

APPROVED

June 20 2021

BOARD REPORT

**BOARD OF RECREATION
AND PARK COMMISSIONERS**

NO. 24-145

DATE June 20, 2024

C.D. 1

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: ELYSIAN PARK – DONATION AGREEMENT WITH THE BROAD FOR THE PLANTING AND MAINTENANCE OF THE SOCIAL FOREST: OAKS OF TOVANGAAR PROJECT; CATEGORICAL EXEMPTION FROM THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO ARTICLE 19, SECTION 15301(h) [MAINTENANCE OF EXISTING LANDSCAPING, NATIVE GROWTH, AND WATER SUPPLY RESERVOIRS] AND SECTION 15304(b) [NEW GARDENING OR LANDSCAPING, INCLUDING THE REPLACEMENT OF EXISTING CONVENTIONAL LANDSCAPING WITH WATER EFFICIENT OR FIRE RESISTANT LANDSCAPING] OF CALIFORNIA CEQA GUIDELINES

* B. Aguirre <u>BA</u>	M. Rudnick _____
C. Stoneham _____	C. Santo Domingo _____
B. Jones _____	N. Williams _____



General Manager

Approved X Disapproved _____ Withdrawn _____

RECOMMENDATIONS

1. Approve a proposed three (3) year Agreement (Agreement) between the Department of Recreation and Parks (RAP) and The Broad (Organization) for a tree planting project (Project), in substantially the form attached as Attachment 1 to this Report;
2. Accept a donation from The Broad funded by a grant through the Getty Foundation and supplemented by The Broad for the donation and installation of 100 native trees and 100 boulders of various sizes, valued at approximately \$100,000, which includes the cost of the trees, boulders, and labor for installation;
3. Direct the Board of Recreation and Park Commissioners (Board) Secretary to transmit the proposed Agreement to the City Attorney for review and approval as to form;
4. Authorize the Board President and Secretary to execute the Agreement subsequent to all necessary approvals;
5. Determine that the Project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Article 19, Section 15301(h) [Maintenance of existing landscaping, native growth, and water supply reservoirs] and Section 15304(b) [New gardening or landscaping, including the replacement of existing conventional landscaping with water efficient or fire resistant landscaping] of California CEQA

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Guidelines and direct RAP staff to file a Notice of Exemption (NOE) with the Los Angeles County Clerk and the California Office of Planning and Research;

6. Authorize RAP's Chief Accounting Employee to prepare a check to the Los Angeles County Clerk in the amount of \$75.00 for the purpose of filing an NOE; and,
7. Authorize RAP staff to make any necessary technical changes consistent with the RAP Board's intent in approving this Report and proposed Agreement.

SUMMARY

RAP manages and provides stewardship over Elysian Park, the City's oldest park and a popular Los Angeles park-visitor destination, located at 929 Academy Road, Los Angeles, CA 90012, which includes natural features and developed facilities, including but not limited to, several trails, service roads, a recreation center, play areas, and arboretum, among other park amenities.

The Broad, a California 501(c)(3) exempt private foundation, is a contemporary art museum in downtown Los Angeles, home to 2,000 works of art in the Broad collection, which is among the most prominent holdings of postwar and contemporary art worldwide. The museum also has an active program of rotating temporary exhibitions and innovative audience engagement initiatives, including the proposed Project, which is an urban greening and reforestation effort that also draws inspiration from a prior major project by German artist and environmentalist Joseph Beuys in which 7,000 trees accompanied by stone markers were planted throughout Kassel, Germany, as a means of collectively reckoning with the traumas of World War II. The proposed Project, which consists of the planting of one hundred (100) native oak trees, and installation of one hundred (100) boulders of various sizes (Project) (as well as associated educational and cultural programming (Program) by the Organization to be detailed at a later date), addresses the overlapping issues of environmental justice and political and ecological reconciliation and restoration, focusing on the unique cultural, historical and environmental context of Elysian Park and Los Angeles.

The Organization is in partnership with indigenous Tongva (Gabrielino) leaders, community non-profit North East Trees, and the Friends of Elysian Park for the successful execution of the Project and Program. The durational relationship between the boulders and trees are part of this Project, including the natural growth of the trees and erosion of the stones over time. The boulder and tree placement will eventually provide a tree canopy, and the stones will serve the purpose of protecting the natural area while adding to the park's visual landscape. Tree planting, stone placement, and the associated Program is scheduled to commence in November 2024 and will be part of the 2024 PST ART: Art & Science Collide initiative (formerly known as "Pacific Standard Time" an initiative of the Getty with arts institutions across Southern California). The Organization and Organization's non-profit partner North East Trees have committed to performing tree maintenance for a term of three (3) years, which includes weeding and watering of the trees, and as-needed removal of graffiti from the boulders, at their sole cost and expense. North East Trees also has an existing tree planting project in the Park which was approved by the RAP Board in

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January 2022 which is non-related and separate from this Project. The Project site is shown by the Site Map in Attachment 1 to the proposed Agreement.

The trees and boulders will be installed in Section 9 of Elysian Park, along portions of Park Row Drive and Grand View Drive for approximately 4,000 linear feet, installed in coordination with, and subject to approval by RAP Forestry and Maintenance Staff. The tree species to be installed will be 15-gallon Coast Live Oak, Engelmann Oak, and Valley Oak trees, and the boulders will be thirty-six to forty-two inches wide (36"-42"). The trees will be planted approximately twenty (20) feet from the road, and the boulders and trees will be spaced thirty-five (35) feet apart. The donation is valued at approximately \$100,000, which includes the trees, boulders and cost of labor for installation. There is no on-site signage included as part of this project.

TREES AND SHADE

This Proposed Agreement consists of the planting of 100, 15-gallon Coast Live Oak (*Quercus agrifolia*), Engelmann Oak (*Quercus engelmannii*) and Valley Oak (*Quercus lobata*) trees which will eventually grow into tree canopies that will provide additional shade within certain areas of the Premises as described above.

ENVIRONMENTAL IMPACT

The proposed Project consists of the issuance of an agreement to use land involving minor alterations to its condition and new tree planting.

According to the Parcel Profile Report retrieved on May 20th, 2024, this area resides in a landslide area. The implementation of this Project should help prevent landslides rather than increasing the hydrogeological risk through the establishment of the trees through their root system will help stabilize the soil.

According to the parcel profile report retrieved On October 31, 2022, this area does not reside in a liquefaction coastal, methane, or historic zone, so there is no reasonable possibility that the proposed Project may impact an environmental resource of hazardous or critical concern or have a significant effect due to unusual circumstances. No other known projects would involve cumulatively significant impacts, and no future projects would result from the proposed Project.

As of May 20th, 2024, the State Department of Toxic Substances Control (DTSC) (Envirostor at www.envirostor.dtsc.ca.gov) and the State Water Resources Control Board (SWCB) (Geotracker at <https://geotracker.waterboards.ca.gov/>) have not listed the Project site or any contaminated sites near the Project area (within 500 feet). According to the Caltrans Scenic Highway Map there is no scenic highway located within the vicinity of the proposed Project or within its site.

Based on this information, RAP staff recommends that the Board determines that the proposed Project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant Article 19, Sections 15301(h) and 15304(b) of California CEQA Guidelines. Staff will file a Notice of Exemption with the Los Angeles County Clerk and California Office of Planning

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and Research upon Board approval.

FISCAL IMPACT STATEMENT:

There will be no fiscal impact to RAP's General Fund, as the Organization will be solely responsible for costs and expenses associated with the planting of trees and installation of boulders, and their maintenance for three years.

This report was prepared by Priya Macwan, Management Analyst, Sustainability and Partnership Sections and Joel Alvarez, Senior Management Analyst II, Partnership Section.

