

**APPROVED**  
OCT 02 2019

**BOARD OF RECREATION  
AND PARK COMMISSIONERS**

**BOARD REPORT**

**NO.** 19-194

**DATE** October 2, 2019

**C.D.** 11

**BOARD OF RECREATION AND PARK COMMISSIONERS**

**SUBJECT:** STONER PARK – AGREEMENT WITH OPICA ADULT DAY PROGRAM AND COUNSELING CENTER, INC. FOR THE OPERATION OF PROGRAM AND COUNSELING SERVICES FOR SENIOR CITIZENS WITH MEMORY LOSS; CATEGORICAL EXEMPTION FROM THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO ARTICLE III, SECTION 1, CLASS 1(14) [ISSUANCE OF LICENSE] OF THE CITY CEQA GUIDELINES AND CHAPTER 19, SECTION 15301 OF CALIFORNIA CEQA GUIDELINES

AP Diaz	_____	S. Piña-Cortez	_____
H. Fujita	_____	C. Santo Domingo	_____
V. Israel	_____	* N. Williams	<u>NDW</u>

  
General Manager

Approved   X                        Disapproved \_\_\_\_\_                      Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Approve the award and execution of an agreement (Agreement) between the Department of Recreation and Parks (RAP) and OPICA Adult Day Program and Counseling Center, Inc. (OPICA), a California non-profit organization, attached hereto as Attachment 1, for the operation of program and counseling services at Stoner Park for senior citizens with memory loss, for a term of ten (10) years with two (2) subsequent five (5) year options to renew, subject to the approval of the Mayor and City Council, and approval of the City Attorney as to form;
2. Find, pursuant to Charter Section 371(e)(10), that the use of competitive bidding would be undesirable, impractical or impossible as OPICA does not derive a profit from the provision of the services contemplated under the Agreement and is providing such services as a benefit for the public;
3. Find, pursuant to Charter Section 1022 that the services to be provided under the Agreement can be performed more economically and feasibly by OPICA because RAP does not have in its employ personnel with the expertise and experience to provide the aforementioned services;

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4. Direct the Board of Recreation and Park Commissioners (Board) Secretary to transmit the approved Agreement concurrently to the Mayor in accordance with Executive Directive No. 3 (Villaraigosa Series), and to Council and the City Attorney for review as to form;
5. Find that the proposed Agreement is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Article III, Section 1, Class 1(14) [Issuance of License] of the City CEQA Guidelines and Chapter 19, Section 15301 of California CEQA Guidelines, and direct staff to file a Notice of Exemption (NOE) with the Los Angeles County Clerk's Office;
6. Authorize the Board President and Secretary to execute the Agreement upon receipt of the necessary approvals; and,
7. Direct RAP's Chief Accounting Employee to deposit fees for utility and other cost recovery reimbursements received from OPICA in the accounts 302/89/89707H, General Recreation Activity Program, in a sub-account to be established for such purposes.

### SUMMARY

RAP owns and operates real property at 1835 Stoner Avenue, CA 90025, commonly known as Stoner Park. OPICA, a California non-profit corporation, operates an adult day care program and counseling center at Stoner Park, the first program of its type in the City of Los Angeles serving adults challenged with memory loss or who suffer from dementia. OPICA has been operating at the existing Stoner Park building for approximately the past thirty-five (35) years, previously under various permits and a more recent prior lease agreement now expired.

OPICA strives to create a structured, yet socially engaging, nurturing and fun environment that enables its program participants to avoid isolation, to experience an overall improved quality of life, and to maintain dignity, meaning, and a sense of self-worth, while providing critical support to their families. OPICA relies heavily on grants and donations to sustain its operations as program fees from participants alone are insufficient to sustain the Center's operation. OPICA provides the community a resource when needing information and guidance regarding memory loss-related conditions and is committed to collaborative cooperation with healthcare providers and other social service agencies. OPICA has communicated to RAP that it desires to continue the use of the premises to operate its program for the public good and to meet the ongoing needs of the residents of the City of Los Angeles. The operation and maintenance of an adult day care program such as that of OPICA, requires specific and extensive amount of technical knowledge and experience that RAP staff does not have. The proposed Agreement with OPICA is in the best interest of the local community for those in need of such human services and will provide RAP and the City with the opportunity to contribute towards the effort to mitigate or reduce the effects of such illnesses on Program participants, at minimal to no cost to the City.

The term of the proposed Agreement is for ten (10) years, with two (2) subsequent 5-year options to renew, exercisable by OPICA and with the approval of RAP's General Manager. Under the terms of the proposed Agreement, OPICA will submit an annual financial statement, maintain

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appropriate insurance coverage, and complete an annual performance review process. In addition, OPICA will pay Cost Recovery Reimbursement Fees to RAP for utilities, trash removal, and staff impacts in the amount of \$1,116.00 monthly, and will be responsible for the cost of interior building maintenance as well as future repairs and renovations. The proposed Agreement was previously presented and discussed at the Commission Task Force on Concessions on March 20, 2019, and was recommended for future full Board consideration.

### ENVIRONMENTAL IMPACT

The proposed action consists of an agreement between OPICA and RAP for the use of an existing public facility. As such, staff recommends that the Board determines that this action is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Article III, Section 1, Class 1(14), of City CEQA Guidelines and Article 19, Section 15301 of California CEQA Guidelines. A Notice of Exemption will be filed with the Los Angeles County Clerk upon the Board's approval.

### FISCAL IMPACT

The proposed Agreement will have no adverse impact on RAP's General Fund as the cost of operation and maintenance of the Program will continue to be the responsibility of OPICA, and any cost impacts on RAP will be supplemented by OPICA through RAP's collection of Board approved Cost Recovery Reimbursement Fees in the annual amount of Thirteen Thousand, Three Hundred Ninety-Two Dollars (\$13,392.00), which were previously never collected. Maintenance of the surrounding grounds of the park will continue to be part of a normal maintenance route budgeted for through RAP's annual budget process.

### STRATEGIC PLAN INIATIVES AND GOALS

Approval of this Report advances RAP's Strategic Plan by supporting:

**Goal No. 6:** Build financial strength and innovative collaborations

**Outcome No. 2:** Improved management of facilities

**Result:** Continued provision for adults challenged with memory loss to adult day care programs and the community a resource for information and guidance regarding memory loss-related conditions

This Report was prepared by Joel Alvarez, Sr. Management Analyst II, and Raymond Chang, Management Analyst, Partnership Section.

### ATTACHMENT

- 1) Proposed Agreement

**AGREEMENT  
BETWEEN CITY OF LOS ANGELES  
AND  
OPICA ADULT DAY PROGRAM AND COUNSELING CENTER, INC.  
FOR THE OPERATION OF PROGRAM AND COUNSELING SERVICES AT STONER  
PARK FOR SENIOR CITIZENS WITH MEMORY LOSS**

This AGREEMENT (“AGREEMENT”) is entered into as of \_\_\_\_\_, 20\_\_\_\_, (“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 OPICA Adult Day Program and Counseling Center, Inc., d/b/a OPICA Adult Day Care Program & Counseling Center, a California non-profit corporation (“OPICA”). CITY and OPICA may be referred to herein individually as “PARTY”, or collectively as “PARTIES”.

WHEREAS, CITY, through its Department of Recreation and Parks (“RAP”), owns property commonly known as Stoner Park (“PARK”); and,

WHEREAS, pursuant to that certain Lease Agreement dated October 22, 1997 (the “ORIGINAL LEASE”), between OPICA and CITY, by and through RAP, OPICA has continuously used that certain building and adjacent outdoor area at the PARK, at 11759 Missouri Avenue, Los Angeles, California 90025 and as more fully shown by the Site Plan attached hereto and incorporated herein by reference as Exhibit A (“PREMISES”); and,

WHEREAS, upon expiration of the ORIGINAL LEASE, OPICA has continued to occupy and maintain the PREMISES under the terms and conditions of the ORIGINAL LEASE, which is deemed to have continued, with the knowledge and consent of CITY and RAP; and,

WHEREAS, being the first Adult Day Care Program and Counseling Center in Los Angeles, OPICA has been serving adults challenged with memory loss and their families in the West Los Angeles area for more than thirty-five years; and,

WHEREAS, OPICA strives to create a structured, yet socially engaging, nurturing and fun environment that enables its program participants to avoid isolation, to experience an overall improved quality of life, and to maintain dignity, meaning, and a sense of self-worth; and,

WHEREAS, OPICA provides the community a resource when needing information and guidance regarding memory loss-related conditions and is committed to collaborative cooperation with health care providers and other social service agencies; and,

WHEREAS, OPICA desires to continue its use of the PREMISES for its Adult Day Care Program and Counseling Center (“PROGRAM”) and to operate its PROGRAM for the public good and to meet the ongoing needs of the residents of the City of Los Angeles; and,

WHEREAS, OPICA does not generate any profit from fees charged to participants in its PROGRAM and supplements its revenue with funds received from grants, donations and special events in order to cover its operating expenses for the PROGRAM; and,

WHEREAS, given OPICA's long-standing prior and continuing presence at the PREMISES delivering services to senior citizens with memory loss and the fact that OPICA's operations do not generate any profit from fees charged to participants of its PROGRAM, RAP finds that undertaking a competitive bidding or proposal process for like services would not be practicable or advantageous; and,

WHEREAS, CITY, through the Board of Recreation and Park Commissioners ("BOARD"), agreed to accept OPICA's offer of continued operation of the PROGRAM at the BOARD meeting of \_\_\_\_\_ **date** \_\_\_\_\_ (Board Report No. **XX-XXX**).

