

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

This User Agreement No. ____ is made and entered into this day ____ of __20__ by and between the City of Los Angeles, a municipal corporation, acting through its Department of Recreation and Parks ("Department") and [INSERT USER NAME AND ADDRESS] (hereinafter referred to as the "User").

WITNESSETH:

SECTION 1. Permitted Premises and Term

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

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

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

SECTION 2. Event Information

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

[INSERT HEADLINER ARTIST NAME]

SECTION 3. Rental Rates

For each performance the rental shall be eleven percent (11%) of the gross gate receipts (less applicable taxes) per event such that the minimum rental shall be Twenty-Five Thousand Dollars (\$25,000.00) per day and the maximum rental for each day shall be Thirty-Five Thousand Dollars (\$35,000.00). These minimum rents shall apply for all contracted days, inclusive of "dark" days. Additionally, a fixed charge of Two Thousand Five Hundred Dollars (\$2,500.00) will be assessed for every move in and move out day that does not occur on the performance day. The advance deposit for this engagement is Twenty-Five Thousand Dollars (\$25,000.00).

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

Venue	Capacity	Commercial Rental Rate (Those organizations promoted and/or sponsored by a commercial group organization)			Community Rental Rate (Those events which are promoted and/or sponsored by a Civic, Educational, Religious or Charitable group registered as a non-profit 501c3 status)			Load-In/Out Rate
		Admission Charged Minimum vs %	No Admission Charged		Admission Charged Minimum vs %	No Admission Charged		
Greek Theatre	5,801	\$25,000	11%	\$100,000	\$7,500	8%	\$5,000	\$2,500

SECTION 4. Rules & Regulation Section

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

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

Performances must end promptly at 11:00 p.m. The Department reserves the right to cut power to any performance that exceeds the performance end time.

The User shall file with the Department, at least ten (10) days prior to holding the event as herein stated, a full and detailed outline of all facilities required, all stage requirements, the chair set up and such other information required by the Department concerning said event.

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

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

It is agreed by and between the Parties hereto that the Rules and Regulations of the Greek Theatre shall be and are a part of this User Agreement as though they were set out in full herein, and are specifically incorporated as a part hereof by reference.

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

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

The Department shall determine the minimum number of, and use of, ushers, doorkeepers, or other employees who will be employed to handle and govern the conduct of all in attendance at the function conducted by User. All of said attendants shall be regular members of the Department's staff or under contract with the Department, to be paid at the User's expense. The User agrees that if it becomes necessary or desirable

for the User to hire employees, help, or laborers other than specified herein, that all such employment must first be approved by the Department. Except with respect to security directly engaged by User and/or the Artist, the Department shall be responsible for preparing and implementing a security plan to protect all persons within the Greek Theatre and areas adjacent thereto (e.g., parking lots, plaza areas, etc.), and the Department shall hire, direct, supervise and assume responsibility for all security personnel. The Department agrees and acknowledges that at no time and under no circumstance shall User be liable or responsible for the activities and/or actions of the parties providing such security services.

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

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

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

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

The User hereby expressly waives any and all claims for compensation for any and all loss or damage sustained by reason of any defect, deficiency, failure or impairment of the water supply system, drainage system, or electrical system on or related to the demised premises. In the event the Greek Theatre or any part thereof is damaged by fire, or if for any other reason, including strikes, failure of utilities, or any act of God which, in the judgment of the General Manager, renders the fulfillment of this User Agreement by the Department impossible, the User hereby expressly releases and discharges the Department and its agents from any and all demands, claims, actions, and causes of actions arising from any of the causes aforesaid.

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

ADA SEATING REQUIREMENTS: Staff is working with the Department of Disability to prepare this section.

SECTION 5. Fees

User further agrees to reimburse the Department for any and all labor utilized for this event at a House Flat Rate of Twenty-Five Thousand Dollars (\$25,000.00). The House Flat Rate includes labor costs for ushers, ticket takers, security, parking attendants, shuttle drivers and box office staff. The House Flat Rate expressly excludes the costs of Stage Hands. Stage Hands are the direct responsibility of the User. The House Flat Rate covers the event with doors opening at 6:30 PM and additional labor costs of Four Thousand Dollars (\$4,000.00) per hour will apply for earlier door opening times.

