

PROFESSIONAL SERVICES AGREEMENT

Contractor: **[COMPANY]**

Regarding: **DEPENDENT ELIGIBILITY VERIFICATION (DEV) AUDIT SERVICES
FOR THE CITY OF LOS ANGELES LAWELL BENEFITS PROGRAM**

Said Agreement is Number _____

Professional Services Agreement

**DEPENDENT ELIGIBILITY VERIFICATION (DEV) AUDIT SERVICES FOR THE CITY
OF LOS ANGELES LAWELL BENEFITS PROGRAM**

Table of Contents

Section	Description	
Article I	INTRODUCTION.....	4
Article II	TERM AND SERVICES TO BE PROVIDED	5
Article III	COMPENSATION.....	7
Article IV	CONTRACT REQUIREMENTS AND STANDARD PROVISIONS.....	8
Article V	MISCELLANEOUS.....	9
Signature Page.....		13

ATTACHMENTS

- Exhibit A – City of Los Angeles Standard Provisions for City Contracts (rev. 1/25 [v.2] [EBD])
- Exhibit 1 – Insurance Requirements
- Exhibit B – Confidentiality Agreement

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF LOS ANGELES AND
[COMPANY]**

This PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is made and entered into by and between the City of Los Angeles, a municipal corporation, acting through its “Personnel Department” (hereinafter referred to as “City”), and [COMPANY], doing business as [COMPANY] (hereinafter referred to as “Contractor”), with reference to the following:

RECITALS

1. The City has established a modified Civilian LAwell Benefits Program (“LAwell Program”) for its eligible civilian employees in accordance with Section 125 of the Internal Revenue Code (“Code”) and all applicable Federal Regulations and State of California statutes; and allows employees to enroll eligible dependents into the LAwell Program;
2. Pursuant to Los Angeles City Charter Section 1022, it was determined that City employees do not have the expertise to perform the work and that the Spending Account Services to be performed are of an expert and technical nature and are temporary and occasional in character and it is not economical or feasible for the City to have the work performed by its own employees; and
3. The City desires to engage the services of a contractor to assist the City in conducting a Dependent Eligibility Verification (DEV) Audit Services to re-verify the eligibility of its employees’ dependents, including but not limited to, spouses, domestic partners, children, stepchildren, children of domestic partners, etc. (hereafter referred to as “dependents”), enrolled in the LAwell Program;
4. The City publicly solicited proposals to provide Services through the issuance of a Request for Proposal (“RFP”) and Contractor submitted a proposal on September 18, 2025, hereinafter referred to as the “Proposal”, and which offers to provide the Services as specified in the City’s RFP;
5. The City reviewed the Proposal, finds it to be satisfactory in response to the Services needed by the City, and accepts Contractor’s offer to provide the services indicated in the Proposal;
6. The City’s Joint Labor-Management Benefits Committee (“JLMBC”), at its meeting of [TBD], approved and recommended to the General Manager of the Personnel Department the selection of Contractor to provide the Services;
7. Funds for the Services to be provided under this Agreement will be from the City’s Employee Benefits Trust Fund (“Trust”).

NOW, THEREFORE, in consideration of the promises and of the covenants, representations, and agreements set forth herein, the parties hereby covenant, represent, and agree as follows:

ARTICLE I.
INTRODUCTION

A. Representatives of the Parties and Service of Notices

1. The representatives of the respective parties authorized to administer this Agreement (“Administration Representative”), and to whom formal notices, demands, and legal communications (“Legal Representative”) shall be given are as follows:

a. The Administrative Representative of the City shall be, unless otherwise stated in the Agreement:

[Name], Employee Benefits Division Chief
City of Los Angeles, Personnel Department, Employee Benefits Division
200 North Spring Street, Room 867
Los Angeles, CA 90012

[Phone]

[Email]

b. The Administrative Representative of the Contractor shall be:

[Name]

[Title]

[Street]

[City], [State] [Zip]

[Phone]

[Email]

2. Formal notices, demands, and communications required hereunder by either party shall be made in writing and may be effected by personal delivery, where it shall be deemed communicated as of the date of delivery, or by registered or certified United States Postal Service mail, postage prepaid, return receipt requested and shall be deemed communicated three (3) days after the post stamped mailing.