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

1. **Description of Premises.** In consideration of benefits to the public, the sufficiency of which is mutually acknowledged, CITY continues to grant to OPICA by this AGREEMENT exclusive use of the PREMISES for the operation of the PROGRAM, which shall be performed by OPICA in compliance with the terms and conditions of this AGREEMENT, including payment of the Cost Recovery Reimbursement Fee to RAP as applicable, and performance of Maintenance Requirements as described herein, at the sole cost and expense of OPICA. The PREMISES location within the PARK is delineated by the site plan attached hereto as Exhibit A.
2. **Term and Termination.** The performance period authorized under this AGREEMENT (for ease of reference, shall be referred to herein as "TERM") shall be ten (10) years, with two (2) subsequent five (5) year options to renew, exercisable by OPICA upon written notice given no more than twelve (12) months prior to the expiration of the then current term of this AGREEMENT, subject to (i) concurrence and approval by the RAP General Manager, (ii) there being no default by OPICA of any of the provisions of this AGREEMENT, and (iii) the results of annual performance evaluations ("ANNUAL PERFORMANCE REVIEWS") as may be determined by RAP in its sole discretion, as more fully described below in Section 3 of this AGREEMENT.
  - a. **Commencement and Expiration.** This AGREEMENT shall take effect on the COMMENCEMENT DATE above and shall end upon the expiration of the TERM.
  - b. **Termination.** In addition to termination for an uncured breach or default, or if OPICA ceases to operate under this AGREEMENT, or CITY issues written termination notice to OPICA effective after sixty (60) calendar days from the date of issuance due to an unfavorable ANNUAL PERFORMANCE

REVIEW or for cause during the TERM, either CITY or OPICA may terminate this AGREEMENT by giving the other sixty (60) calendar days advanced written notice. CITY and OPICA reserve the right to terminate this AGREEMENT at their sole discretion for convenience, emergency, or necessity. If CITY or OPICA should elect to terminate this AGREEMENT pursuant to any termination rights described herein, OPICA agrees to use reasonable efforts to cease all operations and other activity as promptly as possible, 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 OPICA fails to remove all its personal property and equipment within sixty (60) calendar days of receiving or providing such a written notice of termination, CITY, at its option, may remove such property and equipment, in which event OPICA shall pay to the CITY, upon demand, the reasonable cost of such removal, plus the cost of transportation and disposition thereof.

- c. **Cease to Operate.** In addition to the termination rights described herein, CITY may terminate this AGREEMENT, subject to the terms of subsection (b) above, if OPICA ceases to operate at the PREMISES. The phrase “cease to operate” shall mean the first to occur of any of the following: (i) the termination (but not temporary suspension) of OPICA’s corporate charter or grant of non-profit status, unless the same is reinstated within sixty (60) calendar days after such termination; (ii) a material change in OPICA’s purposes or function as contained in OPICA’s corporate charter or grant of non-profit status (“STATED PURPOSES”), unless OPICA obtains the prior approval of CITY for such change; (iii) a material change in the delivery of services by OPICA, as described herein, unless OPICA obtains the prior approval of CITY for such change; (iv) the failure of OPICA to use the PREMISES for any of the PERMITTED USES or any other material default of the terms and conditions or other obligations contained in this AGREEMENT or fails to remain open for business as contemplated herein, for a consecutive period of sixty (60) 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 OPICA’s control.

3. **Annual Performance Reviews.** PARTIES mutually agree to the ANNUAL PERFORMANCE REVIEWS, which shall be conducted by RAP in a reasonable manner, to determine the feasibility and benefit of continuing the collaborative relationship between PARTIES under this AGREEMENT.

- a. Continuance of CITY’s collaboration with OPICA shall be contingent upon a favorable ANNUAL PERFORMANCE REVIEW, which shall include, but not be limited to:
- (i) An evaluation of OPICA’s compliance with the terms and conditions of this AGREEMENT;

- (ii) Fulfillment of OPICA's obligations for the operation and maintenance of the PREMISES under this AGREEMENT, including the provision of the PROGRAM at the PREMISES, in accordance with the PERMITTED USES specified in Section 5, and the PROGRAM description attached hereto and incorporated herein by reference as Exhibit B;
  - (iii) An evaluation of the reasonableness of any fees charged to participants of OPICA's PROGRAM and confirmation that such fees do not result in any profit for OPICA;
  - (iii) Adequacy of OPICA's funding, including through grants or contracts with other City Departments; and,
  - (iv) OPICA's cooperation with CITY staff.
- b. Every year during the life of this AGREEMENT, for purposes of completing the ANNUAL PERFORMANCE REVIEW process, OPICA shall submit to RAP during the period of July 1st through August 30th of each year, an annual performance or program report ("PERFORMANCE REPORT"), generally describing OPICA's PROGRAM activities, issues, accomplishments, etc., to provide RAP with an understanding of OPICA's performance during the prior fiscal year (July through June). This PERFORMANCE REPORT shall specifically include, but not be limited to:
  - (i) Annual Financial Statement (Revenue and Expenditures for prior fiscal year);
  - (ii) Annual Budget for upcoming fiscal year (July through June); and,
  - (iii) PROGRAM participant data describing the number of persons served during the prior fiscal year.
- c. RAP reserves the right to request reasonable additional materials or clarifying information upon review of the submitted PERFORMANCE REPORT.
- d. CITY's approval to continue the collaborative relationship shall be based on findings obtained through the ANNUAL PERFORMANCE REVIEW, evaluation of the PERFORMANCE REPORT, and a review of compliance with the terms and conditions of this AGREEMENT, including interviews with RAP's operations and maintenance staff at the PREMISES, if any are on-site. A sample Performance Evaluation Form that is completed by RAP staff as part of the annual evaluation process, is attached hereto and incorporated herein by reference as Exhibit-C. Results of the ANNUAL PERFORMANCE REVIEW may be used in determining future collaborations with OPICA. CITY shall not unreasonably withhold its determination.

4. **Access to Premises.** OPICA and any authorized third party associated with OPICA's activities at the PREMISES will abide by the terms and conditions expressed in this AGREEMENT, and will cooperate fully with RAP and its employees in the performance of their duties. Authorized representatives, agents and employees of CITY will have the right to enter the PREMISES for purposes of fulfilling normal duties, and performing inspections, with twenty-four (24) hours prior notice to OPICA. However, no such advance notice by RAP to OPICA shall be required in the case of emergencies. In such cases of emergency, CITY need only provide notice when reasonably feasible. 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, CITY may immediately suspend and/or terminate OPICA's right to conduct such activities at the PREMISES by providing written notice to OPICA of such 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 OPICA of same.

PARTIES agree to allow CITY access to and use of any portion of the PREMISES in case of a natural disaster or emergency such as an earthquake, fire, etc., as a designated public emergency shelter site. Such use shall take precedence over regularly scheduled OPICA activities and CITY shall not be charged a fee for such use; provided, however, that OPICA's obligation to pay the CRRF (defined below) to the CITY shall be suspended during such time period that CITY has taken over the PREMISES for the above use.

5. **PERMITTED USES and Use Restrictions.** OPICA shall use the PREMISES to provide supervised activities for elderly residents who require some amount of caretaking , supervision and/or are unable to function on their own due to dementia, memory loss or other chronic illnesses. Such activities are to provide socialization, exercise, crafts, music, outings, counseling services and a daily lunch meal. The uses described in and permitted under this Section 5, shall collectively be referred to herein as the "PERMITTED USES".