List of Attachments:

1. Proposed Agreement and Exhibits

**AGREEMENT
BETWEEN CITY OF LOS ANGELES
AND
THE BROAD
FOR IMPLEMENTATION OF THE
SOCIAL FOREST: OAKS OF TOVAANGAR PROJECT**

This AGREEMENT (“AGREEMENT”) is entered into as of _____, 2024, (“COMMENCEMENT DATE”) by and between the City of Los Angeles, a municipal corporation acting by and through its Board of Recreation and Park Commissioners (“CITY”), and The Broad, a California 501(c)(3) exempt private foundation (“ORGANIZATION”), for a native tree restoration project (“PROJECT”) within certain areas of Elysian Park (“PARK”). CITY and ORGANIZATION may be referred to herein individually as “PARTY” and/or collectively as “PARTIES.”

WHEREAS, CITY, through its Department of Recreation and Parks (“RAP”), owns and operates real property referred to as Elysian Park, located at 929 Academy Road, Los Angeles, CA 90012 (“PARK”), which is the City’s oldest park and a popular Los Angeles park-visitor destination, which contains a variety of natural features and developed facilities, including but not limited to, several park trails, service roads, a recreation center, play areas, and arboretum, among other park amenities. The areas of the PARK selected for the PROJECT (“PREMISES”), which are depicted in the site map attached hereto and incorporated herein by reference as Exhibit A; and,

WHEREAS, ORGANIZATION is a contemporary art museum in downtown Los Angeles which houses 2,000 works of art, and also has an active program of rotating temporary exhibitions and innovative audience engagement initiatives; and,

WHEREAS, the PROJECT, referred to as the “Social Forest: Oaks of Tovaangar” which consists of the planting of one hundred (100) Coast Live Oak, Engelmann Oak, and Valley Oak trees and the installation of one hundred (100) boulders of various sizes, including maintenance by the ORGANIZATION for a period of three (3) years, is inspired by a previous tree planting project in Germany that occurred in the 1980s, but in this case with a specific focus on the cultural, historical, and environmental context of Los Angeles; and,

WHEREAS, PROJECT funding shall be provided by The Getty Foundation through a grant awarded to the ORGANIZATION, and supplemented by ORGANIZATION; and,

WHEREAS, ORGANIZATION shall partner with indigenous Tongva (Gabrielino) leaders for educational and cultural programming (“PROGRAM”) associated with the PROJECT, as described in more detail in this AGREEMENT; and,

WHEREAS, PROJECT and PROGRAM support will also be provided by The Friends of Elysian Park and nonprofit North East Trees, as evidenced by the Letters of Support attached hereto and incorporated herein by reference as Exhibit B; and,

WHEREAS, the PROJECT scope of work has been reviewed and approved by the RAP Forestry and Maintenance Divisions, RAP is amenable to authorizing such use of the PREMISES and accepts the donation of trees and boulders, and the maintenance of said trees and boulders for a period of three (3) years, as more fully described herein; and,

WHEREAS CITY, through its Board of Recreation and Parks Commissioners (“BOARD”), has approved this AGREEMENT at the BOARD meeting held on date (Board Report No. XX-XXX), allowing for use of the PREMISES for the PROJECT in accordance with the terms and conditions of this AGREEMENT.

NOW THEREFORE, in consideration of the foregoing, the anticipated benefits to the public, and the terms and conditions set forth herein and the performance thereof, PARTIES hereby agree as follows:

1. **Use of PREMISES.** In consideration of the anticipated benefits to the public, the sufficiency of which is mutually acknowledged, CITY grants to ORGANIZATION by this AGREEMENT, the non-exclusive use of the PREMISES solely for the purpose set forth in Section 4 of this AGREEMENT (“PERMITTED USES”). The PREMISES authorized for use by ORGANIZATION under the terms and conditions of this AGREEMENT are as follows:
 - a. ORGANIZATION will be partnering with the non-profit organization, North East Trees, Inc. for the planting and care of 100 15-gallon Coast Live Oak, Engelmann Oak, and Valley Oak trees and the maintenance of 100 boulders which will be 36 to 42 inches wide in that portion of the PARK referred to as Section 9 (along Park View Drive and Grand View Drive), as depicted by the site map attached hereto as Exhibit A, within the same footprint that North East Trees, Inc. is planting a separate number of trees under a separate and non-related agreement with RAP. ORGANIZATION will be planting approximately 50% Coast Live Oak, 25% Engelmann Oak and 25% Valley Oak, subject to coordination and approval by the RAP Forestry Division.
 - b. ORGANIZATION will be contracting with a licensed landscape contractor for the installation of 100 boulders adjacent to the trees in the PROJECT area, as depicted by Exhibit A.
 - c. Boulder installation will occur in Summer and Fall 2024, and tree planting will begin in Fall 2024, and continue through 2025.
 - d. Any use of PARK areas not specifically depicted by Exhibit A which are necessary for use by ORGANIZATION under this AGREEMENT for ingress-egress and/or PROJECT staging, shall be subject to coordination with, and written approval by, the RAP Forestry and Maintenance Divisions in advance of any such activities taking place.

2. **TERM and Termination.** The term of this AGREEMENT (for ease of reference, shall be referred to herein as “TERM”) shall be three (3) years from the COMMENCEMENT DATE.

- a. Commencement and Expiration. This AGREEMENT shall take effect on the COMMENCEMENT DATE above and shall end upon the expiration of the TERM or the earlier of (i) a written termination notice from RAP or ORGANIZATION to the other, effective after sixty (60) calendar days from the date of issuance due to either an unfavorable PERFORMANCE REVIEW or termination for cause (including any breach or default of the provisions of this AGREEMENT) during the TERM; or, (ii) the date that ORGANIZATION ceases to operate as defined below in Section 2.c.; or, (iii) ORGANIZATION implements the general termination provision described herein.
- b. Termination. In addition to the CITY’s right to terminate this AGREEMENT for an uncured breach or default as set forth in Sections 17 and 18, CITY and ORGANIZATION may terminate this AGREEMENT upon written notice of termination given to the other PARTY no less than sixty (60) days prior to the date of termination. Further, CITY may immediately terminate this AGREEMENT in the event ORGANIZATION ceases to operate as defined below. CITY and ORGANIZATION reserve the right to terminate this AGREEMENT at their sole discretion for convenience, emergency, or necessity.

If CITY or ORGANIZATION should elect to terminate this AGREEMENT, ORGANIZATION agrees to immediately cease all operations and other activity, remove all personal property and equipment and to peacefully surrender the PREMISES to CITY within sixty (60) calendar days of receiving or providing a written notice of termination. If ORGANIZATION fails to remove all its personal property and equipment within said sixty (60) calendar days after termination of this AGREEMENT, CITY, at its option, may remove such property and equipment, in which event ORGANIZATION shall pay to the CITY, upon demand the reasonable cost of such removal, plus the cost of transportation and disposition thereof.

- c. Ceases to Operate. The phrase “ceases to operate” shall mean the first to occur of any of the following: (i) the termination (but not temporary suspension) of ORGANIZATION’s corporate charter or grant of non-profit status, unless the same is reinstated within ninety (90) calendar days after such termination; (ii) a material change in ORGANIZATION’s purposes or function as contained in ORGANIZATION’s corporate charter or grant of non-profit status (“Stated Purposes”); (iii) a material change in the delivery of services by ORGANIZATION from that described herein; or (iv) the failure of ORGANIZATION to use the PREMISES for any of the PERMITTED USES or any other default of the terms and conditions or other obligations contained in this AGREEMENT, for a consecutive period of ninety (90) calendar days,

unless prevented from doing so because of damage, destruction, major repairs or refurbishment of the improvements within the PREMISES, or for reasons beyond ORGANIZATION's control. Under such circumstances, ORGANIZATION shall immediately cease and desist from all use of the PREMISES, and this AGREEMENT shall be deemed terminated upon ORGANIZATION's receipt of such notification of immediate termination from RAP.