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

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

A Seven Dollar (\$7.00) Facility Access Fee must be added to the price of each ticket sold. This fee shall be paid to the Department of Los Angeles.

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

A Five Dollars (\$5.00) Facility Maintenance Fee must be added to the price of each ticket sold.

All fees due to the Department must be remitted to:

[INSERT MANAGEMENT COMPANY NAME AND ADDRESS]

The User also shall pay to the Department, on demand, such other and further sums as may become due the Department on account of special facilities, equipment and material, or extra services furnished or to be furnished by the Department at the request of the User, or necessitated by the User's occupancy of the premises, the compensation for which is not included in the rent or rents specified above. Such extra services or facilities to be paid include, but are not limited to, labor required for User's use of facilities such as stagehands, public address operators, ushers, ticket takers, guards, administrative charges on labor, and service charges (if used) for special equipment required in the setting up, operation and striking of the event. The User shall pay the guaranteed minimum rental on signing this User Agreement. Should the User fail to satisfy and pay any debts, accounts, and amounts owing and due the Department under the terms of this User Agreement, then the Department may apply the proceeds of said certified check or draw upon the letter of credit (See Section 7. Deposits below) in settlement thereof.

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

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

SECTION 6. Ticketing Agent and Tickets

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

costs for installing and maintaining the necessary equipment and infrastructure to provide ticketing services.

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

The User shall not sell, allow, or cause to be sold or issued, admission tickets in excess of the seating capacity of, or admit a larger number of persons to the demised area than can be properly and safely seated and move about in said area, and the decision of the General Manager in this respect shall be final. Maximum allowable capacity is 121 (General Admission) and 5,801 Reserved. The reserved seating number is subject to change based on required seat kills.

SECTION 7. Deposits

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

SECTION 8. Broadcasting & Advertising Rights

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

and/or reserved by the Department. The Department authorizes the right to broadcast this event, and a separate location release will be issued for this engagement.

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

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

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

SECTION 9. Sound & Lighting

[Insert requirements once ESA report is received and settled with the community.]

SECTION 10. Department Staffing

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

SECTION 11. Food and Beverage

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

SECTION 12. Merchandise Sales

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

merchandise sales are determined between the artists and the Concessionaire. Neither User nor Department will receive any monetary benefits from the sale of artists' merchandise. This User Agreement shall not affect, in any way whatsoever, any concession heretofore or hereafter granted by the Department to any other party.

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

SECTION 13. Notices

Any notice or communication which the Department may desire to give the User shall be deemed sufficiently rendered or given if the same be in writing and sent by registered or certified mail or by a nationally recognized courier (e.g., FEDEX, UPS, etc.) addressed to the User as specified on Page One hereof, or at the latest address submitted therefore by the User in writing to the Department, or left at such address or delivered to the User's representative. The time of rendition of such notice or communication shall be deemed to be the time when the same is mailed, left, or delivered as herein provided. Any notice from the User to the Department shall be validly given if sent by registered or certified mail addressed to the General Manager for of the Department of Recreation and Parks with additional notice sent to XXXX the Department shall hereafter designate by notice to the User.

SECTION 14. Force Majeure

Neither party hereto shall be liable to the other for any failure, delay, or interruption in the performance of any of the terms, covenants or conditions of the Agreement due to causes beyond the control of that party including, without limitation, strikes, boycotts, labor disputes, embargoes, shortage of material, acts of God, landslides, acts of the public enemy, acts of superior governmental authority, floods, riots, rebellion, sabotage, or any other circumstance for which such party is not responsible and which is not in its power to control.

SECTION 15. Legal Authority

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

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

In the event of any inconsistency between any of the provisions of this Agreement and/or exhibits attached hereto, the inconsistency shall be resolved by giving precedence in the

following order: 1) This Agreement exclusive of attachments, 2) Exhibit A, 3) Exhibit B, 4) [ADDITIONAL EXHIBITS AS NEEDED]

SECTION 16. Electronic Signatures and Electronic Records

The User consents to the use of electronic signatures by the Department. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the Department in the manner specified by the Department. The parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that is not in its original form or is not an original.