Through the PROGRAM, OPICA shall provide recreational activities for senior adults focused on and supporting those facing any chronic condition in need of care and supervision due to dementia, memory loss or other chronic illnesses, such as (which list is non-exhaustive nor binding but rather for the purposes of illustration):

- Art therapy, painting, and expressive drawing
- "Yoga" for the brain
- Reminiscence memories groups
- Low impact Tai Chi and aerobics
- Mindfulness relaxation exercises
- Live music and dancing
- Magic shows and entertainment
- Walks in the adjacent park

- Current events discussions
- Sensory activities
- Speech therapy

**6. OPICA's Obligations.** OPICA shall:

- a. Operate on the PREMISES only during the specified days and hours listed below in Section 7 of this AGREEMENT.
- b. Maintain the PREMISES in accordance with Section 9 of this AGREEMENT.
- c. Provide sufficient staff necessary to perform the operation of its PROGRAM, including the provision of services, providing all materials, supplies, equipment, and consistently use reasonable efforts to obtain  funds necessary to operate it.
- d. Ensure OPICA's protocol for selecting and authorizing any person to provide PROGRAM activities on the PREMISES complies with applicable local, State, and/or Federal protocols for employees, volunteers, contractors and subcontractors engaging in the PERMITTED USES described herein, including background checks, finger printing, and any certifications, licenses and approvals to the extent required by applicable law.
- e. 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. City shall reasonably cooperate with OPICA to the extent necessary for OPICA to obtain any permits and/or licenses.
- f. Punctually pay or cause to be paid all OPICA financial obligations incurred in connection with the operation and maintenance of the PREMISES as set forth in this AGREEMENT. OPICA shall discharge or provide for the discharge of all claims authorized or incurred for labor, equipment, materials, and supplies furnished in connection with OPICA's use of the PREMISES to the extent such claims do not arise due to any CITY action or omission.
- g. Prohibit and prevent the dispensing and/or consumption of beer, wine or other intoxicating liquors (commonly referred to as alcoholic beverages), which is NOT one of the PERMITTED USES authorized herein, and therefore shall not be permitted to occur on the PREMISES under any circumstances.



fixture thereon, whether installed by RAP or OPICA, and regardless of cause, including heating-ventilation and air conditioning (HVAC) and other electrical systems.

- b. OPICA, in performing required maintenance and repair of the PREMISES set forth in Section 9(c) and (d) below, shall provide all staff and materials, supplies, equipment, and funds, to the extent applicable, and as necessary to perform all required maintenance and/or repair of the PREMISES. Such maintenance and/or repair shall be performed to the reasonable satisfaction of RAP, in accordance with the standards set forth herein and with advance notice to and in consultation with RAP's designated representative, or by RAP's written request and/or instruction. For any contractors hired to perform such work, OPICA shall ensure that the contractors performing work on the PREMISES shall be appropriately insured in accordance with the terms and conditions of this AGREEMENT.
- c. OPICA shall be responsible for maintenance of the interior of the PREMISES by performing the following:
  - (i) Clean kitchen and bathrooms and replenish supplies utilized;
  - (ii) Clean floors in areas utilized by OPICA and its participants during PROGRAM operations, including sweeping underneath the dining tables, and wiping the walls, doors, and furniture on a daily basis;
  - (iii) Pick up and dispose of trash and debris so that it is not clearly visible to the public;
  - (iv) Secure all items belonging to OPICA at the conclusion of daily operations, including properly storing all its equipment.
- d. OPICA shall promptly repair any damages to the PREMISES, which is caused by OPICA and occurs during, or is associated with, OPICA operations, or that is caused by OPICA's restoration, refurbishment, and/or maintenance of the PREMISES; OPICA recognizes that any damage which remains unrepaired may constitute a hazard to public safety in connection with its use thereof, unless such repair or damage is caused by the negligence or willful misconduct of CITY, in which case, CITY shall reimburse OPICA for all reasonable costs and expenses incurred in connection with such repair. However, in no event shall OPICA have any obligation to repair any damages to the driveways, sidewalks or parking areas located on or adjacent to the PREMISES, unless such damage was caused during OPICA authorized activities by an OPICA employee, PROGRAM participant, vendor, contractor, or other entity performing OPICA authorized or directed activities.
- e. Any damage to any exterior or interior glass at the PREMISES, caused by OPICA's staff, contractors, vendors, service representatives or senior

program participants, which occurs during the TERM of this AGREEMENT shall be promptly repaired or replaced at the sole cost and expense of OPICA with glass of substantially the same size, kind, and quality.

- f. OPICA shall be solely responsible to lock and secure the PREMISES to ensure the safety of OPICA personal property located therein.
  - g. Pursuant to Section 9 (a) above, OPICA shall keep and maintain the exterior walls, roof, structural members, plumbing and building systems of the PREMISES in good condition and repair at OPICA's sole cost and expense. However, to the extent resources are available, RAP may undertake to maintain or repair certain improvements, fixtures, trade fixtures, roof systems, plumbing, electrical, HVAC systems, building structure, and/or utility systems in place at the PREMISES as of the execution of this AGREEMENT, if originally installed by RAP. OPICA agrees and understands that RAP shall not guarantee any level of maintenance or repair because resource availability is unknown. In the event needed repairs impede the ability of OPICA to conduct operations, (i) OPICA may elect to undertake repairs at no cost to RAP or, (ii) may elect to suspend operations in accordance with Casualty and Condemnation, Section 17. RAP is not responsible for any maintenance or repair to any improvements, fixtures, trade fixtures, roof systems, plumbing, electrical, heating-ventilation-air conditioning systems, building structure, and/or utility systems installed by OPICA.
  - h. Subject to the provisions of this AGREEMENT, to the extent that needed repairs are not made, OPICA waives any and all claims against CITY for damages or indemnification as a result of the failure to make repairs.
  - i. RAP shall be responsible for maintenance and irrigation of PARK grounds around the PREMISES.
10. **Funding.** All funds including, grants, donations, or any other funds received by OPICA in connection with the PROGRAM and/or related matters and activities 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 PREMISES, and will be strictly accounted for as provided herein. Such funds shall not be comingled with other funds of OPICA unrelated to this AGREEMENT and/or the operation and maintenance of the PREMISES. If for any reason OPICA fails to secure funding to carry out its obligations and commitments under this AGREEMENT, CITY may and can terminate this AGREEMENT pursuant to Section 2 of this AGREEMENT. OPICA may charge its PROGRAM participants appropriate and reasonable fees for programs, services, and/or activities offered by OPICA on the PREMISES, provided, however, that revenues from any such fees charged shall not result at any time in profit for OPICA's PROGRAM operations.

11. **Fundraising.** OPICA may hold fundraising activities on the PREMISES, but must obtain prior written approval for the date and time from the RAP Facility Director-in-Charge referenced in Section 31 for each fundraising event, no fewer than thirty (30) calendar days prior to the scheduled activity, in accordance with the procedure outlined in Section 7. OPICA may have no more than four (4) fundraising events per year with a maximum of one (1) fundraising event per quarter. All monies raised from fundraising conducted at the PREMISES must be used only in support of the activities authorized under this AGREEMENT. Fundraising activities shall not include the distribution and/or the consumption of alcoholic beverages in accordance with Section 6.g. of this AGREEMENT.

12. **Consideration.** The consideration for this AGREEMENT in exchange for OPICA's use of the PREMISES shall be the provision of senior services and programs for the benefit of the public, at no cost to CITY, including but not limited to, OPICA's maintenance and/or repair of the PREMISES. RAP shall have no responsibility for payment of any charges related to the provision of the PROGRAM by OPICA at the PREMISES. Additionally, OPICA's use of the PREMISES shall be subject to applicable BOARD approved cost recovery reimbursement fees, as described below.

a. Cost Recovery Reimbursement Fee. During the TERM of the AGREEMENT, OPICA shall pay a Cost Recovery Reimbursement Fee ("CRRF") to RAP for costs related to utility, solid waste disposal (trash), and staff impacts incurred by RAP, which are associated with OPICA's use of the PREMISES and not paid directly to respective service providers, as further described below. The total monthly CRRF is One Thousand One Hundred Sixteen Dollars (\$1,116.00), to be paid by OPICA to RAP, due by the 10<sup>th</sup> of each month for that current month. The CRRF is subject to change by the BOARD with written notice of no less than sixty (60) days in advance. A breakdown of the total CRRF is provided below in each CRRF category.

