

APPROVED
07-13-2016

BOARD REPORT

NO. 16-150

DATE: JULY 13, 2016

C.D. 1

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: ELYSIAN PARK RECREATION CENTER – AMENDMENT TO AGREEMENT NO. 3482 WITH LOS ANGELES THEATRE ACADEMY TO EXTEND THE TERM OF AGREEMENT

AP Diaz	_____	*V. Israel	_____
R. Barajas	_____	K. Regan	_____
H. Fujita	_____	N. Williams	_____



General Manager

Approved

Disapproved

Withdrawn

RECOMMENDATIONS

1. Approve a proposed Amendment to Agreement No. 3482, herein included as Attachment 1, between the City of Los Angeles and Los Angeles Theatre Academy, to extend the term of Agreement No. 3482, from three years to six years, subject to approval of the Mayor, the City Council, and the City Attorney as to form;
2. Direct the Board Secretary to transmit the Amendment to the Mayor, in accordance with Executive Directive No. 3, and to the City Attorney for review and approval as to form; and,
3. Authorize the Board President and Secretary to execute the Amendment subsequent to all necessary approvals.

SUMMARY

On June 27, 2013, the Board of Recreation and Park Commissioners (Board) approved Agreement No. 3482 (Agreement), attached to this Report as Exhibit A, between the City of Los Angeles (City) and Los Angeles Theatre Academy (Organization), authorizing the Organization's operation of Theatre Arts, After School, and Summer Day Camp Programs (collectively "Program"), at Elysian Park Recreation Center, located 929 Academy Road, Los Angeles, CA 90012 (Report No. 13-174). The Agreement, which was executed on December 18, 2013, presently carries a three-year term and is due to expire on December 17, 2016.

The Organization has served the Elysian Park community since 2010. The Theatre Arts and After-School Programs currently serve over forty (40) youth during the school year and over One Hundred Thirty (130) youth each summer in the Summer Day Camp. Additionally, the Organization's operating staff and administration currently consist of twenty-three (23) staff, two

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interns, six board members and five advisory board members. Attached as Exhibit A is a list of the board members and advisory board members.

The Organization has successfully operated the Program at the Elysian Park Recreation Center (Premises) for the past three years, consistently receiving positive yearly evaluations from staff. The Organization has consistently paid all required cost recovery reimbursement fees in a timely manner in the amount of four hundred thirty-three dollars (\$433.00) per month, in addition to paying direct staffing costs to the Department of Recreation and Parks (RAP) Metro Region Operations when staff are required to be present and on duty while the Organization is utilizing the Premises before and after the Premises is normally open to the public.

Staff recommends that the term of Agreement No. 3482 be extended three (3) additional years through the proposed Amendment, allowing the Organization to continue operating the Program for the benefit of the local community. With the Board's approval of the proposed Amendment, the Agreement's new date of expiration will be December 17, 2019.

FISCAL IMPACT STATEMENT

Extending the term of Agreement No. 3482 with Organization will have no adverse impact on the RAP General Fund, as the Organization will continue to be solely responsible for all costs and expenses associated with the operation of the Program.

This Report was prepared by Joel Alvarez, Senior Management Analyst II, and Chinyere Stoneham, Senior Recreation Director II, Partnership Division.

LIST OF ATTACHMENTS/EXHIBITS

- 1) Proposed Amendment to Agreement No. 3482
- 2) Exhibit A – Los Angeles Theatre Academy Contract No. 3482
- 3) Exhibit B - Los Angeles Theatre Academy Board of Directors
- 4) Exhibit C - Board Report No. 13-174

**AMENDMENT TO AGREEMENT NO. 3482
BETWEEN
THE CITY OF LOS ANGELES
AND
LOS ANGELES THEATRE ACADEMY
FOR
THE OPERATION OF THEATRE ARTS,
AFTER SCHOOL AND SUMMER DAY CAMP PROGRAMS
AT
ELYSIAN PARK RECREATION CENTER**

THIS AMENDMENT TO AGREEMENT NO. 3482 ("AMENDMENT") is made this _____ of _____, 2016, by and between the City of Los Angeles, acting by and through its Board of Recreation and Park Commissioners ("CITY") and Los Angeles Theatre Academy, a California 501C(3) non-profit organization ("ORGANIZATION"). CITY and ORGANIZATION may be referred to collectively herein as "PARTIES."

WHEREAS, on June 27, 2013, the Board of Recreation and Park Commissioners approved Agreement No. 3482, between the CITY and ORGANIZATION for ORGANIZATION's operation of Theatre Arts, After School and Summer Day Camp Programs at Elysian Park Recreation Center, located at 929 Academy Road, Los Angeles, CA 90012; (Report No. 13-174); and,

WHEREAS, Agreement No. 3482 was executed on December 18, 2013, for a three (3) year term and is due to expire on December 17, 2016; and,

WHEREAS, ORGANIZATION has notified CITY that ORGANIZATION wishes to continue its collaboration with CITY under the same terms and conditions for an additional three (3) year term, commencing upon the current expiration date of Agreement No. 3482; and,

WHEREAS, CITY accepts ORGANIZATION's offer to continue its collaboration with CITY.

NOW THEREFORE, in consideration of the forgoing, and the terms and conditions contained herein, and the performance thereof, PARTIES hereby agree to amend Agreement No. 3482 as follows:

Section 2 – Term and Termination

The first paragraph in Section 2 is hereby amended in its entirety and shall now read:

The performance period authorized under this AGREEMENT (for ease of reference, shall be referred to herein as the “TERM” shall be a maximum of six (6) years, subject to annual performance evaluations (“ANNUAL PERFORMANCE REVIEWS”) more fully described below in Section 3 of this AGREEMENT.

With the exception of Section 2 (Term), as amended herein, Agreement No. 3482 shall remain unchanged by this Amendment and in full force and effect. Should any provision of Agreement No. 3482 conflict with this Amendment, the terms and conditions of this Amendment shall prevail.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the PARTIES have executed this AMENDMENT TO AGREEMENT NO. 3482, as of the day and year first written above.

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

LOS ANGELES THEATRE ACADEMY, a California 501C(3) non-profit organization

By: _____
President

By: _____

By: _____
Secretary

Title: _____

Date: _____

By: _____

Title: _____

APPROVED AS TO FORM:

Date: _____

MICHAEL N. FEUER, City Attorney

By: _____
Deputy City Attorney

Date: _____

**AGREEMENT
BETWEEN CITY OF LOS ANGELES
AND
LOS ANGELES THEATRE ACADEMY, INC.
FOR THE
OPERATION OF THEATRE ARTS, AFTER SCHOOL, AND
SUMMER DAY CAMP PROGRAMS
AT
ELYSIAN PARK RECREATION CENTER**

This AGREEMENT ("AGREEMENT") is entered into as of December 18, 2013, ("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 Los Angeles Theatre Academy, Inc., a California 501(c)(3) non-profit corporation ("ORGANIZATION"). CITY and ORGANIZATION may be referred to herein as "PARTIES".

WHEREAS, CITY, through its Department of Recreation and Parks ("RAP"), owns and operates certain real property within Elysian Park ("PARK"), commonly known as the Elysian Park Recreation Center ("CENTER"), located at 929 Academy Road, Los Angeles, CA 90012; and,

WHEREAS, ORGANIZATION has a history of operating successful youth recreation programs in the Elysian Park area, focusing on youth theatre arts, after school classes and summer day camps, and wishes to provide such programs at designated areas within the CENTER (such areas referred to herein as, the "PREMISES"), as depicted on the site map attached hereto and incorporated herein as Exhibit-A; and,

WHEREAS, ORGANIZATION has agreed to operate and maintain the PREMISES in accordance with the terms and conditions contained herein, to fulfill the recreational needs of the residents of the City of Los Angeles; and,

WHEREAS, CITY agreed to accept this offer of operations and maintenance at the meeting of the Board of Recreation and Park Commissioners ("BOARD") on 6/27/13 Board Report No. 13 - 174.

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. **USE OF PROPERTY.** In consideration of the anticipated benefits to the public, the sufficiency of which is mutually acknowledged, CITY grants to ORGANIZATION by this AGREEMENT authority to use the PREMISES for the operation of youth theatre arts programs, after school classes and summer day camps as described in the Permitted Uses set forth below, which shall be performed by

ORGANIZATION in compliance with the terms and conditions of this AGREEMENT, including payment of Cost Recovery Fees to RAP as applicable, and performance of the Maintenance Requirements specified herein, at the sole cost and expense of ORGANIZATION.