(Signature Page to Follow)

DRAFT

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

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

BY: _____
General Manager or Designee

DATE: _____

[INSERT USER NAME]

BY: _____

DATE: _____

Title: _____

DATE: _____

BTRC: _____

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

BY: _____

DATE: _____

Deputy City Attorney

STANDARD PROVISIONS FOR CITY CONTRACTS

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STANDARD PROVISIONS FOR CITY CONTRACTS

PSC-1. CONSTRUCTION OF PROVISIONS AND TITLES HEREIN

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

PSC-2. NUMBER OF ORIGINALS

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

PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Contract.

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

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

PSC-4. TIME OF EFFECTIVENESS

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

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

PSC-5. INTEGRATED CONTRACT

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in paragraph PSC-6 hereof.

PSC-6. AMENDMENT

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

PSC-7. EXCUSABLE DELAYS

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

PSC-8. BREACH

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

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

PSC-9. WAIVER

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

PSC-10. TERMINATION

A. TERMINATION FOR CONVENIENCE

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

B. TERMINATION FOR BREACH OF CONTRACT

1. Except for excusable delays as provided in PSC-7, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, the **CITY** may give **CONTRACTOR** written notice of such default. If **CONTRACTOR** does not cure such default or provide a plan to cure such default which is acceptable to the **CITY** within the time permitted by the **CITY**, then the **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then the **CITY** may immediately terminate this Contract.
3. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates the

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

4. In the event the **CITY** terminates this Contract as provided in this section, the **CITY** may procure, upon such terms and in such manner as the **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to the **CITY** for all of its costs and damages, including, but not limited, any excess costs for such services.
5. All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.
6. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-10(A) Termination for Convenience.
7. The rights and remedies of the **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

PSC-11. INDEPENDENT CONTRACTOR

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

PSC-12. CONTRACTOR'S PERSONNEL

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

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

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

PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION

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

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

PSC-14. PERMITS

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

PSC-15. CLAIMS FOR LABOR AND MATERIALS

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

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

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

PSC-17. RETENTION OF RECORDS, AUDIT AND REPORTS

CONTRACTOR shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form, in accordance with

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

PSC-18. FALSE CLAIMS ACT

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

PSC-19. BONDS

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

PSC-20. INDEMNIFICATION

Except for the active negligence or willful misconduct of the **CITY**, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, **CONTRACTOR** undertakes and agrees to defend, indemnify and hold harmless the **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by **CONTRACTOR** or its subcontractors of any tier. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-20 shall survive expiration or termination of this Contract.

PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION

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

and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information right (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its subcontractors of any tier, in performing the work under this Contract; or (2) as a result of the **CITY'S** actual or intended use of any Work Product furnished by **CONTRACTOR**, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-21 shall survive expiration or termination of this Contract.

PSC-22. INTELLECTUAL PROPERTY WARRANTY

CONTRACTOR represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

PSC-23. OWNERSHIP AND LICENSE

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

For all Work Products delivered to the **CITY** that are not originated or prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract, **CONTRACTOR** hereby grants a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

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

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

PSC-24. INSURANCE

During the term of this Contract and without limiting **CONTRACTOR'S** indemnification of the **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by **CONTRACTOR**, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form General 146 in Exhibit 1 hereto), covering its operations hereunder. Such insurance shall conform to **CITY** requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto) and shall otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

PSC-25. DISCOUNT TERMS

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

PSC-26. WARRANTY AND RESPONSIBILITY OF CONTRACTOR

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

PSC-27. NON-DISCRIMINATION

Unless otherwise exempt, this Contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the **CITY**. In performing this Contract, **CONTRACTOR** shall not

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

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

PSC-28. EQUAL EMPLOYMENT PRACTICES

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

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

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

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

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

PSC-29. AFFIRMATIVE ACTION PROGRAM

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

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

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

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

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

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

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

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

PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS

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

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

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

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

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

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

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

PSC-32. AMERICANS WITH DISABILITIES ACT

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

PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE

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

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

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

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

PSC-35. EQUAL BENEFITS ORDINANCE

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

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

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

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

PSC-36. SLAVERY DISCLOSURE ORDINANCE

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this Contract.

