

# APPROVED

FEB 21 2018

## BOARD OF RECREATION AND PARK COMMISSIONERS

BOARD REPORT

NO. 18-032

DATE February 21, 2018

C.D. All

### BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: AWARD OF CONTRACT FOR AS-NEEDED TALENT AGENT / TALENT PROVIDER SERVICES.

AP Diaz	_____	V. Israel	_____
R. Barajas	_____	S. Piña-Cortez	_____
H. Fujita	_____	*N. Williams	<u>NSH</u>



General Manager

Approved X

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

### RECOMMENDATIONS

1. Find, in accordance with Charter Section 371(e)(2) and Los Angeles Administrative Code Section 10.15(a)(2), that the services to be provided are professional and special services of a temporary and occasional character for which competitive bidding is not practicable or advantageous as it is necessary for the Department of Recreation and Parks (RAP) to be able to call on contractors to perform this work as-needed and on an occasional, but frequent, basis without engaging in a new competitive process for each individual project to be performed; however, from among as-needed contractors each individual project is assigned on the basis of availability of an as-needed contractor to perform the work, the price to be charged and the unique expertise of the as-needed contractor; and
2. Find in accordance with Charter Section 371(e)(10), that use of competitive bidding would be undesirable, impractical or impossible or is otherwise excused by the common law and the Charter because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by RAP to provide as-needed Talent Agent / Talent Provider Services; and
3. Find, in accordance with Charter Section 372, that obtaining competitive proposals or bids for each individual project for which work may be performed pursuant to this agreement is not reasonably practicable or compatible with RAP's interests of having available as-needed contractors who are assigned various projects on the basis of availability, price, and expertise, and that it is therefore necessary to have several as-needed contractors for this type of service available when called upon by RAP to perform services; and

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4. Find as the contract awarding authority, in accordance with Charter Section 1022, that the work can be performed more economically or feasibly by independent contractors than by City employees because RAP does not have, available in its employ, personnel with sufficient time or necessary expertise to perform Talent Agent/Talent Provider Services in a timely manner, and therefore it is more feasible, economical and in RAP's best interest, to secure these services by contract with multiple contractors to perform this work as-needed and on an occasional, but frequent basis, without engaging in a new competitive bidding process for each individual project to be performed; and
5. Approve the proposed contracts substantially in the form on file in the Board Office and as attached hereto (Attachment 1), and instruct staff to award contracts (Contracts) to the following three (3) firms for as-needed Talent Agent / Talent Provider Services for a term of three (3) years, in an amount not to exceed Two Million Dollars (\$2,000,000.00) per year per contract:
  - 1) KBH Entertainment
  - 2) DMH Enterprises
  - 3) The Jumbo Shrimp Circus Inc.
6. Direct the Board Secretary to transmit the Contracts to the Mayor in accordance with Executive Directive No. 3 and, concurrently to the City Attorney for review and approval as to form; and
7. Authorize RAP's General Manager or Designee to make technical corrections as necessary to carry out the intent of this Report; and,
8. Authorize the Board President and Secretary to execute the Contracts upon receipt of the necessary approvals.

### SUMMARY

RAP hosts and provides a variety of musical events and concerts throughout the year at various locations, including seasonal concert series at Pershing Square, summer Band Shell concerts, the annual Lotus Festival, the Salute to Recreation Festival, and other special events. Due to the popularity of these events, RAP is interested in expanding its programming by booking diverse, high quality musicians, musical groups, and performers for the enjoyment of the public. On Oct 18, 2017, the Board approved report 17-224, authorizing RAP to release an RFP seeking to award Talent Agent / Talent Provider Services. These Talent Agent / Talent Provider will work with staff to facilitate the booking services of such talent on an as-needed basis.

The RFP was conducted and proposals were evaluated solely on the basis of qualifications (as stated in the RFP Document). It was found through review and verification by staff that the above listed responders met and/or exceeded the minimum qualifications as set forth in the RFP, and all successfully completed the City's Business Inclusion Program (BIP) outreach.

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RAP is seeking authorization to direct staff to prepare contracts for each of the three (3) qualified proposers and authorize the Board President and Secretary to execute these contracts, subject to City Attorney and Mayor Approval. The selected pre-qualified contractors are recommended to the Board for a three (3) year contract, in an amount not to exceed an annual expenditure of \$2,000,000 per contract. The contract amount is an estimate, and RAP does not guarantee that the contract maximum amount will be reached. The professional services that RAP is requesting shall be on an as-needed basis. RAP, in entering into an agreement, guarantees no minimum amount of business or compensation. RAP will utilize the services of each contractor based on their background and experience, and will compensate each contractor for the cost of talent as well as a commission fee for the procurement of the selected talent. Contracts awarded through this RFP shall be subject to funding availability and early termination by RAP, as provided in the Standard Provisions for City Contracts (Rev. 10/17 [v.2])(Appendix B).

At its meeting of October 18, 2017, when considering the release of the aforementioned RFP, the Board discussed the need to ensure diversity and inclusion with respect to the musicians, musical groups, and talent agents representing the performers booked for RAP-presented community concerts. It should be noted that the award of the recommended contracts provides RAP with the contractual mechanism to book a wide variety of musical talent, including local, community-based musical groups, and does not limit RAP to exclusively book the talent represented by the selected talent providers. As such, recreation staff and other partners responsible for producing these events will identify musical talent in coordination with the selected talent provider, which will include working with various other talent agents representing performers. In some cases, outreach is conducted and/or a call for musicians and musical groups is released for specific events as a means of attracting local musical talent. RAP staff plans to expand its outreach activities to increase these opportunities for musicians and the managers/agents that represent them.

### FISCAL IMPACT STATEMENT

Executing these as-needed contracts has no impact to RAP's General Fund. Events are generally funded through special funds, and donations.

This Report was prepared by Robert Feld, Sr. Management Analyst I, Finance Division, and reviewed by Matthew Rudnick, Chief Management Analyst.

### LIST OF ATTACHMENTS/EXHIBITS

- 1) Contract A: David H. Hewitt DBA DMH Enterprises  
Contract B: The Jumbo Shrimp Circus, Inc.  
Contract C: Kevin Brent Harvey DBA KBH Entertainment
- 2) Appendix B - Standard Provisions for City Contracts (Rev. 10/17 [v.2])

AGREEMENT BETWEEN  
THE CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
AND  
DAVID M. HEWITT DBA DMH ENTERPRISES  
FOR TALENT AGENT / TALENT PROVIDER SERVICES

This Agreement ("Agreement" or "Contract") is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of Los Angeles, (herein referred to as "CITY") a municipal corporation, Department of Recreation and Parks (hereinafter referred to as "RAP"), acting by and through its Board of Recreation and Park Commissioners (hereinafter referred to as "BOARD"), and David M. Hewitt DBA DMH Enterprises (hereinafter referred to as "CONTRACTOR"), CITY and CONTRACTOR shall be referred to hereinafter as the "Parties".

WHEREAS, the CONTRACTOR has been awarded a competitively bid contract through the Request for Proposal (RFP) (Appendix A) process conducted by RAP staff to provide Talent Agent / Talent Provider Services on an as-needed, non-exclusive basis; and

WHEREAS, pursuant to Charter Section 371(e)(2), RAP has determined that the professional, scientific, expert, technical or other special services to be provided by CONTRACTOR are of a temporary and occasional character for which competitive bidding is not practicable or advantageous, and because it is necessary for RAP to be able to call on CONTRACTORS to perform this work as-needed and on occasional, but frequent, basis without engaging in a new competitive process for each individual project is assigned on the basis of availability and the unique expertise of the as-needed CONTRACTOR; and

WHEREAS, pursuant to Charter Section 371(e)(10), RAP has determined that the services to be provided by CONTRACTOR are for the performance of professional, scientific, expert or technical services and the use of competitive bidding would be undesirable, impractical or impossible or is otherwise excused by common law; and

WHEREAS, RAP desires to secure the technical, expert and professional services of a qualified CONTRACTOR on an occasional and as-needed basis in order to enhance the recreational experience of the public; and

WHEREAS, pursuant to Charter Section 1022 RAP does not have available in its employ personnel with the necessary expertise to undertake the specialized professional tasks sought and the work can be performed more economically or feasibly by and independent CONTRACTOR; and

WHEREAS, CONTRACTOR is experienced in providing the services of the type required, is willing to perform such service, and can provide such services to RAP; and

WHEREAS, RAP has the need for Talent Agent / Talent Provider Services on an as-needed basis; and

WHEREAS, it is in RAP's best interest to secure these services from CONTRACTOR; and

WHEREAS, the CONTRACTOR has agreed to provide such Talent Agent / Talent Provider Services to RAP; and

NOW THEREFORE, RAP and the CONTRACTOR hereby agrees as follows:

SECTION 1 – PARTIES TO THE AGREEMENT, REPRESENTATIVES AND NOTIFICATION.

1.1 Parties

The Parties to this Agreement are:

CITY – The City of Los Angeles, a municipal corporation, acting by and through its BOARD OF RECREATION AND PARK COMMISSIONERS on behalf of RAP, having its principal office at 221 North Figueroa Street, Suite 300, Los Angeles, CA 90012.

CONTRACTOR – David M. Hewitt DBA DMH Enterprises 638 Lindero Canyon Rd. #240, Oak Park, CA 91377.