- 3. Access to PREMISES.** ORGANIZATION and any authorized third-party associated with ORGANIZATION's activities on the PREMISES shall abide by the terms and conditions expressed in this AGREEMENT, and shall cooperate fully with CITY and its employees in the performance of their duties. ORGANIZATION shall be responsible for the actions of any third-party involved with the PROJECT on the PREMISES at all times while such third-party is present on the PREMISES, and RAP Forestry and/or Maintenance staff shall be made aware by ORGANIZATION of such third-party activities.

ORGANIZATION's authorized use of the PREMISES shall be seven (7) days per week, from sunrise to sunset, in accordance with regular park operating hours ("PERMITTED TIMES").

ORGANIZATION shall hold tree planting events on the PREMISES for the purpose of planting 100 Oak trees and associated cultural and educational programming ("PROGRAM") in coordination with PROJECT partners, including indigenous Tongva (Gabrielino) leaders, community non-profit North East Trees, and the Friends of Elysian Park. RAP Forestry and/or Maintenance Division Staff shall be provided advance notice of such PROGRAM activities, at minimum fourteen (14) days in advance of the commencement of such PROGRAM activities. Such PROGRAM events are subject to coordination and approval by the RAP representatives listed in Section 20 of this AGREEMENT.

After the conclusion of the planting and boulder installation events and activities specified above, ORGANIZATION shall use the PREMISES for the remainder of the TERM for the maintenance of the 100 trees and boulders that will be planted and installed by ORGANIZATION and partners of ORGANIZATION, respectively, which will include watering, mulching, invasive plant removal and other tree care as needed, and boulder graffiti removal.

Authorized representatives, agents, and employees of RAP shall have the right to enter the PREMISES at any and all times for purposes of conducting maintenance, operations, or other RAP sponsored activities. In no event shall CITY be responsible or liable to ORGANIZATION for any inconvenience, disturbance, or other damage to ORGANIZATION by reason of the performance by CITY of any activities or work in, upon, above, or under the PREMISES, including but not limited to the transport of materials, tools, and/or equipment in, through, above, or underneath the PREMISES,

nor shall the same constitute any grounds for any payments or abatement of payments, hereunder.

CITY makes no warranties whatsoever regarding the condition of the PREMISES. ORGANIZATION has inspected the PREMISES and found it suitable for ORGANIZATION's purposes. CITY shall not be liable for any personal injury or damage to property which ORGANIZATION or its guests or invitees may incur (including injury or damage occurring in connection with ORGANIZATION's events or activities on the PREMISES), regardless of the cause thereof. ORGANIZATION hereby releases CITY from all such liability, it being the intent of the PARTIES that ORGANIZATION shall maintain adequate insurance to cover any such losses, as required in Section 10 of this AGREEMENT. If a governmental body with jurisdiction over the PREMISES and/or the CITY or RAP determines that a certain activity, or all of the activities conducted on the PREMISES are material threats to public safety as may be determined by the CITY, CITY may immediately suspend and/or terminate ORGANIZATION's right to conduct such activities on the PREMISES by providing written notice to ORGANIZATION of such immediate suspension. Such activities shall remain suspended until they are no longer deemed a threat to public safety, at which time the CITY shall promptly provide written notice to ORGANIZATION of same.

It is understood by PARTIES that the PREMISES is located in a public park and therefore shall not be considered exclusive to the ORGANIZATION, nor shall access to the PREMISES be restricted to the general public.

4. **PREMISES Defined and Permitted Uses.** ORGANIZATION shall not expand and/or change the scope of PERMITTED USES set forth in this Section without the prior written approval and consent of the BOARD through an amendment to this AGREEMENT. ORGANIZATION, at its sole cost and expense, shall:
- a. Use the PREMISES solely for the planting and maintenance of 100 Oak trees, and for the installation and maintenance of 100 boulders. The PROJECT includes the provision of educational programming in connection with the Broad Museum and associated PROJECT partners to restore the urban forest through planting, maintenance and programming related to environmental stewardship. ORGANIZATION shall be responsible for all costs and expenses related to its use of the PREMISES.
 - b. Assume sole responsibility for creating and enforcing protocols ensuring all persons participating in the described scope of work on the PREMISES comply with applicable CITY, State, and/or Federal protocols for employees, volunteers, contractors and subcontractors engaging in the PERMITTED USES described herein, including maintenance, such as, certifications, licensing, California DOJ background checks, Live Scan fingerprinting, and including but not limited to compliance with California Assembly Bill 506. ORGANIZATION shall, at its sole expense, obtain and maintain information and documentation verifying its compliance with this provision and the results

- of such compliance and provide such information and documentation to RAP upon request.
- c. Punctually pay or cause to be paid all ORGANIZATION financial obligations incurred in connection with the operation and maintenance of the PREMISES as set forth in this AGREEMENT. ORGANIZATION shall discharge or provide for the discharge of all claims authorized or incurred for labor, equipment, materials, and supplies furnished in connection with ORGANIZATION's use of the PREMISES to the extent such claims do not arise due to any CITY action or omission.
 - d. Prohibit and prevent the dispensing and/or consumption of beer, wine or other intoxicating liquors (commonly referred to as alcoholic beverages) on the PREMISES.
 - e. Ensure that no merchandise shall be sold or authorized to be sold on the PREMISES by ORGANIZATION or otherwise without the prior written consent of the RAP General Manager or his or her designee. Commercial activities are not authorized by RAP and shall not be allowed to occur within the PREMISES or surrounding/adjacent PARK property, unless written approval is provided in advance by the RAP General Manager or designee, and/or the BOARD (if applicable). No products grown or cultivated within the PREMISES may be sold or used for for-profit commercial purposes.
 - f. Ensure that no photographs of minors or depiction of their likeness is included in any publication without obtaining prior written consent from the child's parent or legal guardian. The documentation of this written consent must be provided to RAP prior to photographs being taken.
 - g. Obtain any and all operating permits and/or licenses that may be required in connection with its operations, including but not limited to tax permits, business licenses, health permits, certifications, etc.
 - h. Not charge any fees for participation in PROGRAM or events at the PREMISES.
 - i. Not sublet the PREMISES, or assign this AGREEMENT, and/or its obligations to another entity without RAP's prior written authorization.
 - j. Assume responsibility for the actions of all individuals and/or organizations participating in the PROGRAM on the PREMISES, and ensure that such individuals and/or organizations agree in writing to abide by all conditions set forth in this AGREEMENT.
 - k. Employees of ORGANIZATION and/or persons working on its behalf, including, but not limited to, subcontractors and volunteers (collectively, "Contractor

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

5. Performance Requirements and Use Restrictions. ORGANIZATION shall use and maintain the PREMISES in accordance with the following.

ORGANIZATION shall:

- a. Complete the PROJECT in accordance with the terms and conditions of this AGREEMENT.
- b. Be responsible for conducting tree and boulder maintenance within the PREMISES, in coordination with RAP, which will be supplemented by ORGANIZATION’s ongoing planting work. ORGANIZATION shall coordinate such planting boulder installation activities and related work in advance with the RAP Maintenance and the Forestry Divisions.
- c. Provide RAP with a layout of the future tree planting locations prior to the scheduled tree planting events, subject to the approval of RAP Maintenance and Forestry Divisions.
- d. After completion of the initial plantings, ORGANIZATION shall promptly notify RAP, and RAP shall conduct an inspection of the PREMISES. Upon approval

by RAP, ORGANIZATION shall maintain the plantings located within the PREMISES in accordance with the terms and conditions of this AGREEMENT. ORGANIZATION shall promptly correct any deficiencies in the installation or maintenance of the PROJECT as may be identified by RAP.

