

REPORT OF GENERAL MANAGER

NO. 15-139

DATE June 18, 2015

C.D. 4

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: GRIFFITH PARK – GREEK THEATRE - OPEN VENUE OPERATING POLICIES & PROCEDURES – BOOKING POLICY, VENUE RENTAL APPLICATION, USER AGREEMENT AND COMMERCIAL PROMOTER INCENTIVE PROGRAM

R. Adams \_\_\_\_\_  
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\*V. Israel \_\_\_\_\_  
K. Regan \_\_\_\_\_  
N. Williams \_\_\_\_\_



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

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATIONS:

That the Board:

1. Approve the draft Booking Policy, Venue Rental Application, User Agreement; and Commercial Promoter Incentive Program; and
2. Authorize the General Manager or designee to make any necessary technical changes consistent with the intent of these actions to implement these policies.

SUMMARY:

The Greek Theatre is located at 2700 North Vermont Avenue in Griffith Park and was officially dedicated in 1929. Since that time, it has provided entertainment and cultural events to the general public and residents of Los Angeles.

Consistent with previous Board of Recreation and Park Commissioners (Board) approvals and in preparation of the existing exclusive contract expiring on October 31, 2015, Department of Recreation and Parks (RAP) staff has prepared the necessary policies and procedures to operate the facility under an open venue model. The four (4) documents presented in this report will provide an operational framework for RAP, working through an oversight management company, to be contracted later this year. These policies and procedures will enable RAP to achieve the key objectives of providing consistent, safe, quality events for patrons, protecting the Greek Theatre and increasing RAP revenue.

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### DISCUSSION:

On April 15, 2015, the Board approved General Manager's Report No. 15-082 authorizing RAP to proceed with implementation of an open venue model at the Greek Theatre. Since then, RAP has met with community stakeholders and industry professionals to develop the operating policies that will serve as the framework for self-operation as an open venue model. These policies and procedures will serve as the standardized rules, regulations, incentives and contracting means for which every concert or event will be booked and run.

On May 26, 2015, a special meeting of the Commission Task Force on Concessions (Task Force) was held to discuss the draft Booking Policy, Venue Rental Application, User Agreement and Commercial Promoter Incentive Program. The Task Force meeting was attended by various stakeholders, including members of the community and industry professionals. RAP staff presented the draft policies to the Task Force and addressed questions from the commissioners and members of the public. RAP staff continued developing the various policies, taking into consideration the commissioners' and public input. The updated draft documents are discussed below.

#### Draft Booking Policy and Draft Venue Rental Application:

The draft Booking Policy (Exhibit A) informs promoters and booking agents about the Greek Theatre's approved venue rental rates, the system for receiving venue rental applications and placing artists holds on the venue calendar on a first come first served basis as well as the system to challenge artists holds on the calendar that have not converted into an executed User Agreement. The draft Venue Rental Application (Exhibit B) is the companion document for promoters and booking agents to submit to RAP to place an artist hold on the venue calendar.

#### Draft User Agreement:

The draft User Agreement (Exhibit C) is the contractual document executed between the promoter or booking agent and RAP and sets forth the contractual obligations between the promoters or booking agent and RAP. Some of the key areas in the draft User Agreement are:

1. Venue rental rates;
2. Event related labor costs;
3. Event staffing level requirements;
4. Start and end times for events, with associated penalties;
5. Insurance and Indemnification Requirements;
6. Sound Level Limits and Monitoring Requirements, with associated penalties that will be designated and set aside for community events at the Greek Theatre; and
7. Compliance with the City's Standard Provisions for City Contracts.

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### Draft Commercial Promoter Incentive Program:

The draft Commercial Promoter Incentive Program (Incentive Program) (Exhibit D) is designed to encourage promoters to rent the venue with quality events during a concert season. To begin earning incentives, a promoter must present a minimum of twenty (20) commercial events during the concert season. Once the minimum of twenty (20) commercial events has been achieved, the promoter will earn a one and half percent (1.5%) incentive on the adjusted gross ticket receipts, retroactive to the first event. The adjusted gross ticket receipt is the ticket price, less RAP's Facility Access Fee and Facility Maintenance Fee. Connecting the earned incentive to both the number of events and the adjusted gross ticket receipts establishes an Incentive Program that will drive quality events into the venue. The draft Incentive Program has four (4) tiers, beginning at one and a half percent (1.5%) and capping at three percent (3.0%) of adjusted gross ticket receipts. Funds for the Incentive Program payment to promoters will come from Greek Theatre revenue.

### FISCAL IMPACT STATEMENT

Approval of the draft policies will enable RAP to implement the open venue model at the Greek Theatre to achieve the estimated revenue of Three Million Dollars (\$3,000,000.00) for fifty (50) concerts or events and up to Four Million Eight Hundred Thousand Dollars (\$4,800,000.00) for seventy (70) concerts or events in the 2016 Concert Season.

This Report was prepared by Agnes Ko, Senior Management Analyst II, Partnership and Revenue Branch, Concessions Unit.

**City of Los Angeles**  
**Department of Recreation and Parks**  
**General Booking Policy for the Greek Theatre**

## RESERVATIONS

Filling out and returning the venue rental application will ensure your reservation is placed in date receipt order on the master calendar of events and programs for the Greek Theatre ("Venue Calendar"). Venue rental applications may be emailed to [INSERT EMAIL ADDRESS], faxed to [INSERT FAX NUMBER], or hand-delivered to the Greek Theatre.

