one (1) year after the Effective Date.
- (h) **City Maintenance Requirements:** The City will maintain the license area and the parking area during the Term of this License, and keep the same in a safe, clean, and sanitary condition. This requirement shall include landscaping and trash removal.

**E. Employment and Hiring**

1. In accordance with applicable State and local laws, the City shall make best efforts to hire Veterans on a priority basis when having contractors or and or City personnel construct, operate, or maintain improvements at the Veterans' Park.

**F. Audit and Reporting.**

1. On an annual basis during the Term, no later than ninety (90) days before each anniversary of the Effective Date, VA and the City shall engage an independent third-party auditor to prepare a report regarding the City's performance of its obligations under this Revocable License, and deliver concurrently to the parties a written report detailing the extent to which the obligations contained in this Revocable License are being fulfilled by the City and providing specific recommendations to address any identified deficiencies going forward. The independent audit report shall contain a section containing feedback and input from stakeholders the auditor solicits and receives as part of its audit report preparation, including, without limitation, the California congressional delegation, the former Plaintiffs in the *Valentini v. McDonald* litigation, Veterans Service Organizations, and Veterans, through means such as, but not limited to, town halls, interviews, and surveys. VA and the City shall be responsible to cover the costs for each independent audit on a 50/50 basis.
2. Within sixty (60) days of the parties' receipt of each third-party independent audit report prepared in accordance with Section 2.E.1, they shall review the report and engage in good-faith discussions to address the auditor's recommendations, in order to improve the delivery of the City's services to Veterans and their families. The parties agree that, as necessary and appropriate, corrective measures to address any deficiencies identified by the auditor can include, but are not limited to, adjusting the levels and types of monetary and in-kind consideration set forth in this Revocable License. Any adjustments made will be memorialized in a written amendment to this Revocable License, signed by authorized officials of the parties.
3. During the Term of the License, the City will maintain to the satisfaction of VA, books and records documenting the status of the City's delivery of the rent and consideration agreed to under this license, and will make such records available upon request within ten (10) days to any resident of the City, any Veteran, or any Veterans Service Organization.

**G. Compliance.** Any use made of property affected by this Revocable License, and any construction, maintenance, repair, or other work performed thereon by the City, including, without limitation, the installation and removal of any article or thing, shall be accomplished in a manner satisfactory to VA.

**H. Applicable Law and Ordinances.** Notwithstanding anything to the contrary, this Revocable License shall at all times be subject to applicable Federal laws, codes, ordinances, and regulations, including but not limited to, the Anti-Deficiency Act (Title 31 U.S.C. Sections 1341 and 1501), and the Federal Tort Claims Act (28 U.S.C. §§ 2671-2680). In the exercise of any privilege granted by this Revocable License, the City shall comply with all applicable federal, state, local government, and municipal laws, statutes,

ordinances, rules, regulations, codes, decrees, orders and other such requirements (collectively, "Laws"), including, without limitation, Laws regarding wages and hours, health, safety, building codes, emergencies, and security.

- I. **Damage.** Except as may be otherwise expressly provided herein, no United States property shall be destroyed, displaced or damaged by the City in the exercise of the privilege granted by this Revocable License without the prior written consent of VA and the express agreement of the City promptly to replace, return, repair and restore any such property to a condition satisfactory to VA upon demand.
- J. **Indemnification.** To the fullest extent permitted under applicable laws, codes, and ordinances, the City shall indemnify and hold the United States, its agents, and employees harmless against any and all loss, damage, claim, or liability whatsoever, due to personal injury or death, or damage to property of others directly or indirectly due to the exercise by the City of the privilege granted by this Revocable License, or any other act or omission of the City, including failure to comply with the obligations of this Revocable License. Furthermore, the liability, if any, of the United States (VA) for injury or loss of property, or personal injury or death shall be governed exclusively by the provisions of the Federal Tort Claims Act (28 U.S.C. §§ 2671-2680).
- K. **Storage.** Any United States property which must be removed to permit exercise of the privilege granted by this Revocable License shall be stored, relocated or removed from the site, and returned to its original location upon the earlier expiration or termination of this Revocable License, at the sole cost and expense of the City, as directed by VA.
- L. **Operation.** The City shall confine activities on the property strictly to those necessary for the enjoyment of the privilege hereby licensed, and shall refrain from marring or impairing the appearance of said property, obstructing access thereto, interfering with the transaction of federal government business and the convenience of the public, or jeopardizing the safety of persons or property, or causing justifiable public criticism.
- M. **Future Requirements.** The City shall promptly comply with such further conditions and requirements as VA may hereafter prescribe as standard for licenses relating to the West Los Angeles Campus.
- N. **Nondiscrimination.**
  1. The City stipulates as follows with respect to each Contractor:
    - (a) During the performance of this Revocable License the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, creed, national origin, ancestry, disability, medical condition, age, marital status, domestic partner status, sex, sexual preference/orientation, Acquired Immune Deficiency Syndrome (AIDS) - acquired or perceived, or retaliation for having filed a discrimination complaint (non-discrimination factors). The Contractor will take affirmative steps to ensure that applicants are employed, and that employees are treated during employment without regard to the non-discrimination factors including, and not limited to activities, of: upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay of other forms of compensation; and selection for training,

including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment the nondiscrimination factors.

- (b) The Contractor will ensure that its solicitations or advertisements for employment are in compliance with the aforementioned non-discrimination factors.
- (c) The Contractor will cause the foregoing provisions to be inserted in all contracts for any work covered by Contractor and/or any subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

- 2. The City will furnish a copy of such contracts to VA.
- 3. For the avoidance of doubt, the breach by the City of any conditions relating to nondiscrimination shall constitute sufficient cause for revocation of this Revocable License.

O. **No Transfer, Assignment or Sublicense.** This Revocable License is personal to the City. Any attempt to transfer or assign this Revocable License, or sublicense any of the privileges or interests granted hereunder, shall automatically and immediately terminate it, without the need for any further action by either party hereto.

