

**PROFESSIONAL SERVICES AGREEMENT**

**between**

**THE CITY OF LOS ANGELES**

**and**

**EVITARUS, INC.**

**for**

**PUBLIC OUTREACH AND ENGAGEMENT PROGRAM SERVICES  
for the City of Los Angeles, Department of Neighborhood Empowerment**

**Said Agreement is Number C-**

**Professional Services Agreement  
PUBLIC OUTREACH AND ENGAGEMENT PROGRAM SERVICES  
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- Attachment A – Standard Provisions (Rev. 10/17 [v.3])
- Attachment B – Description of Scope of Services
- Attachment C – Confidentiality Agreement

**AGREEMENT NUMBER C-  
BETWEEN  
THE CITY OF LOS ANGELES  
AND  
EVITARUS, INC.  
FOR PUBLIC OUTREACH AND ENGAGEMENT PROGRAM SERVICES**

**THIS AGREEMENT** (“Agreement”) is made and entered into by and between the City of Los Angeles, a municipal corporation (“City”), by and through the Department of Neighborhood Empowerment (“Department”), and EVITARUS, INC., a California corporation (“Contractor”) (collectively, the “Parties,” or individually, a “Party”).

1. **WHEREAS**, the City desires to utilize the services of a qualified firm for public outreach and engagement program services;
2. **WHEREAS**, the Department has been mandated by the City Charter and the Los Angeles Administrative Code to implement and oversee various City ordinances, procedures and regulations related to the Citywide System of Neighborhood Councils, including the provision of providing operational support in order to further the goals and objectives of the Neighborhood Councils (NCs);
3. **WHEREAS**, the goals and objectives of the Neighborhood Council system are as follows: to promote public participation in City governance and decision-making processes so that government is more responsive to local needs and requests, and so that more opportunities are created to build partnerships with government to address local needs and requests; to promote and facilitate communication, interaction, and opportunities for collaboration among all Neighborhood Councils regarding their common and disparate concerns; to facilitate the delivery of City services and City government responses to Neighborhood Councils' problems and requests for assistance by helping Neighborhood Councils to both identify and prioritize their needs and to effectively communicate those needs; to ensure equal opportunity to form Neighborhood Councils and participate in the government decision-making and problem solving process; to create an environment in which all people can organize and propose their own Neighborhood Councils so that they develop from the grassroots of the community; and to foster a sense of community for all people to express ideas and opinions about their neighborhoods and their government;
4. **WHEREAS**, the Neighborhood Council system is intended to be inclusive of all communities in the City of Los Angeles, and the Department has an obligation to reach out to those segments of the community that are not currently and adequately represented in the Neighborhood Council system, to educate them about civic engagement and City services available to them;
5. **WHEREAS**, the Los Angeles Administrative Code places the responsibility for Neighborhood Council election administration with the Office of the City Clerk and

the Department of Neighborhood Empowerment (EmpowerLA). The City Clerk is responsible for the administration of the election and EmpowerLA is responsible for election outreach;

6. **WHEREAS**, the Department has developed an integrated Elections Strategy Plan (ESP) approved by the City Council (Council File 20-0963) that reflects comments, recommendations, and data from the 2019 Election outreach efforts. The plan embraces four broad elements for success: 1) Supporting the advancement of a Neighborhood Council system that is increasingly engaged with its community members, and that helps L.A. City government be more responsive to community needs. 2) Advancing the growth of Neighborhood Councils that are reflective of the diversity of voices of the neighborhoods and communities that they represent. 3) Creating spaces and opportunities for Angelenos to be engaged in the long term. 4) Recognizing the impacts of the pandemic and the City's racial equity mandate to engage people on budget and advocacy.
7. **WHEREAS**, the Department sent invitations to three organizations with a background in civic participation, outreach, engagement in elections, and multi-model communication and stakeholder contact methodologies, to provide proposals for the services described in this Agreement. The organizations were additionally selected for their experience working with low-income immigrant populations in the City of Los Angeles. Of the three organizations invited, two responded that they did not have the capacity to perform the work as described nor could they perform the work at the scale needed for the NC elections. Contractor submitted a proposal that met the Department's expectations and is able to execute the work within the required timeframe.
8. **WHEREAS**, Contractor is a leading Los Angeles-based firm with specialized expertise in assisting public entities with contacting and soliciting input from diverse populations of residents using methods that are scientifically sound and designed to mitigate against implicit and explicit forms of bias and overcome present day and historic barriers experienced by historically marginalized and under resourced communities in petitioning and engaging with government entities:
9. **WHEREAS**, Contractor is uniquely qualified to assist the Department in the design of a process that responds to the ESP's goals by virtue of Contractor's advanced experience conducting outreach and research among the stakeholder populations to be targeted including youth, and residents who identify as Black, Indigenous People of Color (BIPOC), as well as residents possessing low and/or intermittent Internet access, and those exhibiting varying degrees and forms of civic engagement;
10. **WHEREAS**, Contractor has conducted extensive and ground-breaking research about the civic engagement attitudes and behaviors of ethnically diverse communities throughout Los Angeles, with specialized knowledge of the factors that motivate and increase civic participation;

**11. WHEREAS**, Contractor is well versed on the issues and conditions that may impede access to government institutions, such as implicit bias, structural inequalities, and racial disparities, and will competently advise Department on how to overcome these barriers in their ESP strategy;