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

ARTICLE II.
TERM AND SERVICES TO BE PROVIDED

A. Time of Performance

The term of this Agreement will commence on [Date], and will end on [Date], subject to the termination provisions herein ("Term"). The City reserves the right to extend the Term for up to two (2) additional years, through [Date], if so desired by the City in its sole and absolute discretion.

B. Purpose of the Agreement and Services to be Provided

The purpose of the work performed by Contractor under this Agreement is to provide DEV Audit Services for the City's LAwell Program.

C. Scope of Services

The City requires Contractor to satisfactorily perform a range of services related to DEV Audit Services on its behalf to assist in the evaluation of the eligibility of dependents claimed on the City's benefit plans.

Any modification or amendment of the Scope of Services must be mutually agreed to by the City and Contractor. All amendments must be agreed upon in writing.

DEV Audit Services

1. Aid the City with communications to notify and inform employees / retirees of the upcoming audit, including a description of the process and the documentation required to confirm eligibility for dependent coverage.
2. Audit the City's employees' and retirees' dependent population for compliance with the eligibility rules outlined in the plans. The audits must be tracked as individual audits for each population and provide statistics per employee / retiree and associated dependent(s).
3. All communication, processing, and transference of data must remain within the U.S.
 - a. Provide a U.S. based Service Center for employees / retirees to call with questions or concerns. Service Center requirements include:
 - b. Availability Monday through Friday, 8:00 AM to 5:00 PM PT;
 - c. The provision of a dedicated phone line for City employees / retirees;
 - d. Live Spanish speaking representatives and language line access for other languages;
 - e. Availability of ADA accessibility equipment; and;
 - f. The ability to perform incoming as well as outgoing cold transfer of calls

- to / from the City's system of record. The City currently uses the Cisco phone system.
4. Provide communications on behalf of the City to employees / retirees requesting documentation to verify eligibility of dependents of coverage.
 5. As part of the communications and response effort, collect other employee information noted below:
 - a. Coordination of Benefits (COB) details including but not limited to dependents with other employer sponsored coverage;
 6. Provide follow-up communications to employees, as necessary.
 - a. If employee submitted incomplete documentation to confirm eligibility; and
 - b. Final determination notifications of all dependents.
 7. Distribute communication to The City employees / retirees via USPS mail and include a postage paid envelope for documentation return.
 8. Provide a dedicated and secure, U.S. based website for employees / retirees to upload documentation via single sign on (SSO) for applicable populations through the City's website.
 9. Coordinate on follow-up communications to the employee / retiree population.
 10. Communicate ineligible individuals to be removed from coverage.
 11. Provide comprehensive reporting on the audit results and recommendations, as well as reporting by bargaining unit (up to 45 bargaining units).
 12. Provide online access to the vendor's portal for authorized staff to view employees' / retirees' status as well as view the uploaded documentation from the employees / retirees.
 13. Ability to manage the appeals process by systematically capturing first level and second level appeal attempts since the first and second level appeal may follow different processes.
 14. Support a 30-day appeal period following the termination of coverage date.
 15. Ability to verify any future employee / retiree population acquisitions, as a one-time verification phase.
 16. Provide reporting on performance guarantees weekly for service center services with a minimum of the following:
 - a. Member Speed to Answer – 90% within 60 seconds;

- b. Call Blockage – 90% within one business day; 100% within two business days; and
 - c. First Call Resolution – 90% or greater.
17. Retain and share data collected from the employees / retirees in a standard, electronic format (Excel, .csv, .txt, etc.). This includes Coordination of Benefits (COB), and other updated demographic information (address, email address, phone number as well as any updated relationship codes due to documentation supplied (stepchild, guardianship, etc.).
 18. Retain and share documents received from the employee / retiree in a standard, electronic format to be loaded into the system of record.
 19. Retain and share daily call notes received from the employee / retiree in a standard, electronic format that captures date and time of interaction, type of contact (phone, email, chat etc.) and a summary of the interaction.
 20. Determine and share the disposition of employee's / retiree's dependent(s) audit (including Domestic Partners and grandchildren). The information must be shared in a standard electronic format (Excel, .csv, .txt, etc.).
 21. After documents are scanned, stored, and shared, dispose of documents using a HIPAA compliant solution/vendor. Certification of disposal is required.
 22. Store documentation electronically to follow retention policy.
 23. Provide electronic copies of all documentation collected in this effort.