P. **Notices.** Any notice required hereunder shall be in writing and shall be addressed as follows, along with such other addresses as either party may indicate in writing to the other party:

**For Notices to VA:**

Mr. Alan Trinh  
VA Contracting Officer  
U.S. Department of Veterans Affairs  
4811 Airport Plaza Drive, Suite 600  
Long Beach, CA 90815

With copy to:

Cameron Gore, Esq.  
Deputy Chief Counsel (RPLG/025A)  
U.S. Department of Veterans Affairs  
Office of General Counsel  
810 Vermont Avenue, NW  
Washington, DC 20420

For Notices to the City:

Mr. Cid Macaraeg, Director  
Real Estate & Asset Management  
Planning, Construction & Maintenance Branch  
Department of Recreation & Parks  
221 North Figueroa Street, Suite 400  
Los Angeles Ca 90012

Email: [cid.macaraeg@lacity.org](mailto:cid.macaraeg@lacity.org)

Phone: 213-202-2608

Fax: 213-202-2612

All notices and communications given under this Revocable License shall be deemed to have been duly given and received: (a) upon personal delivery, or (b) as of the third (3<sup>rd</sup>) business day after mailing by United States certified mail, return receipt requested, postage prepaid, addressed as set forth above, or (c) the immediately succeeding business day after deposit (for next day delivery) with Federal Express or other similar overnight courier system, or (d) 24 hours after facsimile transmittal with confirmation of receipt and followed by personal delivery, United States mail, or overnight delivery as specified in this section.

**Q. Implementation of Revocable License.**

1. By <sup>October, 1, 2016</sup> [insert date], VA and the City shall each appoint a "Chief Liaison" to serve as their primary contact points on behalf of the parties, to ensure successful implementation of this Revocable License.
2. As necessary, the Director the of West LA Campus and the Mayor of the City of Los Angeles shall engage in good faith discussions to resolve any matters that either of them raises with the other in connection with this Revocable License.
3. Any changes to the terms or amendments to this Revocable License shall be in writing, and signed by authorized representatives of the parties.

*(Signature Lines to follow)*

City of Los Angeles:

By:  
Michael A. Shull  
General Manager  
Department of Recreation and Parks

Sign: 

Date: 9/1/16

U.S. Department of Veterans Affairs

By:  
Alan Trinh  
VA Contracting Officer

Sign: 

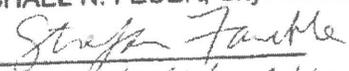
Date: 9/1/2014

Exhibit A

A map of the real property known prior to the Effective Date as "Barrington Park"

Approved

Sept. 16 20 16  
MICHAEL N. FEUER, City Attorney

By   
Deputy City Attorney

**BOARD REPORT**

NO. 17-036

DATE February 15, 2017

C.D. 5

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: WESTWOOD PARK – NEW DOG PARK AND PARK IMPROVEMENTS (PRJ21050) PROJECT – ALLOCATION OF QUIMBY FEES – CATEGORICAL EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO ARTICLE III, SECTION 1, CLASS 1(3), CLASS 4(3) AND CLASS 11(3) OF THE CITY CEQA GUIDELINES (MINOR ALTERATIONS OF EXISTING STREETS AND PEDESTRIAN TRAILS, TREE PLANTING AND LANDSCAPING AND PLACING OF MINOR STRUCTURES ACCESSORY TO EXISTING FACILITIES)

AP Diaz	_____	V. Israel	_____
<i>fud</i> *R. Barajas	<u><i>CBP</i></u>	N. Williams	_____
H. Fujita	_____		

*M. Shu*  
 \_\_\_\_\_  
 General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

**RECOMMENDATION**

1. Approve the final plans and specifications for the Westwood Park – New Dog Park and Park Improvements (PRJ21050) Project (Attachment No. 1);
2. Recommend that the City Council request the City Attorney to draft an ordinance amending Los Angeles Municipal Code (LAMC) Section 63.44 B.2(d) in order to authorize the designated fenced area consisting of approximately 0.69 acres in Westwood Park as an off-leash dog exercise and training area, for final approval by City Council;
3. Recommend that the City Council approve the ordinance amending LAMC Section 63.44 B.2(d), as prepared by the City Attorney;
4. Authorize the Department of Recreation and Parks (RAP) Chief Accounting Employee to transfer One Million Three Hundred Seventeen Thousand Eight Hundred Ninety Five Dollars (\$1,317,895.00) in Quimby Fees from the Quimby Fees Account No. 89460K-00 to the Westwood Park Account No. 89460K-WP;
5. Authorize the RAP Chief Accounting Employee to reallocate One Hundred Fifty Seven Thousand Eight Hundred Twenty Six Dollars and Fifteen Cents (\$157,826.15) in Quimby Fees, currently allocated to the Westwood Park – Synthetic Turf Field (PRJ20663)

BOARD REPORT

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Project, to the Westwood Park – New Dog Park and Park Improvements (PRJ21050) Project;

6. Approve the allocation of One Million Four Hundred Seventy Five Thousand Seven Hundred Twenty One Dollars and Fifteen Cents (\$1,475,721.15) in Quimby Fees from Westwood Park Account No. 89460K-WP for the Westwood Park – New Dog Park and Park Improvements (PRJ21050) Project;
7. Find that the proposed project is categorically exempt from the California Environmental Quality Act (CEQA), and direct staff to file a Notice of Exemption;
8. Authorize the RAP Chief Accounting Employee to prepare a check to the Los Angeles County Clerk in the amount of \$75.00 for the purpose of filing a Notice of Exemption; and,
9. Authorize the Department's Chief Accounting Employee to make technical corrections as necessary to carry out the intent of this Report.

SUMMARY

Westwood Park is located at 1350 South Sepulveda Boulevard in the Westwood area of the City. This approximately 26.70 acre park provides baseball fields, basketball courts, two children's play areas, a gymnasium, and a swimming pool. Approximately Ten Thousand Nine Hundred Sixty Three (10,963) residents live within a one-half (½) mile walking distance of Westwood Park. Due to the facilities, features, programs, and services it provides, Westwood Park meets the standard for a Community Park, as defined in the City's Public Recreation Plan.

On August 10, 2016, the Board of Recreation and Park Commissioners (Board) approved a Revocable License Agreement with United States Department of Veteran Affairs (USDVA) for the use of Veterans' Barrington Park (Report No. 16-169). As a part of that Revocable License Agreement, the Department of Recreation and Parks (RAP) agreed to, within one year after the Effective Date of the Agreement, reduce the current size of the off-leash dog park by 50% and convert the reduced area to green space.