### **A. Reserving and Holding Dates on the Venue Calendar**

To place a hold on the Venue Calendar, an applicant must provide the headlining act name and will be placed in the first available hold position. Should an applicant wish to change the headlining act name, and there is (are) additional date holder(s) behind you, then the applicant's hold will be released and will be placed in the last hold position along with the new headlining act's name.

### **B. Challenge Policy**

An applicant in the first hold position cannot be challenged if the minimum rent deposit has been received (see rental rates below for appropriate minimum rent deposit amount). An applicant who has not paid the minimum rent deposit may be subject to the following challenge policy.

Prior to signing the User Agreement, any applicant behind the first hold position may issue a "challenge" to the first date holder's position. The challenger will be required to submit a certified check or a company check made payable to [INSERT MANAGEMENT COMPANY NAME], or electronically transfer funds to [INSERT MANAGEMENT COMPANY NAME] in the amount of Twenty-Five Thousand Dollars (\$25,000.00) for the challenge fee. The challenged holder may meet the "challenge" within forty-eight (48) business hours by providing a matching certified check or company check payable to [INSERT MANAGEMENT COMPANY NAME] or electronically transfer funds to [INSERT MANAGEMENT COMPANY NAME], in the amount of Twenty-Five Thousand Dollars (\$25,000.00) and executing the User Agreement. If the challenge is met, the challenger fee will be returned to the challenger.

If the challenged applicant fails to meet the challenge, the applicant's position will be immediately surrendered and the successful challenger will become the confirmed act. The challenge fee will be applied to the event (rent and incidental expenses) and is not refundable nor is it transferable to any other event or date. Contracted dates with appropriate fees paid cannot be challenged.

*Please note: The act associated with this challenge MUST be the headliner on this date. Should the act not become the headliner, the date may be lost.*

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Department of Recreation and Parks  
General Booking Policy for the Greek Theatre**

**RENT/DEPOSITS AND FEES**

To issue a User Agreement, the advance or minimum rent is due. A second deposit, which will go against incidentals, such as the House Flat Rate for labor, will be due thirty (30) calendar days prior to the event date. All funds must be paid by a certified check or a company made payable to: [INSERT MANAGEMENT COMPANY NAME] or electronically transferred to [INSERT MANAGEMENT COMPANY NAME]. *Please Note: Multiple Dates require the minimum rent per day.*

Venue Capacity	Commercial Rental Rate (Those organizations promoted and/or sponsored by a commercial group organization)			Community Rental Rate (Those events which are promoted and/or sponsored by a Civic, Educational, Religious or Charitable group registered as a non-profit 501c3 status)			Load-In/Out Rate
	Admission Charged Minimum	No Admission Charged vs %	No Admission Charged Minimum	Admission Charged Minimum	No Admission Charged vs %	No Admission Charged Minimum	
5,801	\$25,000	11%	\$35,000	\$7,500	8%	\$5,000	\$2,500

**CANCELLATION**

If the promoter wishes to cancel a contracted event, the advance deposit is forfeited and will not be returned to the promoter.

**SELECTED VENUE RULES AND REGULATIONS**

Presenter is responsible for all event related labor expenses as defined in the User Agreement. Event Load-in shall not occur prior to 7:00 AM. Performances must end no later than 10:30 PM, unless prior written permission has been granted by the Department but in no case shall a performance extend past 11:00 PM. The Department reserves the right to cut power to any performance past 11:00 PM. A ten (10) minute warning will be given to the User prior to the agreed upon ending time. Should the performance for whatever reason fail to end at the agreed upon ending time, a penalty of One Thousand Dollars (\$1,000.00) per minute for the first five (5) minutes past the ending time will be assessed. A penalty of Five Thousand Dollars (\$5,000.00) per minute will be assessed thereafter.

**INSURANCE**

Insurance is required. The Required Insurance and Minimum Limits, Exhibit A, identifies the requirements. Instructions and Information on Complying with City Insurance Requirements, Exhibit B, is provided for your insurance agent or broker's use. The City of Los Angeles requires specific language for the policy, a copy will be provided in the User Agreement at the time of contracting.

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Department of Recreation and Parks  
General Booking Policy for the Greek Theatre**

**TICKETING**

Ticket sales must not take place before the advance deposit is received and the User Agreement has been executed. Prior to ticket distribution, all complimentary tickets must be marked as such on both portions of the ticket stubs; otherwise, they will be counted as "sold" and the Facility Access Fee and Facility Maintenance Fee will be collected.

**ADVERTISING**

Advertising must not take place before the advance deposit is received and the User Agreement has been executed.

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### Required Insurance and Minimum Limits

Name: \_\_\_\_\_

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

Agreement/Reference: Greek Theatre User Agreement

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

Limits

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

WC Statutory  
EL \$1,000,000

Waiver of Subrogation in favor of City

Longshore & Harbor Workers  
 Jones Act

**General Liability** \_\_\_\_\_ \$5,000,000

Products/Completed Operations

Sexual Misconduct \_\_\_\_\_

Fire Legal Liability \_\_\_\_\_

\_\_\_\_\_

**Automobile Liability** (for any and all vehicles used for this contract, other than commuting to/from work) \$1,000,000

**Professional Liability** (Errors and Omissions) \_\_\_\_\_

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

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

All Risk Coverage

Boiler and Machinery

Flood \_\_\_\_\_

Builder's Risk

Earthquake \_\_\_\_\_

\_\_\_\_\_

**Pollution Liability** \_\_\_\_\_

\_\_\_\_\_

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

**Crime Insurance** \_\_\_\_\_

Other: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**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 best method of submitting your documents. **Track4LA<sup>®</sup>** 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 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 – the CITY is a licensed redistributor of ACORD forms. Track4LA<sup>®</sup> 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<sup>®</sup>** 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 that have been approved by the State of California may be accepted, however ***submissions other than through Track4LA<sup>®</sup> will significantly delay the insurance approval process as documents will have to be manually processed.*** 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 property 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. Completed **Insurance Industry Certificates other than ACORD 25 Certificates** are sent electronically to [CAO.insurance.bonds@lacity.org](mailto:CAO.insurance.bonds@lacity.org).