1.2 Representatives

The City's representative will be: (or any other RAP Management or City designee):

Louise Capone, Sr. Recreation Director II  
City of Los Angeles, Department of Recreation and Parks  
532 S. Olive Street  
Los Angeles, CA 90013  
Email: [Louise.Capone@lacity.org](mailto:Louise.Capone@lacity.org)  
Telephone Number: (323) 868 - 2430  
Fax (213) 485 - 0985

and / or any other RAP Management designee or City designee

With Copies to:

Noel Williams, Chief Financial Officer  
City of Los Angeles, Department of Recreation and Parks  
221 N. Figueroa St, 2<sup>nd</sup> Floor  
Los Angeles, CA 90012

The CONTRACTOR representative will be:

David M. Hewitt  
DBA DMH Enterprises  
638 Lindero Canyon Rd #240  
Oak Park, CA 91377

Email: [debbiehewitt@att.net](mailto:debbiehewitt@att.net)  
Website: <https://www.dmhenterprises.com>  
Direct Telephone (818) 879 – 1452  
Fax Number (818) 865 – 8378

### 1.3 Notices

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

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

CONTRACTOR shall address all questions and correspondence concerning plans to (or any other RAP Management designee or City designee):

Louise Capone, Sr. Recreation Director II  
City of Los Angeles, Department of Recreation and Parks  
532 S. Olive Street  
Los Angeles, CA 90013  
Email: [Louise.Capone@lacity.org](mailto:Louise.Capone@lacity.org)  
Telephone Number: (323) 868 – 2430  
Fax (213) 485 - 0985

## SECTION 2 – TERMS OF THE AGREEMENT

### 2.1 Term

The term of this Agreement shall be for three (3) years and commence on the date of execution                      and expire on                     .

### 2.2 Suspension or Termination

CONTRACTOR also agrees to comply with the Standard Provisions for City Contracts (Rev. 10/17)[v.2] attached hereto and incorporated herein by reference as Appendix B (“Standard Provisions”).

The City may suspend or terminate this contract under provisions in section PSC – 10 (Termination) of the Standard Provisions.

## SECTION 3 - SCOPE OF SERVICES

Under the guidance and direction of the RAP’s Facility Director and or Event Coordinator that is securing services, the CONTRACTOR shall secure or book Musicians, Musical Groups and Performers for the purpose of providing family-oriented musical performances and acts at various RAP and City-wide events.

### **Scheduling Musicians, Musical Groups and Performers:**

1. RAP shall notify and inform CONTRACTOR of the type or types (musical genres) of musicians or entertainment acts required to perform for an event between eight (8) weeks to six (6) months prior to the scheduled event. RAP shall provide to CONTRACTOR the number of performance slots scheduled for each stage and day of the event that will require Musicians, Musical Groups and

Performers.

2. CONTRACTOR shall provide to RAP a list of Musicians, Musical Groups and Performers that will be available to perform on each day of the event at least six (6) weeks prior to start of the event. The list of Musicians, Musical Groups and Performers (List) shall include the names, schedule of dates and times of performance listed by day and stage, description of performance (musical genre), number of Musicians, Musical Groups and Performers and their fees. CONTRACTOR shall ensure that Musicians, Musical Groups and Performers are available to be scheduled for each of the required number of performance slots.
3. RAP will select Musicians, Musical Groups and Performers from the List and submit a written offer to the CONTRACTOR. The written offer shall include the name of selected Musicians, Musical Groups and Performers and the compensation that RAP will provide. RAP may approve, reject, add or request to replace Musicians, Musical Groups and Performers from the List. RAP reserves the right to package or bundle Musicians, Musical Groups and Performers when booking concerts and events.
4. If RAP rejects, adds to, or requests to replace any Musicians, Musical Groups and Performers on List, CONTRACTOR shall provide a new List within two (2) days after the request, and that new List shall be subject to the approval of RAP.
5. Upon approval of the List by RAP, CONTRACTOR shall provide confirmation within six (6) weeks prior to the event by submitting a final List of scheduled Musicians, Musical Groups and Performers to RAP.
6. CONTRACTOR shall be responsible for booking the Musicians, Musical Groups and Performers listed on the final List to perform on the scheduled time, date, and location of the event.
7. CONTRACTOR shall provide the lowest prices possible to RAP for performances by the Musicians, Musical Groups and Performers.
8. CONTRACTOR shall be responsible for directly compensating the Musicians, Musical Groups and Performers.
9. CONTRACTOR shall ensure that compensation paid to Musicians, Musical Groups and Performers shall not exceed the amount(s) agreed upon.
10. A Surety Bond / Performance Bond may be required per RFP and Exhibit 1.

**Contractor shall ensure that Musicians, Musical Groups and Performers:**

1. Perform on the date, time, duration of services and at location agreed upon between CONTRACTOR and RAP;
2. Provide musical instruments and other equipment (which may or may not include sound equipment) necessary for each performance;

3. Provide adequate time for load in, set-up and take down of equipment and that Musicians, Musical Groups and Performers arrive at the designated facility at least ninety (90) minutes before performance to load in and set-up back line, instruments, and other necessary equipment for the duration of thirty (30) minutes; check audio line and level for the duration of thirty (30) minutes; and clear the stage and prepare for the duration of thirty (30) minutes before the scheduled start of performance (i.e. for costume change, paperwork completion, etc.)

**Contractor shall provide services that include but is not limited to the following:**

1. The CONTRACTOR will submit a list of their particular agencies' contracted performers including but not limited to, children's, pop, swing, rock, classical and unique artistry, and performance acts. Performance acts will include but not limited to magicians, jugglers, balancing acts, novelty acts, entertainments, and other family oriented acts.
2. The CONTRACTOR will provide for the agreed upon artist in their agency:
  - o A contract including the band name, date, load in time, curtain time and length of performance.
  - o A stage plot of the band.
  - o An input sheet for the band
3. The CONTRACTOR will include price list of various musical performers in their agency.
4. The CONTRACTOR will provide a quote to RAP for the list of artist booked including date, price, agents, booking fee, including deposit and balance amount and due date of fee.
5. The CONTRACTOR will provide an invoice to RAP for the list of artist booked including date, price, agents, booking fee, including deposit and the balance amount and due date of fee.
6. The CONTRACTOR will provide a Letter of Confirmation with signature stating that all artist(s) have been booked and contracted to perform at the selected venue.
7. It is the responsibility of the CONTRACTOR, after receiving payment from the City of Los Angeles for deposits and balances, to pay all musicians, artists and/or artist agencies on time in the form of required payment requested by the agent, agency or artist, and under no circumstances will a cash transaction take place.
8. The CONTRACTOR will also act as a Subcontractor Payee for talent booked by RAP out of any contracted agency or particular group.
  - o When participating as a Subcontractor Payee, the Talent Agent / Talent Provider will work with RAP in providing quotes, invoices and Letters of Confirmation.
  - o When participating as a Subcontractor Payee, the Talent Agent / Talent Provider will still receive a booking fee or commission for acting as a

## Subcontractor Payee.

### **Cancellation (applicable to the booking of local bands):**

1. RAP or CONTRACTOR shall notify each other of cancellation no later than fifteen (15) days prior to date of scheduled performance and neither party will be liable for payment to the other.
2. If RAP gives notice of cancellation to CONTRACTOR fourteen (14) days or less prior to date of scheduled performance, RAP shall pay CONTRACTOR one hundred percent (100%) of the fee agreed upon herein.
3. If CONTRACTOR gives notice of cancellation to RAP fourteen (14) days or less prior to date of scheduled performance, CONTRACTOR will perform a free show at date and time, and performer(s) that is mutually agreeable to the CONTRACTOR and Facility Director, as compensation to RAP.
4. Notwithstanding the foregoing, either RAP or CONTRACTOR may cancel the performance due to circumstances beyond the reasonable control and without the fault and negligence of either party, as stated in PSC-7 of the Standard Provisions (Rev. 10/17)[v.2] (Appendix B). These circumstances would cover inclement weather, which includes, without limitation, heavy rain or excessive heat and/or natural disasters. If the event is cancelled or suspended due to circumstances described herein, neither party shall incur any liability for payment to the other party as a result of such cancellation.

### 3.1 Services to Be Provided by CITY

RAP's authorized agent (or other RAP management designee) after review of the proposed program and all documents for the event will provide written communication confirming the selections and details to CONTRACTOR prior the start of any work.

RAP personnel will work cooperatively with CONTRACTOR to ensure timely review of all services provided by CONTRACTOR under this Agreement.

RAP will promptly act, review and make decision as necessary to permit the orderly progress of CONTRACTOR's work under this Agreement.

## SECTION 4 – COMPENSATION AND INVOICING

### 4.1 Compensation

CITY will pay CONTRACTOR an amount for services outlined in the CONTRACT for each individual project. The total amount for this CONTRACT will not exceed Two Million Dollars annually (\$2,000,000.00), including all costs, fees, payments, booking commissions or other non-defined expenses. The Contract amount is an estimate, and RAP does not guarantee that the Contract maximum amount will be reached. The professional service that RAP is requesting shall be on an occasional and as-needed basis and the CITY, by entering into this Contract, guarantees no minimum amount of business or compensation. RAP staff will monitor this not-to-exceed aggregate total.

1. The booking fee or commission paid to the CONTRACTOR shall be calculated based on the amount of contract i.e., 1) For individual booking amounts of Sixty Thousand Dollars (\$60,000.00) or less – booking fee shall not exceed ten percent (10%) of individual booking amount and 2) For individual booking amounts over Sixty Thousand Dollars (\$60,000.00) – booking fee shall not exceed seven and one half percent (7.5%) of individual booking amount.
2. Under no circumstances, will RAP pay a booking fee or commission in excess of those stated above to the CONTRACTOR.