In anticipation of, and in response to, the reduction in the size of the off-leash dog park at Veterans' Barrington Park, RAP is recommending the development of a new off-leash dog park, and various other outdoor park improvements, at Westwood Park. Westwood Park is located approximately two (2) miles from Veterans' Barrington Park, and is the closest RAP facility to Veterans' Barrington Park.

OFF LEASH DOG EXERCISE AREAS – RAP POLICY AND GUIDELINES

On September 1, 1999, the Board approved an Off Leash Dog Exercise Area Policy (Report No. 382-99) (Attachment No. 2). The purpose of the RAP's Off Leash Dog Exercise Area Policy (Policy) is to establish a mechanism by which dog owners have the opportunity to recreate with their dogs off-leash within designated park areas. The Policy is used in conjunction with RAP's

## BOARD REPORT

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Off-Leash Dog Exercise Area Guidelines (Guidelines). The purpose of the Guidelines is to assist in the design, development and operation of off-leash dog exercise areas in the City of Los Angeles. The Policy and Guidelines are attached to this report (Attachment No. 2).

As detailed in the Guidelines, the key factors to be considered in selecting an off-leash dog exercise areas are distance from adjacent land uses, relationship to other recreational uses, size, availability of parking, and accessibility. Per the Guidelines, designated off-leash dog exercise areas should meet the following standards:

1. Be far enough away from a residential or commercial land use that the single-event sound of a dog bark would generally be perceived as a background sound or would be screened by traffic noise. To achieve this objective, the off-leash area should be:
  - a) at least 150 feet from residences and separated by a street or non-residential structure, and
  - b) at least 80 feet from commercial uses; if the wall of the commercial building that faces the off-leash area is windowless, a distance setback may not be required.
2. Be large enough to accommodate an area for big dogs (3.0 acres or larger) and include an area for small or timid dogs (0.75 acre or larger).
3. Be accessible to disabled users.
4. Be situated on property that is not currently developed for recreational use and/or in areas of parks that are not heavily used for other recreational activities so as to reduce the potential for conflict.
5. Not displace another organized recreational use or priority unstructured use in a park given the City's limited park resources and need for active recreation and passive open space areas.
6. Have sufficient adjacent parking, preferably off-street, that does not require users to cross a street; curbside parking is less desirable. A park in a multi-family residential neighborhood requires fewer spaces, whereas a park in a single-family residential neighborhood or non-residential area requires more spaces.
7. Be situated within a six-foot high minimum perimeter chain link fence with a concrete mow strip. Natural barriers such as steep hillsides, if feasible, may be utilized in lieu of fencing.

RAP's Off-Leash Dog Exercise Area Guidelines note that "if a proposed site does not meet the standards established by these guidelines, it may still be considered provided that it

## BOARD REPORT

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successfully passes the environmental review process which establishes the appropriateness of the site and design criteria, and addresses any health and safety issues.”

### OFF LEASH DOG EXERCISE AREAS – LOS ANGELES MUNICIPAL CODE

Los Angeles Municipal Code (LAMC), Section 63.44 B.2(d) prohibits dogs off-leash in City parks, unless they are at City parks or portions of City parks approved and designated as dog exercise and training areas by the Board and approved by the City Council by ordinance.

An amendment to the LAMC by the City Council would be required in order to authorize the establishment of an off-leash dog exercise and training area at Westwood Park.

### PROJECT SCOPE

Staff has completed the final plans and specifications for the Westwood Park – New Dog Park and Park Improvements (PRJ21050) Project. The project proposes the development of new 30,000 square foot (0.69 acre) off-leash dog exercise and training area, removal of an existing play area and installation of new play equipment near the “Aidan’s Place” play area, removal of existing fitness equipment and installation of new fitness equipment, renovation of existing walkways, installation of new concrete pathways, new drinking fountains, renovation of the asphalt maintenance road, removal of old concrete picnic pads, and associated landscaping and irrigation. The final design of the proposed improvements is illustrated on Attachment No. 1.

Staff estimates these improvements will cost approximately One Million One Hundred Sixty Four Thousand Four Hundred Dollars (\$1,164,400.00).

The new thirty thousand (30,000) square foot (0.69 acre) off-leash dog exercise and training area that is proposed to be installed as a part of this project is in substantial compliance with the standards identified in the Guidelines. The two areas where the proposed off-leash dog exercise and training area is not fully compliant with the Guidelines are as follows:

- The overall size of the proposed dog exercise and training area is below the standards in the Guideline. However the proposed configuration best meets the site constraints at Westwood Park. The proposed dog exercise and training area would have twenty one thousand (21,000) square feet (0.50 acres) for large dogs and nine thousand (9,000) square feet (0.19 acres) for small dogs.
- The proposed dog exercise and training area would displace one of the two children’s play areas at Westwood Park. The play area that is proposed to be removed is the smaller of the two children’s play areas and is underutilized by park patrons. In response, the project proposes to install additional children’s play equipment near the “Aidan’s Place” play area.

Staff has held four meetings with the local community, including with the Park Advisory Board and the Westwood Neighborhood Council, to discuss the proposed project. The community has been supportive of the project. Council District Five is also in support of the proposed project.

BOARD REPORT

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PROJECT FUNDING

Upon approval of this report, One Million Three Hundred Sixteen Thousand Eight Hundred Ninety Five Dollars (\$1,317,895.00) in Quimby Fees from the Quimby Fees Account No. 89460K-00 can be transferred to the Westwood Park Account No. 89460K-WP and allocated to the Westwood Park – New Dog Park and Park Improvements (PRJ21050) Project.

Additionally, One Hundred Fifty Seven Thousand Eight Hundred Twenty Six Dollars and Fifteen Cents (\$157,826.15) in Quimby Fees, currently allocated to the Westwood Park – Synthetic Turf Field (PRJ20663) Project, can be reallocated to the Westwood Park – New Dog Park and Park Improvements (PRJ21050) Project.

The total funding available for the Westwood Park – New Dog Park and Park Improvements (PRJ21050) Project would be One Million Four Hundred Seventy Five Thousand Seven Hundred Twenty One Dollars and Fifteen Cents (\$1,475,721.15).

These Quimby Fees were collected within five (5) miles of Westwood Park, which is the standard distance for the allocation of the Quimby Fees to community recreational facilities pursuant to Los Angeles Municipal Code Section 12.33 E.3.