Ongoing Services:

Support ongoing verification including, but not limited to the following:

1. Systematically track validate newly enrolled dependents.
2. Systematically track validated spouses with a verification date of completed. This will include the initial verification and any subsequent verification phases (to allow for annual spousal verification).
3. Ability to randomly select a specified percentage of spouses to verify subsequent eligibility annually, taking into account the last verification date.

ARTICLE III.
COMPENSATION

A. Payments

1. City shall pay Contractor on a [TBD] basis for the satisfactory performance of

the DEV Audit Services during the Term. [TBD]

2. Contractor understands and agrees that it may not make any financial commitment on behalf of the City, incur any cost or expense on behalf of the City, or obligate the City to make payments for any costs or expenses, unless authorized by the City.
3. Notwithstanding any other provision of this Agreement, including any exhibits or attachments incorporated therein, the parties hereby agree that the fees described above have been mutually negotiated and accepted, and are not subject to adjustment based upon the terms of any third-party agreement either party may enter into.

ARTICLE IV. **CONTRACT REQUIREMENTS AND STANDARD PROVISIONS**

A. Contract Requirements and Standard Provisions for City Contracts

Contractor agrees to comply with the City of Los Angeles' Standard Provisions for City Contracts (revised 1/25 [v.2][EBD]), attached hereto as Exhibit A and incorporated herein by reference. The term "contract" as used in the Standard Provisions for City Contracts shall mean this Agreement, including all exhibits and attachments. In the event of any inconsistency between the provisions in the body of this Agreement and the Standard Provisions for City Contracts, the provisions of the body of this Agreement take precedence.

B. Responsibility to Provide Services in Accordance with Applicable Standards and Requirement to Possess All Valid Permits and Licenses

Contractor warrants that the work performed hereunder will be completed in a manner consistent with professional standards among those firms in the Contractor's profession, doing the same or similar work, under the same or similar circumstances. Contractor must possess and maintain valid licenses, certifications, and permits required to perform the services described herein.

C. Compliance with Statutes and Regulations

Contractor, in the performance of this Agreement, will comply with all applicable statutes, rules, regulations, and orders of the United States, the State of California, and the County and City of Los Angeles. Contractor will comply with new, amended, or revised laws, regulations, and procedures that apply to the performance of this Agreement.

ARTICLE V.
MISCELLANEOUS

A. Suspension

In addition to any other provision of this Agreement, the City may suspend all or part of the services hereunder for failure by Contractor to comply with the terms and conditions of this Agreement by giving written notice, which shall be effective upon receipt. Said notice shall set forth the specific conditions of noncompliance and the period provided for corrective action. Within five (5) working days of receipt of the notice, Contractor shall reply in writing setting forth the corrective actions that will be undertaken, subject to City approval in writing. Performance of the scope of work shall not resume without the prior written approval of the City.

B. Termination of Agreement

The termination provisions contained in the Standard Provisions for City Contracts (PSC-9) shall survive the termination of this Agreement. All unfinished documents and materials produced or procured by Contractor under this Agreement shall, upon termination, be provided to the City on an "AS IS" basis without any warranties of any nature whatsoever and Contractor shall have no liability from the use of any such unfinished documents and materials.

C. Ownership

In addition to the requirements set forth in the Standard Provisions for City Contracts (revised 1/25 [v.2][EBD]), Contractor's performance of services is subject to the following (which shall take precedence over the terms in the Standard Provisions for City Contracts in the event of any inconsistency).