2. **TERM AND TERMINATION.** The performance period authorized under this AGREEMENT (for ease of reference, shall be referred to herein as the "TERM") shall be a maximum of three (3) years, subject to annual performance evaluations ("ANNUAL PERFORMANCE REVIEWS") more fully described below in Section 3 of this AGREEMENT.
 - a. **Commencement and Expiration.** This AGREEMENT shall take effect on the date of execution, as set forth by 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 ORGANIZATION ceases to operate under this AGREEMENT, or CITY's written termination notice to ORGANIZATION effective after sixty (60) calendar days from the date of issuance due to an unfavorable performance review, pursuant to Section 3 of this AGREEMENT or for cause during the TERM, either CITY or ORGANIZATION may terminate this AGREEMENT by giving the other sixty (60) calendar days advanced written notice. CITY and ORGANIZATION reserve the right to terminate this AGREEMENT at their sole discretion, for convenience, emergency, or necessity. If CITY or ORGANIZATION should elect to terminate this AGREEMENT, ORGANIZATION agrees to immediately cease all operations and other activity, remove all personal property and equipment, and peacefully surrender the PREMISES to CITY within sixty (60) calendar days of receiving or providing written notice of termination. If ORGANIZATION fails to remove all personal property and equipment within sixty (60) calendar days after termination of this AGREEMENT, CITY, at its option, may remove such property and equipment, in which event ORGANIZATION shall pay to the CITY, upon demand, the reasonable cost of such removal, plus the cost of transportation and disposition thereof.
 - c. **Events of Breach or Default by ORGANIZATION.** The following occurrences constitute events of breach or default of this AGREEMENT:
 - (i) ORGANIZATION materially fails in the performance of any provision or condition of this AGREEMENT, such as failure to maintain required insurance coverage, failure to comply with applicable legal requirements, failure to pay assessed fees or utility charges, or failure to fulfill the obligation to operate, maintain and repair the PREMISES as specified herein.

- (ii) ORGANIZATION's attempt to assign rights or obligations under this AGREEMENT without CITY's prior written consent or approval by RAP General Manager or his or her designee.
 - d. **CITY's Remedies to Events of Breach or Default by ORGANIZATION.** Upon the occurrence of one or more events of breach or default by ORGANIZATION, CITY may, at its election and without waiving any right to select any other remedy provided in this Section or elsewhere in this AGREEMENT, initiate any of the following:
 - (i) Notice to Cure Breach or Default. CITY may issue a written notice of breach or default to ORGANIZATION, and if ORGANIZATION does not cure said breach or default within thirty (30) calendar days of receipt of said notice, CITY may, by delivering a second written notice to ORGANIZATION, terminate this AGREEMENT without further delay, whereupon ORGANIZATION shall vacate the PREMISES within sixty (60) calendar days. For a breach or default involving sanitary or safety conditions, the cure period is reduced to seven (7) calendar days.
 - (ii) CITY's Right to Cure. CITY at its sole discretion and with no obligation to do so, subject to any applicable conditions and limitations set forth elsewhere in this AGREEMENT, may, after a continuing breach or default by ORGANIZATION, perform or cause to be performed any of ORGANIZATION's unperformed obligations under this AGREEMENT. CITY may enter the PREMISES and remain there for the purpose of correcting or remedying the continuing breach or default. Such action by CITY shall not be deemed to waive or release said breach or any default or CITY's right to take further, preventative action.
 - e. **Cease to Operate.** The phrase "cease to operate" shall mean the first to occur of any of the following: (i) the termination (but not temporary suspension) of ORGANIZATION's corporate charter or grant of non-profit status, unless the same is reinstated within sixty (60) calendar days after such termination; (ii) a material change in ORGANIZATION's purposes or function as contained in ORGANIZATION's corporate charter or grant of non-profit status ("Stated Purposes"); (iii) a material change in the delivery of services by ORGANIZATION, as described herein; or (iv) the failure of ORGANIZATION to use the PREMISES for any of the PERMITTED USES or any other default of the terms and conditions or other obligations contained in this AGREEMENT, for a consecutive period of 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 ORGANIZATION's control.
3. **ANNUAL PERFORMANCE REVIEWS.** PARTIES mutually agree to a series of ANNUAL PERFORMANCE REVIEWS, which shall be conducted by RAP to

determine the feasibility and benefit of continuing the collaborative relationship between the PARTIES under this AGREEMENT.

- a. Continuance of CITY's collaboration with ORGANIZATION shall be contingent upon a favorable ANNUAL PERFORMANCE REVIEW, which shall include, but not be limited to:
 - (i) An evaluation of ORGANIZATION's compliance with the terms and conditions of this AGREEMENT;
 - (ii) Fulfillment of ORGANIZATION's obligations for the operation and maintenance of the PREMISES under this AGREEMENT, including the provision of programs and/or services performed under the PERMITTED USES specified herein, and further defined by ORGANIZATION's Proposal for Providing Community Services attached hereto and incorporated herein by reference as Exhibit B;
 - (iii) Adequacy of ORGANIZATION's funding;
 - (iv) The volume of the public's participation in ORGANIZATION's programs; and,
 - (v) ORGANIZATION's cooperation with CITY staff.
- b. Every year during the life of this AGREEMENT, for purposes of completing the ANNUAL PERFORMANCE REVIEW process, ORGANIZATION shall submit to RAP during the period of June 1st through July 1st of each year, an annual performance or program report ("PERFORMANCE REPORT"). This PERFORMANCE REPORT shall cover, but not be limited to:
 - (i) Annual Budget and Report of Expenditures;
 - (ii) Data on participants and program results;
 - (iii) Copies of marketing, recruitment, and press materials; and,
 - (iv) Discussion of program changes or challenges.
- c. RAP General Manager or his or her designee reserves the right to request additional material or clarifying information after 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 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 ORGANIZATION. CITY shall not unreasonably withhold its determination.

4. **ACCESS TO THE PROPERTY.** ORGANIZATION and any authorized third party associated with ORGANIZATION's activities at the PREMISES will abide by the terms and conditions expressed in this AGREEMENT, and will cooperate fully with CITY's 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, performing inspections, conducting events or programs, or in case of emergencies. If required for public safety, CITY may immediately suspend and/or terminate ORGANIZATION activities involving the PREMISES.
5. **PERMITTED USES.** ORGANIZATION shall not expand and/or change the scope of PERMITTED USES, without the prior written approval and consent of the Board through an amendment to this AGREEMENT. ORGANIZATION, at its sole cost and expense, shall:
 - a. Provide theatre arts programs, after school classes and summer day camps in accordance with ORGANIZATION's Proposal for Providing Community Services attached hereto and incorporated herein as Exhibit B.
 - b. Use certain facilities within PREMISES which consist of the gymnasium, stage, kitchen, one designated craft room, outdoor playground, and amphitheater, to provide theatre arts programs, after school classes and summer day camp during ORGANIZATION's program hours.
 - c. Operate within the PARK on the PREMISES only during the specified days and hours listed below in Section 6 (Days and Periods of Use) of this AGREEMENT.
 - d. Maintain PREMISES in accordance with Section 8 of this AGREEMENT.
 - e. Provide sufficient staff necessary to perform the operation of its theatre arts programs, after school classes and summer day camp, including the provision of services as agreed to herein, providing sufficient staff and all materials, supplies, equipment, and funds necessary to operate the program permitted herein to the reasonable satisfaction of CITY. Staff/participant ratio shall be at least one (1) staff person for every six (6) program participant ages three to five (3-5) years old and one (1) staff person for every ten (10) program participants six to twelve (6-12) years old.