Additional Insured Endorsements DO NOT apply to the following:

- Indication of compliance with statute, such as Workers' Compensation Law.
- Professional Liability insurance.

Verification of approved insurance and bonds may be obtained by checking **Track4LA<sup>®</sup>**, 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 or edit the existing Acord 25 Certificate through **Track4LA<sup>®</sup>** at <http://track4la.lacity.org>.

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.

**City of Los Angeles  
Department of Recreation and Parks  
Greek Theatre Venue Rental Application**

**EVENT INFORMATION**

Name of (Title) Event: \_\_\_\_\_

Purpose/Description of Event: \_\_\_\_\_

Date (s) (1<sup>st</sup> Choice): \_\_\_\_\_ Time: \_\_\_\_\_

Date (s) (2nd Choice): \_\_\_\_\_ Time: \_\_\_\_\_

Date (s) (3rd Choice): \_\_\_\_\_ Time: \_\_\_\_\_

Load-in Date and Time(s): \_\_\_\_\_

Rehearsal Date and Time(s): \_\_\_\_\_

Tech Date and Time(s): \_\_\_\_\_

Load-Out Date and Time(s): \_\_\_\_\_

Anticipated Number of Attendees: \_\_\_\_\_

**CONTACT INFORMATION**

Contracting Organization ("Presenter"): \_\_\_\_\_

Address of Contracting Organization: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_

Zip: \_\_\_\_\_

Company Website: \_\_\_\_\_

Federal ID No.: \_\_\_\_\_

Entity is a (an):  Corporation  Partnership  Individual 

Contracting party must be actively registered with the California Secretary Of State's Office before a contract is issued. Please click on the link to complete registration: [www.SOS.CA.GOV](http://www.SOS.CA.GOV)

Name of Applicant/Contact: \_\_\_\_\_

Telephone (main): \_\_\_\_\_ Telephone (second): \_\_\_\_\_

Email: \_\_\_\_\_

Other Pertinent Info/Notes: \_\_\_\_\_

**City of Los Angeles  
Department of Recreation and Parks  
Greek Theatre Venue Rental Application**

**INSURANCE**

Please give below the name and contact information of the insurance firm that will provide insurance coverage including Worker's Compensation and Employer's Liability (including Disability benefits). The Required Insurance and Minimum Limits identifying the requirements and the Instructions and Information on Complying with City Insurance Requirements were included with the General Booking Policy. Please provide both to your insurance agent or broker. The City of Los Angeles requires specific language for the policy, a copy will be provided in the User Agreement at the time of contracting.

Broker's Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_

Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

[INSERT MANAGEMENT COMPANY INFORMATION]

**ARTIST INFORMATION/REFERENCES**

Please list the names of principal participants, artist, performers, or speakers in your program.

Artist 1: \_\_\_\_\_

Artist 2: \_\_\_\_\_

Artist 3: \_\_\_\_\_

Artist 4: \_\_\_\_\_

Artist 5: \_\_\_\_\_

Artist 6: \_\_\_\_\_

**PROMOTER/PRESENTING ENTITY REFERENCES**

Please list the names and contact information for three (3) venues where the contracting entity has presented in the past year.

**City of Los Angeles  
Department of Recreation and Parks  
Greek Theatre Venue Rental Application**

Venue 1: \_\_\_\_\_

Venue 1 Contact (Name/Phone): \_\_\_\_\_

Venue 1 Name of Event: \_\_\_\_\_

Venue 1 Date(s) of Event: \_\_\_\_\_

Venue 2: \_\_\_\_\_

Venue 2 Contact (Name/Phone): \_\_\_\_\_

Venue 2 Name of Event: \_\_\_\_\_

Venue 2 Date(s) of Event: \_\_\_\_\_

Venue 3: \_\_\_\_\_

Venue 3 Contact (Name/Phone): \_\_\_\_\_

Venue 3 Name of Event: \_\_\_\_\_

Venue 3 Date(s) of Event: \_\_\_\_\_

**BANKING INFORMATION**

Please give the name of Presenter's current bank, address, phone number, and banking official's contact information.

Name of Bank: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_

Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

*It is hereby agreed to by the person/organization ("Presenter") requesting the use of this venue that no information publicity of any nature relating to the proposed event may be announced or released in any manner until the standard User Agreement is executed between City and Presenter, and the required deposit has been paid. Furthermore, presenter hereby represents a full accurate and complete disclosure of all information has been made and above statements and information are true and correct. Presenter hereby gives permission to the*

**City of Los Angeles  
Department of Recreation and Parks  
Greek Theatre Venue Rental Application**

*City of Los Angeles Department of Recreation and Parks and its agents to contact any of the above named entities as personal and/or business references.*

By (Signature): \_\_\_\_\_ Today's Date: \_\_\_\_\_

For [Insert Name of Presenter]: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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**CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
Greek Theatre  
User Agreement**

This User Agreement No. \_\_\_\_\_ is made and entered into this day \_\_\_\_\_ of \_\_\_\_20\_\_ by and between the City of Los Angeles, a municipal corporation, acting through its Department of Recreation and Parks ("Department") and [INSERT USER NAME AND ADDRESS] (hereinafter referred to as the "User").