#### 4.2 Invoicing

Prior to the start of any work, CONTRACTOR must receive written communication confirming the selections and details from an authorized agent of RAP. CONTRACTOR shall submit invoices to RAP (or other RAP management designee) for all work performed. Invoices must include the CONTRACTOR'S name, date, address, contact phone number, summary of work completed, address/location of work completed, dollar amount originally proposed and the agreed on by RAP. CONTRACTOR will invoice RAP in advance of scheduled performance and RAP will pay CONTRACTRO no greater than a Fifty Percent (50%) deposit three (3) months prior to the date of event and or balances Four (4) days prior to event prior to services being rendered as required per industry standard.

Invoices must be submitted to:

Louise Capone, Sr. Recreation Director II  
City of Los Angeles, Department of Recreation and Parks  
532 S. Olive Street  
Los Angeles, CA 90013  
Email: [Louise.Capone@lacity.org](mailto:Louise.Capone@lacity.org)  
Telephone Number: (323) 868 – 2430  
Fax (213) 485 – 0985

With Copy to:

Noel Williams, Chief Financial Officer  
City of Los Angeles, Department of Recreation and Parks  
221 N. Figueroa St, 2<sup>nd</sup> Floor  
Los Angeles, CA 90012

Additional Copies may be requested by RAP Management or any other designee.

#### SECTION 5 - NON-EXCLUSIVITY

RAP and the CONTRACTOR understand and agree that this is a non-exclusive Agreement to provide services to RAP and that RAP may contract with other CONTRACTORS to provide similar services during the term of this Agreement.

## SECTION 6 - RATIFICATION

At the request of RAP, and because of the urgent need therefore, CONTRACTOR may have commenced performance of services required hereunder prior to the execution of this Agreement. By its execution hereof, RAP hereby accepts such services from CONTRACTOR subject to all of the terms, covenants and conditions of this Agreement, and CONTRACTOR's performance of such services.

## SECTION 7 - INCORPORATION OF DOCUMENTS

This Agreement, appendices and incorporated documents represents the entire agreement of the Parties and supersedes all prior written or oral representations, discussions, and agreements. This Agreement may not be changed or modified in any manner except by formal, written amendment fully executed by both CITY and CONTRACTOR. The following documents are incorporated and made a part hereof by reference:

- Appendix A. RFP Talent Agents / Talent Providers Services, including all submitted responsive forms, documents, and qualifications.
- Appendix B. Standard Provisions for City Contracts (Rev. 10/17)[v.2]
- Exhibit 1 Insurance Contractual Requirements

The order of precedence in resolving conflicting language, if any, in the documents shall be: (1) This Agreement, incorporating Exhibit 1, (2) Appendix B, and (3) Appendix A.

IN WITNESS THEREOF, the parties hereto have executed this Agreement to be executed by their duly authorized representatives on the dates indicated:

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

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

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

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

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

DAVID M. HEWITT  
DBA DMH ENTERPRISES

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

By \_\_\_\_\_  
CEO/TREASURER

Approved as to Form:

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

Michael N. Feuer  
City Attorney

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

AGREEMENT BETWEEN  
THE CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
AND  
THE JUMBO SHRIMP CIRCUS, INC.  
FOR TALENT AGENT / TALENT PROVIDER SERVICES

This Agreement ("Agreement" or "Contract") is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between the City of Los Angeles, (herein referred to as "CITY") a municipal corporation, Department of Recreation and Parks (hereinafter referred to as "RAP"), acting by and through its Board of Recreation and Park Commissioners (hereinafter referred to as "BOARD"), and The Jumbo Shrimp Circus, Inc. (hereinafter referred to as "CONTRACTOR"), CITY and CONTRACTOR shall be referred to hereinafter as the "Parties".

WHEREAS, the CONTRACTOR has been awarded a competitively bid contract through the Request for Proposal (RFP Appendix A) process conducted by RAP staff to provide Talent Agent / Talent Provider Services on an as-needed, non-exclusive basis; and

WHEREAS, pursuant to Charter Section 371(e)(2), RAP has determined that the professional, scientific, expert, technical or other special services to be provided by CONTRACTOR are of a temporary and occasional character for which competitive bidding is not practicable or advantageous, and because it is necessary for RAP to be able to call on CONTRACTORS to perform this work as-needed and on occasional, but frequent, basis without engaging in a new competitive process for each individual project is assigned on the basis of availability and the unique expertise of the as-needed CONTRACTOR; and

WHEREAS, pursuant to Charter Section 371(e)(10), RAP has determined that the services to be provided by CONTRACTOR are for the performance of professional, scientific, expert or technical services and the use of competitive bidding would be undesirable, impractical or impossible or is otherwise excused by common law; and

WHEREAS, RAP desires to secure the technical, expert and professional services of a qualified CONTRACTOR on an occasional and as-needed basis in order to enhance the recreational experience of the public; and

WHEREAS, pursuant to Charter Section 1022 RAP does not have available in its employ personnel with the necessary expertise to undertake the specialized professional tasks sought and the work can be performed more economically or feasibly by and independent CONTRACTOR; and

WHEREAS, CONTRACTOR is experienced in providing the services of the type required, is willing to perform such service, and can provide such services to RAP; and

WHEREAS, RAP has the need for Talent Agent / Talent Provider Services on an as-needed basis; and

WHEREAS, it is in RAP's best interest to secure these services from CONTRACTOR; and

WHEREAS, the CONTRACTOR has agreed to provide such Talent Agent / Talent Provider Services to RAP; and

NOW THEREFORE, RAP and the CONTRACTOR hereby agrees as follows:

SECTION 1 – PARTIES TO THE AGREEMENT, REPRESENTATIVES AND NOTIFICATION.

1.1 Parties

The Parties to this Agreement are:

CITY – The City of Los Angeles, a municipal corporation, acting by and through its BOARD OF RECREATION AND PARK COMMISSIONERS on behalf of RAP, having its principal office at 221 North Figueroa Street, Suite 300, Los Angeles, CA 90012.

CONTRACTOR – The Jumbo Shrimp Circus, Inc., 20315 Baltar St. Winnetka, CA 91306.

1.2 Representatives

The City's representative will be: (or any other RAP Management or City designee):

Louise Capone, Sr. Recreation Director II  
City of Los Angeles, Department of Recreation and Parks  
532 S. Olive Street  
Los Angeles, CA 90013  
Email: [Louise.Capone@lacity.org](mailto:Louise.Capone@lacity.org)  
Telephone Number: (323) 868 - 2430  
Fax (213) 485 - 0985

and / or any other RAP Management designee or City designee

With Copies to:

Noel Williams, Chief Financial Officer  
City of Los Angeles, Department of Recreation and Parks  
221 N. Figueroa St, 2<sup>nd</sup> Floor  
Los Angeles, CA 90012

The CONTRACTOR representative will be:

Philip Briggs, President  
The Jumbo Shrimp Circus, Inc.  
20315 Baltar St.  
Winnetka, CA 91306

Email: [philip@jumboshrimpcircus.com](mailto:philip@jumboshrimpcircus.com)  
Website: <https://jumboshrimpcircus.com>  
Direct Telephone (818) 917 – 1268

### 1.3 Notices

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

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

CONTRACTOR shall address all questions and correspondence concerning plans to (or any other RAP Management designee or City designee):

Louise Capone, Sr. Recreation Director II  
City of Los Angeles, Department of Recreation and Parks  
532 S. Olive Street  
Los Angeles, CA 90013  
Email: [Louise.Capone@lacity.org](mailto:Louise.Capone@lacity.org)  
Telephone Number: (323) 868 – 2430  
Fax (213) 485 - 0985

## SECTION 2 – TERMS OF THE AGREEMENT

### 2.1 Term

The term of this Agreement shall be for three (3) years and commence on the date of execution                      and expire on                     .

### 2.2 Suspension or Termination

CONTRACTOR also agrees to comply with the Standard Provisions for City Contracts (Rev. 10/17)[v.2] attached hereto and incorporated herein by reference as Appendix B (“Standard Provisions”).

The City may suspend or terminate this contract under provisions in section PSC – 10 (Termination) of the Standard Provisions.

## SECTION 3 - SCOPE OF SERVICES

Under the guidance and direction of the RAP's Facility Director and or Event Coordinator that is securing services, the CONTRACTOR shall secure or book Musicians, Musical Groups and Performers for the purpose of providing family-oriented musical performances and acts at various RAP and City-wide events.

### **Scheduling Musicians, Musical Groups and Performers:**

1. RAP shall notify and inform CONTRACTOR of the type or types (musical genres) of musicians or entertainment acts required to perform for an event between eight (8) weeks to six (6) months prior to the scheduled event. RAP shall provide to CONTRACTOR the number of performance slots scheduled for each stage and day of the event that will require Musicians, Musical Groups and

Performers.