1. Except as otherwise provided for herein and in the City of Los Angeles Confidentiality Agreement, attached hereto by reference as Exhibit E and incorporated herein by reference, Contractor acknowledges and agrees that any documents, publications, databases, videos, reports, analyses, studies, drawings, information, or data (hereinafter collectively referred to as "Materials"), that are created or developed by Contractor specifically and exclusively for the City pursuant to the terms of this Agreement, are "Work Made for Hire" and shall become the property of the City for its use in any manner it deems appropriate; provided that, to the extent permitted by law, the City agrees not to disclose to any third-party, other than its attorneys, accountants, and financial contractors with a need to know, the Work Made for Hire or any advice given to the City by Contractor. Subject to the limitations set forth herein, Contractor agrees to assign any and all of its respective interests and rights in any Work Made for Hire to the City for its use. To the extent any Materials or Work for Hire incorporate any Intellectual Property, Contractor hereby grants the City a non-exclusive, non-transferable, perpetual right to use such Intellectual Property solely for purposes of utilizing the Materials or Work for Hire internally in accordance with the terms of this

Agreement. Works Made for Hire shall not include Materials created or developed by Contractor prior to the commencement of the Term or during the Term but for use by Contractor in providing services to the City and other clients of Contractor.

2. The provisions of this Section shall survive expiration or termination of this Agreement.

D. Confidentiality

1. Except as otherwise required by the provisions of HIPAA as defined in the City of Los Angeles Confidentiality Agreement, any Documents and information that the City may provide to Contractor are confidential and all Materials are to be considered confidential.
2. The provisions of this Section shall survive expiration or termination of this Agreement.
3. Contractor agrees to comply with the terms and conditions contained in the Confidentiality Agreement which shall be executed concurrently herewith by Contractor and attached hereto as Exhibit C and incorporated herein by reference.

E. Non-Exclusive Contract

This Agreement does not establish an exclusive contract between Contractor and City for the provision of the Scope of Services hereunder. City expressly reserves all rights to utilize others to provide some or all of the tasks included in the Scope of Work, to direct others to perform some or all of the tasks included in the Scope of Work without utilizing Contractor, and to seek bids or proposals from others to perform some or all of the tasks included in the Scope of Work.

F. Independent Audit/Contractor Evaluation

1. City reserves the right to assign an independent auditor to assess Contractor's compliance with the terms and conditions of this Agreement, the quality of services being provided hereunder, and the extent to which Contractor and its subcontractors, if any, are conducting City business within generally accepted industry standard practices. Contractor shall cooperate fully with any such audit, to the extent it does not unreasonably interfere with Contractor's business operations. Audits shall be conducted for the purposes set forth herein and in compliance with the requirements of HIPAA.
2. Following the end of the Term, City may conduct an evaluation of Contractor's performance hereunder. As required by the Los Angeles Administrative Code, evaluations will be based on specified criteria, including the quality of work

performed, the timeliness of performance, financial issues, and the expertise of personnel that Contractor assigned to perform the Scope of Work. Contractor will be provided with a copy of the final City evaluation and allowed fourteen (14) calendar days to respond. The City will use the final evaluation and any response from Contractor to evaluate proposals and to conduct reference checks when awarding future service contracts.

G. California Public Records Act

City is a public entity subject to the disclosure requirements of the California Public Records Act ("CPRA") (Government Code Section 6254 et. seq.). If Contractor believes that any documents submitted to City contain proprietary information and that such information falls within one or more of the exceptions to the CPRA, then Contractor must clearly mark such information as confidential and proprietary. In the event of a CPRA request for such information, the City will make best efforts to provide notice to Contractor prior to the date of disclosure. Should Contractor contend that any documents are exempt from disclosure under the CPRA and desire to prevent disclosure, it must obtain a protective order, injunctive relief or other appropriate remedy in Los Angeles County Superior Court before the date the City must respond to the request. If Contractor fails to take such action and obtain such remedy before the response date, then City may disclose the requested documents. Contractor agrees to defend, indemnify and hold City harmless against any claim, action or litigation (including but not limited to all judgments, costs, fees and reasonable attorney's fees) that may result from denial by City of a CPRA request for documents arising from any representation or any action (or inaction) by Contractor.