(i) Utilities. Pursuant to the RAP policy regarding utility payments for services provided at park facilities operated by non-profit organizations and other collaborating entities, approved by the Board on July 13, 2011 (Report No. 11-202), the estimated, annual pro-rata share of utility expenses (electricity and water) generated by OPICA's operations at the PREMISES shall be at the sole cost of OPICA. The estimated monthly utility expense for OPICA is Eight Hundred Twenty-Four Dollars (\$824.00), and shall be paid by OPICA to RAP through utility fee reimbursements, which is included in the total monthly CRRF in paragraph 12(a) above.

(ii) Trash and solid waste disposal. Pursuant to RAP policy regarding trash and solid waste disposal for services provided at park facilities operated by non-profit organizations and other collaborating entities, approved by the Board on February 1, 2012 (Report No. 12-028),

removal of solid waste (trash) and recyclables generated by OPICA's operations at the PREMISES shall be at the sole expense of OPICA. The estimated, monthly pro-rata share that OPICA shall pay to RAP is One Hundred Fifty Dollars (\$150.00) as its monthly waste removal fee, which is the agreed upon cost of solid waste and recyclables removal and/or disposal, which is included in the total monthly CRRF in paragraph 12(a) above.

- (iii) Staff Impact. Pursuant to the RAP policy regarding the impact(s) on RAP staff resulting from the operational activities conducted by non-profit organizations on park property, approved by the Board on July 19, 2012 (Report 12-217), OPICA shall pay to RAP a monthly Staff Impact fee in the amount of One Hundred Forty-Two Dollars (\$142.00), which is included in the total monthly CRRF in paragraph 12(a) above.
  
- b. Telephone and data lines. OPICA shall be responsible for the cost of telephone and data lines utilized by OPICA on the PREMISES and shall pay such costs directly to the service provider. CITY shall bear no costs in regards to the telephone and data lines on the PREMISES that OPICA uses.
  
- c. Cost Recovery Reimbursement Fee Payments. Payment of Cost Recovery Reimbursement Fees shall be by check, money order, or cashier check made payable to "City of Los Angeles Department of Recreation and Parks." RAP at its discretion may provide courtesy invoices, but OPICA is wholly responsible for timely payment of the Cost Recovery Reimbursement Fee regardless of written notification which is not required. Payments are to be mailed to:

City of Los Angeles Department of Recreation and Parks  
Attn: Partnership Division  
Figueroa Plaza  
221 N. Figueroa Avenue, Suite 180  
Los Angeles, California 90012

13. **Alterations, Improvements and Replacements.** By way of specification, without limitation, OPICA shall keep and maintain the exterior walls, roof, and structural members of the building on the PREMISES under OPICA's exclusive use, in good condition and repair at OPICA's sole cost and expense, pursuant to and in accordance with the provisions of Section 9 above. However, no physical alterations, additional improvements, and/or replacements shall be made to existing improvements on the PREMISES without prior written authorization by RAP, which written authorization shall not be unreasonably withheld or delayed. Should OPICA propose a capital improvement project to be performed on the PREMISES by OPICA, in accordance with Section 14 below, OPICA shall provide RAP detailed information and specifications for review and written approval by

RAP, which approval shall not be unreasonably withheld or delayed, including but not limited to an explanation of the project scope of work, design or architectural plans, renderings or models, budget and funding source information for capital improvement projects, and any other information reasonably requested by RAP. Unless agreed to in advance, all project associated costs shall be paid at the sole expense of OPICA.

Notwithstanding the foregoing to the contrary, RAP's consent shall not be required for minor, interior non-structural, aesthetic improvements or alterations ("MINOR ALTERATIONS"), as long as such MINOR ALTERATIONS are consistent with RAP standards and have a budget below Five Thousand Dollars (\$5,000.00). However, OPICA shall provide RAP with written notice of any planned MINOR ALTERATIONS, at minimum fourteen (14) calendar days in advance of any work being performed, and shall adhere to any reasonable plan modifications or reasonable instructions provided by RAP for the proposed project.

14. **Capital Project Proposal.** When proposing a capital improvement project involving any alterations, additional improvements, and/or replacements to the PREMISES with a budget of Ten Thousand Dollars (\$10,000.00) or more, excluding MINOR ALTERATIONS as described above, OPICA shall adhere to the following guidelines and instructions for submitting a proposed project for RAP's consideration:
- a. Submit a project proposal for RAP review and presentation for conceptual approval by the BOARD, if necessary. The proposal should include but is not limited to, project objectives, conceptual drawings, a written description of the project's scope of work, general project details and requirements, and estimated preliminary budget.
  - b. Should the project be conceptually approved by the BOARD, OPICA will be authorized to perform any required preliminary work or site assessments, either through a right-of-entry permit if required, or RAP's authorization and/or this AGREEMENT.
  - c. Depending on the scope of work and magnitude of the proposed project as may be determined by RAP in its reasonable discretion, OPICA may be assessed an administrative fee for project review and all services provided by RAP staff. Such fee (if any) shall not exceed an amount that is equal to two percent (2%) of the construction hard costs, and shall be paid to the "City of Los Angeles Department of Recreation and Parks". Thirty percent (30%) of such fee shall have been paid upon completion of the RAP review and approval and prior to completion of the project, with the remaining seventy percent (70%) of such fee to be paid by OPICA upon completion of the project.
  - d. If necessary and pursuant to the recommendation of the City Attorney, a development agreement shall be prepared to set forth the terms and

conditions under which the proposed project shall be implemented, depending on the scope of work and project magnitude.

- e. When prepared, OPICA shall submit fifty percent (50%) and ninety percent (90%) complete design drawings for RAP review and approval. Upon RAP's approval, all design and architectural work shall be completed by a California licensed architect and/engineer.
- f. PARTIES shall submit a proposed development agreement and final plans and specifications, respectively, to the BOARD for its consideration and final project approval.
- g. OPICA shall obtain, at its own cost and expense, all necessary and/or required City, County, State, and/or Federal permits, approvals, licenses, and/or authorizations for project implementation, including but not limited to environmental clearances in compliance with the California Environmental Quality Act (CEQA).
- h. OPICA shall submit approved plans and specifications for final approval to:

Planning, Maintenance, and Construction Branch,  
City of Los Angeles Department of Recreation and Parks,  
221 N. Figueroa Street, 4<sup>th</sup> Floor,  
Los Angeles, CA 90012
- i. Upon receipt of final approval, OPICA shall commence construction in coordination with CITY staff.

**15. Insurance.** OPICA shall furnish CITY with evidence of insurance from firms reasonably acceptable to CITY and approved to do such business in the State of California. OPICA or any third party providing work or services under this AGREEMENT shall name the City of Los Angeles and its boards, officers, agencies, employees, assigns and successors in interest as an additional insured for all required coverage(s), as applicable. OPICA will insure 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-D attached hereto and incorporated herein by reference.

- a. OPICA 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 OPICA sixty (60) calendar days written notice, provided that such amounts and/or types shall be reasonably available to OPICA.

- b. If any of the required insurance contains aggregate limits or applies to other operations of OPICA outside of this AGREEMENT, OPICA shall give CITY written notice of any incident, occurrence, claim, settlement or judgment against such insurance that in OPICA's best judgment may diminish the protection such insurance affords CITY within thirty (30) calendar days of the knowledge of same. OPICA 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, OPICA 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 OPICA.

- d. OPICA's failure to procure and maintain the required insurance shall constitute a material breach of this AGREEMENT under which CITY may either (i) provide OPICA five (5) calendar days written notice of such failure, upon receipt of which OPICA 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. OPICA 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 OPICA's financial capacity. Additionally, such programs or retention must provide CITY with an equivalent protection from liability.

## **16. Indemnification.**

Except for the active negligence or willful misconduct of CITY, or any of its boards, officers, agents, employees, assigns and successors in Interest, OPICA 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, reasonable attorney's fees (both in house and outside counsel)

and cost of litigation (including all actual litigation costs incurred by the CITY, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including OPICA'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 OPICA, 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.