- e. ORGANIZATION will replace any broken, vandalized or dead plant material installed by ORGANIZATION, within 90 days after final inspection. All ORGANIZATION activities as set forth in this AGREEMENT shall comply with applicable RAP standards and regulations.
6. **Days and Periods of Use.** The hours and days of the operation and maintenance of the PREMISES are sunrise to sunset daily, which varies depending on the season of the year (“PERMITTED TIMES”). ORGANIZATION shall not utilize PREMISES during hours other than the authorized PERMITTED TIMES, without prior written authorization. ORGANIZATION shall cooperate with RAP personnel and staff on all matters relative to the conduct of operations or any activity, event, and/or special use, including concerns related to parking, traffic, security, and attendance, on the PREMISES.
 7. **Parking.** ORGANIZATION, associated staff, public patrons and/or guests, whether or not involved in ORGANIZATION activities on the PREMISES, shall have the non-exclusive right to park vehicles within any available parking spaces on the PREMISES on a first-come-first-served basis. If such parking is metered or normally requires a fee, ORGANIZATION, associated staff, public patrons and/or guests shall be required to adhere to established parking requirements. Exclusive or designated parking shall not be allowed, unless previously approved in writing by RAP.
 8. **Funding.** All funds, including grants, donations, or any other funds received by ORGANIZATION in connection with and/or specified for, the PREMISES or related to matters covered by this AGREEMENT, or generated from programs or activities conducted on the PREMISES, shall be applied exclusively to the operation of the PROGRAM and maintenance of the PROJECT, and shall be strictly accounted for as provided herein. Such funds shall not be commingled with other funds of ORGANIZATION unrelated to this AGREEMENT and/or the operation and maintenance of the PREMISES. If for any reason ORGANIZATION fails to secure necessary funding to carry out its obligations and commitments under this AGREEMENT, CITY may and can terminate this AGREEMENT pursuant to a Breach and Default of this AGREEMENT.
 9. **Maintenance and Repair of PREMISES.** During the TERM of this AGREEMENT, and subject to the terms and conditions contained herein, PARTIES agree to the following provisions for the Maintenance and Repair of the PREMISES as described herein.
 - a. Pursuant to the mutual agreement of PARTIES, ORGANIZATION shall use and maintain the planted trees and installed boulders (collectively,

- “IMPROVEMENTS”) within the PREMISES, efficiently and economically at its sole cost and expense, and shall perform the functions of maintenance and repair of the IMPROVEMENTS, providing all materials, supplies, equipment, and funds necessary to perform appropriate maintenance and required repair or restoration to the reasonable satisfaction of CITY.
- b. ORGANIZATION accepts the PREMISES in its current condition and hereby assumes all risk of injury, loss or damage, which may result from any defective conditions of the PREMISES or which may otherwise arise by reason of the use of the PREMISES, and releases and discharges the CITY from any claims therefore. CITY shall not have any obligation to repair, remodel, replace, and/or reconstruct any building, facility, feature, or portion of the PREMISES, nor any appliance or fixture thereon, whether installed by CITY or ORGANIZATION, and regardless of cause.
 - c. ORGANIZATION, in performing any required maintenance, repair, and/or restoration of the IMPROVEMENTS, shall provide all staff and materials, supplies, equipment, and funds necessary to perform such maintenance, repair, and/or restoration appropriately to the satisfaction of CITY, whether through ORGANIZATION personnel or contracted vendors. However, all required repairs shall be performed by qualified personnel, subject to applicable certifications and licenses as determined by RAP. All maintenance and/or repairs shall be performed to the reasonable satisfaction of CITY and in consultation with RAP. Prior review and written approval by RAP is required before any such repair work is performed, with the exception of emergencies and matters impacting public safety.
 - d. Provide sufficient staff necessary to perform the operation and maintenance of the PROGRAM, providing all materials, supplies, equipment, and funds necessary to provide the public with such recreational opportunities to the reasonable satisfaction of RAP, at its sole cost and expense.
 - e. ORGANIZATION shall perform the following maintenance duties on a regular basis:
 - i. Inspect trees for damage, prune, weed, mulch, water and replace trees if needed to ensure the health of the PREMISES;
 - ii. Conduct as-needed vandalism repair, including removal of graffiti, of the boulders;
 - iii. Maintain PREMISES in a clean condition removing all trash and natural debris related to or generated by the PROJECT;

- iv. Assist RAP in preventing any trash or debris matter or material from being or accumulating upon said PREMISES such that it is clearly visible to public view; and,
 - v. Maintain the PREMISES in a manner that is consistent and in compliance with all Federal, State, County and local regulations, orders and guidelines, including but not limited to health and safety orders and guidelines related to COVID-19 and all fire safety standards, practices and regulations for the PREMISES.
- f. ORGANIZATION shall ensure that no offensive or dangerous materials, nor any substance constituting an unnecessary, unreasonable or material hazard detrimental to the public health, is permitted or allowed to remain on the PREMISES.
- g. ORGANIZATION shall be responsible for securing ORGANIZATION's equipment and materials that may be on the PREMISES during PERMITTED TIMES and ensuring the same for any equipment or materials left on the PREMISES during non-operating hours. CITY and/or RAP shall not be responsible for the security of ORGANIZATION's personal property at any time, whether before, during, or after PERMITTED TIMES, including but not limited to equipment, supplies, materials, vehicles, or personal items.
- h. ORGANIZATION shall immediately repair, or cause to be repaired, any damages to the PREMISES which occur during ORGANIZATION's operations and/or are a risk to public safety, or that is caused by ORGANIZATION's contractors or vendors. ORGANIZATION acknowledges that any damage which remains unrepaired may constitute a hazard to public safety, requiring that all use of the PREMISES immediately cease. To the extent that needed repairs are not made, ORGANIZATION waives any and all claims against CITY for damages or indemnification as a result of the failure to make repairs.
- i. ORGANIZATION shall be responsible for providing and funding all as-needed maintenance, repair, and/or restoration as required in response to any infestations impacting the 100 planted trees, and any vandalism and/or graffiti impacting the planted trees and/or boulders within the PREMISES.
- j. ORGANIZATION shall immediately report any damages to the PREMISES which occur during ORGANIZATION's operations, or by vandalism, and any measures taken for its restoration, refurbishment, or maintenance. ORGANIZATION acknowledges that any damage which remains unrepaired may constitute a hazard to public safety, requiring that all use of the PREMISES immediately cease. ORGANIZATION shall be responsible for any damage to the PREMISES caused by ORGANIZATION's PROGRAM activities, its participants, vendors, contractors, or other entity associated with PROGRAM activities.

- k. Except as may be expressly provided in this AGREEMENT, in no event shall CITY be required to repair or obligated to perform any maintenance, or to make any repairs, changes, alterations, additional improvements or replacements of any nature whatsoever, to the IMPROVEMENTS on the PREMISES or any pre-existing improvements thereon, or any part thereof, at any time during the TERM of this AGREEMENT.
- l. If ORGANIZATION requests CITY to provide any repairs, services or maintenance, ORGANIZATION shall pay for such repairs, services, or maintenance at actual cost, including costs incurred by City, as determined by RAP. CITY may require a cash deposit in advance.
- m. ORGANIZATION shall be allowed to perform emergency maintenance and repairs within the PREMISES, as required to prevent hazardous conditions and ensure the safety of the public. ORGANIZATION shall provide notification to RAP of any such needed repairs within forty-eight (48) hours from completion of the required work.
- n. To the extent that needed repairs are not made, ORGANIZATION waives any and all claims against CITY for damages or indemnification as a result of the failure to make repairs.