H. Ambiguity

The parties acknowledge that each was represented by legal counsel or had the opportunity to consult with legal counsel in the drafting and negotiation of this Agreement. Any ambiguity in this Agreement shall not, therefore, be interpreted against any one party by virtue of that party being drafter of the Agreement.

I. Ratification

Due to the need for Contractor's services to be provided upon the commencement of the Term hereof, Contractor may have provided services during the Term but prior to the execution of this Agreement. To the extent that said services were performed in accordance with the terms and conditions of this Agreement, those services are hereby accepted by the City and shall be treated as services performed under the terms and conditions of this Agreement.

J. Order of Precedence

In the event of any inconsistency between the provisions in the body of this Agreement and the exhibits and attachments hereto, the following shall be the

order of precedence in resolving such inconsistency:

1. The provisions in the body of this Agreement;
2. The City of Los Angeles Standard Provisions for City Contracts (revised 1/25 [v.2][EBD]);
3. The other exhibits and attachments hereto.

K. Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which together shall constitute one and the same Agreement.

(Signature Page to Follow)

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

THE CITY OF LOS ANGELES

[COMPANY]

By: _____
MALAIKA C. BILLUPS
General Manager
Personnel Department

By: _____
[Name]
[Title]

Date: _____

Date: _____

By: _____
[Name]
[Title]

Date: _____

APPROVED AS TO FORM:

ATTESTED:

HYDEE FELDSTEIN, City Attorney

PETTY SANTOS, Interim-City Clerk

By: _____
[Name]
Deputy City Attorney

By: _____
Deputy City Clerk

Date: _____

Date: _____

*Approved Signature Methods:

- 1) Two signatures: One of the Chairman of the Board of Directors, President, or Vice-President, and one of the Secretary, Assistant Secretary, Chief Financial Officer, or Assistant Treasurer.
- 2) One signature of a Corporate-designated individual together with a properly attested resolution of the Board of Directors authorizing the individual to sign

City Business License Number _____

Internal Revenue Service Taxpayer Identification Number _____

Agreement Number _____

EXHIBIT A

Standard Provisions for City Contracts (Rev. 1/25 [v.2] [EBD])

STANDARD PROVISIONS FOR CITY CONTRACTS

TABLE OF CONTENTS

PSC-1	<u>Construction of Provisions and Titles Herein</u>	1
PSC-2	<u>Applicable Law, Interpretation and Enforcement</u>	1
PSC-3	<u>Time of Effectiveness</u>	1
PSC-4	<u>Integrated Contract</u>	2
PSC-5	<u>Amendment</u>	2
PSC-6	<u>Excusable Delays</u>	2
PSC-7	<u>Waiver</u>	2
PSC-8	<u>Suspension</u>	2
PSC-9	<u>Termination</u>	3
PSC-10	<u>Independent Contractor</u>	5
PSC-11	<u>Contractor’s Personnel</u>	5
PSC-12	<u>Assignment and Delegation</u>	6
PSC-13	<u>Permits</u>	6
PSC-14	<u>Claims for Labor and Materials</u>	6
PSC-15	<u>Current Los Angeles City Business Tax Registration Certificate Required</u>	6
PSC-16	<u>Retention of Records, Audit and Reports</u>	6
PSC-17	<u>Bonds</u>	7
PSC-18	<u>Indemnification</u>	7
PSC-19	<u>Intellectual Property Indemnification</u>	7
PSC-20	<u>Intellectual Property Warranty</u>	8
PSC-21	<u>Ownership and License</u>	8
PSC-22	<u>Data Protection</u>	9

TABLE OF CONTENTS (Continued)