**WITNESSETH:****SECTION 1. Permitted Premises and Term**

For and in consideration of the mutual agreements contained herein and subject to the terms and conditions hereinafter stated, the Department hereby grants a Right of Entry and leases to the User, the Greek Theatre, located at 2700 North Vermont in Griffith Park, Los Angeles, California but expressly excepting any rights to all parking lots, except for the allotted parking spaces provided in Section 3 of this Agreement.

The term of this User Agreement is for the following day or days **only** and the period during each day as shown:

[INSERT DATES AND TIME, INCLUDING LOAD-IN DATE, IF NECESSARY]

**SECTION 2. Event Information**

The User shall have the right to occupy and use the venue for the following event and no other, and the tenancy shall not be assigned or sublet.

[INSERT HEADLINER ARTIST NAME]

**SECTION 3. Rental Rates**

For each performance the rental rate shall be either eleven percent (11%) of the gross gate receipts (less applicable taxes) or the minimum rental rate of Twenty-Five Thousand Dollars (\$25,000.00), whichever is greater. In no event shall the maximum rental rate for each performance exceed Thirty-Five Thousand Dollars (\$35,000.00). Should the same artist have multiple performances on the same day, the rental rate for each subsequent performance on the same day shall be at a flat rate of Fifteen Thousand Dollars (\$15,000.00) per subsequent performance.

These minimum rental rates shall apply for all contracted days, inclusive of "dark" days. Additionally, a fixed charge of Two Thousand Five Hundred Dollars (\$2,500.00) will be assessed for every move in and move out day that does not occur on the performance

day. The advance deposit for this engagement is Twenty-Five Thousand Dollars (\$25,000.00).

Rental rate includes a total of twenty-five (25) parking spaces for vehicles and artists' tour buses. Each additional parking space is Twenty-Five Dollars (\$25.00).

Move-in and move-out dates not otherwise specified in this User Agreement must be arranged for prior thereto with the Department, and will be subject to availability of the premises and the User paying all costs incident thereto. If a definite booking of a rehearsal date or move-in or move-out date is requested by the User and agreed to by the Department, the User shall pay Two Thousand Five Hundred Dollars (\$2,500.00) for each such reserved date in addition to all costs incident thereto. The Load in for any performance shall not occur prior to 7:00 AM.

Venue	Capacity	Commercial Rental Rate (Those organizations promoted and/or sponsored by a commercial group organization)		Community Rental Rate (Those events which are promoted and/or sponsored by a Civic, Educational, Religious or Charitable group registered as a non-profit 501c3 status)		Load-In/Out Rate	
		(A) Admission Charged Minimum vs %	(B) No Admission Charged Minimum	(C) Admission Charged Minimum vs %	(D) No Admission Charged		
Greek Theatre	5,801	\$25,000	11%	\$35,000	\$7,500 8%	\$5,000	\$2,500

## SECTION 4. Fees

### A. Commercial Rental Rate, with Admission Charged (A):

In addition to the rental rate in the table above, the User agrees to reimburse the Department for any and all labor utilized for this event at a House Flat Rate of Twenty-Five Thousand Dollars (\$25,000.00). The House Flat Rate includes labor costs for ushers, ticket takers, security, cleaning, Police, Emergency Medical Services and box office staff and leasing costs associated with the house sound and lighting. The House Flat Rate expressly excludes the costs of Stage Hands and private security employed for personal protection of Artists or not related to public safety.

The House Flat Rate covers the event with doors opening at 6:30 PM and the performance ending no later than 11:00 PM. Additional labor costs of Two Thousand Seven Hundred Fifty Dollars (\$2,750.00) per half (1/2) hour will apply for earlier door opening times prior to 6:30 PM

The User shall file with the Department, at least ten (10) days prior to holding the event as herein stated, a full and detailed outline of all facilities required, all stage requirements,

the chair set up and such other information required by the Department concerning said event. The Department shall determine the minimum number of, and use of, ushers, ticket takers, security, cleaning, Police, Emergency Medical Services and box office staff who will be employed to handle and govern the conduct of all in attendance at the function conducted by User. Should it be determined that these requirements exceed the House Flat, additional charges may apply.

For each contracted day, any additional security required shall be at the User's expense during non-performance hours.

Incidental expense billings may be subject to an eighteen percent (18%) per annum interest charge if not paid within thirty (30) days of invoice billing. The Department will have access to ticketing information on this event regarding attendance and dollars.

A Seven Dollar (\$7.00) Facility Access Fee must be added to the price of each ticket sold. A Five Dollar (\$5.00) Facility Maintenance Fee must be added to the price of each ticket sold. These fees shall be paid to the Department.

Complimentary tickets are to be marked as such on both portions of the ticket stub. Any tickets not marked accordingly will be counted as "sold" and the Facility Access Fee ("FAS") and Facility Maintenance Fee ("FMF") will be collected.

B. Commercial, with no admission charged (B) and Community Rental Rates (C) & (D):

In addition to the rental rates in the table above, the User agrees to reimburse the Department for any and all labor costs for ushers, ticket takers, security, cleaning, Police, Emergency Medical Services and box office staff and leasing costs associated with the house sound and lighting. These costs will be determined on an event by event basis.