17. **Casualty and Condemnation.** OPICA shall be excused from its obligations in this AGREEMENT including, without limitation, the payment of the CRRF, the operation, maintenance and repair of any portion of the PREMISES or any improvement thereon that is damaged by casualty or taken by condemnation until any such portion or improvement is restored to at least its condition prior to said casualty or condemnation. CITY shall not be obligated to restore the PREMISES damaged by casualty in whole or in part. If CITY chooses not to restore the PREMISES, CITY shall provide notice to OPICA thereof within thirty (30) days of such casualty, and this AGREEMENT shall terminate upon OPICA's receipt of such notice. If the PREMISES is taken by condemnation, CITY shall provide notice to OPICA thereof within thirty (30) days of such taking, and this AGREEMENT shall terminate upon OPICA's receipt of such notice, and CITY shall not be obligated to provide OPICA a replacement property for OPICA's use.
18. **Hazardous Substances.** PARTIES agree that the PREMISES shall be used in a manner consistent with its intended purpose of providing senior services to the public, and in all events in accordance with the PERMITTED USES as set forth in Section 5 above. OPICA shall use the PREMISES in compliance with laws pertaining to hazardous substances, except that OPICA shall be allowed to use such hazardous substances on the PREMISES in such de minimis quantities to the extent necessary in the operation of OPICA's business, including, without limitation, ordinary office products which are incidental to the operation of the PROGRAM (such as photocopy supplies and secretarial supplies) and paint and janitorial supplies which are incidental to OPICA's maintenance obligations under this AGREEMENT, which products contain chemicals which may be categorized as hazardous substances. 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) is a basis for liability of CITY or OPICA to any governmental agency or third party under applicable statute.

**Hazardous Materials - Pre-existing Conditions.** The CITY acknowledges that OPICA is not an environmental expert or consultant in the field of Hazardous

Materials (as herein defined). Notwithstanding any provision hereof to the contrary, with respect to any Hazardous Materials that may be present below, on, about or otherwise affecting any property of the CITY, OPICA shall not be responsible for detecting, handling, removing, remediating or disposing of such Hazardous Materials, except to the extent of any Hazardous Materials brought onto the property by OPICA as described above. Except as otherwise expressly set forth in this AGREEMENT, OPICA shall not use Hazardous Materials except in the ordinary course of providing the Services and in compliance with applicable laws. "Hazardous Materials" shall also mean any hazardous material or substance which is or becomes defined as a "hazardous waste," "hazardous substance," "hazardous material," pollutant, or contaminant under any applicable law.

- 19. Filming.** It is the policy of the City of Los Angeles 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 at the PREMISES shall be subject to approval by RAP and the Film Office, whose consent shall not be unreasonably withheld, conditioned, or delayed. Arrangements shall be established if possible, to ensure any such filming does not interfere with OPICA's daily operations conducted at the PREMISES, unless agreed to in advance between OPICA and the Park Film Office. All fees for use of park property by film production companies, including the PREMISES, 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. OPICA shall not charge any fees for film production conducted at the PREMISES.
- 20. Taxes and Possessory Interest.** OPICA shall pay all taxes of whatever character that may be levied or charged upon the rights of OPICA to use the PREMISES, or upon OPICA's improvements, fixtures, equipment, or other property thereon or upon OPICA'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. OPICA, 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.
- 21. Outdoor Signs.** All outdoor signs on the PREMISES shall be subject to review and approval by RAP, which approval shall not be unreasonably withheld, conditioned or delayed; provided, however, that any outdoor signs existing as of the date hereof shall be considered approved.
- 22. Default by OPICA.** The following occurrences shall constitute an event of default ("EVENT OF DEFAULT") under this AGREEMENT:

  - a. Except where a specific time period is otherwise set forth for OPICA's performance in this AGREEMENT, in which event the failure to perform by OPICA within such time period shall constitute an EVENT OF DEFAULT by OPICA under this Section 22, any failure by OPICA to observe or perform

any other provision, covenant or condition of this AGREEMENT to be observed or performed by OPICA where such failure continues for thirty (30) days after written notice thereof from CITY to OPICA, unless a shorter time to cure is otherwise set forth in this AGREEMENT; provided, however, that if the nature of such EVENT OF DEFAULT is such that the same cannot be cured within a thirty (30) day period, no EVENT OF DEFAULT shall be deemed to have occurred if, in the sole reasonable discretion of RAP, OPICA has diligently commenced such cure within such period and thereafter uses good faith and commercially reasonable efforts and diligently proceeds to rectify and cure such EVENT OF DEFAULT.

- b. OPICA materially fails in the performance of any provision or condition of this AGREEMENT, such as failure to maintain required insurance coverage beyond the notice and cure period, failure to comply with applicable legal requirements, or failure to fulfill the obligation to operate, maintain and repair the PREMISES as specified herein; or
- c. OPICA attempts to assign its rights or obligations under this AGREEMENT without CITY's or RAP's prior written consent shall also constitute an EVENT OF DEFAULT.

**23. Breach or Default by OPICA – Remedies of CITY or RAP.** Upon the occurrence of one or more EVENTS OF DEFAULT by OPICA, CITY and/or RAP may, at its election and without waiving any right to select any other remedy provided in this Section 24 or elsewhere in this AGREEMENT, initiate any of the following:

- a. Notice to Cure Event of Default. RAP may issue a written notice of EVENT OF DEFAULT to OPICA, and if OPICA does not cure said EVENT OF DEFAULT within thirty (30) calendar days of receipt of said notice (subject, however, to the provisions of Section 21(a) above), RAP may, by delivering a second written notice to OPICA, terminate this AGREEMENT without further delay, whereupon OPICA shall vacate the PREMISES within sixty (60) calendar days from the date of such second notice. For an EVENT OF DEFAULT involving sanitary or safety conditions, the cure period is reduced to seven (7) calendar days.
- b. RAP's Right to Cure. RAP, 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 EVENT OF DEFAULT by OPICA, perform or cause to be performed any of OPICA's unperformed obligations under this AGREEMENT. RAP may enter the PREMISES and remain there for the purpose of correcting or remedying such EVENT OF DEFAULT. Such action by RAP shall not be deemed to waive or release said EVENT OF DEFAULT or RAP's right to take further preventative action.

24. **Notices.** Any notice, request for consent, or statement (“NOTICE”), that RAP or OPICA 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 OPICA 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:

If to RAP:

Partnership Division  
City of Los Angeles Department of Recreation and Parks  
221 N. Figueroa Street, Suite 180  
Los Angeles, California 90039  
Tel.: (213) 202-5600  
Email: rap.partnerships@lacity.org

With a copy to:

Valley Region Headquarters  
City of Los Angeles Department of Recreation and Parks  
6335 Woodley Avenue, Mail Stop 641  
Van Nuys, CA 91406  
Tel.: (818) 756-8060

If to OPICA:

OPICA Adult Day Program and Counseling Center  
c/o Mary Michlovich, Executive Director  
11759 Missouri Avenue  
Los Angeles, CA 90025  
Tel.: (310) 478-0226

With a copy to:

Gibson, Dunn & Crutcher LLP  
333 S. Grand Avenue  
Los Angeles, CA 90071  
Tel.: 213-229-7013  
Email: [loser@gibsondunn.com](mailto:loser@gibsondunn.com)

25. **Representations and Warranties.** CITY and OPICA 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 CITY and OPICA, enforceable in accordance with its terms and conditions.

26. **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. OPICA shall have no power to obligate or bind CITY in any manner whatsoever. Under no circumstances will OPICA 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 OPICA the power to be an agent of the CITY or an actor under the color of law, be it civilly or criminally.
27. **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.
28. **Sub-Lease Restriction.** No sub-lease for space shall take effect at the PREMISES unless approved in advance and in writing by RAP. OPICA shall require all individuals and organizations providing programs or services within the PREMISES to agree to abide by all conditions set forth in this AGREEMENT, as applicable to such programs or services.
29. **Safe Practices.** OPICA shall cooperate 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), OPICA must notify the RAP Facility Director referenced in Section 31 as soon as possible but no later than twenty-four (24) hours after OPICA has knowledge of the incident by telephone call, with a follow up email notice. OPICA shall maintain at the PREMISES a record of non-serious injuries occurring on the PREMISES, copies of which shall be provided to the RAP Facility Director referenced in Section 31 upon receipt of a written request therefor. OPICA shall keep internal documentation of the incident(s) occurring during the previous two (2) years and provide RAP with such information upon request.
30. **RAP Center Contact.** Stoner Recreation Center Operations and Maintenance staff for the PREMISES may be contacted at the following numbers:
- Daily Operations and Maintenance, Facility Director:  
Tel: (310) 479-7200 Fax: (310) 445-1764
31. **Ordinances and Standard Provisions.** The "Standard Provisions for City Contracts (Rev. 10/17)[v.3]" 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. 10/17)[v.3]" and this AGREEMENT, the language of this AGREEMENT shall prevail. In addition, OPICA will provide documentation of compliance with all required Ordinance Provisions as determined by CITY.