- f. Ensure that ORGANIZATION's protocol for selecting and authorizing any person to participate in program activities on the PREMISES complies with applicable CITY, State, and/or Federal protocols for employees, volunteers, contractors and subcontractors engaging in the PERMITTED USES described herein, including maintenance, such as, certifications, licensing, background checks, finger printing, etc.
 - g. Punctually pay or cause to be paid all financial obligations incurred in connection with the operation and maintenance of the PREMISES. ORGANIZATION shall discharge or provide for the discharge of all claims authorized or incurred for labor, equipment, materials, and supplies furnished in connection with ORGANIZATION's use of the PREMISES.
 - h. Ensure that no photographs of minors or depiction of their likeness is included in any publication without obtaining prior written consent from the child's parent or legal guardian.
 - i. 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.
6. **DAYS AND PERIODS OF USE.** ORGANIZATION shall be entitled to use the PREMISES to provide theatre arts programs, after school classes and summer day camp, including public programs and services, recreational uses and functions, events, and other agreed upon uses as follows ("PERMITTED TIMES"):
- a. Program Operation: Monday - Friday
Theater Arts and After School Club
(September to May, 2:00 pm–6:00 pm)
Summer Day Camp (June to August, 8:00 am – 6:00 pm)
 - b. Should ORGANIZATION require access to premises at an earlier or later time, ORGANIZATION shall be required to pay staffing cost pursuant to Section 11.e.
 - c. Access for repairs, maintenance, and PROGRAM preparation will only occur during the days and hours of operation stipulated above.
 - d. Special Events: ORGANIZATION shall make requests for use of PREMISES or portion thereof for special events and activities other than operations, repair, or maintenance, including any fundraising as stipulated in Section 10 below, by completing an Application for Use of Facility at least thirty (30) days in advance of the particular activity or event and submitting it to the contact person in Section 23. Building use fees will be charged for all special events, including fundraising events authorized in Section 10. Upon approval by RAP General

Manager or his or her designee, which shall not be unreasonably withheld, the event or activity hours may be extended beyond normal closing time, but not beyond 10:30 p.m. in accordance with Los Angeles Municipal Code Section 63.44.

- e. ORGANIZATION shall cooperate with City of Los Angeles personnel and RAP PARK staff on all matters relative to the conduct of operations or any activity, event, and/or special use or fundraiser, including concerns related to parking, traffic and attendance.
 - f. PARTIES agree and understand that activities outside the control of RAP take place at the adjacent Dodger Stadium or Los Angeles Police Academy which may impact ingress and egress at PREMISES, or full use of PREMISES, during PERMITTED TIMES.
7. **PARKING.** During the Term of this Agreement and during Permitted Times specified above in Section 6 of this Agreement, ORGANIZATION, its staff, and public patrons and/or guests, whether or not involved in ORGANIZATION activities at the PREMISES, shall have the non-exclusive right without charge, to park vehicles within any available parking spaces at the PREMISES on a first-come-first-served basis. Exclusive or designated parking shall not be allowed, unless previously approved in writing by RAP General Manager or his or her designee.
8. **MAINTENANCE AND REPAIR OF PROPERTY.** During the TERM of this AGREEMENT, and subject to the terms and conditions contained herein, ORGANIZATION, at its sole cost and expense, shall perform the functions of maintenance and/or repair of the PREMISES as described herein.
- a. ORGANIZATION accepts the PREMISES in its condition at execution of this AGREEMENT. RAP shall not have any obligation to repair, remodel, replace, and/or reconstruct any building, facility, feature, or portion of the PREMISES, nor any appliance or fixture thereon, whether installed by CITY or ORGANIZATION, and regardless of cause.
 - b. Daily maintenance to be performed by ORGANIZATION:
 - (i) Maintain pedestrian paths, common walkways and other shared areas in a safe and sanitary condition while in use by ORGANIZATION;
 - (ii) Pick up and dispose of trash and debris whether by ORGANIZATION's activity or activity of a contracted vendor;
 - (iii) Prevent any such matter or material from being or accumulating upon said PREMISES such that it is clearly visible to public view.

- c. ORGANIZATION shall immediately repair any damages to the PREMISES which occur during ORGANIZATION's operations, or by vandalism, or that is caused by its restoration, refurbishment, or maintenance of PREMISES; ORGANIZATION recognizes that any damage which remains unrepaired may constitute a hazard to public safety.
 - d. No offensive or dangerous materials, nor any substance constituting an unnecessary, unreasonable or material hazard detrimental to the public health, shall be permitted or allowed to remain on the PREMISES.
 - e. ORGANIZATION shall be responsible for securing any ORGANIZATION property, equipment, materials, or supplies used or stored at CENTER.
 - f. To the extent resources are available, CITY may undertake to maintain or repair improvements, fixtures, trade fixtures, roof systems, plumbing, electrical, heating-ventilation-air conditioning systems, building structure, and/or utility systems in place as of the execution of this AGREEMENT, if originally installed by CITY. ORGANIZATION agrees and understands that CITY shall not guarantee any level of maintenance or repair because resource availability is unknown. In the event needed repairs impede the ability of ORGANIZATION to conduct operations, ORGANIZATION may undertake repairs at no cost to RAP or may suspend operations in accordance with Casualty and Condemnation, Section 16. RAP will provide no maintenance or repair to improvements, fixtures, exterior walls, trade fixtures, roof systems, plumbing, electrical, heating-ventilation-air conditioning systems, building structure, and/or utility systems installed by ORGANIZATION.
 - g. To the extent that needed repairs are not made, ORGANIZATION waives any and all claims against CITY for damages or indemnification as a result of the failure to make repairs.
9. **FUNDING.** All funds, including grants, donations, or any other funds received by ORGANIZATION in connection with the PREMISES or related to matters covered by this AGREEMENT, or generated from programs or activities conducted on the PREMISES, shall be applied exclusively to the operations and maintenance of the PREMISES, including but not limited to the delivery of theatre arts programs, after school classes and summer day camps on the PREMISES, and will be strictly accounted for as provided herein. Such funds shall not be comingled with other funds of ORGANIZATION unrelated to this AGREEMENT and/or the operation and maintenance of the PREMISES. If for any reason ORGANIZATION fails to secure funding to carry out its obligations and commitments under this AGREEMENT, CITY may and can terminate this AGREEMENT pursuant to a Breach and Default of this AGREEMENT. ORGANIZATION may charge its patrons appropriate fees for programs, services, and/or activities offered by ORGANIZATION on the PREMISES, in an amount comparable to those fees charged by organizations offering similar programs, services, and/or activities in the community.

ORGANIZATION may also charge admission fees for special events in an amount comparable to admission fees charged for similar events in the community.

10. **FUNDRAISING.** ORGANIZATION may hold fundraising activities on PREMISES, but must obtain prior written approval for the date and time from RAP General Manager or his or her designee for each fundraising event no fewer than thirty (30) calendar days prior to the scheduled activity in accordance with the procedure in Section 6. All monies raised from fundraising conducted at the PREMISES must be used only in support of the activities authorized under this AGREEMENT. Within thirty (30) days of each fundraising event held at the PREMISES, ORGANIZATION shall provide a written balance statement for the event that shall detail expenses and revenues, including net funds raised. Fundraising activities shall not include the distribution and/or the consumption of alcoholic beverages in accordance with Section 5.I. of this AGREEMENT.
11. **CONSIDERATION.** Pursuant to the terms and conditions of this AGREEMENT, the consideration for this AGREEMENT, in exchange for ORGANIZATION's use of the PREMISES, shall be the provision of theatre arts programs, after school classes and summer day camps for the benefit of the general public, at no cost to CITY, including but not limited to, ORGANIZATION's maintenance and/or repair of the PREMISES. CITY shall have no responsibility for payment of any fees for the provision of the PROGRAM at the PREMISES.
 - a. **Cost Recovery Fee.** During the TERM of AGREEMENT, ORGANIZATION shall pay monthly a Cost Recovery Fee in the amount of \$433.00 for costs incurred by RAP related to this AGREEMENT and ORGANIZATION's use of the PREMISES, as approved by the Board on July 19, 2012 (Report No. 12-217), and for utility and/or trash costs not directly paid to providers, as detailed below. Payments shall be due by the tenth day of each month for that month. Cost Recovery Fee(s) may be subject to change with written notice of no less than sixty (60) days in advance.
 - b. **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 cost of utility services to the PREMISES (electricity, gas, water) shall be the sole responsibility of ORGANIZATION. Such utility expenses shall be paid directly by ORGANIZATION to utility service provider(s) where feasible or recovered by RAP through utility fee reimbursements if not. Utility fees of \$112.00 monthly are included in the Cost Recovery Fee mentioned in paragraph a. above.
 - c. **Trash and Solid Waste Disposal.** Pursuant to the RAP policy regarding trash and solid waste disposal for services provided at PARK facilities operated by non-profit organizations and other collaborations, approved by the BOARD on February 1, 2012 (Report No. 12-028), removal of waste, trash and recyclables

must be at the sole expense of the ORGANIZATION with services of non-CITY provider, billed directly to the ORGANIZATION where feasible, or recovered by RAP through fees if not. Trash fees of \$85.00 monthly are included in the Cost Recovery Fee mentioned in paragraph a. above.