FUNDING SOURCE MATRIX

Source	Fund/Dept/Acct	Amount	Percentage
Quimby Fees	302/89/89460K-WP	\$1,475,721.15	100%
<b>Total</b>		\$1,475,721.15	100%

PROJECT CONSTRUCTION

Staff has determined that sufficient funding has been identified for the construction of the Westwood Park – New Dog Park and Park Improvements (PRJ21050) Project. Construction of this project is currently anticipated to begin in March 2017.

TREES AND SHADE

A total of eleven (11) new 24" box trees (3 - Liriodendron tulipifera (Tulip Tree), 2 – Pistacia chinensis (Chinese Pistache), 6– Handroanthus impetiginosa (Pink Trumpet Tree) will be added in the proposed dog park area. The new playground equipment will have integral shade over the swing set area, and the new benches on the opposite side of the area are located under new shade umbrellas.

## BOARD REPORT

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### ENVIRONMENTAL IMPACT STATEMENT:

The proposed project will consist of repair and maintenance of existing streets and pedestrian trails in an existing park; minor alterations to land including new landscaping, and modifications to existing park facilities involving placement of new accessory structures. As such, Staff recommends that the Board determine that it is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Article III, Section 1, Class 1(3), Class 4(3) and Class 11(3) of the City CEQA Guidelines.

### FISCAL IMPACT STATEMENT

The approval of this allocation of Quimby Fees will not have a negative fiscal impact on the Department's General Fund.

The estimated costs for the design, development, and construction of the proposed park improvements are anticipated to be funded by Quimby Fees or funding sources other than the Department's General fund.

The estimated additional annual maintenance costs for the proposed park improvements will be approximately \$53,334.80, which includes the costs for part-time staff, materials and supplies, and contractual services. Funds for the maintenance of the proposed park improvements will be requested as part of the annual City budget process.

This Report was prepared by Darryl Ford, Senior Management Analyst I, Planning, Construction and Maintenance Branch, Department of Recreation and Parks.

### LIST OF ATTACHMENTS

- 1) Final plans and specifications for the Westwood Park – New Dog Park and Park Improvements (PRJ21050) Project.
- 2) Off Leash Dog Exercise Area Policy and Off-Leash Dog Exercise Area Guidelines.

Final Plans and Specifications

*To be distributed at a later date.*



REPORT OF GENERAL MANAGER

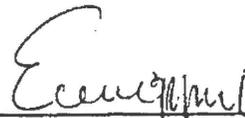
NO. 382-99DATE September 1, 1999

CD \_\_\_\_\_

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: OFF LEASH DOG EXERCISE AREA POLICY

P. Bryant	_____	R. Gessinghaus	_____
J. Duggan	_____	*G. Stigile	<u>AS</u>
R. Fawcett	_____	M. Whelan	_____
S. Klippel	_____	J. Zatorski	_____

  
 \_\_\_\_\_  
 General Manager

*Wld 10-6-99*  
 Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATION:

That the Board approve the attached Off Leash Dog Exercise Area Policy.

SUMMARY:

Citywide Services Branch staff has contacted numerous cities across the country to survey them regarding their off-leash dog exercise areas. Staff questioned them regarding their successes and challenges in order to frame a policy for the Department of Recreation and Parks. Staff's research, coupled with the Department's experience operating five off-leash exercise areas, has resulted in the attached policy. Therefore, staff has submitted the Off-Leash Dog Exercise Area Policy for the Board's approval.

**DEPARTMENT OF RECREATION AND PARKS  
OFF-LEASH DOG EXERCISE AREA POLICY**

**PURPOSE**

Over the past several years, dogs and their owners have been recognized by the Department and the Board as a legitimate group of open space users. The Department's open space planning process recognizes that their needs, like those of other user groups, should be accommodated to the greatest extent possible, given limited resources.

Los Angeles Municipal Code (LAMC), Section 63.44B.2 prohibits dogs off-leash in City parks. The purpose of this policy is to establish a mechanism by which dog owners have the opportunity to recreate with their dogs off-leash within designated park areas that are clean, safe and well-maintained. An amendment to the LAMC by the City Council will be required to authorize the establishment of each off-leash dog exercise area on an individual basis.

**NEED**

Open space is a limited resource in the City of Los Angeles. The Department recognizes that recreational activities in Los Angeles' limited open space should be balanced to provide optimal use to the greatest number of users. The Department operates approximately 15,200 acres of parkland, of which 3,200 is devoted to neighborhood and community use and 12,000 to regional use. The City of Los Angeles' General Plan's Recreational Element recommends a parkland per person ratio of 4.0 acres per 1,000 persons for neighborhood and community parks. The City's ratio of neighborhood and community parkland per person is 0.91 acres per 1,000 persons.

Over 11.5% of the City's total population has a licensed dog in their household. This percentage was calculated from census information that indicates the City of Los Angeles has 3,600,000 residents living in 1,285,714 households (averaging of 2.8 persons in each), and from Department of Animal Services reports indicating there are 149,673 licensed dogs in the City.

The Department's policy to meet the needs of dogs and owners is to:

1. Provide off-leash areas, as feasible, given limited open space resources and potential spill-over effects on surrounding land uses; to provide opportunities for off-leash exercise, training and socialization of dogs, and for social interaction among owners; and to balance this with other park uses to optimize park use by the greatest number of people.
2. Require responsible behavior of dog owners in their use of park facilities including adherence to posted rules and regulations and other Los Angeles Municipal Codes including the leash law.
3. Be sensitive to adjacent land users and the immediate community in selecting and operating all off-leash dog areas.

Department of Recreation and Parks  
Off-leash Dog Exercise Area Policy (Continued)  
Page 2

Therefore, the number and size of off-leash dog exercise areas within the Department will be a function of demand and available resources, and competition and compatibility in reference to those available resources.

**CONCLUSION**

This policy, used in conjunction with the Department's established Off-Leash Dog Exercise Area Guidelines, encourages the selection and development of additional off-leash sites within the city that meet the needs of the community, including dogs and their owners. The policy and guidelines ensure that the recreational experience at our facilities with off-leash dog exercise areas is enjoyable for all.