**32. 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 Plan and Description of Premises

Exhibit-B: Program Description

Exhibit-C: Sample Performance Evaluation Form

Exhibit-D: Insurance Requirements and Instructions for Submission

Exhibit-E: Standard Provisions for City Contracts (Rev. 10/17)[v.3]

The order of precedence in resolving conflicting language, if any, in the documents shall be: 1) This AGREEMENT exclusive of attachments; 2) Exhibit-D; 3) Exhibit-E; 4) Exhibit-A; 5) Exhibit-C; and 6) Exhibit-B.

**[SIGNATURE PAGE TO FOLLOW]**

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

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

OPICA Adult Day Program and Counseling Center, Inc., a 501(c)(3) California non-profit corporation

By: \_\_\_\_\_  
President

By: \_\_\_\_\_

By: \_\_\_\_\_  
Secretary

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

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

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

By: \_\_\_\_\_

**APPROVED AS TO FORM:**

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

MICHAEL N. FEUER, City Attorney

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

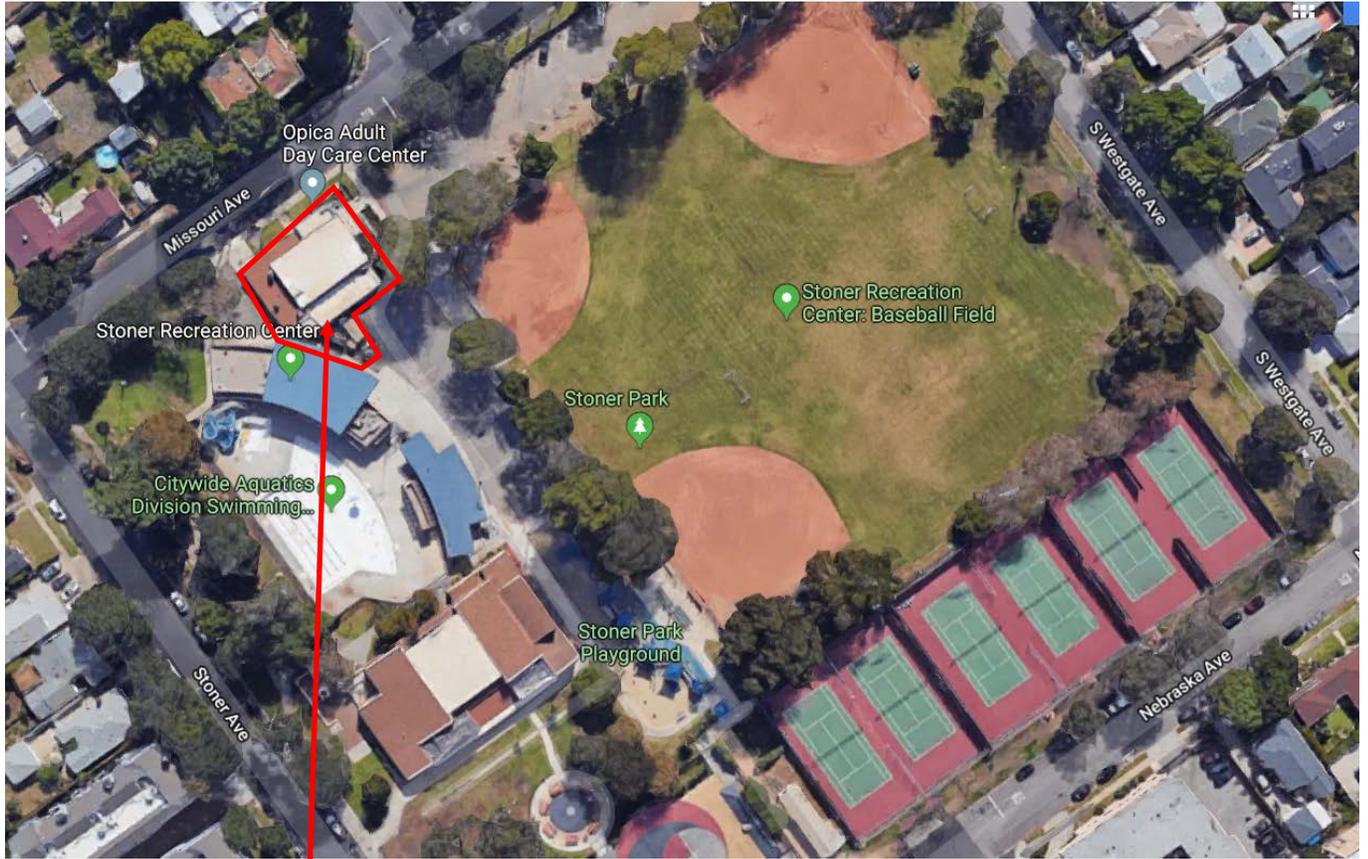
By: \_\_\_\_\_  
Deputy City Attorney

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

**EXHIBIT-A**

**SITE PLAN**

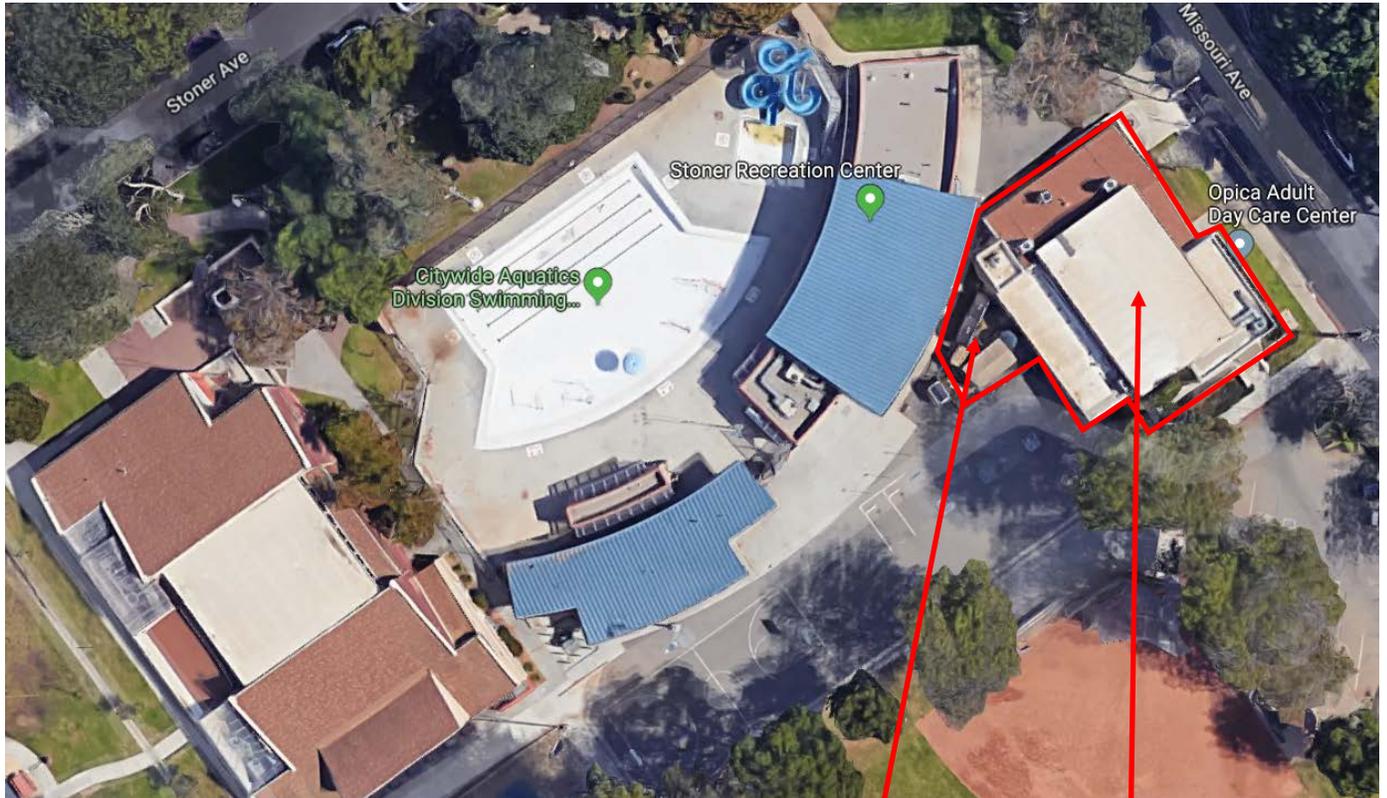
**OPICA Adult Day Program and Counseling Center at Stoner Park**  
11759 Missouri Avenue, Los Angeles, CA 90025



**PREMISES**

**Description of Premises**

Premises used by OPICA consists of exclusive use of one (1) entire building as indicated below, with that building's adjoining outdoor patio area.