- d. **Telephone and data lines.** It is understood that ORGANIZATION has no dedicated lines for their use. If ORGANIZATION decides to install a phone line, ORGANIZATION shall be responsible for the cost of telephone and data lines utilized on PREMISES and shall pay the service provider directly. CITY shall bear no costs in regards to the telephone and data lines on PREMISES that ORGANIZATION uses.
- e. **Direct Staffing Costs.** In addition to staff impact cost recovery reimbursement fees of \$236.00 monthly included in the Cost Recovery Fee mentioned in paragraph a. above, ORGANIZATION shall reimburse RAP \$20.00 per hour ("STAFF FEES") for After School Club and Summer Day Camp use associated with any hours RAP staff is required to be present and on duty while Organization is utilizing PREMISES before and after PREMISES is normally open to the public during PERMITTED TIMES. STAFF FEES are separate from Cost Recovery Reimbursement Fees mentioned above, and are subject to change based on PREMISES' public operating hours and RAP's Schedule of Rates and Fees. ORGANIZATION shall inform the Facility Director at least thirty (30) days prior to the subject month the additional hours utilized for that month. Facility Director will inform ORGANIZATION the total amount due for STAFF FEES by the 15th of the month prior to the subject month the additional RAP staff hours are requested for. STAFF FEES shall be paid to Facility Director on or by the first of each month for that month. For example, for the month of December, ORGANIZATION shall notify and inform RAP the number of additional RAP staff hours needed by November 1st. RAP will inform ORGANIZATION by November 15th the amount of STAFF FEES to be paid for December and payment to RAP shall be due by or on December 1st.
- f. **Cost Recovery Reimbursement Fee Payments.** Payment of Cost Recovery Fees shall be by check, money order, or cashier's check made out to "City of Los Angeles Department of Recreation and Parks." RAP at its discretion may provide courtesy invoices, but ORGANIZATION is wholly responsible for timely payment of cost recovery fees regardless of written notification which is not required. Cost Recovery Fee payments are to be mailed to:

City of Los Angeles Department of Recreation and Parks
Partnership Division
3900 Chevy Chase Drive, Mail Stop 628-9
Los Angeles, CA 90039

12. **ALTERATIONS, IMPROVEMENTS, AND REPLACEMENTS.** No physical alterations, additional improvements, and/or replacements shall be made to

existing improvements on the PREMISES without prior written authorization by CITY. ORGANIZATION shall provide CITY detailed information and specifications for review and written approval by CITY, 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 CITY. Unless agreed to in advance, all project associated costs shall be paid at the sole expense of ORGANIZATION.

13. **CAPITAL PROJECT PROPOSAL.** When proposing a project involving any alterations, additional improvements, and/or replacements to the PREMISES, ORGANIZATION shall adhere to the following guidelines and instructions for submitting a proposed project for CITY's consideration:
- a. Submit a project proposal for CITY review and presentation for conceptual approval by the BOARD, if necessary. The proposal should include but 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, ORGANIZATION will be authorized to perform any required preliminary work or site assessments, either through a Right-Of-Entry (ROE) permit if required, or the CITY's authorization and/or this AGREEMENT.
 - c. Depending on the scope of work and magnitude of the proposed project, ORGANIZATION may be assessed an administrative fee to be determined by RAP, for project review and all services provided by CITY staff. Such fee shall be paid to the "City of Los Angeles Department of Recreation and Parks" and shall have been paid in full prior to the CITY's conceptual approval of the proposed 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, ORGANIZATION shall submit fifty percent (50%) and ninety percent (90%) complete design drawings for CITY review and approval. Upon CITY'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. ORGANIZATION 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. ORGANIZATION shall submit approved plans and specifications for final approval to:

City of Los Angeles Department of Recreation and Parks
Planning, Construction and Maintenance Branch
Assistant General Manager
221 N. Figueroa Street, Suite 100
Los Angeles, CA 90012

- i. Upon receipt of final approval, commence construction in coordination with CITY staff.
14. **INSURANCE.** Before occupying the PREMISES under this AGREEMENT and periodically as required during its TERM, ORGANIZATION shall furnish CITY with evidence of insurance from firms reasonably acceptable to CITY and approved to do such business in the State of California. ORGANIZATION or any third party providing work or services under this AGREEMENT shall name the City of Los Angeles and its boards, officers, agents, employees, assigns and successors in interest as an additional insured for all required coverages, as applicable. ORGANIZATION will ensure that like insurance will be maintained by any such third party. Evidence of required coverage shall be on forms reasonably acceptable to CITY's Risk Manager and shall include the types and minimum limits set forth in Exhibit-E attached hereto and incorporated herein by reference.
- a. ORGANIZATION shall maintain all such insurance at its sole cost and expense throughout the TERM of this AGREEMENT. CITY may, by applying generally accepted risk management principles, change the required amounts and types of insurance to be effective at the renewal date of the insurance then in effect by giving ORGANIZATION sixty (60) calendar days written notice, provided that such amounts and/or types shall be reasonably available to ORGANIZATION.
 - b. If any of the required insurance contains aggregate limits or applies to other operations of ORGANIZATION outside of this AGREEMENT, ORGANIZATION shall give CITY written notice of any incident, occurrence, claim, settlement or judgment against such insurance that in ORGANIZATION's best judgment may diminish the protection such insurance affords CITY within thirty (30) calendar days of the knowledge of same. ORGANIZATION shall further restore such aggregate limits or shall provide other replacement insurance for such aggregate limits within sixty (60) calendar days of the knowledge of same.

- c. If an insurance company elects to cancel insurance before the stated expiration date, declines to renew in the case of a continuous policy, reduces the stated limits other than by impairment of an aggregate limit or materially reduces the scope of coverage, thereby affecting CITY's interest, ORGANIZATION will provide CITY at least thirty (30) calendar days (ten (10) calendar days for non-payment of premium) prior written notice of such intended election. The notice will be sent by receipted delivery addressed as follows: City Administrative Officer, Risk Management, 200 North Main Street, Room 1240, City Hall East, Los Angeles, California 90012, or to such address as CITY may specify by written notice to ORGANIZATION.
 - d. ORGANIZATION's failure to procure and maintain the required insurance shall constitute a material breach of this AGREEMENT under which CITY may immediately terminate the AGREEMENT or, at its discretion, pay to procure or renew such insurance to protect CITY's interest; ORGANIZATION agrees to reimburse CITY for all money so paid.
 - e. Self-insurance programs and self-insured retention in insurance policies are subject to separate approval by CITY upon review of evidence of ORGANIZATION's financial capacity. Additionally, such programs or retention must provide CITY with an equivalent protection from liability.
15. **INDEMNIFICATION/HOLD HARMLESS.** Except for the active negligence or willful misconduct of CITY, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, ORGANIZATION undertakes and agrees to defend, indemnify and hold harmless the City and any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including but not limited to, attorneys' fees (both in house and outside counsel) and costs of litigation (including all actual litigation cost 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 ORGANIZATION's employees and agents, or damage or destruction of any PROPERTY of the negligent acts, errors, omission or willful misconduct incident to the performance of this AGREEMENT by ORGANIZATION or its subcontractors of any tier. Rights and remedies available to the CITY under this provision are cumulative of those provided for elsewhere in this AGREEMENT and those allowed under the law of the United State, the State of California, and the CITY. This provision shall survive the expiration or termination of this AGREEMENT.
16. **CASUALTY AND CONDEMNATION.** ORGANIZATION shall be excused from its obligations in this AGREEMENT with respect to the operation, maintenance and repair of any portion of the PREMISES or any improvement thereon damaged by casualty or taken by condemnation until any such portion or improvement is restored to ORGANIZATION's use. CITY shall not be obligated to restore PREMISES damaged by casualty in whole or in part. If PREMISES is taken by

condemnation, CITY shall not be obligated to provide ORGANIZATION a replacement property for ORGANIZATION's use.