All fees due to the Department must be remitted to:

[INSERT MANAGEMENT COMPANY NAME AND ADDRESS]

The User also shall pay to the Department, on demand, such other and further sums as may become due the Department on account of special facilities, equipment and material, or extra services furnished or to be furnished by the Department at the request of the User, or necessitated by the User's occupancy of the premises, the compensation for which is not included in the rent or rents specified above. Such extra services or facilities to be paid include, but are not limited to, labor required for User's use of facilities such as stagehands, public address operators, ushers, ticket takers, guards, administrative charges on labor, and service charges (if used) for special equipment required in the setting up, operation and striking of the event. The User shall pay the guaranteed minimum rental on signing this User Agreement. Should the User fail to satisfy and pay any debts, accounts, and amounts owing and due the Department under the terms of this User Agreement, then the Department may apply the proceeds of said certified check,

company check, electronic fund transfer or draw upon the letter of credit (See Section 7. Deposits below) in settlement thereof.

User agrees to pay promptly all taxes, excise, or license fees of whatever nature applicable to this occupancy and to take out all permits and licenses, Municipal, State, or Federal, required for the usage herein permitted, and further agrees to furnish the Department, upon request, duplicate receipts or other satisfactory evidence showing the prompt payment of all taxes and fees above referred to and showing that all required permits and licenses are in effect. Appropriate records shall be maintained and made available upon request by Department.

Time is of the essence with reference to all payments. Any extra time desired by User not provided for by this User Agreement must be first allowed and approved in writing by the Department and must be paid for in accordance with the schedule of fees.

### **SECTION 5. Rules & Regulations**

It is understood and agreed that the Department hereby reserves the right to control and manage the Greek Theatre and to enforce all necessary and proper established rules for the management and operation of the same and for its authorized representatives to enter the portion of the Greek Theatre, hereby demised to the User, at any time and on any occasion, provided that the Department and its agents shall not unnecessarily disturb the privacy of the artists in areas and circumstances where the artists have a reasonable expectation of privacy (including, without limitation, during the sound checks and in private hospitality areas and dressing rooms). The Department also reserves the right, but not the duty, through its duly appointed representatives, to safely and reasonably eject any objectionable person or persons from the premises and the User hereby waives any and all claims for damages against the Department or any and all of its officers, agents or employees resulting from the exercise of this authority. The Department reserves the right to manage and control all parking facilities on the Greek Theatre property or leased by the Department at all events held at the Greek Theatre. Notwithstanding the foregoing, the Department will make such parking facilities available to event patrons during the User's event (at such prices determined by the Department).

The standard door opening at the Greek Theatre shall be one and a half (1 ½) hour prior to the advertised start time of the show; this may be adjusted as necessary with advance notice by the User to the Department but may be subject to additional fees.

Performances must end no later than 10:30 PM, unless prior written permission has been granted by the Department but in no case shall a performance extend past 11:00 PM. The Department reserves the right to cut power to any performance past 11:00 PM. A ten (10) minute warning will be given to the User prior to the agreed upon ending time. Should the performance for whatever reason fail to end at the agreed upon ending time, a penalty of One Thousand Dollars (\$1,000.00) per minute for the first five (5) minutes past the ending time will be assessed. A penalty of Five Thousand Dollars (\$5,000.00) per minute will be assessed thereafter.

If rigging is required for this event; it must meet the EXHIBIT Number XX specifications and be approved by the Department.

Special stage effects involving pyrotechnic displays (including fireworks and flash powders) are prohibited except by special fee City permit from the Fire Prevention Bureau (see attached EXHIBIT Number XX). If a pyrotechnical is required, arrangements must be made through the Los Angeles Fire Department at the User's expense. Determination of the necessity or advisability of using police, fire and paramedic personnel shall be solely within the judgment of the safety levels as determined by the Department, Los Angeles Police Department, and Los Angeles Fire Department.

User shall use and occupy said premises in a safe and careful manner and shall comply with all applicable Municipal, State, and Federal laws, and rules and regulations pertaining to the City of Los Angeles Department of Recreation and Parks and all other rules and regulations prescribed by the Fire and Police Departments and other governmental authorities as may be in force and effect during the tenancy. User shall not use said premises or any part thereof for the operation of a checkroom, for the possession, storage, or sale of liquor (except with the permission of the Department and according to law), or for any unlawful or improper purpose or in any manner so as to injure persons or property in, on, or near the premises. User shall not do any act or suffer any act to be done during the term of this User Agreement which will in any way mark, deface, alter or injure any part of the Greek Theatre.

All portions of the sidewalks, entrances, passages, vestibules, halls, and all ways of access to public utilities on the premises shall be kept unobstructed by the User and shall not be used for any purpose other than ingress or egress to and from the premises. The doors, stairways, or openings into any place in the structure, including, hallways, corridors, and passageways, also house lighting attachments, shall in no way be obstructed by the User.

Department will be responsible for traffic control working in conjunction with the City's Department of Transportation (DOT).

The Department assumes no responsibility whatsoever, for any property placed in said premises, and said Department is hereby expressly released and discharged from any and all liabilities for any loss, injury or damages to person or property that may be sustained by reason of the occupancy of said premises under this User Agreement. All watchmen or other protective service desired by the User must be arranged for by special agreement with the Department. In the receipt, handling, care or custody of property of any kind shipped or otherwise delivered to the Greek Theatre, either prior to, during, or subsequent to the use of the demised premises by the User. The City and its officers, agents, and employees shall act solely for the accommodation of the User and neither the City nor its officers, agents, or employees shall be liable for any loss, damage, or injury to such property.

The Department shall have the sole right to collect and have custody of all articles left on the premises by persons attending any function held on the premises. Any property left on the premises by User shall, after a period of thirty (30) days from the last day of tenancy hereunder, be deemed abandoned and at the Department's sole option, become the property of the Department, without further notice.