10. Insurance. Before accessing and using the PREMISES under this AGREEMENT, and periodically as required during its TERM, ORGANIZATION shall furnish CITY with evidence of insurance on an annual basis, from firms reasonably acceptable to CITY and approved to do such business in the State of California. ORGANIZATION or any third party providing work or services under this AGREEMENT shall name the City of Los Angeles and its boards, officers, agents, employees, assigns and successors in interest as an additional insured for all required coverage(s), as applicable. ORGANIZATION will ensure that like insurance will be maintained by any such third party. Evidence of required coverage shall be on forms reasonably acceptable to CITY's Risk Manager and shall include the types and minimum limits set forth in Exhibit C attached hereto and incorporated herein by reference.

- a. ORGANIZATION shall maintain all such insurance at its sole cost and expense throughout the TERM of this AGREEMENT. CITY may, by applying generally accepted risk management principles, change the required amounts and types of insurance to be effective at the renewal date of the insurance then in effect by giving ORGANIZATION sixty (60) calendar days written notice, provided that such amounts and/or types shall be reasonably available to ORGANIZATION.
- b. If any of the required insurance contains aggregate limits or applies to other operations of ORGANIZATION outside of this AGREEMENT, ORGANIZATION shall give CITY written notice of any incident, occurrence, claim, settlement or judgment against such insurance that in ORGANIZATION's best judgment may

diminish the protection such insurance affords CITY within thirty (30) calendar days of the knowledge of same. ORGANIZATION shall further restore such aggregate limits or shall provide other replacement insurance for such aggregate limits within sixty (60) calendar days of the knowledge of same.

- c. If an insurance company elects to (i) cancel insurance before the stated expiration date, (ii) declines to renew in the case of a continuous policy, (iii) reduces the stated limits other than by impairment of an aggregate limit or (iv) materially reduces the scope of coverage, thereby affecting CITY's interest, ORGANIZATION shall provide CITY at least thirty (30) calendar days prior written notice of such intended election by the insurance company, or ten (10) calendar days prior written notice if such cancellation is for non-payment of premium.

Such notice shall be sent by receipted delivery addressed as follows:

City Administrative Officer, Risk Management
200 North Main Street, Room 1240, City Hall East
Los Angeles, California 90012

Or to such address as CITY may specify by written notice to ORGANIZATION.

- d. ORGANIZATION's failure to procure and maintain the required insurance shall constitute a material breach of this AGREEMENT under which CITY may either (i) provide ORGANIZATION five (5) calendar days written notice of such failure, upon receipt of which ORGANIZATION shall have five (5) calendar days to cure such failure or CITY shall have the right to terminate the AGREEMENT or, (ii) at its discretion, pay to procure or renew such insurance to protect CITY's interest. ORGANIZATION agrees to reimburse CITY for all money so paid.
- e. Self-insurance programs and self-insured retention in insurance policies are subject to separate approval by CITY upon review of evidence of ORGANIZATION's financial capacity. Additionally, such programs or retention must provide CITY with an equivalent protection from liability.

11. Indemnification. Except for the active negligence or willful misconduct of CITY, or any of its boards, officers, agents, employees, assigns and successors in interest, ORGANIZATION 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, (1) 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), (2) damages or liability of any nature whatsoever, (3) for death or injury to any person, including ORGANIZATION's employees and agents, or (4) 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 ORGANIZATION, its 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 AGREEMENT. This provision will survive expiration or termination of this AGREEMENT.

ORGANIZATION is aware of the condition of the PREMISES and accepts the PREMISES in its present condition, and agrees to abide by all health and safety regulations and orders. ORGANIZATION has carefully reviewed this document, understands its contents, and signs it voluntarily, without being subject to coercion.

ORGANIZATION further acknowledges and agrees that it knowingly and freely assumes all COVID-19 related risks, both known and unknown, relating to exercising the terms and conditions of this AGREEMENT and ORGANIZATION hereby forever releases, waives, relinquishes, and discharges CITY, along with its officers, agents, employees, or other representatives, and their successors and assigns, from any and all COVID-19 related claims, demands, liabilities, rights, damages, expenses, and causes of action of whatever kind or nature, and other losses of any kind, whether known or unknown, foreseen or unforeseen, as a result of ORGANIZATION's performance under this AGREEMENT, including but not limited to personal injuries, death, disease or property losses, or any other loss, and including but not limited to claims based on the alleged negligence of any City Representative or any other person related to COVID-19 sanitization. ORGANIZATION further promises and agrees to indemnify and hold CITY harmless from any and all damages resulting from the contraction of COVID-19.

- 12. Non-Discrimination.** ORGANIZATION shall not discriminate unlawfully against any individual because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. ORGANIZATION shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

ORGANIZATION agrees that in the event of breach of any of the above nondiscrimination covenants, with proper notification as per Section 19, CITY shall have the right to terminate this AGREEMENT and to reenter and repossess said land and the facilities thereon and hold the same as if said AGREEMENT had never been executed.

- 13. Publicity.** Should there be the need, CITY and ORGANIZATION agree to cooperate and coordinate with respect to the nature, text, and timing of any press release or public announcement(s) concerning the existence of this AGREEMENT, the use of the PREMISES or promotion of the PROJECT or construction of any additional improvements on the PREMISES in connection with this AGREEMENT or PROJECT, except as may be legally required by applicable laws, regulations, or judicial order. Such cooperation and coordination shall occur prior to the release of any such press

release or public announcement(s). PARTIES agree to notify each other in writing prior to the release or use of any such press release, public announcement, marketing or promotion of the PREMISES prior to implementation with respect to the ORGANIZATION's use of the PREMISES. Further, any press release, public announcement, marketing materials, or brochures prepared by either CITY or ORGANIZATION shall appropriately acknowledge the contributions of both PARTIES and shall be subject to prior approval by RAP before release.

To the extent stipulated in any grant agreement, with respect to the PROJECT and the use of the PREMISES in connection thereto, CITY and ORGANIZATION shall duly notify any grantors, and each other, prior to any public or media event publicizing the accomplishments funded by any grant agreement, and shall provide the opportunity for attendance and participation by representatives. Further, CITY and ORGANIZATION shall coordinate the scheduling and organization of any public or media event to provide the opportunity for attendance and participation by officials and/or representatives of both CITY and ORGANIZATION, including elected officials and public officials. Similarly, any document, written report, or brochure prepared by either CITY or ORGANIZATION, in whole or in part, with respect to the use of the PREMISES in connection thereto, shall contain any acknowledgements required under any grant agreement.

- 14. Signage.** No signs or banners of any kind will be displayed by ORGANIZATION unless previously approved in writing by RAP and the BOARD when required pursuant to RAP policy and protocol(s), and/or the RAP General Manager or his or her designee. RAP may require removal or refurbishment, at ORGANIZATION's expense, of any sign previously approved by RAP and installed, or caused to be installed, by ORGANIZATION.
- 15. Filming.** It is the policy of the CITY to facilitate the use of City-controlled properties as film locations when appropriate. RAP has established a Park Film Office to coordinate use of park property for film production purposes. Any commercial filming on the PREMISES shall be subject to approval by RAP and the Film Office. All fees for use of the PREMISES by film production companies shall be established and collected by the Film Office in accordance with CITY and RAP policies. The Park Film Office may be reached at (323) 644-6220. ORGANIZATION shall not charge any fees for film production conducted on the PREMISES.
- 16. Taxes and Possessory Interest.** ORGANIZATION shall pay all taxes of whatever character that may be levied or charged upon the rights of ORGANIZATION to use the PREMISES, or upon ORGANIZATION's improvements, fixtures, equipment, or other property thereon or upon ORGANIZATION's operation hereunder. In addition, by executing this AGREEMENT and accepting the benefits thereof, a property interest may be created known as a "Possessory Interest" and such property interest will be subject to property taxation. ORGANIZATION, as the PARTY in whom the Possessory Interest is vested, may be subject to the payment of the property taxes levied by the State and County upon such interest.