17. **HAZARDOUS SUBSTANCES.** PARTIES agree that PREMISES shall be used in a manner consistent with its intended public recreational purposes and within the scope of use set forth above. ORGANIZATION shall use the PREMISES in compliance with laws pertaining to hazardous substances. As used herein, "hazardous substances" shall mean any product, chemical, material or waste whose nature, quantity and/or intensity of presence, use, manufacture, disposal, transportation, spill, release or effect, either by itself or in combination with other such substances, is either: (a) potentially injurious to public health, safety or welfare or injurious to the environment; (b) regulated or monitored by any governmental authority; or (c) a basis for liability of CITY or ORGANIZATION to any governmental agency or third party under applicable statute.
18. **PUBLICITY.** CITY and ORGANIZATION agree to cooperate and coordinate with respect to the nature, text, and timing of any press release or public announcement(s) concerning the existence of this AGREEMENT, the use or promotion of the PREMISES, the acquisition of any real property, or construction of any improvements at the PREMISES, except as may be legally required by applicable laws, regulations, or judicial order. CITY and ORGANIZATION agree to notify each other in writing of any press release, public announcement, marketing or promotion of the PREMISES. Further, any press release, public announcement, marketing materials, or brochures prepared by either CITY or ORGANIZATION, shall appropriately acknowledge the contributions of both CITY and ORGANIZATION. To the extent stipulated in any grant agreement, the CITY and ORGANIZATION shall duly notify any grantors, and each other, prior to any public or media event publicizing the accomplishments funded by any grant agreement, and shall provide the opportunity for attendance and participation by grantor representatives. Further, CITY and ORGANIZATION shall coordinate the scheduling and organization of any public or media event to provide the opportunity for attendance and participation by officials and/or representatives of both CITY and ORGANIZATION; including elected officials and public officials. Similarly, any document, written report, or brochure prepared by either CITY or ORGANIZATION, in whole or in part pursuant to the acquisition of property and/or installation of improvements, shall contain any acknowledgements required under any grant agreement.

ORGANIZATION agrees that any public release or distribution of information related to this AGREEMENT or related project, programs or services, shall include the following statement at the beginning or introduction of such release:

"In collaboration with the City of Los Angeles Department of Recreation and Parks"

19. **SIGNAGE.** No signs or banners of any kind will be displayed unless previously approved in writing by the Board and or the RAP General Manager or his or her

designee. RAP may require removal or refurbishment, at ORGANIZATION's expense, of any sign previously approved. On signage at PREMISES, ORGANIZATION shall provide the following credit or as proportions of signage allow similar credit as approved by RAP in writing:

"In collaboration with the City of Los Angeles Department of Recreation and Parks"

20. **FILMING.** It is the policy of the CITY to facilitate the use of City-controlled properties as film locations when appropriate. RAP has established a Park Film Office to coordinate use of park property for film production purposes. Any commercial filming at the park shall be subject to approval by RAP and the Film Office. All fees for use of park property by film production companies shall be established and collected by the Film Office in accordance with CITY and RAP policies. The Park Film Office may be reached at (323) 644-6220. ORGANIZATION shall not charge any fees for film production conducted at PREMISES.
21. **Breach or Default by ORGANIZATION.** The following occurrences constitute events of breach or default of this AGREEMENT: ORGANIZATION materially fails in the performance of any provision or condition of this AGREEMENT, such as failure to maintain required insurance coverage, failure to comply with applicable legal requirements or failure to fulfill the obligation to operate, maintain and repair the PREMISES as specified herein. ORGANIZATION's attempt to assign rights or obligations under this AGREEMENT without CITY's prior written consent shall also constitute an event of breach or default.
22. **Breach or Default by ORGANIZATION – CITY's Remedies.** Upon the occurrence of one or more events of breach or default by ORGANIZATION, CITY may, at its election and without waiving any right to select any other remedy provided in this Section or elsewhere in this AGREEMENT, initiate any of the following:
- a. **Notice to Cure Breach or Default.** CITY may issue a written notice of breach or default to ORGANIZATION, and if ORGANIZATION does not cure said breach or default within thirty (30) calendar days of receipt of said notice, CITY may, by delivering a second written notice to ORGANIZATION, terminate this AGREEMENT without further delay, whereupon ORGANIZATION shall vacate the PREMISES within fourteen (14) calendar days. For a breach or default involving sanitary or safety conditions, the cure period is reduced to seven (7) calendar days.
 - b. **CITY's Right to Cure.** CITY at its sole discretion and with no obligation to do so, subject to any applicable conditions and limitations set forth elsewhere in this AGREEMENT, may, after a continuing breach or default by ORGANIZATION, perform or cause to be performed any of ORGANIZATION's unperformed obligations under this AGREEMENT. CITY may enter the

PREMISES and remain there for the purpose of correcting or remedying the continuing breach or default. Such action by CITY shall not be deemed to waive or release said breach or any default or CITY's right to take further, preventative action.

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

All Notices shall be addressed as follows:

If to CITY: City of Los Angeles Department of Recreation and Parks
Metro Region Superintendent
3900 Chevy Chase Drive, Mail Stop 656-10
Los Angeles, CA 90039
Telephone: (213) 485-8744; Fax: (818) 247-4740

With a copy to: City of Los Angeles Department of Recreation and Parks
Partnership Division
3900 Chevy Chase Drive, Mail Stop 628-9
Los Angeles, CA 90039
Telephone: (818) 243-6488; Fax: (818) 243-6447

If to ORGANIZATION: Los Angeles Theatre Academy Inc.
c/o Alejandra Flores
1544 North Boylston Street
Los Angeles, CA 90012
Telephone: (323) 333-3787

24. **REPRESENTATIONS AND WARRANTIES.** CITY and ORGANIZATION 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 ORGANIZATION, enforceable in accordance with its terms and conditions.
25. **NO JOINT VENTURE OR AGENCY RELATIONSHIP.** Nothing herein contained shall be construed to place the PARTIES to this AGREEMENT in the relationship of a joint venture, association, partnership, or other form of a business organization or agency relationship. ORGANIZATION shall have no power to obligate or bind CITY in any manner whatsoever. Further, under no circumstances will ORGANIZATION represent itself to be an agent of the CITY or any of its

departments. Nothing in this AGREEMENT may be construed to have authorized or vested in ORGANIZATION the power to be an agent of the CITY or an actor under the color of law, be it civilly or criminally.

26. **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.
27. **APPROVAL OF SUB-LEASES OR SUB-AGREEMENTS.** Any operation, services, or activity conducted on the PROPERTY on behalf of the ORGANIZATION by a third party, including but not limited to the sale of food and/or beverages or other items, shall be subject to prior written approval by RAP General Manager or his or her designee. In addition, any concession or other sub-lease or sub-agreement affecting the PROPERTY shall be filed with the RAP General Manager or his or her designee for review and written approval no fewer than sixty (60) calendar days before the date ORGANIZATION proposes to implement the sub-lease or sub-agreement. No sub-lease or sub-agreement shall take effect unless approved by RAP General Manager or his or her designee. ORGANIZATION shall require all individuals and organizations providing programs or services within the PROPERTY to agree in writing to abide by all conditions set forth in this AGREEMENT.
28. **MERCHANDISE.** No merchandise shall be sold by ORGANIZATION on PROPERTY without the prior written consent of the RAP GENERAL MANAGER or his or her designee.
29. **SAFETY PRACTICES.** ORGANIZATION shall correct violations of safety practices immediately and shall cooperate fully with CITY in the investigation of accidents or deaths occurring on the PROPERTY. In the event of injury or death, or serious injury (requiring an emergency room hospital visit), ORGANIZATION must notify the Park Director and/or Metro Region Superintendent in accordance with Section 23 in this AGREEMENT as soon as possible but no later than twenty-four (24) hours after the incident. Notice of non-serious injuries occurring on the PROPERTY shall be provided to the Park Director and/or Metro Region Superintendent in accordance with Section 23 of this AGREEMENT within seventy-two (72) hours. ORGANIZATION shall keep internal documentation of the incident(s) and provide RAP General Manager or his or her designee with such information upon request.
30. **SUSPECTED CHILD ABUSE.** ORGANIZATION or ORGANIZATION'S parents, volunteers, agents, contractors and subcontractors, and/or any person participating in ORGANIZATION's PROGRAM or activities at the PROPERTY must contact the Los Angeles County Child Protection Hotline to report any suspected child abuse at PROPERTY. ORGANIZATION will notify the Park Director and/or the Metro Region Superintendent within twenty-four (24) hours of report being made.