EXHIBIT 1**INSURANCE CONTRACTUAL REQUIREMENTS**

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

CONTRACTUAL REQUIREMENTS

CONTRACTOR AGREES THAT:

1. Additional Insured/Loss Payee. The CITY must be included as an Additional Insured in applicable liability policies to cover the CITY'S liability arising out of the acts or omissions of the named insured. The CITY is to be named as an Additional Named Insured and a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.

2. Notice of Cancellation. All required insurance will be maintained in full force for the duration of its business with the CITY. By ordinance, all required insurance must provide at least thirty (30) days' prior written notice (ten (10) days for non-payment of premium) directly to the CITY if your insurance company elects to cancel or materially reduce coverage or limits prior to the policy expiration date, for any reason except impairment of an aggregate limit due to prior claims.

3. Primary Coverage. CONTRACTOR will provide coverage that is primary with respect to any insurance or self-insurance of the CITY. The CITY'S program shall be excess of this insurance and non-contributing.

4. Modification of Coverage. The CITY reserves the right at any time during the term of this Contract to change the amounts and types of insurance required hereunder by giving CONTRACTOR ninety (90) days' advance written notice of such change. If such change should result in substantial additional cost to CONTRACTOR, the CITY agrees to negotiate additional compensation proportional to the increased benefit to the CITY.

5. Failure to Procure Insurance. All required insurance must be submitted and approved by the Office of the City Administrative Officer, Risk Management prior to the inception of any operations by CONTRACTOR.

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

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

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

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

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

9. Commencement of Work. For purposes of insurance coverage only, this Contract will be deemed to have been executed immediately upon any party hereto taking any steps that can be considered to be in furtherance of or towards performance of this Contract. The requirements in this Section supersede all other sections and provisions of this Contract, including, but not limited to, PSC-4, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

Exhibit 1 (Continued) Required Insurance and Minimum Limits

Name: _____ Date: _____

Agreement/Reference: _____

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

	<u>Limits</u>
<p>___ Workers’ Compensation – Workers’ Compensation (WC) and Employer’s Liability (EL)</p> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 45%;"> <p><input type="checkbox"/> Waiver of Subrogation in favor of City</p> <p><input type="checkbox"/> Longshore & Harbor Workers</p> <p><input type="checkbox"/> Jones Act</p> </div> <div style="width: 45%; text-align: right;"> <p>WC <u>Statutory</u></p> <p>EL _____</p> </div> </div>	
<p>___ General Liability</p> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 45%;"> <p><input type="checkbox"/> Products/Completed Operations</p> <p><input type="checkbox"/> Fire Legal Liability _____</p> <p><input type="checkbox"/> _____</p> </div> <div style="width: 45%; text-align: right;"> <p><input type="checkbox"/> Sexual Misconduct _____</p> </div> </div>	
<p>___ Automobile Liability (for any and all vehicles used for this Contract, other than commuting to/from work)</p>	_____
<p>___ Professional Liability (Errors and Omissions)</p>	_____
<p>___ Property Insurance (to cover replacement cost of building – as determined by insurance company)</p> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 45%;"> <p><input type="checkbox"/> All Risk Coverage</p> <p><input type="checkbox"/> Flood _____</p> <p><input type="checkbox"/> Earthquake _____</p> </div> <div style="width: 45%; text-align: right;"> <p><input type="checkbox"/> Boiler and Machinery</p> <p><input type="checkbox"/> Builder’s Risk</p> <p><input type="checkbox"/> _____</p> </div> </div>	
<p>___ Pollution Liability</p> <p><input type="checkbox"/> _____</p>	_____
<p>___ Surety Bonds – Performance and Payment (Labor and Materials) Bonds</p> <p>___ Crime Insurance</p>	<p>100 % of Contract Price</p> <p>_____</p>

Other: _____

Required Insurance and Minimum Limits

Name: _____

Date: _____

Agreement/Reference: Greek Theatre User Agreement

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

Limits

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

WC Statutory
EL \$1,000,000

Waiver of Subrogation in favor of City

Longshore & Harbor Workers
 Jones Act

General Liability _____ \$5,000,000

Products/Completed Operations

Sexual Misconduct _____

Fire Legal Liability _____

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

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

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

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

All Risk Coverage
 Flood _____
 Earthquake _____

Boiler and Machinery
 Builder's Risk

____ **Pollution Liability** _____

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

____ **Crime Insurance** _____

Other: _____