17. Breach or Default by ORGANIZATION. The following occurrences constitute events of breach or default of this AGREEMENT: ORGANIZATION materially fails in the performance of any provision or condition of this AGREEMENT, such as failure to maintain required insurance coverage, failure to comply with applicable legal requirements, or failure to fulfill the obligation to operate, maintain and repair the PREMISES as specified herein. ORGANIZATION's attempt to assign rights or obligations under this AGREEMENT without CITY's prior written consent shall also constitute an event of breach or default.

18. Breach or Default by ORGANIZATION – CITY's Remedies. Upon the occurrence of one or more events of breach or default by ORGANIZATION, CITY may, at its election and without waiving any right to select any other remedy provided in this Section or elsewhere in this AGREEMENT, initiate any of the following:

- a. Notice to Cure Breach or Default. CITY may issue a written notice of breach or default to ORGANIZATION, and if ORGANIZATION does not cure said breach or default within thirty (30) calendar days of receipt of said notice, CITY may, by delivering a second written notice to ORGANIZATION, terminate this AGREEMENT without further delay, whereupon ORGANIZATION shall vacate the PREMISES within fourteen (14) calendar days. For a breach or default involving sanitary or safety conditions, the cure period is reduced to seven (7) calendar days.
- b. CITY's Right to Cure. CITY at its sole discretion and with no obligation to do so, subject to any applicable conditions and limitations set forth elsewhere in this AGREEMENT, may, after a continuing breach or default by ORGANIZATION, perform or cause to be performed any of ORGANIZATION's unperformed obligations under this AGREEMENT. CITY may enter the PREMISES and remain there for the purpose of correcting or remedying the continuing breach or default. Such action by CITY shall not be deemed to waive or release said breach or any default or CITY's right to take further, preventative action.

19. AGREEMENT NOTICES AND CONTACTS. Any notice, request for consent, or statement ("NOTICE"), that RAP or ORGANIZATION is required or permitted to give or cause to be given to the other, shall be in writing and shall be delivered or addressed as set forth below. Either RAP or ORGANIZATION may designate a different address for any NOTICE by written statement to the other in accordance with the provisions of this Section. NOTICES shall be delivered personally or sent by confirmed facsimile transmission, by reliable courier providing tracking services, or by deposit with the United States Postal Service with postage prepaid and return receipt requested.

All NOTICES shall be addressed as follows:

ORGANIZATION: The Broad
c/o Sarah Loyer, Curator and Exhibitions Manager
221 South Grand Avenue
Los Angeles, CA 90012
SLoyer@thebroad.org
(213) 232-6231

CITY: City of Los Angeles Department of Recreation and Parks
Attn: Partnership Section
221 N. Figueroa Street, Suite 180
Los Angeles, CA 90012
(213) 202-5600
rap.partnerships@lacity.org

With a copy to: City of Los Angeles Department of Recreation and Parks
Griffith Park Park Services Division
Attn: Stefanie Smith, Griffith Region Superintendent
3900 Chevy Chase Drive,
Los Angeles, CA 90039
(323) 661-9465
stefanie.smith@lacity.org

20. PROJECT AND PROGRAM NOTICES AND CONTACTS. The following are the primary contacts for day to day PROJECT-related coordination and maintenance, and PROGRAM-related coordination.

Contacts for ORGANIZATION:
Sarah Loyer, Curator and Exhibitions Manager
SLoyer@thebroad.org
(213) 232-6231

Alysa Gerlach, Chief Operating Officer
Agerlach@thebroad.org
(213) 232-6276

Contacts for RAP:
Julio Hernandez, Principal Grounds Maintenance Supervisor, Metro Region
julio.hernandez@lacity.org
(310) 732-3550

Eduardo Hernandez, Park Maintenance Supervisor, Elysian District
eduardo.m.hernandez@lacity.org
(213) 485-3287

21. Representations and Warranties. PARTIES each represents and warrants to the other that it has full power and authority to execute this AGREEMENT and to perform

its obligations and requirements hereunder. This AGREEMENT constitutes the valid and legal binding obligation of PARTIES, enforceable in accordance with its terms and conditions.

- 22. No Joint Venture or Agency Relationship.** Nothing herein contained shall be construed to place the PARTIES to this AGREEMENT in the relationship of a joint venture, association, partnership, or other form of a business organization or agency relationship. ORGANIZATION shall have no power to obligate or bind CITY in any manner whatsoever. Under no circumstances will the ORGANIZATION represent itself to be an agent of the CITY or any of its departments. Nothing in this AGREEMENT may be construed to have authorized or vested in ORGANIZATION the power to be an agent of the CITY or an actor under the color of law, be it civilly or criminally.
- 23. Relationship of Parties.** PARTIES agree that no other party shall have any right, power, or authority to assume, create, or incur any expense, liability, or obligation, expressed or implied, on behalf of any other party, except as expressly provided herein.
- 24. Safe Practices.** ORGANIZATION shall correct violations of safety practices during its PERMITTED USES immediately and shall cooperate fully and in good faith with CITY in the investigation of accidents or deaths occurring on the PREMISES. In the event of death or serious injury (requiring an emergency room hospital visit), ORGANIZATION must notify the RAP contacts referenced in Section 20 as soon as possible but no later than twenty-four (24) hours after the incident by telephone call with a follow-up email notice. Notice of non-serious injuries occurring on the PREMISES shall be provided to RAP within seventy-two (72) hours. ORGANIZATION shall keep internal documentation of the incident(s) during the previous two (2) years and provide RAP with such information upon request.
- 25. Suspected Child Abuse.** ORGANIZATION or ORGANIZATION's parents, volunteers, agents, contractors and subcontractors, and/or any person participating in ORGANIZATION's PROGRAM or activities on the PREMISES must contact the Los Angeles County Child Protection Hotline to report any suspected child abuse on the PREMISES. ORGANIZATION will notify RAP contacts listed in Section 20 within twenty-four (24) hours of any such report.
- 26. Hazardous Substances and Environmental Sensitivity.** PARTIES agree that the PREMISES shall be used in a manner consistent with its intended public recreational purposes and within the scope of use set forth above. ORGANIZATION shall use the PREMISES in compliance with laws pertaining to hazardous substances and ensure that no pesticides, insecticides, herbicides and rodent poisons not in compliance with this Section are used on the PREMISES. As used herein, "hazardous substances" shall mean any product, chemical, material or waste whose nature, quantity and/or intensity of presence, use, manufacture, disposal, transportation, spill, release or effect, either by itself or in combination with other such substances, is either: (a)

potentially injurious to public health, safety or welfare or injurious to the environment; (b) regulated or monitored by any governmental authority; or (c) a basis for liability of CITY or ORGANIZATION to any governmental agency or third party under applicable statute. No lead or oil-based paint, paint thinner, varnishes, lacquers and stain shall be brought onto or stored on the PREMISES.

ORGANIZATION must operate the PREMISES in an environmentally sensitive manner and must comply with RAP policies regarding protection of the environment. ORGANIZATION shall not use or allow the use of environmentally unsafe products of any kind on the PREMISES.

27. Ratification. At the request of RAP, and because of the need therefore, ORGANIZATION may have begun performance of the responsibilities herein required prior to the execution hereof. By its execution hereof, RAP hereby accepts such services subject to all the terms, covenants, and conditions of this AGREEMENT, and ratifies its AGREEMENT with ORGANIZATION for such services.