31. **RECREATION CENTER CONTACT.** Recreation Center staff may be contacted at (323) 226-1402.
32. **ORDINANCES AND STANDARD PROVISIONS.** The "Standard Provisions for Contracts (Rev. 3/09)" are incorporated herein by reference and attached hereto as Exhibit-E. If there is any conflicting language between the "Standard Provisions for City Contracts (Rev. 3/09)" and this AGREEMENT, the language of this AGREEMENT shall prevail. ORGANIZATION and CONTRACTOR have the same meaning for purposes of the "Standard Provisions for City Contracts (Rev. 3/09)." In addition, ORGANIZATION will provide documentation of compliance with all required Ordinance Provisions as determined by CITY.
33. **INCORPORATION OF DOCUMENTS**

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

- Exhibit A: Site Map
- Exhibit B: Proposal for Providing Community Services
- Exhibit C: Sample Performance Evaluation Form
- Exhibit D: Insurance Requirements
- Exhibit E: Standard Provisions for City Contracts (Rev. 3/09)

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

[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

LOS ANGELES THEATRE ACADEMY INC., a California nonprofit 501(c) (3) corporation

By: [Signature]
President

By: [Signature]

By: [Signature]
Secretary

Title: vice President

Date: 12/18/13

By: [Signature]

Title: TREASURER

Date: 11/27/13

APPROVED AS TO FORM:

MICHAEL N. FEUER, City Attorney

By: [Signature]
Deputy City Attorney

Date: 12/18/13

Exhibit A
Site Map

PREMISES Defined

Pursuant to Section 2 of this AGREEMENT, the PREMISES located at 929 Academy Road, Los Angeles, CA 90012, within the grounds of Elysian Therapeutic Recreation Center, is delineated below within the red lines.

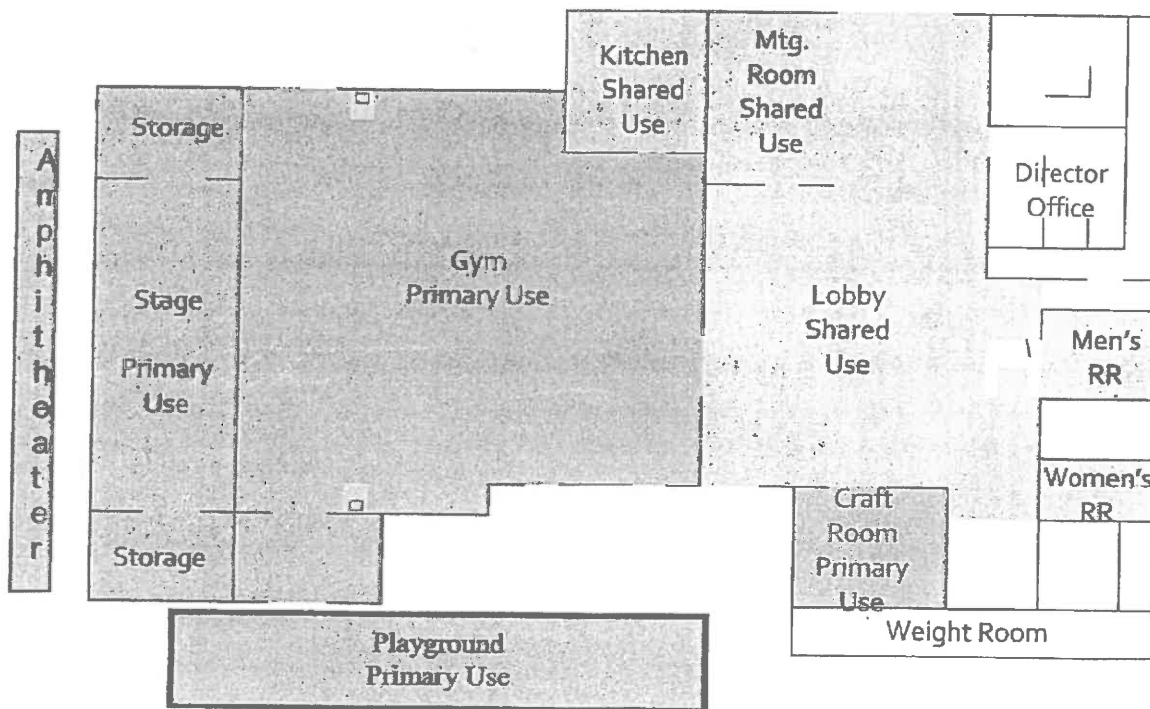


Exhibit B

Proposal for Providing Community Services

Institution of Open Arts & After School Program for the Community of LA

The Los Angeles Theatre Academy (LATA) proposes an initial offering of a community-based theatre program to involve community members in the theatre arts in addition to periodic offerings in the visual and communicative arts. The Los Angeles Theatre Academy (LATA) will expand artistic offerings to the community by building upon the foundation of its outstanding children's theatre company as it expands the arts programming at the amphitheater.

A Robust Community Center Providing Essential Services Theatre Art Productions

The theatre program will remain open throughout the year and will produce a minimum of four stage productions in collaboration with members of the surrounding community. Productions will be scheduled so as to cover the full range of seasons including spring, summer, fall and winter. The proposed inaugural programming schedule would include the following programs and after school enrichment activities to school-aged children:

- Annual Children's Theatre Summer Festival (ACTS Festival)
- Arts in Education Programs on weekends and evenings
- After School Program with the emphasis on theatre programs (ASP-LATA)
- Summer/Winter Camp Supporting Working Parents (SWP-LATA)
- Periodic Visiting Artists Workshops open to the general public

A Full Service Non-Profit Arts Space in Service to the Children of Los Angeles

Offering the following types of programs:

- Solano School Programming Extension: Support of the extension of programming with the administration and students of the Solano Avenue School
- Music Department: Classes and Concerts from rock to classic piano and guitar
- Computer Lab: TV, film and video editing room, Classes creating professional video presentations with current youth-friendly technology such as iPod/cell phone
- Earth Science Workshops: Guided nature tours of the ecology of Elysian Park
- Second and Primary Language Classes: Spanish, Chinese & English (ESL)
- Art Contests, Children's Gallery, Talent Shows: Local Artist presentation and exhibitions drawing on the rich artistic talent pool of the surrounding community
- Film & Book Programming: Book club, poetry night, classic films & TV show
- Painting classes: Watercolor and Pastel Classes
- Teen & Adult Classes: Cooking, Gardening, Pottery, Knitting, Yoga, Salsa Latin Dance, Flamenco, Tango, Capoeira, Aerobics and more
- Chess and Yugi-Gi-Oh: Sponsored Tournaments
- Parents Night Out: Mommy and Me, Daddy and Me Classes
- Child Care Center: Potential service to the community during the day
- Parties and Events: Featuring theatre themes and theatre show

Exhibit C

Sample Performance Evaluation Form



City of Los Angeles Department of Recreation and Parks
PARTNERSHIP DIVISION

CONSOLIDATED PERFORMANCE REVIEW

PARTNER ORGANIZATION					
PROJECT/PROGRAM TITLE					ONE-TIME or ROE <input type="checkbox"/>
					ANNUAL <input type="checkbox"/>
DEPARTMENT FACILITY(IES)					
PERIOD COVERED			DATE OF INSPECTION		
	Unsatisfactory	Improvement Needed	Meets Standards	Exceeds Standard	Outstanding
PROGRAM	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Partnership enhances recreational opportunities (no duplication)					
Participants enjoying/engaged in program based on inspection or oral/written feedback					
Participation appears to include reasonable proportion from the local community and inclusion of special needs participants					
Instructors are specialized, licensed, experienced, and have an appropriate level of education; they are professional, polite, and prepared					
Participants show progress (if applicable)					
	Unsatisfactory	Improvement Needed	Meets Standards	Exceeds Standard	Outstanding
FINANCIAL	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cost of the program is free, low cost, or relatively similar to programs in same community and consistent with agreement					
Partner's annual budget is provided and is sufficiently funded for commitment					
Partner pays on-time and according to requirements					
	Unsatisfactory	Improvement Needed	Meets Standards	Exceeds Standard	Outstanding
OUTREACH	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Number of participants reaches or exceeds target					
Recruits new participants					
Provides demographic information and analysis and/or surveys of participants					