PSC-23 Insurance..... 9

PSC-24 Best Terms 9

PSC-25 Warranty and Responsibility of Contractor..... 10

PSC-26 Mandatory Provisions Pertaining to Non-Discrimination in Employment 10

PSC-27 Child Support Assignment Orders 10

PSC-28 Living Wage Ordinance 11

PSC-29 Service Contractor Worker Retention Ordinance 11

PSC-30 Access and Accommodations..... 11

PSC-31 Contractor Responsibility Ordinance 12

PSC-32 Business Inclusion Program 12

PSC-33 Slavery Disclosure Ordinance 12

PSC-34 First Source Hiring Ordinance..... 12

PSC-35 Local Business Preference Ordinance..... 12

PSC-36 Iran Contracting Act..... 12

PSC-37 Restrictions on Campaign Contributions in City Elections..... 12

PSC-38 Contractors’ Use of Criminal History for Consideration of Employment Applications..... 13

PSC-39 Limitation of City’s Obligation to Make Payment to Contractor..... 13

PSC-40 Compliance with Identity Theft Laws and Payment Card Data Security Standards..... 14

PSC-41 Compliance with California Public Resources Code Section 5164..... 14

PSC-42 Possessory Interests Tax 14

PSC-43 Confidentiality..... 15

PSC-44 Contractor Data Reporting..... 15

Exhibit 1 Insurance Contractual Requirements..... 16

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 (i) death or injury to any person, including **CONTRACTOR'S** employees and agents, (ii) damage or destruction of any property of either party hereto or of third parties, or (iii) any other damages or losses of any kind or nature arising in any manner by reason of any act, error, omission or willful misconduct 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 Regional Alliance Marketplace for Procurement ("RAMP") at <https://www.rampla.org/s/>, to perform and document outreach to Minority, Women, and Other Business Enterprises. **CONTRACTOR** shall perform subcontractor outreach activities through BAVN. **CONTRACTOR** shall not change any of its designated Subcontractors or pledged specific items of work to be performed by these Subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of **CITY**.

PSC-33. Slavery Disclosure Ordinance

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

PSC-34. First Source Hiring Ordinance

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

PSC-35. Local Business Preference Ordinance

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

PSC-36. Iran Contracting Act

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PSC-42. Possessory Interests Tax

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

PSC-43. Confidentiality

All documents, information, City Data (as that term is defined in PSC-22), and materials provided to **CONTRACTOR** by **CITY** or developed by **CONTRACTOR** pursuant to this Contract (collectively “Confidential Information”) are confidential. **CONTRACTOR** shall not provide, and shall prohibit its employees and subcontractors from providing or disclosing, any Confidential Information or their contents or any information therein either orally or in writing, to any person or entity, except as authorized by **CITY** or as required by law. **CONTRACTOR** shall immediately notify **CITY** of any attempt by a third party to obtain access to any Confidential Information. This provision will survive expiration or termination of this Contract.

PSC-44. Contractor Data Reporting

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

EXHIBIT 1
INSURANCE CONTRACTUAL REQUIREMENTS

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

CONTRACTUAL REQUIREMENTS

CONTRACTOR AGREES THAT:

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

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

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

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

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

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

9. Commencement of Work. For purposes of insurance coverage only, this Contract will be deemed to have been executed immediately upon any party hereto taking any steps that can be considered to be in furtherance of or towards performance of this Contract. The requirements in this Section supersede all other sections and provisions of this Contract, including, but not limited to, PSC-3, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

Required Insurance and Minimum Limits

Name: _____

Date: _____

Agreement/Reference: _____

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

Limits

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

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

_____ **General Liability** _____

Products/Completed Operations Sexual Misconduct _____
 Fire Legal Liability _____

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

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

Discovery Period _____

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

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

_____ **Pollution Liability** _____

_____ **Surety Bonds - Performance and Payment (Labor and Materials) Bonds** _____
 _____ **Crime Insurance** _____

Other: _____

Exhibit B

Confidentiality Agreement

CONFIDENTIALITY AGREEMENT

[COMPANY], (hereinafter referred to as "Contractor"), has entered into a Professional Services Agreement (hereinafter referred to as "Agreement") with the City of Los Angeles (hereinafter referred to as "City") to provide LAwell benefit services to City elected officials, officers and employees ("City Personnel").