Building used by OPICA

Outdoor patio area used by OPICA

## **EXHIBIT-B**

### **Program Description**

OPICA provides a safe and nurturing environment for older adults suffering from dementia as well as a carefully planned curriculum for rich experiences to support the whole person. OPICA incorporates numerous evidence-based programs into their daily activities including Tai Chi, Yoga, chair aerobics, music, art, storytelling, friendship groups, walks in the park, mindfulness relaxation classes, dancing and more. OPICA's programs are available Monday through Friday and the first Saturday of the month. In addition to the programs for older adults, OPICA offers supportive programming for the caregivers – mindfulness relaxation classes, yoga and art therapy classes. These classes are primarily offered on the weekends.

EXHIBIT-C

Sample Performance Evaluation Form



City of Los Angeles Department of Recreation and Parks  
PARTNERSHIP DIVISION

**PERFORMANCE REVIEW**  
(Revised March 2018)

<b>ORGANIZATION</b>	
<b>PROJECT/PROGRAM TITLE</b>	<b>ONE-TIME or ROE</b> <input type="checkbox"/>
	<b>ANNUAL</b> <input type="checkbox"/>
<b>DEPARTMENT FACILITY(IES)/ADDRESS &amp; PHONE NUMBER</b>	
<b>CONTRACT NUMBER</b>	<b>CONTRACT EXPIRATION DATE</b>
<b>ORGANIZATION TYPE</b> <input type="checkbox"/> 501(c)(3) <input type="checkbox"/> Government <input type="checkbox"/> Sports Group <input type="checkbox"/> Community Group other than 501(c)(3) <input type="checkbox"/> For-Profit <input type="checkbox"/> Other	
<b>AGREEMENT TYPE</b> <input type="checkbox"/> ROE <input type="checkbox"/> Exclusive <input type="checkbox"/> Shared <input type="checkbox"/> Gift/Capital <input type="checkbox"/> Gift/Funding <input type="checkbox"/> MOU/MOA <input type="checkbox"/> Joint Use <input type="checkbox"/> Other	
<b>DATE &amp; TIME OF INSPECTION</b>	<b>REVIEW PERIOD COVERED</b>
<b>NUMBER OF PARTICIPANTS PRESENT ON DATE OF INSPECTION</b>	<b>NUMBER OF VOLUNTEERS/STAFF PRESENT ON DATE OF INSPECTION</b>
<b>NUMBER OF PARTICIPANTS REGISTERED AT THIS TIME (OR HOW MANY ARE SERVED)</b>	<b>NUMBER OF VOLUNTEERS/STAFF EMPLOYED AT THIS TIME</b>
<b>NAME, TITLE, AND EMAIL ADDRESS OF ORGANIZATION CONTACT</b>	

Describe activities at time of inspection

	<b>Unsatisfactory</b>	<b>Improvement Needed</b>	<b>Meets Standards</b>	<b>Exceeds Standard</b>	<b>Outstanding</b>
<b>PROGRAM</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Collaboration enhances recreational opportunities (no duplication)					
Based on inspection or oral/written feedback, participants are enjoying/engaged in program					
Participation appears to include a reasonable proportion from the local community and inclusion of special needs participants (based on inspection or RAP staff comments)					
Instructors, leaders, staff, and/or volunteers are specialized, licensed, experienced, and/or have an appropriate level of education					
Instructors, leaders, staff, and/or volunteers are professional, polite, and prepared					
	<b>Unsatisfactory</b>	<b>Improvement Needed</b>	<b>Meets Standards</b>	<b>Exceeds Standard</b>	<b>Outstanding</b>
<b>FINANCIAL</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cost of the program is free, low cost, or similar to programs in the same community and consistent with agreement (list fees/rates)					
Organization's annual budget is provided and is sufficiently funded for commitment (attach)					
Organization pays cost recovery fees on-time and according to requirements (attach payment summary)					
Value to Department (list total expenses from 990 & attach)					
	<b>Unsatisfactory</b>	<b>Improvement Needed</b>	<b>Meets Standards</b>	<b>Exceeds Standard</b>	<b>Outstanding</b>
<b>OUTREACH</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Number of current participants reaches or exceeds target of agreement; list the target number of participants in the agreement					
Is there a current waiting list? How many people are on it? Is there a fee? (attach a copy of the list and list the fee amount, if any)					
If space is available, what efforts did the organization make to recruit new participants during this review period?					
Organization provided demographic information and analysis (attach)					

Organization performed and provided annual surveys of participants or parents of participants about program (attach)					
Marketing material (attach) and any signs on site include "In collaboration with the City of Los Angeles, Department of Recreation & Parks" and the Department logo					
Organization's web site links to the RAP web site (list website address if applicable)					
Department has approved all marketing materials					
	<b>Unsatisfactory</b>	<b>Improvement Needed</b>	<b>Meets Standards</b>	<b>Exceeds Standard</b>	<b>Outstanding</b>
<b>SAFETY COMPLIANCE</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employees and volunteers of program are fingerprinted and written verification is provided					
Current liability insurance that includes the City of Los Angeles, Department of Recreation and Parks as determined by City Risk Manager (attach printouts)	CA#: Expiration Date:				
Adequate program staff to provide proper supervision and safety (list ratio of staff to participants)					
All equipment and instructional supplies adhere to Department safety specifications and requirements					
Maintains designated areas in a clean and orderly condition					
	<b>Unsatisfactory</b>	<b>Improvement Needed</b>	<b>Meets Standards</b>	<b>Exceeds Standard</b>	<b>Outstanding</b>
<b>ORGANIZATION COMPLIANCE</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maintains good communication and a professional relationship with the Department					
Provides required written reports including Annual Report (attach)	Date Due: Date Received:				
Annual report data about the program is consistent with agreement terms including fees charged to participants					
Compliance with all terms of the agreement (days & hours of operation, parking, fees, approved use of space, participants, etc.)					
Organization is in good legal standing: check Sec. of State website and (if applicable) proof of 501(c)(3) status (attach printouts)					

Is sub-leasing of the space occurring?	
Does Department have control over property usage during non-designated times (if applicable)	
Public Complaints resolved (attach, if any)	
Compliance Resolutions completed satisfactorily (attach, if any)	
List any small scale improvements planned, in progress, or completed (i.e. painting, changes to landscaping, etc.) Were the improvements approved by the Dept.? (if applicable, list date and name of approver)	
Capital improvement projects are in conformance with City Standards and in coordination with the Department, and Bureau of Engineering (if applicable, list projects planned, in progress, or completed)	

<b>OVERALL EVALUATION</b>	<b>Unsatisfactory</b>	<b>Improvement Needed</b>	<b>Meets Standards</b>	<b>Exceeds Standard</b>	<b>Outstanding</b>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<b><u>PARTICIPANTS (OR PARENTS) - Comments / Complaints / Complements</u></b>

**ORGANIZATION STAFF OR VOLUNTEERS - Comments / Issues/Requests**

**RAP STAFF (Recreation, Maintenance, Construction, Other)**

**Additional Comments / Complaints / Complements (attach any Compliance Resolution forms)**

*Include any comments on how Partner is reaching out to community, and how well participation reflects community.*

**ADDITIONAL COMMENTS / RESULTS / RECOMMENDATIONS**

<b>NAME AND TITLE OF EVALUATOR</b>	
<b>SIGNATURE OF EVALUATOR</b>	<b>DATE</b>
<b>NAME AND TITLE OF REVIEWER</b>	
<b>SIGNATURE OF REVIEWER</b>	<b>DATE</b>

<p><b>ATTACHMENTS</b></p> <p><input type="checkbox"/> Participant Progress Stats   <input type="checkbox"/> Annual Budget   <input type="checkbox"/> Payment Summary   <input type="checkbox"/> 990/Expenses   <input type="checkbox"/> Demographic Analysis</p> <p><input type="checkbox"/> Annual Surveys   <input type="checkbox"/> Flyers and PR Materials   <input type="checkbox"/> Insurance Status   <input type="checkbox"/> Annual Report   <input type="checkbox"/> Legal/501c3 Status</p> <p><input type="checkbox"/> Public Comments/Complaints   <input type="checkbox"/> Compliance Resolution Forms   <input type="checkbox"/> Photos   <input type="checkbox"/> Program Forms   <input type="checkbox"/> Other_____</p>
--

**Please sign below and return entire form within one week to acknowledge receipt of this performance review.**

<b>PRINT NAME AND TITLE OF ORGANIZATION CONTACT</b>	
<b>SIGNATURE OF ORGANIZATION CONTACT</b>	<b>DATE</b>

EXHIBIT-D

Form Gen. 146 (Rev. 6/12)

**INSURANCE REQUIREMENTS**

**Required Insurance and Minimum Limits**

Name: OPICA Adult Day Care Center, Inc. Date: 11/30/2018

Agreement/Reference: doing business as -dba OPICA Adult Day Care Program & Counselling Center, CD11

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.