Marketing material includes "In collaboration with the City of Los Angeles, Department of Recreation & Parks" and Department logo					
Partner web site links to the RAP web site					
Department approves marketing material					
	Unsatisfactory	Improvement Needed	Meets Standards	Exceeds Standard	Outstanding
SAFETY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employees and volunteers of partnership programs are fingerprinted and written verification is provided					
Provides liability insurance that includes the City of Los Angeles, Department of Recreation and Parks as determined by City Risk Manager (check website)					
Adequate program staff to provide proper supervision and safety					
All equipment and instructional supplies adhere to Department safety specifications and requirements					
Maintains designated areas in clean and orderly condition					
	Unsatisfactory	Improvement Needed	Meets Standards	Exceeds Standard	Outstanding
ORGANIZATION	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The value of the partnership is provided and partner is meeting program requirements					
Maintains good communication and a professional relationship with the Department					
Compliance with the terms of the agreement including proof of non-profit status (if applicable – check websites)					
Provides required written reports including Annual Report					
Sub-leasing is not occurring					
Department has control over property usage during non-designated times (if applicable)					
Compliance Resolutions completed satisfactorily (if any)					
Public Complaints resolved (if any)					
Capital improvement projects are in conformance with City Standards and in coordination with the Department and Bureau of Engineering (if applicable)					
OVERALL EVALUATION	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ADDITIONAL COMMENTS / RESULTS / RECOMMENDATIONS
Include RAP Staff feedback and participant comments

NAME AND TITLE OF EVALUATOR	
SIGNATURE OF EVALUATOR	DATE
NAME AND TITLE OF EVALUATION REVIEWER	
SIGNATURE OF REVIEWER	DATE

ATTACHMENTS

Compliance Resolution Forms
 Public Comments
 Flyers and PR Materials
 Photos
 Program Forms
 Annual Report
 Budget
 Inspection(s)
 Compliance Check
 Legal/Insurance Status
 Other _____

Exhibit D
Insurance Requirements

Form Gen. 146 (Rev. 3/09)

Required Insurance and Minimum Limits

Name: Los Angeles Theatre Academy, Inc. Date: 09/05/2012

Agreement/Reference: Operation of a theater arts, after school club and summer day camp at Elysian Therapeutic Rec Center
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 - Workers' Compensation (WC) and Employer's Liability (EL)
General Liability
Automobile Liability (for any and all vehicles used for this contract, other than commuting to/from work)
Professional Liability (Errors and Omissions)
Property Insurance (to cover replacement cost of building - as determined by insurance company)
Pollution Liability
Surety Bonds - Performance and Payment (Labor and Materials) Bonds
Crime Insurance

Other:

CITY OF LOS ANGELES

INSTRUCTIONS AND INFORMATION
ON COMPLYING WITH CITY INSURANCE REQUIREMENTS

(Share this information with your insurance agent or broker.)

1. **Agreement/Reference** All evidence of insurance must identify the nature of your business with the CITY. Clearly show any assigned number of a bid, contract, lease, permit, etc. or give the project name and the job site or street address to ensure that your submission will be properly credited. Provide the **types of coverage and minimum dollar amounts** specified on the Required Insurance and Minimum Limits sheet (Form Gen. 146) included in your CITY documents.
2. **When to submit** Normally, no work may begin until a CITY insurance certificate approval number ("CA number") has been obtained, so insurance documents should be submitted as early as practicable. For **As-needed Contracts**, insurance need not be submitted until a specific job has been awarded. **Design Professionals** coverage for new construction work may be submitted simultaneously with final plans and drawings, but before construction commences.
3. **Acceptable Evidence and Approval** Electronic submission is the preferred method of submitting your documents. **Track4LA™** 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 primarily by insurance brokers and agents as they submit client insurance certificates directly to the City. It uses the standard insurance industry form known as the **ACORD 25 Certificate of Liability Insurance** in electronic format – the CITY is a licensed redistributor of ACORD forms. Track4LA™ advantages include standardized, universally accepted forms, paperless approval transactions (24 hours, 7 days per week), and security checks and balances. The easiest and quickest way to obtain approval of your insurance is to have your insurance broker or agent access **Track4LA™** at <http://track4la.lacity.org> and follow the instructions to register and submit the appropriate proof of insurance on your behalf.

Insurance industry certificates other than the ACORD 25 that have been approved by the State of California, may be accepted, however **submissions other than through Track4LA™ will significantly delay the insurance approval process as documents will have to be manually processed**. All Certificates must provide a thirty (30) days' cancellation notice provision (ten (10) days for non-payment of premium) AND an Additional Insured Endorsement naming the CITY an additional insured completed by your insurance company or its designee. If the policy includes an automatic or blanket additional insured endorsement, the Certificate must state the CITY is an automatic or blanket additional insured. An endorsement naming the CITY an Additional Named

Insured and Loss Payee as Its Interests May Appear is required on property policies. All evidence of insurance must be authorized by a person with authority to bind coverage, whether that is the authorized agent/broker or insurance underwriter. Completed **Insurance Industry Certificates other than ACORD 25 Certificates** are sent electronically to CAO.insurance.bonds@lacity.org.

Additional Insured Endorsements DO NOT apply to the following:

- Indication of compliance with statute, such as Workers' Compensation Law.
- Professional Liability insurance.

Verification of approved insurance and bonds may be obtained by checking **Track4LA™**, the CITY's online insurance compliance system, at <http://track4la.lacity.org>.

4. **Renewal** When an existing policy is renewed, have your insurance broker or agent submit a new Acord 25 Certificate or edit the existing Acord 25 Certificate through **Track4LA™** at <http://track4la.lacity.org>.

5. **Alternative Programs/Self-Insurance** Risk financing mechanisms such as Risk Retention Groups, Risk Purchasing Groups, off-shore carriers, captive insurance programs and self-insurance programs are subject to separate approval after the CITY has reviewed the relevant audited financial statements. To initiate a review of your program, you should complete the Applicant's Declaration of Self Insurance form (<http://cao.lacity.org/risk/InsuranceForms.htm>) to the Office of the City Administrative Officer, Risk Management for consideration.

6. **General Liability** insurance covering your operations (and products, where applicable) is required whenever the CITY is at risk of third-party claims which may arise out of your work or your presence or special event on City premises. **Sexual Misconduct** coverage is a required coverage when the work performed involves minors. **Fire Legal Liability** is required for persons occupying a portion of CITY premises. (Information on two CITY insurance programs, the SPARTA program, an optional source of low-cost insurance which meets the most minimum requirements, and the Special Events Liability Insurance Program, which provides liability coverage for short-term special events on CITY premises or streets, is available at (www.2sparta.com), or by calling (800) 420-0555.

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

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

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

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

11. **Surety** coverage may be required to guarantee performance of work and payment to vendors and suppliers. A **Crime Policy** may be required to handle CITY funds or securities, and under certain other conditions. **Specialty coverages** may be needed for certain operations. For assistance in obtaining the CITY required bid, performance and payment surety bonds, please see the City of Los Angeles Bond Assistance Program website address at <http://cao.lacity.org/risk/BondAssistanceProgram.pdf> or call (213) 258-3000 for more information

Exhibit E
Standard Provisions for City Contracts (Rev. 3/09)

STANDARD PROVISIONS FOR CITY CONTRACTS

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PSC-1	<u>CONSTRUCTION OF PROVISIONS AND TITLES HEREIN</u>	1
PSC-2	<u>NUMBER OF ORIGINALS</u>	1
PSC-3	<u>APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT</u>	1
PSC-4	<u>TIME OF EFFECTIVENESS</u>	2
PSC-5	<u>INTEGRATED CONTRACT</u>	2
PSC-6	<u>AMENDMENT</u>	2
PSC-7	<u>EXCUSABLE DELAYS</u>	2
PSC-8	<u>BREACH</u>	2
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STANDARD PROVISIONS FOR CITY CONTRACTS