2. CONTRACTOR shall provide to RAP a list of Musicians, Musical Groups and Performers that will be available to perform on each day of the event at least six (6) weeks prior to start of the event. The list of Musicians, Musical Groups and Performers (List) shall include the names, schedule of dates and times of performance listed by day and stage, description of performance (musical genre), number of Musicians, Musical Groups and Performers and their fees. CONTRACTOR shall ensure that Musicians, Musical Groups and Performers are available to be scheduled for each of the required number of performance slots.
3. RAP will select Musicians, Musical Groups and Performers from the List and submit a written offer to the CONTRACTOR. The written offer shall include the name of selected Musicians, Musical Groups and Performers and the compensation that RAP will provide. RAP may approve, reject, add or request to replace Musicians, Musical Groups and Performers from the List. RAP reserves the right to package or bundle Musicians, Musical Groups and Performers when booking concerts and events.
4. If RAP rejects, adds to, or requests to replace any Musicians, Musical Groups and Performers on List, CONTRACTOR shall provide a new List within two (2) days after the request, and that new List shall be subject to the approval of RAP.
5. Upon approval of the List by RAP, CONTRACTOR shall provide confirmation within six (6) weeks prior to the event by submitting a final List of scheduled Musicians, Musical Groups and Performers to RAP.
6. CONTRACTOR shall be responsible for booking the Musicians, Musical Groups and Performers listed on the final List to perform on the scheduled time, date, and location of the event.
7. CONTRACTOR shall provide the lowest prices possible to RAP for performances by the Musicians, Musical Groups and Performers.
8. CONTRACTOR shall be responsible for directly compensating the Musicians, Musical Groups and Performers.
9. CONTRACTOR shall ensure that compensation paid to Musicians, Musical Groups and Performers shall not exceed the amount(s) agreed upon.
10. A Surety Bond / Performance Bond may be required per RFP and Exhibit 1.

**Contractor shall ensure that Musicians, Musical Groups and Performers:**

1. Perform on the date, time, duration of services and at location agreed upon between CONTRACTOR and RAP;
2. Provide musical instruments and other equipment (which may or may not include sound equipment) necessary for each performance;

3. Provide adequate time for load in, set-up and take down of equipment and that Musicians, Musical Groups and Performers arrive at the designated facility at least ninety (90) minutes before performance to load in and set-up back line, instruments, and other necessary equipment for the duration of thirty (30) minutes; check audio line and level for the duration of thirty (30) minutes; and clear the stage and prepare for the duration of thirty (30) minutes before the scheduled start of performance (i.e. for costume change, paperwork completion, etc.)

**Contractor shall provide services that include but is not limited to the following:**

1. The CONTRACTOR will submit a list of their particular agencies' contracted performers including but not limited to, children's, pop, swing, rock, classical and unique artistry, and performance acts. Performance acts will include but not limited to magicians, jugglers, balancing acts, novelty acts, entertainments, and other family oriented acts.
2. The CONTRACTOR will provide for the agreed upon artist in their agency:
  - o A contract including the band name, date, load in time, curtain time and length of performance.
  - o A stage plot of the band.
  - o An input sheet for the band
3. The CONTRACTOR will include price list of various musical performers in their agency.
4. The CONTRACTOR will provide a quote to RAP for the list of artist booked including date, price, agents, booking fee, including deposit and balance amount and due date of fee.
5. The CONTRACTOR will provide an invoice to RAP for the list of artist booked including date, price, agents, booking fee, including deposit and the balance amount and due date of fee.
6. The CONTRACTOR will provide a Letter of Confirmation with signature stating that all artist(s) have been booked and contracted to perform at the selected venue.
7. It is the responsibility of the CONTRACTOR, after receiving payment from the City of Los Angeles for deposits and balances, to pay all musicians, artists and/or artist agencies on time in the form of required payment requested by the agent, agency or artist, and under no circumstances will a cash transaction take place.
8. The CONTRACTOR will also act as a Subcontractor Payee for talent booked by RAP out of any contracted agency or particular group.
  - o When participating as a Subcontractor Payee, the Talent Agent / Talent Provider will work with RAP in providing quotes, invoices and Letters of Confirmation.
  - o When participating as a Subcontractor Payee, the Talent Agent / Talent Provider will still receive a booking fee or commission for acting as a

## Subcontractor Payee

### **Cancellation (applicable to the booking of local bands):**

1. RAP or CONTRACTOR shall notify each other of cancellation no later than fifteen (15) days prior to date of scheduled performance and neither party will be liable for payment to the other.
2. If RAP gives notice of cancellation to CONTRACTOR fourteen (14) days or less prior to date of scheduled performance, RAP shall pay CONTRACTOR one hundred percent (100%) of the fee agreed upon herein.
3. If CONTRACTOR gives notice of cancellation to RAP fourteen (14) days or less prior to date of scheduled performance, CONTRACTOR will perform a free show at date and time, and performer(s) that is mutually agreeable to the CONTRACTOR and Facility Director, as compensation to RAP.
4. Notwithstanding the foregoing, either RAP or CONTRACTOR may cancel the performance due to circumstances beyond the reasonable control and without the fault and negligence of either party, as stated in PSC-7 of the Standard Provisions (Appendix B). These circumstances would cover inclement weather, which includes, without limitation, heavy rain or excessive heat and/or natural disasters. If the event is cancelled or suspended due to circumstances described herein, neither party shall incur any liability for payment to the other party as a result of such cancellation.

### **3.1 Services to Be Provided by CITY**

RAP's authorized agent (or other RAP management designee) after review of the proposed program and all documents for the event will provide written communication confirming the selections and details to CONTRACTOR prior the start of any work.

RAP personnel will work cooperatively with CONTRACTOR to ensure timely review of all services provided by CONTRACTOR under this Agreement.

RAP will promptly act, review and make decision as necessary to permit the orderly progress of CONTRACTOR's work under this Agreement.

## **SECTION 4 – COMPENSATION AND INVOICING**

### **4.1 Compensation**

CITY will pay CONTRACTOR an amount for services outlined in the CONTRACT for each individual project. The total amount for this CONTRACT will not exceed Two Million Dollars annually (\$2,000,000.00), including all costs, fees, payments, booking commissions or other non-defined expenses. The Contract amount is an estimate, and RAP does not guarantee that the Contract maximum amount will be reached. The professional service that RAP is requesting shall be on an occasional and as-needed basis and the CITY, by entering into this Contract, guarantees no minimum amount of business or compensation. RAP staff will monitor this not-to-exceed aggregate total.

1. The booking fee or commission paid to the CONTRACTOR shall be calculated based on the amount of contract i.e., 1) For individual booking amounts of Sixty Thousand Dollars (\$60,000.00) or less – booking fee shall not exceed ten percent (10%) of individual booking amount and 2) For individual booking amounts over Sixty Thousand Dollars (\$60,000.00) – booking fee shall not exceed seven and one half percent (7.5%) of individual booking amount.
2. Under no circumstances, will RAP pay a booking fee or commission in excess of those stated above to the CONTRACTOR.

#### 4.2 Invoicing

Prior to the start of any work, CONTRACTOR must receive written communication confirming the selections and details from an authorized agent of RAP. CONTRACTOR shall submit invoices to RAP (or other RAP management designee) for all work performed. Invoices must include the CONTRACTOR'S name, date, address, contact phone number, summary of work completed, address/location of work completed, dollar amount originally proposed and the agreed on by RAP. CONTRACTOR will invoice RAP in advance of scheduled performance and RAP will pay CONTRACTRO no greater than a Fifty Percent (50%) deposit three (3) months prior to the date of event and or balances Four (4) days prior to event prior to services being rendered as required per industry standard.

Invoices must be submitted to:

Louise Capone, Sr. Recreation Director II  
City of Los Angeles, Department of Recreation and Parks  
532 S. Olive Street  
Los Angeles, CA 90013  
Email: [Louise.Capone@lacity.org](mailto:Louise.Capone@lacity.org)  
Telephone Number: (323) 868 – 2430  
Fax (213) 485 – 0985

With Copy to:

Noel Williams, Chief Financial Officer  
City of Los Angeles, Department of Recreation and Parks  
221 N. Figueroa St, 2<sup>nd</sup> Floor  
Los Angeles, CA 90012

Additional Copies may be requested by RAP Management or any other designee.

#### SECTION 5 - NON-EXCLUSIVITY

RAP and the CONTRACTOR understand and agree that this is a non-exclusive Agreement to provide services to RAP and that RAP may contract with other CONTRACTORS to provide similar services during the term of this Agreement.

#### SECTION 6 - RATIFICATION

At the request of RAP, and because of the urgent need therefore, CONTRACTOR may have commenced performance of services required hereunder prior to the execution of this Agreement. By its execution hereof, RAP hereby accepts such services from CONTRACTOR subject to all of the terms, covenants and conditions of this Agreement, and CONTRACTOR's performance of such services.

#### SECTION 7 - INCORPORATION OF DOCUMENTS

This Agreement, appendices and incorporated documents represents the entire agreement of the Parties and supersedes all prior written or oral representations, discussions, and agreements. This Agreement may not be changed or modified in any manner except by formal, written amendment fully executed by both CITY and CONTRACTOR. The following documents are incorporated and made a part hereof by reference:

- Appendix A. RFP Talent Agents / Talent Providers Services, including all submitted responsive forms, documents, and qualifications.
- Appendix B. Standard Provisions for City Contracts (Rev. 10/17)[v.2]
- Exhibit 1 Insurance Contractual Requirements

The order of precedence in resolving conflicting language, if any, in the documents shall be: (1) This Agreement, incorporating Exhibit 1, (2) Appendix B, and (3) Appendix A.

IN WITNESS THEREOF, the parties hereto have executed this Agreement to be executed by their duly authorized representatives on the dates indicated:

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

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

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

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

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

Philip Briggs  
THE JUMBO SHRIMP CIRCUS INC.

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

By \_\_\_\_\_  
CEO/TREASURER

Approved as to Form:

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

Michael N. Feuer  
City Attorney

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

AGREEMENT BETWEEN  
THE CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
AND  
KEVIN BRENT HARVEY DBA KBH ENTERTAINMENT  
FOR TALENT AGENT / TALENT PROVIDER SERVICES

This Agreement ("Agreement" or "Contract") is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between the City of Los Angeles, (herein referred to as "CITY") a municipal corporation, Department of Recreation and Parks (hereinafter referred to as "RAP"), acting by and through its Board of Recreation and Park Commissioners (hereinafter referred to as "BOARD"), and Kevin Brent Harvey DBA KBH Entertainment (hereinafter referred to as "CONTRACTOR"), CITY and CONTRACTOR shall be referred to hereinafter as the "Parties".