28. Ordinances and Standard Provisions. The “Standard Provisions for City Contracts (Rev. 09/22)[v.1]”; (Standard Provisions) are incorporated herein by reference and attached hereto as Exhibit D. If there is any conflicting language between the “Standard Provisions for City Contracts (Rev. 09/22)[v.1]” and this AGREEMENT, the language of this AGREEMENT shall prevail. In addition, ORGANIZATION will provide documentation of compliance with all required Ordinance Provisions as determined by CITY. For purposes of the Standard Provisions, the term “Contractor” shall mean ORGANIZATION.

29. Incorporation of Documents. This AGREEMENT and incorporated documents represent the entire integrated agreement of the PARTIES and supersedes all prior written or oral representations, discussions, and agreements. The following documents are incorporated and made a part hereof by reference.

EXHIBIT A: Site Map

EXHIBIT B: Letters of Support

EXHIBIT C: Insurance Requirements and Instructions for Submission

EXHIBIT D: Standard Provisions for City Contracts (Rev. 09/22)[v.1]

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; Exhibit C; and 5) Exhibit D.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

CITY:

CITY OF LOS ANGELES, a municipal corporation, acting by and through its BOARD OF RECREATION AND PARK COMMISSIONERS

By signing below, the signatory attests that they have no personal, financial, beneficial, or familial interest in this Agreement.

By: _____
President

By: _____
Secretary

Date: _____

ORGANIZATION:

THE BROAD, a California 501(c)(3) exempt private foundation

By: _____

Title: _____

By: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

HYDEE FELDSTEIN SOTO, City Attorney

By: _____
Brendan Kearns, Deputy City Attorney

Date: _____

EXHIBIT A
Site Map

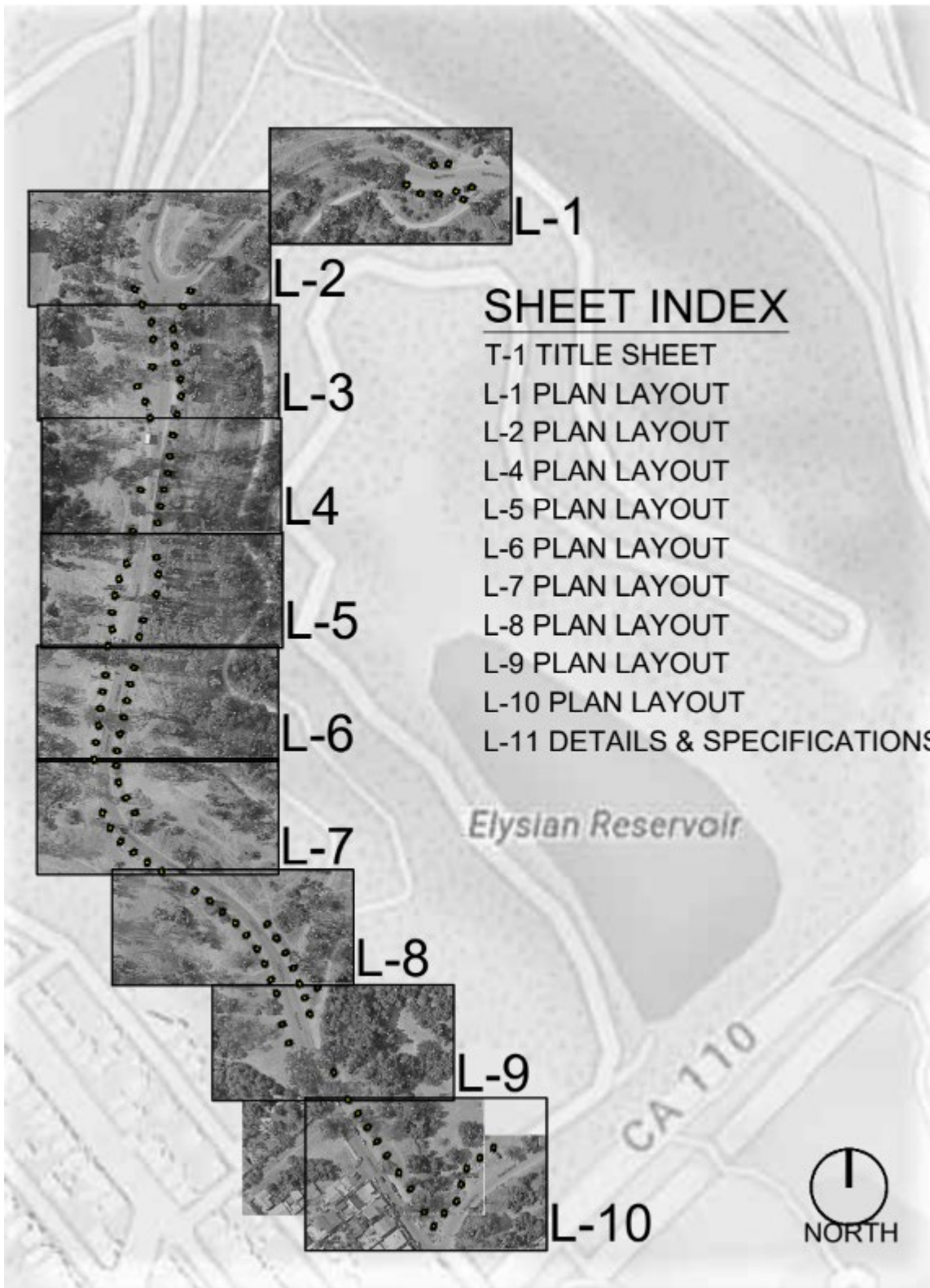


EXHIBIT B
Letters of Support



North East Trees
Bringing Nature Back

February 2023

Attn: Pacific Standard Time: Art x Science x LA Research Grants
The Getty Foundation 1200 Getty Center Drive, Suite 800
Los Angeles, CA 90049-1685 U.S.A.

Dear Joan Weinstein,

We are submitting this letter as proof of our partnership with The Broad for the reforestation artwork *Joseph Beuys: 7000 Oaks*. Inspired by Joseph Beuys work, the project will be activated in the Fall of 2024 as part of the Getty Foundation’s Pacific Standard Time: Art x Science x LA initiative.

North East Trees (NET) is a grassroots, community-based environmental non-profit 501(c)(3) organization that designs and builds parks and creates green space and water conservation projects throughout Los Angeles. To do this NET hires and trains young adults from under-served communities on urban forestry projects, with the goal of beautifying their city, increasing the urban canopy, and launching vital careers in the growing environmental sector. Our team includes an ISA certified arborist, urban forestry specialists, designers, project managers, and landscape architects.

Since our inception in 1989, the organization has planted over 100,000 trees, trained, and employed hundreds of local youths, and designed and built over 50 parks and projects, including 25 LA River parks. NET uses a community-driven engagement process, centered around modern arboriculture, urban forestry, plant science, social science, habitat restoration, and a hands-on approach that empowers community members to take an active role in greening their communities. We specialize in working with communities to identify neglected areas or distressed parcels of land and we collaborate with these communities and agency stakeholders to create safe, inviting green spaces. The process is a model that has been recognized and adopted by other organizations in Southern California.

The Broad’s 7000 Oaks project aims to plant approximately one hundred trees including twenty-five coast live oak (*Quercus agrifolia*) and other companion trees, each accompanied by a stone marker. The main site for this large-scale installation is proposed for Elysian Park with a smaller number of trees proposed for the Kuruvungna Village Springs. The project addresses environmental justice and political and ecological reconciliation and restoration in the unique cultural, historical, and environmental context of Los Angeles, therefore aligning with our overall mission.