FOR INFORMATION ONLYCITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS

September 15, 1999

TO: BOARD OF RECREATION AND PARK COMMISSIONERS

FROM: ELLEN OPPENHEIM, General Manager



SUBJECT: OFF-LEASH DOG EXERCISE AREA GUIDELINES

The City of Los Angeles Department of Recreation and Parks is responsible for providing a quality recreational experience for citizens and visitors to the City of Los Angeles. The Department and Board work to ensure that a wide variety of recreational services are provided to our patrons, including such open space user groups as dogs and their owners. To facilitate the Department's ability to meet the desires of our patrons, staff has prepared the attached guidelines for the development and establishment of off-leash dog exercise areas.

In creating these guidelines, staff contacted numerous cities throughout the country and collected critical information from those cities with off-leash dog exercise areas. Staff also incorporated into these guidelines the knowledge and experience they have gained through developing and operating the Department's five off-leash dog exercise areas.

In conjunction with the Department's Off-Leash Dog Exercise Policy, these guidelines serve to provide a basis for future development and operation of Off-Leash Dog Exercise Areas in the City of Los Angeles.

7/11/99 - 10-6-99

**LOS ANGELES CITY DEPARTMENT OF RECREATION AND PARKS**  
**OFF-LEASH DOG EXERCISE AREA GUIDELINES**

The following guidelines have been established for Off-Leash Dog Exercise Areas based on a comprehensive review of similar facilities in several cities throughout the country, as well as on the experience of designing and operating five of our own off-leash dog exercise areas over the past several years. The purpose of these guidelines is to assist in the design, development and operation of off-leash dog exercise areas in the City of Los Angeles.

The key factors to be considered in selecting an off-leash dog exercise area in Los Angeles parks are distance from adjacent land uses, relationship to other recreational uses, size, availability of parking and accessibility. If a proposed site does not meet the standards established by these guidelines, it may still be considered provided that it successfully passes the environmental review process which establishes the appropriateness of the site and design criteria, and addresses any health and safety issues. Appropriate environmental clearances in compliance with the California Environmental Quality Act (CEQA) are required.

Designated off-leash dog exercise areas should:

1. Be far enough away from a residential or commercial land use that the single-event sound of a dog bark would generally be perceived as a background sound or would be screened by traffic noise. To achieve this objective, the off-leash area should be:
  - a. at least 150 feet from residences and separated by a street or non-residential structure, and
  - b. at least 80 feet from commercial uses; if the wall of the commercial building that faces the off-leash area is windowless, a distance setback may not be required.
2. Be large enough to accommodate an area for big dogs (three acres or larger) and include an area for small or timid dogs (.75 acre or larger).
3. Be accessible to disabled users.
4. Be situated on property that is not currently developed for recreational use and/or in areas of parks that are not heavily used for other recreational activities so as to reduce the potential for conflict.
5. Not displace another organized recreational use or priority unstructured use in a park given the City's limited park resources and need for active recreation and passive open space areas.
6. Have sufficient adjacent parking, preferably off-street, that does not require users to cross a street; curbside parking is less desirable. A park in a multi-family residential neighborhood requires fewer spaces, whereas a park in a single-family residential neighborhood or non-residential area requires more spaces.
7. Be situated within a six-foot high minimum perimeter chain link fence with a concrete mow strip. Natural barriers such as steep hillsides, if feasible, may be utilized in lieu of fencing.

MAINTENANCE AND OPERATIONS

The primary conditions at off-leash dog exercise areas that can affect nearby residents or other park users include:

1. Noise from dogs barking, owners yelling and increased traffic,
2. Unattractive park conditions, including the loss of turf and damage to vegetation, and
3. Odor from feces and urine.

These conditions may be mitigated to some extent by design, maintenance and operation practices or by modification and enforcement of regulations.

6. Operation and Maintenance Practices
  - a. Lock the off-leash area when it is closed.
  - b. Assign a closed time period during the week for maintenance; facility may be closed for renovation or due to inclement weather.
  - c. Provide a hose off area outside the off-leash park.
  - d. Provide an adequate number of covered trash cans with plastic liners for dog waste.
  - e. Provide a plastic bag dispenser box and/or a box for recycled plastic bags; Pooper Scoopers may be a preferred method for removing feces.
  - f. Cover bare areas with wood chips or shredded tree trimmings to keep dust down.
7. Design Features
  - a. Install multiple entrances with self-closing (double) gates located as far from residences as possible and as close to parking as possible.
  - b. The area should be irrigated and planted with turf grass.
  - c. Install separate water sources for people and animals.
  - d. Provide restrooms and telephones.
  - e. Locate tables away from the perimeter of the off-leash area; this will discourage users from congregating at the perimeter where they are close to adjacent structures and will reduce turf wear by distributing use of the area.
  - f. Landscape buffer zones can be utilized to mitigate noise and provide a pleasant aesthetic environment separating off-leash areas from other park users. Security concerns must be taken into consideration when determining whether or not to use a visual landscape barrier.
  - g. It is recommended that off-leash areas remain well separated from other recreational activities and not be considered at small parks and recreation centers. Sites that accommodate mixed uses and include children's play areas are undesirable.
8. Recommended Regulations
  - a. Require that all dogs be licensed.
  - b. Permit no food, human or canine, in the off-leash area.
  - c. Require that leashes remain on until dogs are in the off-leash area.
  - d. Require that dog waste be removed and placed in trash cans.
  - e. Restrict the number of dogs allowed per person on an individual facility basis.
  - f. Institute additional rules that address basic dog etiquette and dog owner etiquette, health considerations, and site specific needs.

9. Recommended Enforcement
- a. Dog owners are required to comply with all posted rules and LAMC regulations, particularly those pertaining to dogs.
  - b. Provide staff and/or volunteers to monitor the park during peak use periods.
  - c. Provide staff and/or volunteers to monitor the park at irregular intervals during other time periods.

#### CITIZENS ADVISORY COMMITTEES

A Citizens Advisory Committee (CAC) will be established by Regional staff to self-govern the off-leash dog area. The CAC will be comprised of dog owners, local residents, Region staff and Park Rangers. The CAC will meet to discuss conflict mitigation measures, signage requirements and sign locations, rules and regulations, fund raising, facility maintenance, and voluntary off-leash area monitoring.

An agreement should be developed between the CAC and the Department clearly outlining the responsibilities and duties of each. If the facility has a Park Advisory Board (PAB), the Committee should report to the PAB on off-leash area issues. The CAC and Regional staff should meet on a regular basis to discuss facility operations and maintenance.