WHEREAS, the CONTRACTOR has been awarded a competitively bid contract through the Request for Proposal (RFP) (Appendix A) process conducted by RAP staff to provide Talent Agent / Talent Provider Services on an as-needed, non-exclusive basis; and

WHEREAS, pursuant to Charter Section 371(e)(2), RAP has determined that the professional, scientific, expert, technical or other special services to be provided by CONTRACTOR are of a temporary and occasional character for which competitive bidding is not practicable or advantageous, and because it is necessary for RAP to be able to call on CONTRACTORS to perform this work as-needed and on occasional, but frequent, basis without engaging in a new competitive process for each individual project is assigned on the basis of availability and the unique expertise of the as-needed CONTRACTOR; and

WHEREAS, pursuant to Charter Section 371(e)(10), RAP has determined that the services to be provided by CONTRACTOR are for the performance of professional, scientific, expert or technical services and the use of competitive bidding would be undesirable, impractical or impossible or is otherwise excused by common law; and

WHEREAS, RAP desires to secure the technical, expert and professional services of a qualified CONTRACTOR on an occasional and as-needed basis in order to enhance the recreational experience of the public; and

WHEREAS, pursuant to Charter Section 1022 RAP does not have available in its employ personnel with the necessary expertise to undertake the specialized professional tasks sought and the work can be performed more economically or feasibly by and independent CONTRACTOR; and

WHEREAS, CONTRACTOR is experienced in providing the services of the type required, is willing to perform such service, and can provide such services to RAP; and

WHEREAS, RAP has the need for Talent Agent / Talent Provider Services on an as-needed basis; and

WHEREAS, it is in RAP's best interest to secure these services from CONTRACTOR; and

WHEREAS, the CONTRACTOR has agreed to provide such Talent Agent / Talent Provider Services to RAP; and

NOW THEREFORE, RAP and the CONTRACTOR hereby agrees as follows:

SECTION 1 – PARTIES TO THE AGREEMENT, REPRESENTATIVES AND NOTIFICATION.

1.1 Parties

The Parties to this Agreement are:

CITY – The City of Los Angeles, a municipal corporation, acting by and through its BOARD OF RECREATION AND PARK COMMISSIONERS on behalf of RAP, having its principal office at 221 North Figueroa Street, Suite 300, Los Angeles, CA 90012.

CONTRACTOR – Kevin Brent Harvey DBA KBH Entertainment, 7646 Kester Ave., Van Nuys, CA 91405.

1.2 Representatives

The City's representative will be: (or any other RAP Management or City designee):

Louise Capone, Sr. Recreation Director II  
City of Los Angeles, Department of Recreation and Parks  
532 S. Olive Street  
Los Angeles, CA 90013  
Email: [Louise.Capone@lacity.org](mailto:Louise.Capone@lacity.org)  
Telephone Number: (323) 868 - 2430  
Fax (213) 485 - 0985

and / or any other RAP Management designee or City designee

With Copies to:

Noel Williams, Chief Financial Officer  
City of Los Angeles, Department of Recreation and Parks  
221 N. Figueroa St, 2<sup>nd</sup> Floor  
Los Angeles, CA 90012

The CONTRACTOR representative will be:

Kevin Brent Harvey, Owner  
DBA KBH Entertainment  
7646 Kester Ave,  
Van Nuys, CA 91405

Email: [brent@kbhentertainment.com](mailto:brent@kbhentertainment.com)  
Direct Telephone (818) 786 – 5994

### 1.3 Notices

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

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

CONTRACTOR shall address all questions and correspondence concerning plans to (or any other RAP Management designee or City designee):

Louise Capone, Sr. Recreation Director II  
City of Los Angeles, Department of Recreation and Parks  
532 S. Olive Street  
Los Angeles, CA 90013  
Email: [Louise.Capone@lacity.org](mailto:Louise.Capone@lacity.org)  
Telephone Number: (323) 868 – 2430  
Fax (213) 485 - 0985

## SECTION 2 – TERMS OF THE AGREEMENT

### 2.1 Term

The term of this Agreement shall be for three (3) years and commence on the date of execution                      and expire on                     .

### 2.2 Suspension or Termination

CONTRACTOR also agrees to comply with the Standard Provisions for City Contracts (Rev. 10/17)[v.2] attached hereto and incorporated herein by reference as Appendix B (“Standard Provisions”).

The City may suspend or terminate this contract under provisions in section PSC – 10 (Termination) of the Standard Provisions.

## SECTION 3 - SCOPE OF SERVICES

Under the guidance and direction of the RAP’s Facility Director and or Event Coordinator that is securing services, the CONTRACTOR shall secure or book Musicians, Musical Groups and Performers for the purpose of providing family-oriented musical performances and acts at various RAP and City-wide events.

### **Scheduling Musicians, Musical Groups and Performers:**

1. RAP shall notify and inform CONTRACTOR of the type or types (musical genres) of musicians or entertainment acts required to perform for an event between eight (8) weeks to six (6) months prior to the scheduled event. RAP shall provide to CONTRACTOR the number of performance slots scheduled for each stage and day of the event that will require Musicians, Musical Groups and

Performers.

2. CONTRACTOR shall provide to RAP a list of Musicians, Musical Groups and Performers that will be available to perform on each day of the event at least six (6) weeks prior to start of the event. The list of Musicians, Musical Groups and Performers (List) shall include the names, schedule of dates and times of performance listed by day and stage, description of performance (musical genre), number of Musicians, Musical Groups and Performers and their fees. CONTRACTOR shall ensure that Musicians, Musical Groups and Performers are available to be scheduled for each of the required number of performance slots.
3. RAP will select Musicians, Musical Groups and Performers from the List and submit a written offer to the CONTRACTOR. The written offer shall include the name of selected Musicians, Musical Groups and Performers and the compensation that RAP will provide. RAP may approve, reject, add or request to replace Musicians, Musical Groups and Performers from the List. RAP reserves the right to package or bundle Musicians, Musical Groups and Performers when booking concerts and events.
4. If RAP rejects, adds to, or requests to replace any Musicians, Musical Groups and Performers on List, CONTRACTOR shall provide a new List within two (2) days after the request, and that new List shall be subject to the approval of RAP.
5. Upon approval of the List by RAP, CONTRACTOR shall provide confirmation within six (6) weeks prior to the event by submitting a final List of scheduled Musicians, Musical Groups and Performers to RAP.
6. CONTRACTOR shall be responsible for booking the Musicians, Musical Groups and Performers listed on the final List to perform on the scheduled time, date, and location of the event.
7. CONTRACTOR shall provide the lowest prices possible to RAP for performances by the Musicians, Musical Groups and Performers.
8. CONTRACTOR shall be responsible for directly compensating the Musicians, Musical Groups and Performers.
9. CONTRACTOR shall ensure that compensation paid to Musicians, Musical Groups and Performers shall not exceed the amount(s) agreed upon.
10. A Surety Bond / Performance Bond may be required per RFP and Exhibit 1.

**Contractor shall ensure that Musicians, Musical Groups and Performers:**

1. Perform on the date, time, duration of services and at location agreed upon between CONTRACTOR and RAP;
2. Provide musical instruments and other equipment (which may or may not include sound equipment) necessary for each performance;

3. Provide adequate time for load in, set-up and take down of equipment and that Musicians, Musical Groups and Performers arrive at the designated facility at least ninety (90) minutes before performance to load in and set-up back line, instruments, and other necessary equipment for the duration of thirty (30) minutes; check audio line and level for the duration of thirty (30) minutes; and clear the stage and prepare for the duration of thirty (30) minutes before the scheduled start of performance (i.e. for costume change, paperwork completion, etc.)

**Contractor shall provide services that include but is not limited to the following:**

1. The CONTRACTOR will submit a list of their particular agencies' contracted performers including but not limited to, children's, pop, swing, rock, classical and unique artistry, and performance acts. Performance acts will include but not limited to magicians, jugglers, balancing acts, novelty acts, entertainments, and other family oriented acts.
2. The CONTRACTOR will provide for the agreed upon artist in their agency:
  - o A contract including the band name, date, load in time, curtain time and length of performance.
  - o A stage plot of the band.
  - o An input sheet for the band
3. The CONTRACTOR will include price list of various musical performers in their agency.
4. The CONTRACTOR will provide a quote to RAP for the list of artist booked including date, price, agents, booking fee, including deposit and balance amount and due date of fee.
5. The CONTRACTOR will provide an invoice to RAP for the list of artist booked including date, price, agents, booking fee, including deposit and the balance amount and due date of fee.
6. The CONTRACTOR will provide a Letter of Confirmation with signature stating that all artist(s) have been booked and contracted to perform at the selected venue.
7. It is the responsibility of the CONTRACTOR, after receiving payment from the City of Los Angeles for deposits and balances, to pay all musicians, artists and/or artist agencies on time in the form of required payment requested by the agent, agency or artist, and under no circumstances will a cash transaction take place.
8. The CONTRACTOR will also act as a Subcontractor Payee for talent booked by RAP out of any contracted agency or particular group.
  - o When participating as a Subcontractor Payee, the Talent Agent / Talent Provider will work with RAP in providing quotes, invoices and Letters of Confirmation.
  - o When participating as a Subcontractor Payee, the Talent Agent / Talent Provider will still receive a booking fee or commission for acting as a

## Subcontractor Payee.

### **Cancellation (applicable to the booking of local bands):**

1. RAP or CONTRACTOR shall notify each other of cancellation no later than fifteen (15) days prior to date of scheduled performance and neither party will be liable for payment to the other.
2. If RAP gives notice of cancellation to CONTRACTOR fourteen (14) days or less prior to date of scheduled performance, RAP shall pay CONTRACTOR one hundred percent (100%) of the fee agreed upon herein.
3. If CONTRACTOR gives notice of cancellation to RAP fourteen (14) days or less prior to date of scheduled performance, CONTRACTOR will perform a free show at date and time, and performer(s) that is mutually agreeable to the CONTRACTOR and Facility Director, as compensation to RAP.
4. Notwithstanding the foregoing, either RAP or CONTRACTOR may cancel the performance due to circumstances beyond the reasonable control and without the fault and negligence of either party, as stated in PSC-7 of the Standard Provisions (Rev 10/17)[v.2] (Appendix B). These circumstances would cover inclement weather, which includes, without limitation, heavy rain or excessive heat and/or natural disasters. If the event is cancelled or suspended due to circumstances described herein, neither party shall incur any liability for payment to the other party as a result of such cancellation.