NET has an active agreement with the City of Los Angeles Department of Recreation and Parks to work and plant in Elysian Park, as well as extensive knowledge of the park’s topography and best planting sites. NET is the recipient of CALFIRE Urban Greening in Northeast LA (NELA) grant that we are proposing to leverage for this project in order to contribute 100 seedlings as well as finance tree maintenance for the crucial three-year period after planting.

Oak habitats in California have been greatly reduced over the past forty years and planting efforts can assist in establishing sufficient young seedlings to replace trees that die or are removed. By collaborating with our partners in this reforestation effort, NET is not only fulfilling its mission of increasing urban canopy but encouraging a deeper understanding of the importance of such efforts and the intricate connectivity between the land and its inhabitants.

Sincerely,

 Digitally signed by Janet
DN: cn=Janet, o=North East Trees,
Inc., ou=Schulman,
email=janel@northeasttrees.org,
c=US
Date: 2023.02.10 15:06:56 -0800

Janet Schulman
Interim Executive Director

CC: Aaron Thomas, Director of Urban Forestry (NET), Joe Laskin, Director of Development (NET)

North East Trees | Los Angeles River Center | 570 W Ave 26 Ste. 200 | Los Angeles, CA 90065 | www.northeasttrees.org |
(323) 441-8634 | NET is a 501(c)(3) non-profit organization registered in California. Gifts to NET are tax-deductible to the
extent of the law. Our tax ID is 95-4320174.



January 2023

To whom it may concern,

Friends of Elysian Park (formerly known as the Citizens Committee to Save Elysian Park) is a volunteer-run driven organization founded in 1965 by Grace E. Simons, a local resident, and park user. Since its inception, Friends of Elysian Park has pushed back on a variety of proposals, working to protect and enhance Elysian Park's incredible beauty for future generations. Friends of Elysian Park is the park's leading community organization, working closely with the City of Los Angeles Department of Recreation and Parks.

We are submitting this letter to express our support for The Broad's project inspired by Joseph Beuys's reforestation artwork *7000 Eichen (7000 Oaks)* to be activated in the Fall of 2024 as part of the Getty Foundation's Pacific Standard Time: Art x Science x LA initiative.

The Broad's project aims to plant approximately one hundred coast live oak (*Quercus agrifolia*) and other companion trees, each accompanied by a stone marker. Speaking to environmental justice and political and ecological reconciliation and restoration, this environmental artwork will address the unique cultural, historical, and environmental context of Los Angeles. The Broad is working in partnership with North East Trees (NET), a community-based, non-profit organization that designs and builds parks and creates green space and water conservation projects throughout Los Angeles, often in LA's most underserved communities. NET has extensive experience working in Elysian Park and with our organization in particular. Their efforts to create a thriving and healthy oak woodland community include the planting of companion trees such as black walnut (*Juglans californica*), Mexican elderberry (*Sambucus mexicana*), toyon (*Heteromeles arbutifolia*) and laurel sumac (*Malosma laurina*) as well as a careful study of the park's topography to determine the best planting sites.

Oak habitats in California have been greatly reduced over the past forty years and planting efforts can assist in establishing sufficient young seedlings to replace trees that die or are removed. We are glad the proposal includes sustained maintenance of the trees and markers to ensure that the magnificent native oaks, which have graced our valleys and hillsides for thousands of years, will survive to maturity and be around for the enjoyment of future generations.

This project therefore aligns with our mission, and we are excited to express our endorsement and support.

Sincerely,

Friends of Elysian Park

EXHIBIT C Insurance Requirements

Form Gen. 146 (Rev. 6/12v)

Required Insurance and Minimum Limits

Name: The Broad Date: 05/29/2024

Agreement/Reference: License Agreement for Social Forest: Oaks of Tovaanger Project

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

	Limits
<input checked="" type="checkbox"/> Workers' Compensation (WC) and Employer's Liability (EL)	WC <u>Statutory</u> EL <u>\$ 1,000,000</u>
<input checked="" type="checkbox"/> Waiver of Subrogation in favor of City <input type="checkbox"/> Longshore & Harbor Workers <input type="checkbox"/> Jones Act	
<input checked="" type="checkbox"/> General Liability <u>City of Los Angeles must be named as an additional insured party</u>	<u>\$ 1,000,000</u>
<input checked="" type="checkbox"/> Products/Completed Operations <input type="checkbox"/> Sexual Misconduct _____ <input type="checkbox"/> Fire Legal Liability _____ <input checked="" type="checkbox"/> \$2,000,000 aggregate	
<input checked="" type="checkbox"/> Automobile Liability (for any and all vehicles used for this contract, other than commuting to/from work)	<u>1,000,000</u>
<input type="checkbox"/> Professional Liability (Errors and Omissions)	
Discovery Period <u>12 months after completion of work or date of termination</u>	
<input type="checkbox"/> Property Insurance (to cover replacement cost of building - as determined by insurance company)	
<input type="checkbox"/> All Risk Coverage <input type="checkbox"/> Boiler and Machinery <input type="checkbox"/> Flood _____ <input type="checkbox"/> Builder's Risk <input type="checkbox"/> Earthquake _____ <input type="checkbox"/> _____	
<input type="checkbox"/> _____	
<input checked="" type="checkbox"/> _____	
<input type="checkbox"/> Surety Bonds - Performance and Payment (Labor and Materials) Bonds	
<input type="checkbox"/> Crime Insurance	

Other: Provided to: Priya Macwan
 If a contractor has no employees and decides to not cover herself/himself for workers' compensation, please complete the form entitled "Request for Waiver of Workers' Compensation Insurance Requirement" located at: <http://cao.lacity.org/risk/InsuranceForms.htm>.
 In the absence of imposed auto liability requirements, all contractors using vehicles during the course of their contract must adhere to the financial responsibility laws of the State of California.

(Rev. 05/18)

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 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) 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 required method of submitting your documents. **KwikComply** 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. **KwikComply** 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 **KwikComply** at <https://kwikcomply.org/> and follow the instructions to register and submit the appropriate proof of insurance on your behalf.

Contractor must provide City a thirty (30) day notice of cancellation (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.

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 **KwikComply**, the CITY's online insurance compliance system, at <https://kwikcomply.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 **KwikComply** at <https://kwikcomply.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), 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 Contractor Development and 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.

EXHIBIT D
Standard Provisions for City Contracts (Rev. 9/22)[v.1]

TO BE ATTACHED SEPARATELY

ATTACHMENT A

Standard Provisions for City Contracts (Rev. 9/22) [v.1]

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 or by calling the Los Angeles City Ethics Commission at (213) 978-1960.”

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

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

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

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

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

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

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

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

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

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

PSC-42. Possessory Interests Tax

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

PSC-43. Confidentiality

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

PSC-44. COVID-19

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

PSC-45. Contractor Data Reporting

If Contractor is a for-profit, privately owned business, Contractor shall, within 30 days of the effective date of the Contract and on an annual basis thereafter (i.e., within 30 days of the annual anniversary of the effective date of the Contract), report the following information to City via the Regional Alliance Marketplace for Procurement (“RAMP”) or via another method specified by City: Contractor’s and any Subcontractor’s annual revenue, number of employees, location, industry, race/ethnicity and gender of majority owner (“Contractor/Subcontractor Information”). Contractor shall further request, on an annual basis, that any Subcontractor input or update its business profile, including the Contractor/Subcontractor Information, on RAMP or via another method prescribed by City.

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-3, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

Required Insurance and Minimum Limits

Name: _____

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

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

WC Statutory

EL _____

Waiver of Subrogation in favor of City

Longshore & Harbor Workers

Jones Act

General Liability

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)

Professional Liability (Errors and Omissions)

Discovery Period _____

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

Crime Insurance

Other: _____