#### PROCESS TO ESTABLISH OFF-LEASH DOG EXERCISE AREAS

1. All requests to establish off-leash dog exercise areas will be referred to the Regional Assistant General Manager.
2. Regional staff will prepare a map to identify the area proposed for an off-leash dog exercise area and apply the basic criteria in relationship to existing park facilities, uses and setback requirements, noting non-compliance and compatibility issues.
3. Regional staff will discuss the proposed site and related issues with the affected Council office. If it is agreed that the proposed off-leash site is feasible, the proposal will be presented to the facility's PAB.
4. The PAB will consider the proposal, noting funding sources and/or needs including labor, annual operating costs, planning, design and environmental fees. If the PAB agrees that the proposed off-leash site is desirable and feasible and a funding source is available, or the community wishes to raise the funding necessary to develop the off-leash area, the proposed project will go forward for further review. If no PAB exists, a community meeting will be held to discuss the proposal.
5. If Regional staff determines to continue with the proposed project, a meeting will be conducted to allow community input and discussion of the issues associated with the development of the off-leash dog exercise area and to prepare a draft environmental document to be circulated through government agencies and the public for review and comment.
6. During the environmental review period, a public meeting will be held to solicit comments on the adequacy of the environmental document.

7. A final environmental document will be prepared and a report and recommendation will be presented to the Board of Recreation and Park Commissioners for certification and project approval.
8. If approved by the Board, the environmental document and project will be forwarded to the City Council for certification and consideration of final approval of the project.

**BOARD REPORT**

NO. 17-037

DATE February 15, 2017

C.D. 10

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: RANCHO CIENEGA SPORTS COMPLEX (PHASE 1 - PRJ20308)  
(W.O. #E1907694) BID - FINAL PLANS AND SPECIFICATIONS

AP Diaz	_____	V. Israel	_____
<i>for</i> *R. Barajas	<u>C&amp;D</u>	N. Williams	_____
H. Fujita	_____		

  
\_\_\_\_\_

General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Approve the final plans and specifications, as documented in the information on file in the Board Office, for the Rancho Cienega Sports Complex Phase I (PRJ20308) (W.O. #E1907694) Project (Project);
2. Approve the reduction in the value of work that the specifications require to be performed by the Prime Contractor from fifty percent (50%) to twenty percent (20%) of the base bid price;
3. Approve the date to be advertised for receipt of bids as April 6, 2017, 3:00 P.M. in the Board Office; and,
4. Approve the solicitation of construction bids by the Department of Recreation and Parks (RAP) through use of the Department of Public Works, Bureau of Engineering (BOE) Pre- Qualified Contractor List.

SUMMARY:

Submitted for the Board's approval are the final plans and specifications for the Rancho Cienega Sports Complex Phase I (PRJ20308) (W.O. #E1907694) project located at 5001 Rodeo Road, Los Angeles, California, 90016. The plans and specifications were prepared by BOE, Architectural Division, in conjunction with the design consultant, Studio Pali Fekete Architects, under the direction of the BOE, Architectural Division.

## BOARD REPORT

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### Park Characteristics:

The Rancho Cienega Park is a 24-acre swath of land utilized by a population of roughly one hundred thousand (100,000) people. The park offers an assortment of amenities that support activities, including basketball, baseball, football, rugby, soccer, tennis, and swimming. Its surrounding catchment area includes a variety of cultural backgrounds: African American - fifty-one percent (51%); American Indian – one percent (1%); Asian American – five percent (5%); Caucasian American – twenty-two percent (22%); Hispanic –seventeen percent (17%); Native Hawaiian/ Pacific Islander - less than one percent (1%); Other – five percent (5%) per 2010 census. People who use the park are primarily from the adjacent or near-by Baldwin Hills, Crenshaw Manor, View Park, Village Green, and Leimert Park neighborhoods.

The park also acts a regional park for the area and is the maintenance collection yard for smaller parks in the area. It also serves as an Emergency Operations Center during catastrophic events. The Jackie Robinson Stadium, located within the park, is also utilized as the home field for the adjacent Dorsey High School football team.

### Community Outreach:

The proposed Project was initiated with a community inclusive design competition, to foster a wide variety of ideas from three professional architectural teams. The competition kickoff meeting held on November 21, 2013 provided a platform for community members and stakeholders to relay their concerns to the design teams. Addressing the community and programmatic concerns took precedence at the final community meeting and design presentation which occurred on January 30, 2014.

Three Local Voluntary Oversight Committee (LVNOC) meetings were held to address the requirements of the Proposition K – L.A. for Kids Program (Proposition K) funded line items within the Project scope. A consensus on the scope budget and timeline was reached, and the Project obtained unanimous LVNOC approval on July 9, 2016.

### Previously Completed Proposition K Projects:

Over the years, several Proposition K funded projects have been completed at this site. Those completed projects are listed below, with an explanation of whether the proposed Project will impact the completed Proposition K projects. Projects that have been funded by Proposition K are required to be operated and maintained for the useful life of the project and can only be taken out of operation if replaced with an equivalent or better facility that is not funded by Proposition K.

- *Rancho Cienega Child Care Center* (Proposition K Project ID No. C24-1) -- This Project, funded with Proposition K 1<sup>st</sup> Cycle Competitive funds, was completed and closed out in November of 2003. The childcare center will remain as is. The proposed project will not remove or alter the childcare center.

## BOARD REPORT

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- *Celes King III Pool Upgrade* (Proposition K Project ID No. C69-2) -- This Project, funded with Proposition K 2<sup>nd</sup> Cycle Competitive funds, included upgrades to the existing Pool facility, and was completed in October, 2006. The proposed Project scope includes the demolition of the existing pool and construction of a new Celes King III Pool in an alternate location. The new pool will meet current building and safety code requirements, will be an improvement over the existing pool, and will serve the same or more number of pool users. No Proposition K funds will be used for the new pool.
- *Rancho Cienega Recreation Sports Center Refurbishment* (Proposition K Project ID No. C25-1) -- This Project, funded with Proposition K 1st Cycle Competitive funds, entailed refurbishment of the gym floor and interior infrastructure improvements, and was completed in 2010. The proposed project will demolish the existing 10,800 square foot gym and will replace it with a 24,000-square foot indoor gym. The new gym will meet current building and safety code requirements, RAP's current requirements for a modern gym, and will be an improvement over the existing gym. The new gym will serve the same or more number of users. No additional Proposition K funds will be spent on this portion of the Project.
- *Rancho Cienega Sports Center Outdoor Improvements* (Proposition K Project ID No. S-94) -- This Project was specified in the Proposition K ballot measure, with funds to be used to construct improvements to the athletic fields, bleachers, parking lot, picnic area, and irrigation. The Project was completed in 2011, but some of the allocated funds were not expended. The remaining Proposition K project funds will be utilized for the proposed Sports Complex Project to fund the construction of the parking lot improvements. These additional parking lot improvements are eligible for use of the remaining Proposition K project funds because they do not duplicate improvements that were previously funded with project funds.