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

- Waiver of Subrogation in favor of City
- Longshore & Harbor Workers
- Jones Act

WC Statutory  
EL 1,000,000

**General Liability** City of Los Angeles must be named as an Additional Insured Party 1,000,000

- Products/Completed Operations
- Fire Legal Liability
- Sexual Misconduct

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

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

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

- All Risk Coverage
- Flood
- Earthquake
- Boiler and Machinery
- Builder's Risk

\_\_\_\_\_

**Surety Bonds** - Performance and Payment (Labor and Materials) Bonds \_\_\_\_\_

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

Other: Provided to: joel Alvarez @ RAP: ph: (213) 202-8600  
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.

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](http://www.2sparta.com)), or by calling (800) 420-0555.

7. **Automobile Liability** insurance is required only when vehicles are used in performing the work of your Contract or when they are driven off-road on CITY premises; it is not required for simple commuting unless CITY is paying mileage. However, compliance with California law requiring auto liability insurance is a contractual requirement.

8. **Errors and Omissions** coverage will be specified on a project-by-project basis if you are working as a licensed or other professional. The length of the claims discovery period required will vary with the circumstances of the individual job.

9. **Workers' Compensation and Employer's Liability** insurance are not required for single-person contractors. However, under state law these coverages (or a copy of the state's Consent To Self Insure) must be provided if you have any employees at any time during the period of this contract. Contractors with no employees must complete a Request for Waiver of Workers' Compensation Insurance Requirement (<http://cao.lacity.org/risk/InsuranceForms.htm>). A **Waiver of Subrogation** on the coverage is required only for jobs where your employees are working on CITY premises under hazardous conditions, e.g., uneven terrain, scaffolding, caustic chemicals, toxic materials, power tools, etc. The Waiver of Subrogation waives the insurer's right to recover (from the CITY) any workers' compensation paid to an injured employee of the contractor.

10. **Property** insurance is required for persons having exclusive use of premises or equipment owned or controlled by the CITY. **Builder's Risk/Course of Construction** is required during construction projects and should include building materials in transit and stored at the project site.

11. **Surety** coverage may be required to guarantee performance of work and payment to vendors and suppliers. A **Crime Policy** may be required to handle CITY funds or securities, and under certain other conditions. **Specialty coverages** may be needed for certain operations. For assistance in obtaining the CITY required bid, performance and payment surety bonds, please see the City of Los Angeles 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.

# STANDARD PROVISIONS FOR CITY CONTRACTS

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## STANDARD PROVISIONS FOR CITY CONTRACTS

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

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

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

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

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

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

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

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

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

**PSC-4. Integrated Contract**

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

**PSC-5. Amendment**

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

**PSC-6. Excusable Delays**

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

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

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

**PSC-7. Waiver**

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

**PSC-8. Suspension**

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

**PSC-9. Termination**

A. Termination for Convenience

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

B. Termination for Breach of Contract

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

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

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

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

**PSC-10. Independent Contractor**

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

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

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

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

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

**PSC-12. Assignment and Delegation**

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

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

**PSC-13. Permits**

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

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

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

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

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

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

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

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

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

#### **PSC-17. Bonds**

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

#### **PSC-18. Indemnification**

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

#### **PSC-19. Intellectual Property Indemnification**

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

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

**PSC-20. Intellectual Property Warranty**

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

**PSC-21. Ownership and License**

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

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

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

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

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

**PSC-22. Data Protection**

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

**PSC-23. Insurance**

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

**PSC-24. Best Terms**

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

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

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

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

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

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

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

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

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

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

**PSC-28. Living Wage Ordinance**

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

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

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

**PSC-30. Access and Accommodations**

**CONTRACTOR** represents and certifies that:

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

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

**PSC-31. Contractor Responsibility Ordinance**

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

**PSC-32. Business Inclusion Program**

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

**PSC-33. Slavery Disclosure Ordinance**

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

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

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

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

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

**PSC-36. Iran Contracting Act**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**PSC-42.** Possessory Interests Tax

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

**PSC-43. Confidentiality**

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

**EXHIBIT 1**

**INSURANCE CONTRACTUAL REQUIREMENTS**

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

**CONTRACTUAL REQUIREMENTS**

CONTRACTOR AGREES THAT:

- 1. Additional Insured/Loss Payee.** The CITY must be included as an Additional Insured in applicable liability policies to cover the CITY'S liability arising out of the acts or omissions of the named insured. The CITY is to be named as an Additional Named Insured and a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.
- 2. Notice of Cancellation.** All required insurance will be maintained in full force for the duration of its business with the CITY. By ordinance, all required insurance must provide at least thirty (30) days' prior written notice (ten (10) days for non-payment of premium) directly to the CITY if your insurance company elects to cancel or materially reduce coverage or limits prior to the policy expiration date, for any reason except impairment of an aggregate limit due to prior claims.
- 3. Primary Coverage.** CONTRACTOR will provide coverage that is primary with respect to any insurance or self-insurance of the CITY. The CITY'S program shall be excess of this insurance and non-contributing.
- 4. Modification of Coverage.** The CITY reserves the right at any time during the term of this Contract to change the amounts and types of insurance required hereunder by giving CONTRACTOR ninety (90) days' advance written notice of such change. If such change should result in substantial additional cost to CONTRACTOR, the CITY agrees to negotiate additional compensation proportional to the increased benefit to the CITY.
- 5. Failure to Procure Insurance.** All required insurance must be submitted and approved by the Office of the City Administrative Officer, Risk Management prior to the inception of any operations by CONTRACTOR.

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

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

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

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

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

**9. Commencement of Work.** For purposes of insurance coverage only, this Contract will be deemed to have been executed immediately upon any party hereto taking any steps that can be considered to be in furtherance of or towards performance of this Contract. The requirements in this Section supersede all other sections and provisions of this Contract, including, but not limited to, PSC-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
<p>___ <b>Workers' Compensation (WC) and Employer's Liability (EL)</b></p> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 45%;"> <p><input type="checkbox"/> Waiver of Subrogation in favor of City</p> <p><input type="checkbox"/> Longshore &amp; Harbor Workers</p> <p><input type="checkbox"/> Jones Act</p> </div> <div style="width: 45%; text-align: right;"> <p>WC _____</p> <p>Statutory _____</p> <p>EL _____</p> </div> </div>	
<p>___ <b>General Liability</b></p> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 45%;"> <p><input type="checkbox"/> Products/Completed Operations</p> <p><input type="checkbox"/> Fire Legal Liability</p> <p><input type="checkbox"/> _____</p> </div> <div style="width: 45%; text-align: right;"> <p><input type="checkbox"/> Sexual Misconduct _____</p> </div> </div>	
<p>___ <b>Automobile Liability</b> (for any and all vehicles used for this contract, other than commuting to/from work)</p>	_____
<p>___ <b>Professional Liability</b> (Errors and Omissions)</p> <p style="margin-left: 20px;">Discovery Period _____</p>	_____
<p>___ <b>Property Insurance</b> (to cover replacement cost of building - as determined by insurance company)</p> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 45%;"> <p><input type="checkbox"/> All Risk Coverage</p> <p><input type="checkbox"/> Flood _____</p> <p><input type="checkbox"/> Earthquake _____</p> </div> <div style="width: 45%; text-align: right;"> <p><input type="checkbox"/> Boiler and Machinery</p> <p><input type="checkbox"/> Builder's Risk</p> <p><input type="checkbox"/> _____</p> </div> </div>	_____
<p>___ <b>Pollution Liability</b></p> <p><input type="checkbox"/> _____</p>	_____
<p>___ <b>Surety Bonds - Performance and Payment (Labor and Materials) Bonds</b></p>	_____
<p>___ <b>Crime Insurance</b></p>	_____

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_