In the event any portion of the Greek Theatre hereby demised to User is not vacated at the end of the term of this rental, then the Department shall be and is hereby authorized to remove articles from said premises, at the expense of the User. The Department shall not be liable for any damage to or loss of such goods, wares, merchandise or property sustained either during the removal or storage of same and the City, its agents, employees and officials are hereby expressly released from any and all claims for such loss or damage. The Department will notify User of any equipment or articles inadvertently left by the User and provide User with a reasonable opportunity to remove same prior to removal or disposal by the Department. Upon termination of this User Agreement, the User will deliver to the Department the premises demised in as good condition and repair as the same shall be found at the beginning of the term of this Agreement, except for normal wear and tear.

Notwithstanding exclusivity granted to Contractor by the terms of this Agreement, the City in its discretion may require Contractor, without any reduction in rent or other valuable consideration to Contractor, to accommodate the rights of persons to access and engage in expressive activities, as guaranteed by the first amendment to the United States constitution, the California constitution, and other laws, as these laws are interpreted by the City. Expressive activities include, but are not limited to, protesting, picketing, proselytizing, soliciting, begging, and vending of certain expressive, message-bearing items.

#### ADA – Americans with Disability Act Requirements:

The parties recognize that the City is subject to the provisions of Title II of the Americans with Disabilities Act (“ADA”) and that the User is subject to the provisions of Title III of the ADA (including all revised regulations dated September 15, 2010 and effective March 15, 2011). Concerning compliance with the ADA and all regulations thereunder, the City is responsible for the permanent building access requirements; such as wheelchair ramps, elevators, restrooms, doors and walkways. The User is responsible for the non-permanent accessibility standards and requirements, such as, but not limited to, seating accessibility, ticketing, ticket pricing, sign language interpreters, signage and all other auxiliary aids and services customarily provided by the User. User and User's ticketing company shall comply with the ADA and all regulations thereunder.

Tickets for unsold accessible seating may be released for sale to individuals without disabilities: 1. When all non-accessible tickets (excluding luxury boxes, club boxes, or suites) have been sold; 2. When all non-accessible tickets in a designated seating area have been sold and the tickets for accessible seating are being released in the same designated area; or 3. When all non-accessible tickets in a designated price category have been sold and the tickets for accessible seating are being released within the same designated price category. User represents that it has viewed or otherwise apprised itself that such access to the premises and common areas and accepts such access, common areas and other conditions of the premises as adequate for User's responsibilities under the ADA. User shall be responsible for ensuring that the space rented by City to User complies and continues to comply in all respects with the ADA, including accessibility, usability and configuration insofar as the User modifies, rearranges or sets up in the facility in order to accommodate the performance produced by the User. User shall be responsible for any violations of the ADA that arise from User's reconfiguration of the seating areas or modification of other portions of the premises in order to accommodate User's engagement. User shall be responsible for providing auxiliary aids and services that are ancillary to its production and for ensuring that the policies, practices and procedures it applies in its production are in compliance with the ADA.

#### **SECTION 6. Ticketing Agent and Tickets**

The User will select the Ticketing Agent for this performance. The selected Ticketing Agent must have systems infrastructure at the Greek Theatre to manage ticket sales for this performance and to provide the required reports for each performance in a timely manner as determined by the Department. The Ticketing Agent is required to bear all costs for installing and maintaining the necessary equipment and infrastructure to provide ticketing services.

The User shall provide the Department with an authenticated ticket manifest showing the number and types of tickets printed. The User is also accountable for reporting unsold tickets and providing them for verification on request of the Department. The User shall be responsible for ticket security; therefore, any tickets lost, stolen, or missing shall be considered as sold for purposes of computing gross revenues and the Facility Access Fee and Facility Maintenance Fee. Complimentary tickets shall be properly documented and deducted separately by specific quantities from the report of tickets sold.

The User shall not sell, allow, or cause to be sold or issued, admission tickets in excess of the seating capacity of, or admit a larger number of persons to the demised area than can be properly and safely seated and move about in said area, and the decision of the General Manager in this respect shall be final. Maximum allowable capacity is 351 (General Admission) and 5,801 Reserved. The reserved seating number is subject to change based on required seat kills.

## **SECTION 7. Security Deposit**

The User shall furnish to the Department a certified check or company check payable to the [INSERT MANAGEMENT COMPANY NAME], or electronically transfer funds to [INSERT MANAGEMENT COMPANY NAME] or maintain an irrevocable letter of credit for the concert season from a bank, or other security acceptable to the Department, in the amount of One Hundred Thousand Dollars (\$100,000.00) guaranteeing performance of all the provisions of this User Agreement, including the anticipated indebtedness of the User to the Department, any debts, accounts, and amounts as may accrue beyond the guaranteed minimum rent, and payment of all claims for injuries to persons or property including the personnel, equipment used, damages to police equipment, uniforms, property of concessionaires, advertisers, other Users, security and maintenance firms, etc. A letter of credit must be in a form acceptable to the Department and be capable of being drawn for a minimum of ninety (90) days following the last date of tenancy. Said certified check or company check or electronic fund transfer or letter of credit shall be delivered to the Department at least ten (10) days prior to the opening date of the event. Any proceeds remaining after the settlement of the amount owed Department will be returned to the User.

## **SECTION 8. Broadcasting & Advertising Rights**

This User Agreement includes rights to broadcast from The Greek Theatre. Broadcast is defined as the "The dissemination of video, film or radio content via electronic means including but not limited to high definition, standard and cable television, radio, web casting, web streaming, down loads, and/or other forms of digital transmission, digital broadcast or digital distribution effectuated by means of the internet in all forms of television media now and hereafter known." All such rights are expressly granted to and and/or reserved by the Department. The Department authorizes the right to broadcast this event, and a separate location release will be issued for this engagement.