### Proposed Rancho Cienega Sports Complex

The proposed scope for Phase 1 of the Rancho Cienega Sports Complex Project includes demolition of existing facilities, hazardous materials abatement, grading, pile installation, foundation construction, utility installations, building construction, parking lot grading, and landscape and site improvements. Phase 1 activities would occur in the south central portion of the Project site and include the following elements:

1. Demolition of:
  - a. The existing gymnasium
  - b. The existing outdoor restroom/staff office/storage building on the Southern portion of the property
  - c. Landscape, hardscape and infrastructure to accommodate new design elements
2. Construction of:
  - a. New 25,000 square foot (Celes King III) indoor pool and bathhouse facility, including the specified Proposition K Fitness Annex (Proposition K Project ID No. S93).

## BOARD REPORT

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- b. New 24,000-square-foot gymnasium.
- c. Two new restrooms & tenant improvements within the existing Tennis Shop.
- d. New bleachers, including the specified, Proposition K funded, shade structure, and new security lighting, associated with the Arthur Ashe Tennis Courts (Proposition K Project ID No. C227-8).
- e. New bleachers, press box, concession stand and restrooms, and shade structure associated with the existing Jackie Robinson Stadium
- f. New site and infrastructure improvements, including the specified, Proposition K funded improvements to the parking lot (Proposition K Project ID No. S94).

The City Engineer's estimate for the project's construction costs is Twenty-Five Million Dollars (\$25,000,000.00). Due to the saturated construction market and the subsequent effects on public project competitive bidding, two deductive alternates are included below. These alternates will provide the RAP with the flexibility to deduct portions of the scope of work to meet the funding and allow the successful award of the construction project.

Deductive Alternate No. 1 - Lump Sum price to be subtracted from the Base Bid at the discretion of the Board of Recreation and Park Commissioners (Board) at the time of award for deletion of all work associated with the new bleachers structure, restrooms, and concession building associated with the existing Jackie Robinson Stadium.

Deductive Alternate No. 2 - Lump sum price to be subtracted from the Base Bid at the discretion of the Board at the time of the award for deletion of all work associated with the bleachers and shade structure for the Tennis courts.

Note that if the shade structure is deleted from the tennis court, they will be made a part of the future Phase II construction, in compliance with the Proposition K funding therefore.

This Project is partially funded by the Proposition K. Proposition K has two specified line items which provide partial funding for the Sports Complex, as well as a competitive grant line item. Proposition K will fund the following components of the Phase 1 project scope:

- Rancho Cienega Sports Center (Construct Fitness Annex; Proposition K Project ID No. S93), will partially fund the fitness annex.
- Residual funds from the Rancho Cienega Sports Center specified project (Improvements to athletic fields, bleachers, parking lot, picnic area, irrigation and fencing; Proposition K Project ID No. S94) will partially fund the parking lot, landscape and hardscape improvements.
- Proposition K Competitive Grant funds allocated for Rancho Cienega (Recreation and Parks: Rancho Cienega – 8<sup>th</sup> Cycle Competitive, security lighting and shade structures for the tennis courts and baseball fields, ID NO. C227-8) will partially fund park security lighting and shade structures for the tennis courts.

The remainder of the project is funded by Capital Improvement Expenditure Program (CIEP), Federal Community Development Block Grant (CDBG), Sites and Facilities, and funds from the

BOARD REPORT

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Municipal Improvement Corporation of Los Angeles (MICLA) funds. Funds are available from the following accounts:

<b>FUNDING SOURCE</b>	<b>FUND/DEPT/ ACCT NO</b>
Community Development Block Grant (CDBG), United States Department of Housing and Urban Development (HUD)	424/43/43L505
Proposition K (Sports Complex/Fitness Annex/Lighting)	
Proposition K - K-17 (S93 - PY 17; FY 2013-14)	43K/10/10K213
Proposition K - K-18 (S93 - PY 18; FY 2014-15)	43K/10/10L213
Proposition K - K-18 (S93 - PY 19; FY 2015-16)	43K/10/10MPDB
Proposition K - K-18 Gap Fund (S93 - PY 19; FY 2015-16)	43K/10/10MGGG
Proposition K - K-20 (S93 - PY 20; FY 2016-17)	43K/10/10NPDB
Proposition K - K-18 (S94 - PY 18; FY 2014-15) inflation	43K/10/10LK04
Proposition K - K-17 (8 <sup>th</sup> Cycle) (C227-8 - PY 17; FY 2013-14)	43K/10/10KM20
Proposition K - K-18 (8 <sup>th</sup> Cycle) (C227-8 - PY 18; FY 2014-15)	43K/10/10LM20
Proposition K - K-19 (FY-17-18) (C227-8 - PY 20; FY 2016-17)	43K/10/10NPCE
Proposition K Assessment Gap (FY 16-17)	TBD
Proposition K Recon Report (2015 appropriation)	100/54/00L094
Sites and Facilities (15-16)	209/88/88M211
Sites and Facilities (16-17)	TBD
Municipal Improvement Corporation of Los Angeles (MICLA)	
MICLA (FY 14-15) – (CF-14-0600)	298/88/88LNB1
MICLA (FY 15-16) – (CF-15-0600)	298/50/50LTRC

To ensure the quality of work that meets the construction standards for City pools, all bidders will be required to complete and submit "Pool Contractor's Minimum Qualifications – Experience

## BOARD REPORT

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with Public Swimming Pools Construction” forms as part of their bids, as instructed in the bid package.