### 3.1 Services to Be Provided by CITY

RAP's authorized agent (or other RAP management designee) after review of the proposed program and all documents for the event will provide written communication confirming the selections and details to CONTRACTOR prior the start of any work.

RAP personnel will work cooperatively with CONTRACTOR to ensure timely review of all services provided by CONTRACTOR under this Agreement.

RAP will promptly act, review and make decision as necessary to permit the orderly progress of CONTRACTOR's work under this Agreement.

## SECTION 4 – COMPENSATION AND INVOICING

### 4.1 Compensation

CITY will pay CONTRACTOR an amount for services outlined in the CONTRACT for each individual project. The total amount for this CONTRACT will not exceed Two Million Dollars annually (\$2,000,000.00), including all costs, fees, payments, booking commissions or other non-defined expenses. The Contract amount is an estimate, and RAP does not guarantee that the Contract maximum amount will be reached. The professional service that RAP is requesting shall be on an occasional and as-needed basis and the CITY, by entering into this Contract, guarantees no minimum amount of business or compensation. RAP staff will monitor this not-to-exceed aggregate total.

1. The booking fee or commission paid to the CONTRACTOR shall be calculated based on the amount of contract i.e., 1) For individual booking amounts of Sixty Thousand Dollars (\$60,000.00) or less – booking fee shall not exceed ten percent (10%) of individual booking amount and 2) For individual booking amounts over Sixty Thousand Dollars (\$60,000.00) – booking fee shall not exceed seven and one half percent (7.5%) of individual booking amount.
2. Under no circumstances, will RAP pay a booking fee or commission in excess of those stated above to the CONTRACTOR.

#### 4.2 Invoicing

Prior to the start of any work, CONTRACTOR must receive written communication confirming the selections and details from an authorized agent of RAP. CONTRACTOR shall submit invoices to RAP (or other RAP management designee) for all work performed. Invoices must include the CONTRACTOR'S name, date, address, contact phone number, summary of work completed, address/location of work completed, dollar amount originally proposed and the agreed on by RAP. CONTRACTOR will invoice RAP in advance of scheduled performance and RAP will pay CONTRACTRO no greater than a Fifty Percent (50%) deposit three (3) months prior to the date of event and or balances Four (4) days prior to event prior to services being rendered as required per industry standard.

Invoices must be submitted to:

Louise Capone, Sr. Recreation Director II  
City of Los Angeles, Department of Recreation and Parks  
532 S. Olive Street  
Los Angeles, CA 90013  
Email: [Louise.Capone@lacity.org](mailto:Louise.Capone@lacity.org)  
Telephone Number: (323) 868 – 2430  
Fax (213) 485 – 0985

With Copy to:

Noel Williams, Chief Financial Officer  
City of Los Angeles, Department of Recreation and Parks  
221 N. Figueroa St, 2<sup>nd</sup> Floor  
Los Angeles, CA 90012

Additional Copies may be requested by RAP Management or any other designee.

#### SECTION 5 - NON-EXCLUSIVITY

RAP and the CONTRACTOR understand and agree that this is a non-exclusive Agreement to provide services to RAP and that RAP may contract with other CONTRACTORS to provide similar services during the term of this Agreement.

#### SECTION 6 - RATIFICATION

At the request of RAP, and because of the urgent need therefore, CONTRACTOR may have commenced performance of services required hereunder prior to the execution of this Agreement. By its execution hereof, RAP hereby accepts such services from CONTRACTOR subject to all of the terms, covenants and conditions of this Agreement, and CONTRACTOR's performance of such services.

#### SECTION 7 - INCORPORATION OF DOCUMENTS

This Agreement, appendices and incorporated documents represents the entire agreement of the Parties and supersedes all prior written or oral representations, discussions, and agreements. This Agreement may not be changed or modified in any manner except by formal, written amendment fully executed by both CITY and CONTRACTOR, The following documents are incorporated and made a part hereof by reference:

- Appendix A. RFP Talent Agents / Talent Providers Services, including all submitted responsive forms, documents, and qualifications.
- Appendix B. Standard Provisions for City Contracts (Rev. 10/17)[v.2]
- Exhibit 1 Insurance Contractual Requirements

The order of precedence in resolving conflicting language, if any, in the documents shall be: (1) This Agreement, incorporating Exhibit 1, (2) Appendix B, and (3) Appendix A.

IN WITNESS THEREOF, the parties hereto have executed this Agreement to be executed by their duly authorized representatives on the dates indicated:

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

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

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

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

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

KEVIN BRENT HARVEY  
KBH ENTERTAINMENT

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

By \_\_\_\_\_  
CEO/TREASURER

Approved as to Form:

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

Michael N. Feuer  
City Attorney

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

### Required Insurance and Minimum Limits

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

Date: 09/29/2017

Agreement/Reference: RFP for As-Needed Talent Agent / Talent Provider Services

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

Limits

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

WC Statutory  
EL \$1,000,000

Waiver of Subrogation in favor of City

Longshore & Harbor Workers  
 Jones Act

**General Liability** City of Los Angeles must be named as an Additional Insured

\$1,000,000

Products/Completed Operations

Sexual Misconduct \$1,000,000

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

\_\_\_\_\_

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

\_\_\_ **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: Sent to Robert Feld @ RAP

1) If a contractor has no employees and decides to not cover herself / himself for worker's compensation, please complete the form entitled "Release for Waiver of Workers' Compensation Insurance Requirement" located at <http://cao.lacity.org/risk/InsuranceForms.htm>

2) In the absence of imposed auto liability requirement, all contractors using vehicles during the course of their contract must adhere to the financial responsibility laws of the State of California.

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.

## STANDARD PROVISIONS FOR CITY CONTRACTS

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## STANDARD PROVISIONS FOR CITY CONTRACTS

### **PSC-1.** Construction of Provisions and Titles Herein

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions of this Contract. The language of this Contract shall be construed according to its fair meaning and not strictly for or against **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" includes the party or parties identified in this Contract. The singular shall include the plural and if there is more than one **CONTRACTOR**, unless expressly stated otherwise, their obligations and liabilities shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

### **PSC-2.** Applicable Law, Interpretation and Enforcement

Each party's performance shall comply with all applicable laws of the United States of America, the State of California, and **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, or procedures that apply to the performance of this Contract with no additional compensation paid to **CONTRACTOR**.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any federal, state or local law or regulation, the validity of the remaining parts, terms or provisions of this Contract shall not be affected.

### **PSC-3.** Time of Effectiveness

Unless otherwise provided, this Contract shall take effect when all of the following events have occurred:

- A. This Contract has been signed on behalf of **CONTRACTOR** by the person or persons authorized to bind **CONTRACTOR**;
- B. This Contract has been approved by the City Council or by the board, officer or employee authorized to give such approval;
- C. The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and
- D. This Contract has been signed on behalf of **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

**PSC-4. Integrated Contract**

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter of this Contract, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in the provisions of PSC-5 hereof.

**PSC-5. Amendment**

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-3.

**PSC-6. Excusable Delays**

Neither party shall be liable for its delay or failure to perform any obligation under and in accordance with this Contract, if the delay or failure arises out of fires, floods, earthquakes, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by the party or any of the party's Subcontractors), freight embargoes, terrorist acts, insurrections or other civil disturbances, or other similar events to those described above, but in each case the delay or failure to perform must be beyond the control and without any fault or negligence of the party delayed or failing to perform (these events are referred to in this provision as "Force Majeure Events").

Notwithstanding the foregoing, a delay or failure to perform by a Subcontractor of **CONTRACTOR** shall not constitute a Force Majeure Event, unless the delay or failure arises out of causes beyond the control of both **CONTRACTOR** and Subcontractor, and without any fault or negligence of either of them. In such case, **CONTRACTOR** shall not be liable for the delay or failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit **CONTRACTOR** to perform timely. As used in this Contract, the term "Subcontractor" means a subcontractor at any tier.

In the event **CONTRACTOR'S** delay or failure to perform arises out of a Force Majeure Event, **CONTRACTOR** agrees to use commercially reasonable best efforts to obtain the goods or services from other sources, and to otherwise mitigate the damages and reduce the delay caused by the Force Majeure Event.