This User Agreement does not include any advertising rights pertaining to the venue in favor of the User. The Department retains all rights to sell or lease advertising on the premises, and to determine whether any incidental display of products, logos, etc., may conflict with the Department's rights. The Department shall not permit any display on the premises of an objectionable nature, in the sole and absolute discretion of the Department.

The Department further reserves the right to make photographs, Audio and Video Recordings in the Amphitheatre at its option to use for customary advertising and publicity, subject to a required approval(s) from the performing artist.

Except for announcement of upcoming concerts at the Greek Theatre, or events in which User is promoting or advertising for artists performing at the event, the User shall not distribute fliers, brochures, petitions, surveys or literature of any kind nor sell or cause to be sold or sampled pamphlets, novelties, curios, souvenirs, or similar items at or in the Greek Theatre, except with the permission of the Department.

## **SECTION 9. Sound & Lighting**

The Department will provide basic house sound and lighting systems at the venue. The User will be responsible for providing any additional sound and lighting systems required for the event.

During the performance, [INSERT MANAGEMENT COMPANY NAME] will work in conjunction with the User to monitor sound levels. Sound levels that exceed 95dBA, sustained over any three (3) minute interval, the User will be given a warning to lower the sound. If additional violations occur, monetary penalties shall apply as set forth below. A noise monitoring data report showing sound readings each minute shall be generated at the conclusion of each performance. At the end-of-show settlement, the noise monitoring data report will be used to document all violations of the sound level limit that occurred during the performance. If any violations occurred, the following penalties shall apply:

First Offense: Shall be a warning during the performance to lower sound levels to 95dBA.

Second Offense: Shall be a Five Thousand Dollar (\$5,000.00) fine.

Third Offense: Shall be a Seven Thousand Five Hundred Dollar (\$7,500.00) fine.

Subsequent Offenses: Shall be Ten Thousand Dollars (\$10,000.00) per violation.

## **SECTION 10. Department Staffing**

The Department agrees to furnish at no extra charge to the User, the following services as may be required for the use of the Greek Theatre for said purpose: General house sound and lighting, the services of the venue oversight management staff and parking lot attendants. The User understands and agrees that during the term of this User Agreement other productions or events may be held in other parts of the Greek Theatre, which are not included in this User Agreement, and shall not unreasonably interfere with the activities of this User Agreement.

## **SECTION 11. Food and Beverage**

The User shall not sell or cause to be sold items of food or drink at or in the Greek Theatre. Food and beverage sales are in the exclusive rights of the City of Los Angeles Department of Recreation and Parks. The Department must approve sampling requests, such approval not to be unreasonably withheld if they are made at the request of artist's tour sponsors. The artist(s) may travel with a tour caterer and shall pay no buy-out for such right.

## **SECTION 12. Artists Merchandise Sales**

With regard to artists merchandise sales, in the event that such sales are permitted, the User must arrange for the Concessionaire to handle sales on behalf of the artists. The percentages from artists merchandise sales are determined between the artists and the

Concessionaire. Neither User nor Department will receive any monetary benefits from the sale of artists' merchandise.

Concessionaire may be contacted at: [INSERT FOOD AND BEVERAGE CONCESSIONAIRE]

### **SECTION 13. Notices**

Any notice or communication which the Department may desire to give the User shall be deemed sufficiently rendered or given if the same be in writing and sent by registered or certified mail or by a nationally recognized courier (e.g., FEDEX, UPS, etc.) addressed to the User as specified on Page One hereof, or at the latest address submitted therefore by the User in writing to the Department, or left at such address or delivered to the User's representative. The time of rendition of such notice or communication shall be deemed to be the time when the same is mailed, left, or delivered as herein provided. Any notice from the User to the Department shall be validly given if sent by registered or certified mail addressed to the [INSERT GREEK THEATRE MANAGER NAME AND MANAGEMENT COMPANY NAME].

### **SECTION 14. Legal Authority**

User assures and guarantees that it possesses the legal authority, pursuant to any proper, appropriate, and official motion, resolution, or action passed or taken, to enter into this User Agreement. The person or persons signing and executing this User Agreement on behalf of User, do hereby warrant and guarantee that he/she or they have been fully authorized by User to execute this User Agreement on behalf of User and to validly and legally bind User to all the terms, performances, and provisions herein set forth:

- A. Standard Provisions for City Contracts (Rev. 3/09), excluding PSC-33 and PSC-34.
- B. Insurance Requirements Form
- C. [INSERT ADDITIONAL EXHIBITS AS NEEDED, SUCH AS RIGGING OR SPECIAL EFFECTS APPROVALS/PERMITS]

*(Signature Page to Follow)*

**IN WITNESS WHEREOF, THE CITY OF LOS ANGELES** has caused this User Agreement to be executed on its behalf by its duly authorized Department of Recreation and Parks, and User has executed the same as of the day and year herein below written.

**THE CITY OF LOS ANGELES**, a municipal corporation, acting by and through its Department of Recreation and Parks:

**BY:** \_\_\_\_\_  
**General Manager or Designee**

**DATE:** \_\_\_\_\_

[INSERT USER NAME]

**BY:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**BTRC:** \_\_\_\_\_

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

**BY:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**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.

## Exhibit 1 (Continued) Required Insurance and Minimum Limits

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

Agreement/Reference: \_\_\_\_\_

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.