PSC-1. CONSTRUCTION OF PROVISIONS AND TITLES HEREIN

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

PSC-2. NUMBER OF ORIGINALS

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

PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT

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

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

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

PSC-4. TIME OF EFFECTIVENESS

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

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

PSC-5. INTEGRATED CONTRACT

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

PSC-6. AMENDMENT

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

PSC-7. EXCUSABLE DELAYS

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

PSC-8. BREACH

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

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

PSC-9. WAIVER

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

PSC-10. TERMINATION

A. TERMINATION FOR CONVENIENCE

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

B. TERMINATION FOR BREACH OF CONTRACT

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

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

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

PSC-11. INDEPENDENT CONTRACTOR

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

PSC-12. CONTRACTOR'S PERSONNEL

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

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

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

PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION

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

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

PSC-14. PERMITS

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

PSC-15. CLAIMS FOR LABOR AND MATERIALS

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

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

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

PSC- 17. RETENTION OF RECORDS, AUDIT AND REPORTS

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

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

PSC-18. FALSE CLAIMS ACT

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

PSC-19. BONDS

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

PSC-20. INDEMNIFICATION

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

PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION

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

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

PSC-22. INTELLECTUAL PROPERTY WARRANTY

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

PSC-23. OWNERSHIP AND LICENSE

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

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

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

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

PSC-24. INSURANCE

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

PSC-25. DISCOUNT TERMS

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

PSC-26. WARRANTY AND RESPONSIBILITY OF CONTRACTOR

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

PSC-27. NON-DISCRIMINATION

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

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

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

PSC-28. EQUAL EMPLOYMENT PRACTICES

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

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

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

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

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

PSC-29. AFFIRMATIVE ACTION PROGRAM

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

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

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

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

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

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

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

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

PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS

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

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

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

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

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

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

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

PSC- 32. AMERICANS WITH DISABILITIES ACT

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

PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE

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

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

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

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

PSC-35. EQUAL BENEFITS ORDINANCE

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

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

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

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

PSC 36. SLAVERY DISCLOSURE ORDINANCE

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

EXHIBIT 1**INSURANCE CONTRACTUAL REQUIREMENTS**

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

CONTRACTUAL REQUIREMENTS**CONTRACTOR AGREES THAT:**

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

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

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

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

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

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

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

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

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

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

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

Exhibit 1 (Continued) Required Insurance and Minimum Limits

Name: _____ Date: _____

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

Limits

Workers' Compensation – Workers' Compensation (WC) and Employer's Liability (EL)		WC _____	Statutory _____
<input type="checkbox"/> Waiver of Subrogation in favor of City	<input type="checkbox"/> Longshore & Harbor Workers	EL _____	
	<input type="checkbox"/> Jones Act		

General Liability _____

<input type="checkbox"/> Products/Completed Operations	<input type="checkbox"/> Sexual Misconduct _____
<input type="checkbox"/> Fire Legal Liability _____	
<input type="checkbox"/> _____	

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

Professional Liability (Errors and Omissions) _____

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

<input type="checkbox"/> All Risk Coverage	<input type="checkbox"/> Boiler and Machinery
<input type="checkbox"/> Flood _____	<input type="checkbox"/> Builder's Risk
<input type="checkbox"/> Earthquake _____	<input type="checkbox"/> _____

Pollution Liability _____

Surety Bonds – Performance and Payment (Labor and Materials) Bonds _____

Crime Insurance _____ 100 % of Contract Price

Other: _____

EXHIBIT B

Los Angeles Theatre Academy Board of Directors

Board Chair

Susana Benavidez, Chair
Business Development, Latham & Watkins

Secretary

Henry Madrid
President, Madrid Consulting Group, LL

Treasurer

Christine Peters
President, Citizens Committee to Save Elysian Park

Dr. Raphael Mattei
Chiropractor

Elizabeth Gasca
Teacher, Montebello Unified District

Iris Kennedy
Teacher, LAUSD

Los Angeles Theatre Academy Advisory Board

Patricia Alarcon
LA Commissioner

Roxana Sanchez
Mother

Roberto Cantu
Professor, California State University, Los Angeles

Gabriela Teissier
Anchor, Univisión KMEX-TV Primera Edición

Estela Scarlata
Set Designer and Production Manager, LATA

APPROVED

REPORT OF GENERAL MANAGER

NO. 13-174

DATE June 27, 2013

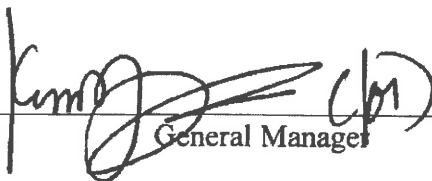
JUN 27 2013
BOARD OF RECREATION
& PARK COMMISSIONERS

C.D. 14

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: ELYSIAN PARK RECREATION CENTER – AGREEMENT WITH LOS ANGELES THEATRE ACADEMY, INC., FOR THE SHARED USE OF ELYSIAN PARK RECREATION CENTER FOR THEATRE ARTS, AFTER SCHOOL CLUB AND SUMMER DAY CAMP PROGRAMS

R. Adams	_____	K. Regan	_____
H. Fujita	_____	M. Shull	_____
*V. Israel	_____	N. Williams	_____


General Manager

Approved _____

Disapproved _____

Withdrawn _____

RECOMMENDATIONS:

That the Board:

1. Approve a proposed three (3) year agreement (Agreement), substantially in the form on file in the Board Office, between the Department of Recreation and Parks (RAP) and Los Angeles Theatre Academy, Inc. (LATA), a California non-profit organization, setting forth the terms and conditions for the shared use of park property at Elysian Park Recreation Center, subject to the approval of the Mayor and of the City Attorney as to form;
2. Direct the Board Secretary to transmit the proposed Agreement, to the Mayor in accordance with Executive Directive No. 3, and concurrently, to the City Attorney for review and approval as to form;
3. Authorize the Board President and Secretary to execute the Agreement upon receipt of the necessary approvals; and,
4. Direct the Department's Chief Accounting Employee to deposit fees for utility and other cost recovery reimbursements received from LATA in the accounts 302/89/89707H; General Recreation Activity Program, Sub-Account TBD established for such purposes.

REPORT OF GENERAL MANAGER

PG. 2

NO. 13-174SUMMARY:

Elysian Park is one of the oldest parks in Los Angeles, consisting of 600 acres. Within Elysian Park is the Elysian Therapeutic Recreation Center now referred to as the Elysian Park Recreation Center located at 929 Academy Road, Los Angeles, CA 90012. Prior to July 2010, the Elysian Therapeutic Recreation Center was used to foster the development of independent, social and recreation skills of developmentally disabled youth. However, the challenging economic environment and resulting staff and service reductions led to the closure of the programs for developmentally disabled youth at Elysian Therapeutic Recreation Center in June 2010. With the availability of some space at the facility, Metro Region administration has allowed LATA to share the use of Elysian Park Recreation Center with RAP's LA KIDS program staff.

LATA, a non-profit community based organization, has been dedicated to providing theatre arts, after school, and summer day camp programs to the community surrounding Elysian Park since 2008. LATA currently offers theatre arts programs that include four (4) full stage productions, an annual children's theatre summer festival, arts in education programs, summer and winter camps supporting working parents, an after-school club and periodic visiting artist workshops. Program participants are subject to modest LATA program fees which are commensurate with other programs in the surrounding area and registration procedure. LATA serves approximately fifty to sixty (50-60) participants each year, with ages ranging from five to sixteen (5-16) years old.

Staff recommends approval of the proposed Agreement so that LATA may be allowed to continue using park property to provide youth programs which provide recreational benefits and is in the best interest of the Elysian Park community.

Should the proposed Agreement be approved, LATA's performance will be monitored through an annual performance review to ensure compliance with the Agreement. As part of the proposed Agreement, LATA will pay a Cost Recovery Fee in the amount of \$433.00 per month or \$5,196.00 a year plus any additional reimbursement for as-needed staff coverage costs to open or close the building during the hours RAP is not operating its programs. The Cost Recovery Fee will cover indirect costs associated with the impact of LATA's program to RAP.

ENVIROMENTAL IMPACT STATEMENT

Staff has determined that the proposed Agreement with LATA will allow the Elysian Park Recreation Center facility to be used for recreational programs involving negligible or no expansion of use, and, therefore, is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Article III, Section 1, Class 1(14) of the City CEQA Guidelines.

REPORT OF GENERAL MANAGER

PG. 3

NO. 13-174

The Superintendent of RAP's Metro Region and the Office of Councilmember Jose Huizar (Council District 14) are aware of the agreement and concur with staff's recommendations.

FISCAL IMPACT STATEMENT:

The proposed Agreement will have no adverse impact on RAP's General Fund as operations and program costs associated with LATA's use of park property will be paid for by LATA and any additional staff impact costs will be compensated through the collection of Board approved Cost Recovery Fees.

This report was prepared by Joel Alvarez, Senior Management Analyst, and Chinyere Stoneham, Senior Recreation Director, Partnership Division.