**PSC-7. Waiver**

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

**PSC-8. Suspension**

At **CITY'S** sole discretion, **CITY** may suspend any or all services provided under this Contract by providing **CONTRACTOR** with written notice of suspension. Upon receipt of the notice of suspension, **CONTRACTOR** shall immediately cease the services suspended and shall not incur any additional obligations, costs or expenses to **CITY** until **CITY** gives written notice to recommence the services.

**PSC-9. Termination**

A. Termination for Convenience

**CITY** may terminate this Contract for **CITY'S** convenience at any time by providing **CONTRACTOR** thirty days written notice. Upon receipt of the notice of termination, **CONTRACTOR** shall immediately take action not to incur any additional obligations, costs or expenses, except as may be necessary to terminate its activities. **CITY** shall pay **CONTRACTOR** its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by **CONTRACTOR** to effect the termination. Thereafter, **CONTRACTOR** shall have no further claims against **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights **CITY** is entitled to, shall become **CITY** property upon the date of the termination. **CONTRACTOR** agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

B. Termination for Breach of Contract

1. Except as provided in PSC-6, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, **CITY** may give **CONTRACTOR** written notice of the default. **CITY'S** default notice will indicate whether the default may be cured and the time period to cure the default to the sole satisfaction of **CITY**. Additionally, **CITY'S** default notice may offer **CONTRACTOR** an opportunity to provide **CITY** with a plan to cure the default, which shall be submitted to **CITY** within the time period allowed by **CITY**. At **CITY'S** sole discretion, **CITY** may accept or reject **CONTRACTOR'S** plan. If the default cannot be cured or if **CONTRACTOR** fails to cure within the period allowed by **CITY**, then **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. If the default under this Contract is due to **CONTRACTOR'S** failure to maintain the insurance required under this Contract, **CONTRACTOR** shall immediately: (1) suspend performance of any services under this Contract for which insurance was required; and (2) notify its employees and Subcontractors of the loss of insurance coverage and Contractor's obligation to suspend performance of

services. **CONTRACTOR** shall not recommence performance until **CONTRACTOR** is fully insured and in compliance with **CITY'S** requirements.

3. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then **CITY** may immediately terminate this Contract.
4. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates **CITY'S** laws, regulations or policies relating to lobbying, then **CITY** may immediately terminate this Contract.
5. Acts of Moral Turpitude
  - a. **CONTRACTOR** shall immediately notify **CITY** if **CONTRACTOR** or any Key Person, as defined below, is charged with, indicted for, convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, any act which constitutes an offense involving moral turpitude under federal, state, or local laws ("Act of Moral Turpitude").
  - b. If **CONTRACTOR** or a Key Person is convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, an Act of Moral Turpitude, **CITY** may immediately terminate this Contract.
  - c. If **CONTRACTOR** or a Key Person is charged with or indicted for an Act of Moral Turpitude, **CITY** may terminate this Contract after providing **CONTRACTOR** an opportunity to present evidence of **CONTRACTOR'S** ability to perform under the terms of this Contract.
  - d. Acts of Moral Turpitude include, but are not limited to: violent felonies as defined by Penal Code Section 667.5, crimes involving weapons, crimes resulting in serious bodily injury or death, serious felonies as defined by Penal Code Section 1192.7, and those crimes referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2); in addition to and including acts of murder, rape, sexual assault, robbery, kidnapping, human trafficking, pimping, voluntary manslaughter, aggravated assault, assault on a peace officer, mayhem, fraud, domestic abuse, elderly abuse, and child abuse, regardless of whether such acts are punishable by felony or misdemeanor conviction.

- e. For the purposes of this provision, a Key Person is a principal, officer, or employee assigned to this Contract, or owner (directly or indirectly, through one or more intermediaries) of ten percent or more of the voting power or equity interests of **CONTRACTOR**.
6. In the event **CITY** terminates this Contract as provided in this section, **CITY** may procure, upon such terms and in the manner as **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to **CITY** for all of its costs and damages, including, but not limited to, any excess costs for such services.
7. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-9(A) Termination for Convenience.
8. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- C. In the event that this Contract is terminated, **CONTRACTOR** shall immediately notify all employees and Subcontractors, and shall notify in writing all other parties contracted with under the terms of this Contract within five working days of the termination.

**PSC-10. Independent Contractor**

**CONTRACTOR** is an independent contractor and not an agent or employee of **CITY**. **CONTRACTOR** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of **CITY**.

**PSC-11. Contractor's Personnel**

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

**CONTRACTOR** shall not use Subcontractors to assist in performance of this Contract without the prior written approval of **CITY**. If **CITY** permits the use of Subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of this Contract and paying all Subcontractors. **CITY** has the right to approve **CONTRACTOR'S** Subcontractors, and **CITY** reserves the right to request replacement of any

Subcontractor. **CITY** does not have any obligation to pay **CONTRACTOR'S** Subcontractors, and nothing herein creates any privity of contract between **CITY** and any Subcontractor.

**PSC-12. Assignment and Delegation**

**CONTRACTOR** may not, unless it has first obtained the written permission of **CITY**:

- A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

**PSC-13. Permits**

**CONTRACTOR** and its directors, officers, partners, agents, employees, and Subcontractors, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance of this Contract. **CONTRACTOR** shall immediately notify **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents that relate to **CONTRACTOR'S** performance of this Contract.

**PSC-14. Claims for Labor and Materials**

**CONTRACTOR** shall promptly pay when due all amounts owed for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any **CITY** property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), and shall pay all amounts due under the Unemployment Insurance Act or any other applicable law with respect to labor used to perform under this Contract.

**PSC-15. Current Los Angeles City Business Tax Registration Certificate Required**

For the duration of this Contract, **CONTRACTOR** shall maintain valid Business Tax Registration Certificate(s) as required by **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code ("LAMC"), and shall not allow the Certificate to lapse or be revoked or suspended.

**PSC-16. Retention of Records, Audit and Reports**

**CONTRACTOR** shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form or as otherwise approved by **CITY**. These records shall be retained for a period of no less than three years from the later of the following: (1) final payment made by **CITY**, (2) the expiration of this Contract or (3) termination of this Contract. The records will be subject to examination and audit by authorized **CITY** personnel or **CITY'S** representatives at any time. **CONTRACTOR** shall provide any reports requested by **CITY** regarding

performance of this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

In lieu of retaining the records for the term as prescribed in this provision, **CONTRACTOR** may, upon **CITY'S** written approval, submit the required information to **CITY** in an electronic format, e.g. USB flash drive, at the expiration or termination of this Contract.

**PSC-17. Bonds**

All bonds required by **CITY** shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Los Angeles Administrative Code ("LAAC") Sections 11.47 *et seq.*, as amended from time to time.

**PSC-18. Indemnification**

Except for the active negligence or willful misconduct of **CITY**, or any of its boards, officers, agents, employees, assigns and successors in interest, **CONTRACTOR** shall defend, indemnify and hold harmless **CITY** and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of an act, error, or omission by **CONTRACTOR**, Subcontractors, or their boards, officers, agents, employees, assigns, and successors in interest. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

**PSC-19. Intellectual Property Indemnification**

**CONTRACTOR**, at its own expense, shall defend, indemnify, and hold harmless the **CITY**, and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity, and proprietary information: (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its Subcontractors, in performing the work under this Contract; or (2) as a result of **CITY'S** actual or intended use of any Work Product (as defined in PSC-21) furnished by **CONTRACTOR**, or its Subcontractors, under this Contract. The rights and remedies of **CITY** provided in this section shall not be exclusive

and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

**PSC-20. Intellectual Property Warranty**

**CONTRACTOR** represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information.

**PSC-21. Ownership and License**

Unless otherwise provided for herein, all finished and unfinished works, tangible or not, created under this Contract including, without limitation, documents, materials, data, reports, manuals, specifications, artwork, drawings, sketches, blueprints, studies, memoranda, computation sheets, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas, matters and combinations thereof, and all forms of intellectual property originated and prepared by **CONTRACTOR** or its Subcontractors under this Contract (each a "Work Product"; collectively "Work Products") shall be and remain the exclusive property of **CITY** for its use in any manner **CITY** deems appropriate. **CONTRACTOR** hereby assigns to **CITY** all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

**CONTRACTOR** agrees that a monetary remedy for breach of this Contract may be inadequate, impracticable, or difficult to prove and that a breach may cause **CITY** irreparable harm. **CITY** may therefore enforce this requirement by seeking injunctive relief and specific performance, without any necessity of showing actual damage or irreparable harm. Seeking injunctive relief or specific performance does not preclude **CITY** from seeking or obtaining any other relief to which **CITY** may be entitled.

For all Work Products delivered to **CITY** that are not originated or prepared by **CONTRACTOR** or its Subcontractors under this Contract, **CONTRACTOR** shall secure a grant, at no cost to **CITY**, for a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

**CONTRACTOR** shall not provide or disclose any Work Product to any third party without prior written consent of **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract shall include this provision to contractually bind its Subcontractors performing work under this Contract such that **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein.