It has been the policy of this Board to require that the prime contractor on construction projects perform a minimum of fifty percent (50%) of the work for the project, as measured by the base bid price. The purpose of the minimum participation level is largely to avoid contractors that serve merely as brokers and would therefore not have significant ability or expertise to keep projects on schedule and properly manage the construction and the work site. However, this project has a great deal of specialty work and therefore, the twenty percent (20%) minimum participation level may exclude competent general contractors from being able to meet the requirement. It is therefore proposed that the minimum prime participation level be reduced to twenty percent (20%) which should still achieve the goal of avoiding brokers as prime contractors, and at the same time not exclude competent general contractors. This should help attract a broader range of prime contractors, thus creating a more inviting and competitive bidding environment for this project.

### Pre-Qualified Contractor List

On September 26, 2014, BOE sought the Board of Public Works approval to establish a Pre-Qualified Contractor List (PQCL) to aid in streamlining the bid and award process, which would assist in the award of complicated and time sensitive construction projects. A request for qualifications was issued, with responses due on January 14, 2015. Contractors were selected based on their past performance, public sector experience, history of subcontractor payments, safety record, staff competency, and overall resourcefulness.

The Board of Public Works approved a list of eight (8) Pre-Qualified General Contractors on August 14, 2015. The project management team recommends that RAP use the PQCL due to the complexity and time sensitivity of this Project. If this recommendation is approved, bids for the Project would be solicited only from the eight (8) Pre-Qualified General Contractors (See Attachment).

### ENVIRONMENTAL IMPACT STATEMENT

The proposed Project has been previously evaluated and approved in compliance with the California Environmental Quality Act (CEQA). A Final Environmental Impact Report (FEIR) was certified, and a Statement of Overriding Considerations and Mitigation Monitoring and Reporting Plan adopted, on December 14, 2016 (Board Report No. 16-250). A Notice of Determination was filed with the Los Angeles County Clerk on December 15, 2016. The scope of the Project and the environmental setting has not substantially changed since the CEQA approval that would result in additional environmental impacts or an increase in the intensity of the projected impacts to require any new or modified mitigation. Therefore, no additional CEQA documentation is required.

## BOARD REPORT

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### FISCAL IMPACT STATEMENT

The Project will be funded by a combination of the aforementioned funding sources. There is no immediate fiscal impact to RAP's General Fund. However, operations and maintenance costs will be evaluated and included in future RAP budget requests.

The City's Liability under the contract resulting from this bid process shall only extend to the present City appropriation to fund the contract. However, if the City appropriates funds for any succeeding years, the City's liability shall be extended to the extent of such appropriation, subject to the terms and conditions of the contract.

This Report was prepared by Ohaji K. Abdallah, Project Manager, BOE Architectural Division, and reviewed by Neil Drucker, Program Manager, BOE Architectural Division, Mahmood Karimzadeh, Division Manager, BOE Architectural Division; Deborah Weintraub, Chief Deputy City Engineer, BOE; and Cathie Santo Domingo, Superintendent, RAP Planning, Construction and Maintenance Branch.

### LIST OF ATTACHMENTS

- 1) Project Plans and Specifications
- 2) BOE and Bureau of Contract Administration Joint Board Report No 1, adopted on August 14, 2015, authorizing the Municipal Facilities and Related Projects Pre-Qualified Contractor List.

Project Plans and Specifications

*To be distributed at a later date.*

BOE and Bureau of Contract Administration Joint Board Report No 1,  
adopted on August 14, 2015, authorizing the Municipal Facilities and  
Related Projects Pre-Qualified Contractor List

*To be distributed at a later date.*

REPORT OF GENERAL MANAGER

NO. 17-038

DATE February 15, 2017

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: RUNYON CANYON PARK EXPANSION – FINAL AUTHORIZATION TO ACQUIRE PROPERTY AT 2450 SOLAR DRIVE; CATEGORICAL EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO ARTICLE III, SECTION 1, CLASS 16 (TRANSFERS OF OWNERSHIP IN LAND IN ORDER TO CREATE PARKS) OF THE CITY CEQA GUIDELINES

AP Diaz \_\_\_\_\_  
\* R. Barajas \_\_\_\_\_  
H. Fujita \_\_\_\_\_

V. Israel \_\_\_\_\_  
N. Williams \_\_\_\_\_

\_\_\_\_\_  
General Manager

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

\_\_\_\_\_

The final Report has not yet been received by the Office of the Board of Recreation and Park Commissioners.

INFORMATIONAL BOARD REPORT

CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS

February 15, 2017

TO: BOARD OF RECREATION AND PARK COMMISSIONERS  
FROM: MICHAEL A. SHULL, General Manager   
SUBJECT: VARIOUS COMMUNICATIONS

The following communications addressed to the Board have been received by the Board Office, and the action taken thereon is presented.

<u>From</u>	<u>Action Taken</u>
1) Mayor, relative to the appointment of Chris Laib to the Greek Theatre Advisory Committee.	Referred to General Manager.
2) Mayor, relative to the appointment of Fred Goldring to the Greek Theatre Advisory Committee.	Referred to General Manager.
3) City Clerk, relative to the Griffith Park / Observatory Circulation and Parking Enhancement Plan.	Noted and Filed.
4) City Clerk, relative to the Acquisition of Taylor Yard G2 Parcel from Union Pacific Railroad Company for open / green space.	Noted and Filed.
5) Chief Legislative Analyst, forwarding the Legislative Report for the weeks ending January 13, and January 20, 2017.	Noted and Filed.
6) Eighty-eight communications relative to the Griffith Park / Observatory Circulation and Parking Enhancement Plan.	Noted and Filed. (Report No. 16-186; Council File 16-1272)
7) Tawfiq Khan, to staff, relative to a proposed reservation of Shatto Recreation Center.	Noted and Filed.
8) Diane, relative to dogs in Westwood Park.	Referred to General Manager.

This Report was prepared by Paul Liles, Clerk Typist, Commission Office.

MATTERS PENDING

Matters Pending will be carried for a maximum of six months, after which time they will be deemed withdrawn and rescheduled whenever a new staff report is received.

GENERAL MANAGER'S REPORTS:

<u>ORIGINALLY PLACED ON BOARD AGENDA</u>	<u>PLACED ON MATTERS PENDING</u>	<u>DEEMED WITHDRAWN</u>
--	--	-----------------------------

None

BIDS TO BE RECEIVED:

None

PROPOSALS TO BE RECEIVED:

3/8/17          CON-M16-003 – Operation and Maintenance of the Pedal Boat Rental  
Concession

3/28/17        Entertainment Production

QUALIFICATIONS TO BE RECEIVED:

None