In performing the services under the Agreement, Contractor may have access to certain Confidential Information and Protected Personal Information. Confidential Information includes, but is not limited to, all data, records, documents, audio and visual recordings, materials, products, technology, computer programs, specifications, manuals, business plans, software, marketing plans, financial information and other information disclosed or submitted, orally, in writing, or by any other media, by or on behalf of City to Contractor. For avoidance of doubt, Confidential Information does not include information containing Protected Personal Information.

Protected Personal Information is information that identifies or is capable of identifying City Personnel, including, but not limited to, personally-identifiable information, employee records, or individual financial information that is subject to State or Federal laws restricting the use and disclosure of such information, including, but not limited to, Article 1, Section 1 of the California Constitution, the California Information Practices Act (Civil Code § 1798 et seq.), the California Confidentiality of Medical Information Act (Civil Code § 56 et seq.) ("COMIA"), the Gramm-Leach-Bliley Act (15 U.S.C. §§ 6801(b) and 6805(b)(2)), the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), the Health Insurance Portability and Accountability Act of 1996, as amended, and the regulations promulgated thereunder (45 CFR Parts 160 and Subparts A, C and E of Part 164) (collectively referred to as "HIPAA"), the Fair and Accurate Credit Transactions Act (15 USC § 1601 et seq.), the Fair Credit Reporting Act (15 USC § 1681 et seq.). Protected Personal Information specifically includes Protected Health Information as defined by HIPAA and Medical Information as defined by COMIA.

Contractor agrees to comply with all applicable State and Federal statutes and regulations and County of Los Angeles and City requirements, as well as best practices, governing the collection, access, use, disclosure, safeguarding and destruction of Confidential Information and Protected Personal Information in the performance of services under the Agreement.

Contractor is responsible for protecting the confidentiality, maintaining the security and preventing the unauthorized use and disclosure of all Confidential Information and Protected Personal Information in Contractor's possession and Contractor shall ensure that its officers, employees, agents and vendors comply with the requirements herein. Contractor shall implement and maintain adequate and necessary security systems, along with policies and protocols to provide the highest reasonable level of safety and security of the Protected Personal Information. If there is a breach of Contractor's security system, as defined by HIPAA and Civil Code Section 1798.82,

and Protected Personal Information is accessed or believed to have been accessed, then Contractor, in addition to its notification requirements under HIPAA and Civil Code Section 1798.82, shall include the information set forth in 45 CFR Section 164.404(c) and Civil Code Section 1798.82(d)(3) in the notification required hereby and provide a copy of such notification simultaneously to the City. Contractor shall also provide the notification required hereby for breaches of electronic protected health information discovered by Contractor's business associates, as defined under HIPAA. Contractor shall take such necessary and appropriate actions to terminate any such breach and to any such breach and to prevent the distribution of any such accessed Protected Personal Information.

Upon request by City and upon the completion or termination of Contractor's services under the Agreement, Contractor will return to City all Confidential Information in Contractor's possession provided by or on behalf of City, unless otherwise prohibited by HIPAA or other provision of Federal or State law.

Contractor shall indemnify and defend City and City Personnel from and against any claim, action, cause of action, loss, demands and expenses, including, but not limited to, attorneys' fees and costs of litigation, damages and liability (collectively "Claim") arising out of or resulting from or alleged to have resulted from (i) any breach or violation by Contractor under or related to this Confidentiality Agreement or (ii) the access by any unauthorized individual or entity to Confidential Information and/or Protected Personal Information held or retained in any form resulting from Contractor's or any of its subcontractors' performance under this agreement to Confidential Information and/or Protected Personal Information held or retained in any form by Contractor or Contractor's business associates. Contractor's defense obligation includes Claims by City Personnel and shall commence upon Contractor's receipt of the Claim. Contractor's selection of defense counsel shall be subject to City's reasonable approval.

In the case of conflict between this Confidentiality Agreement and other confidentiality provisions, this Agreement will take precedence.

CONTRACTOR NAME

By: _____
Signature

_____ Print Contractor Name

_____ Title

_____ Date

Contractor Address _____

Contract Number _____