		<u>Limits</u>
<b>Workers' Compensation – Workers' Compensation (WC) and Employer's Liability (EL)</b>	<b>WC</b> <b>EL</b>	<u>Statutory</u> _____
<input type="checkbox"/> Waiver of Subrogation in favor of City	<input type="checkbox"/> Longshore & Harbor Workers <input type="checkbox"/> Jones Act	
<hr/>		
<b>General Liability</b>		
<input type="checkbox"/> Products/Completed Operations <input type="checkbox"/> Fire Legal Liability <input type="checkbox"/> _____	<input type="checkbox"/> Sexual Misconduct _____	
<hr/>		
<b>Automobile Liability</b> (for any and all vehicles used for this Contract, other than commuting to/from work)		
<hr/>		
<b>Professional Liability</b> (Errors and Omissions)		
<hr/>		
<b>Property Insurance</b> (to cover replacement cost of building – as determined by insurance company)		
<input type="checkbox"/> All Risk Coverage <input type="checkbox"/> Flood _____ <input type="checkbox"/> Earthquake _____	<input type="checkbox"/> Boiler and Machinery <input type="checkbox"/> Builder's Risk <input type="checkbox"/> _____	
<hr/>		
<b>Pollution Liability</b>		
<input type="checkbox"/> _____		
<hr/>		
<b>Surety Bonds – Performance and Payment (Labor and Materials) Bonds</b>		100 % of Contract Price
<b>Crime Insurance</b>		_____

Other: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

## Required Insurance and Minimum Limits

Name: \_\_\_\_\_

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

Agreement/Reference: Greek Theatre User Agreement

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				
<hr/>					
<input checked="" type="checkbox"/> <b>Workers' Compensation - Workers' Compensation (WC) and Employer's Liability (EL)</b>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"></td> <td style="width: 50%; text-align: right;">WC <u>Statutory</u></td> </tr> <tr> <td></td> <td style="text-align: right;">EL <u>\$1,000,000</u></td> </tr> </table>		WC <u>Statutory</u>		EL <u>\$1,000,000</u>
	WC <u>Statutory</u>				
	EL <u>\$1,000,000</u>				
<input checked="" type="checkbox"/> Waiver of Subrogation in favor of City <span style="margin-left: 200px;"><input type="checkbox"/> Longshore &amp; Harbor Workers</span> <input type="checkbox"/> Jones Act					
<hr/>					
<input checked="" type="checkbox"/> <b>General Liability</b>	<u>\$5,000,000</u>				
<input checked="" type="checkbox"/> Products/Completed Operations <span style="margin-left: 200px;"><input type="checkbox"/> Sexual Misconduct</span> <input checked="" type="checkbox"/> Fire Legal Liability <input type="checkbox"/>					
<hr/>					
<input checked="" type="checkbox"/> <b>Automobile Liability</b> (for any and all vehicles used for this contract, other than commuting to/from work)	<u>\$1,000,000</u>				
<hr/>					
<input type="checkbox"/> <b>Professional Liability</b> (Errors and Omissions)	_____				
Discovery Period <u>12 Months After Completion of Work or Date of Termination</u>					
<hr/>					
<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>					
<hr/>					
<input type="checkbox"/> <b>Pollution Liability</b>	_____				
<hr/>					
<input type="checkbox"/> <b>Surety Bonds - Performance and Payment (Labor and Materials) Bonds</b>	<u>100% of the contract price</u>				
<input type="checkbox"/> <b>Crime Insurance</b>	_____				
<hr/>					
<b>Other:</b> _____					
_____					
_____					
_____					
_____					

**City of Los Angeles  
Department of Recreation and Parks  
2016 Commercial Incentive Program**

The following is a term sheet that would allow for a Promoter/Agent ("User") renting the Greek Theatre ("Greek Theatre") for the presentation of commercial concerts to receive an incentive for those events in 2016. In order to qualify for this program, the User must enter into a contract, in a form acceptable to the City of Los Angeles Department of Recreation and Parks ("Department"), reflecting the terms described below, and other provisions standard in City contracts.

Qualifying Events:

A User must present a minimum of twenty (20) commercial events before an incentive is earned.

Additional Terms:

1. This program is limited to ticketed commercial events and is not applicable to events booked under the Community Rental Rates.
2. Each performance is considered a separate event if it meets the above requirements where a performance has a discrete audience for a discrete period of time in which a ticket is used for admittance.
3. The Greek Theatre User Agreement shall only have one User named and only the agreements with said User shall be counted toward the required number of qualifying events.
4. All other rental terms as defined by Department apply including the terms in the standard User Agreement.
5. This is the only form of commercial incentive program recognized by the Department. The Department will review the incentive program requirements on an annual basis and retains the right to modify the incentive program in the future as it sees fit in the best interests of the Department, subject to rights under an existing contract.

**City of Los Angeles  
Department of Recreation and Parks  
2016 Commercial Incentive Program**

**Incentive Payment Schedule:**

Minimum number of qualifying events is twenty (20) in the concert season. Incentives are retroactive to the first qualifying event once the minimum twenty (20) commercial events have been achieved. Incentive payment will be calculated as a percentage of the adjusted gross ticket sales. The adjusted gross ticket sales is the amount of the total tickets sold less the Department's Facility Access Fee and Facility Maintenance Fee. Incentive calculations apply only to one specific incentive tier and are not retroactive to prior incentive tiers.

<b>Incentive Tier</b>	<b>Number of Commercial Events</b>	<b>Incentive Percentage</b>
Qualify Events	1 - 20	1.5% of Adjusted Gross Ticket Sales
One	21 - 30	2.0% of Adjusted Gross Ticket Sales
Two	31 - 40	2.5% of Adjusted Gross Ticket Sales
Three	41 +	3.0% of Adjusted Gross Ticket Sales