**PSC-22. Data Protection**

- A. **CONTRACTOR** shall protect, using the most secure means and technology that is commercially available, **CITY**-provided data or consumer-provided data acquired in the course and scope of this Contract, including but not limited to customer lists and customer credit card or consumer data, (collectively, the "City Data"). **CONTRACTOR** shall notify **CITY** in writing as soon as reasonably feasible, and in any event within twenty-four hours, of **CONTRACTOR'S** discovery or reasonable belief of any unauthorized access of City Data (a "Data Breach"), or of any incident affecting, or potentially affecting City Data related to cyber security (a "Security Incident"), including, but not limited to, denial of service attack, and system outage, instability or degradation due to computer malware or virus. **CONTRACTOR** shall begin remediation immediately. **CONTRACTOR** shall provide daily updates, or more frequently if required by **CITY**, regarding findings and actions performed by **CONTRACTOR** until the Data Breach or Security Incident has been effectively resolved to **CITY'S** satisfaction. **CONTRACTOR** shall conduct an investigation of the Data Breach or Security Incident and shall share the report of the investigation with **CITY**. At **CITY'S** sole discretion, **CITY** and its authorized agents shall have the right to lead or participate in the investigation. **CONTRACTOR** shall cooperate fully with **CITY**, its agents and law enforcement.
- B. If **CITY** is subject to liability for any Data Breach or Security Incident, then **CONTRACTOR** shall fully indemnify and hold harmless **CITY** and defend against any resulting actions.

**PSC-23. Insurance**

During the term of this Contract and without limiting **CONTRACTOR'S** obligation to indemnify, hold harmless and defend **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits not less than the required amounts and types as determined by the Office of the City Administrative Officer of Los Angeles, Risk Management (template Form General 146 in Exhibit 1 hereto). The insurance must: (1) conform to **CITY'S** requirements; (2) comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto); and (3) otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

**PSC-24. Best Terms**

Throughout the term of this Contract, **CONTRACTOR**, shall offer **CITY** the best terms, prices, and discounts that are offered to any of **CONTRACTOR'S** customers for similar goods and services provided under this Contract.

**PSC-25. Warranty and Responsibility of Contractor**

**CONTRACTOR** warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within **CONTRACTOR'S** profession, doing the same or similar work under the same or similar circumstances.

**PSC-26. Mandatory Provisions Pertaining to Non-Discrimination in Employment**

Unless otherwise exempt, this Contract is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

- A. **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and **CITY**. In performing this Contract, **CONTRACTOR** shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status or medical condition.
- B. The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this Contract by reference.
- C. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Equal Employment Practices" provisions of this Contract.
- D. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Affirmative Action Program" provisions of this Contract.

Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-27. Child Support Assignment Orders**

**CONTRACTOR** shall comply with the Child Support Assignment Orders Ordinance, Section 10.10 of the LAAC, as amended from time to time. Pursuant to Section 10.10(b) of the LAAC, **CONTRACTOR** shall fully comply with all applicable State and Federal employment reporting requirements. Failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment or Notices of Assignment, or the failure of any principal owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract. Failure of **CONTRACTOR** or principal owner to cure

the default within 90 days of the notice of default will subject this Contract to termination for breach. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-28. Living Wage Ordinance**

**CONTRACTOR** shall comply with the Living Wage Ordinance, LAAC Section 10.37 *et seq.*, as amended from time to time. **CONTRACTOR** further agrees that it shall comply with federal law proscribing retaliation for union organizing. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-29. Service Contractor Worker Retention Ordinance**

**CONTRACTOR** shall comply with the Service Contractor Worker Retention Ordinance, LAAC Section 10.36 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-30. Access and Accommodations**

**CONTRACTOR** represents and certifies that:

- A. **CONTRACTOR** shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 *et seq.*, the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 *et seq.*, the Fair Housing Act, and its implementing regulations and any subsequent amendments, and California Government Code Section 11135;
- B. **CONTRACTOR** shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;
- C. **CONTRACTOR** shall provide reasonable accommodation upon request to ensure equal access to **CITY**-funded programs, services and activities;
- D. Construction will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and
- E. The buildings and facilities used to provide services under this Contract are in compliance with the federal and state standards for accessibility as set forth in the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

**CONTRACTOR** understands that **CITY** is relying upon these certifications and representations as a condition to funding this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-31. Contractor Responsibility Ordinance**

**CONTRACTOR** shall comply with the Contractor Responsibility Ordinance, LAAC Section 10.40 *et seq.*, as amended from time to time.

**PSC-32. Business Inclusion Program**

Unless otherwise exempted prior to bid submission, **CONTRACTOR** shall comply with all aspects of the Business Inclusion Program as described in the Request for Proposal/Qualification process, throughout the duration of this Contract. **CONTRACTOR** shall utilize the Business Assistance Virtual Network ("BAVN") at <https://www.labavn.org/>, to perform and document outreach to Minority, Women, and Other Business Enterprises. **CONTRACTOR** shall perform subcontractor outreach activities through BAVN. **CONTRACTOR** shall not change any of its designated Subcontractors or pledged specific items of work to be performed by these Subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of **CITY**.

**PSC-33. Slavery Disclosure Ordinance**

**CONTRACTOR** shall comply with the Slavery Disclosure Ordinance, LAAC Section 10.41 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-34. First Source Hiring Ordinance**

**CONTRACTOR** shall comply with the First Source Hiring Ordinance, LAAC Section 10.44 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-35. Local Business Preference Ordinance**

**CONTRACTOR** shall comply with the Local Business Preference Ordinance, LAAC Section 10.47 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-36. Iran Contracting Act**

In accordance with California Public Contract Code Sections 2200-2208, all contractors entering into, or renewing contracts with **CITY** for goods and services estimated at \$1,000,000 or more are required to complete, sign, and submit the "Iran Contracting Act of 2010 Compliance Affidavit."

**PSC-37. Restrictions on Campaign Contributions and Fundraising in City Elections**

Unless otherwise exempt, if this Contract is valued at \$100,000 or more and requires approval by an elected **CITY** office, **CONTRACTOR**, **CONTRACTOR'S** principals, and **CONTRACTOR'S** Subcontractors expected to receive at least \$100,000 for performance under the Contract, and the principals of those Subcontractors (the "Restricted Persons")

shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles **CITY** to terminate this Contract and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected **CITY** officials or candidates for elected **CITY** office for twelve months after this Contract is signed. Additionally, a **CONTRACTOR** subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any **CONTRACTOR** subject to Charter Section 470(c)(12) shall include the following notice in any contract with any Subcontractor expected to receive at least \$100,000 for performance under this Contract:

"Notice Regarding Restrictions on Campaign Contributions and Fundraising in City Elections

You are a subcontractor on City of Los Angeles Contract #\_\_\_\_\_. Pursuant to the City of Los Angeles Charter Section 470(c)(12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles ("**CITY**") officials and candidates for elected **CITY** office for twelve months after the **CITY** contract is signed. You are required to provide the names and contact information of your principals to the **CONTRACTOR** and to amend that information within ten business days if it changes during the twelve month time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at [ethics.lacity.org](http://ethics.lacity.org) or by calling the Los Angeles City Ethics Commission at (213) 978-1960."

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

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

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

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

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

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

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

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

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

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

**PSC-42. Possessory Interests Tax**

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

**PSC-43. Confidentiality**

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

## **EXHIBIT 1**

### **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 should 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) as determined in writing by the CAO-RM.

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.

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. **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 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**. **CONTRACTOR must provide CITY** a thirty day notice of cancellation (ten 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 CAO-RM 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.

12. **Cyber Liability & Privacy** coverage may be required to cover technology services or products for both liability and property losses that may result when a **CITY** contractor engages in various electronic activities, such as selling on the Internet or collecting data within its internal electronic network. **CONTRACTOR'S** policies shall cover liability for a data breach in which the **CITY** employees' and/or **CITY** customers' confidential or personal information, such as but not limited to, Social Security or credit card information are exposed or stolen by a hacker or other criminal who has gained access to the **CITY'S** or **CONTRACTOR'S** electronic network. The policies shall cover a variety of expenses associated with data breaches, including: notification costs, credit monitoring, costs to defend claims by state regulators, fines and penalties, and loss resulting from identity theft. The policies are required to cover liability arising from website media content, as well as property exposures from: (a) business interruption, (b) data loss/destruction, (c) computer fraud, (d) funds transfer loss, and (e) cyber extortion.

## 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.

	Limits
<b>Workers' Compensation (WC) and Employer's Liability (EL)</b>	
<input type="checkbox"/> Waiver of Subrogation in favor of City <span style="margin-left: 200px;"><input type="checkbox"/> Longshore &amp; Harbor Workers</span>	WC <u>          </u> Statutory EL <u>          </u>
<input type="checkbox"/> Jones Act <span style="margin-left: 200px;"><input type="checkbox"/> Sexual Misconduct</span>	
<b>General Liability</b>	
<input type="checkbox"/> Products/Completed Operations <span style="margin-left: 200px;"><input type="checkbox"/> Sexual Misconduct</span>	
<input type="checkbox"/> Fire Legal Liability <span style="margin-left: 200px;"><input type="checkbox"/> _____</span>	
<input type="checkbox"/> _____ <span style="margin-left: 200px;"><input type="checkbox"/> _____</span>	
<b>Automobile Liability</b> (for any and all vehicles used for this contract, other than commuting to/from work) <span style="float: right;">_____</span>	
<b>Professional Liability</b> (Errors and Omissions) <span style="float: right;">_____</span>	
Discovery Period _____	
<b>Property Insurance</b> (to cover replacement cost of building - as determined by insurance company) <span style="float: right;">_____</span>	
<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>	
<b>Pollution Liability</b> <span style="float: right;">_____</span>	
<input type="checkbox"/> _____ <span style="margin-left: 200px;"><input type="checkbox"/> _____</span>	
<b>Surety Bonds - Performance and Payment (Labor and Materials) Bonds</b> <span style="float: right;">_____</span>	
<b>Crime Insurance</b> <span style="float: right;">_____</span>	
<b>Other:</b> _____ _____ _____	