**12. WHEREAS**, Contractor's role as strategic advisor to the Los Angeles Board of Supervisors on the issues affecting unhoused residents will assist the Department in its efforts to develop partnerships to increase engagement of unhoused neighbors;

**13. WHEREAS**, Contractor has specialized expertise designing and implementing customized sampling plans, as well as multimodal and multi-lingual outreach, research, and communications efforts, including among the Black/African American, Latinx, Asian American, Pacific Islander, and Indigenous, and immigrant communities, as well as among civic, faith-based, and community organizations and stakeholders;

**14. WHEREAS**, Contractor's has unique expertise designing and conducting outreach to residents across all age cohorts, with concentrated knowledge of factors that influence civic participation among low propensity voters and residents who are typically disconnected from formal political processes such as participation in elections;

**15. WHEREAS**, Contractor has a well-established team with expertise in designing and administering internet stakeholder engagement including the development of customized sampling methodologies in accordance with applicable state and federal laws;

**16. WHEREAS**, the services required are of a professional and expert quality and are temporary and occasional in nature; therefore competitive bidding under Charter Section 371 is neither practicable nor advantageous, nor consistent with the City's interests;

**17. WHEREAS**, the Parties wish to enter into an agreement pursuant to which the Contractor agrees, for consideration and upon the terms and conditions provided within this Agreement, to perform the services described herein.

**NOW THEREFORE**, in consideration of the promises, representations, covenants and agreements provided below, the parties agree as follows:

## **1.0 PARTIES TO THE AGREEMENT AND REPRESENTATIVES**

### **1.1 Parties to the Agreement**

1.1.1 The City of Los Angeles, a municipal corporation, having its principal office at 200 North Spring Street, Los Angeles, California, 90012.

1.1.2 Contractor, EVITARUS, INC., a California corporation, having its principal address at 2355 Westwood Blvd., #1107, Los Angeles, CA 90064.

### **1.2 Representatives of the Parties**

The representatives of the parties who are authorized to administer this Agreement and to whom formal notices, demands, and communications will be given are as follows:

1.2.1 The City's representative is, unless otherwise stated in the Agreement:

Raquel Beltrán, General Manager  
Department of Neighborhood Empowerment  
200 N. Spring St. #2005  
Los Angeles, California 90012  
(213) 978-1551

With copy to:

Armando Ruiz, Director of Administrative Services  
Department of Neighborhood Empowerment  
City of Los Angeles  
200 N. Spring Street, Room 2005  
Los Angeles, CA 90012  
[Armando.Ruiz@LACity.org](mailto:Armando.Ruiz@LACity.org)

Invoices should be sent to:

Accounts Payable  
Department of Neighborhood Empowerment  
200 N. Spring St. #2005  
Los Angeles, California 90012  
[Accounting@EmpowerLA.org](mailto:Accounting@EmpowerLA.org)  
(213) 978-1551

1.2.2 The Contractor's representatives are unless otherwise stated in the Agreement:

Shakari Byerly  
Managing Partner and Lead Researcher  
EVITARUS, INC.  
2355 Westwood Blvd., #1107  
Los Angeles, CA 90064  
[shakari@evitarus.com](mailto:shakari@evitarus.com)  
(805) 751-3855

**1.3** Formal notices, demands and communications to be given hereunder by either party must be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and will be deemed communicated as of the date of mailing.

**1.4** If the name of the person designated to receive the notices, demands or communications or the address of such person is changed, written notice must be provided as described in this Agreement, within five (5) business days of such change.

## **2.0 TERM OF AGREEMENT**

The term of this Agreement will begin on the date of the City Clerk's attestation and will terminate on August 30, 2021, unless terminated earlier as provided herein.

## **3.0 SERVICES TO BE PROVIDED**

Upon award of the contract, the Contractor will be required to provide the following services on an as-needed basis:

**3.1** Conceptualize, initiate, plan, and execute a public outreach and engagement program for the 2021 Neighborhood Council elections as described in Attachment B - Description of Scope of Services;

**3.2** Design an integrated email outreach campaign to reach a minimum of 1.2 million unduplicated and unique email addresses in the City of Los Angeles using a tiered data driven approach. The campaign will be comprised of an email invitation to complete an online survey and a subsequent follow up survey regarding the Neighborhood Council System and Elections. The message content will be developed and approved by the Department, and will include an unsubscribe option. The survey will be made available by the Contractor in English, Spanish, Chinese (Mandarin), Korean, and upon request by the Department, Armenian and Farsi. The survey length will be up to 10 questions in length and the entire

message will be limited to a maximum of 2,500 words;

- 3.3** Assemble, oversee, and manage the processes of the Contractor's team with expertise in the field of identifying workable email contact information for residents within specified municipal boundaries to achieve goals described in Attachment B;
- 3.4** Administer the outreach campaign and survey providing regular (weekly) updates to the Department including email disposition reports and respondent reports that describe the outcomes within the specified time;
- 3.5** Make adjustments to the implementation schedule and target in consultation with the Department in order to reach projected goals;
- 3.6** Analyze response data using Contractor statisticians. Analysis will include the production of topline frequencies for each question and response option, as well as, if applicable, cross-tabulation of results with a report on any statistically significant differences across categories;
- 3.7** Produce a summary presentation and report of the results including a final email disposition report, final topline survey results, cross-tabulated results
- 3.8** Assist in meetings/briefings with Department staff, or others, as needed; and
- 3.9** Provide the contracted service in a timely, accurate, and efficient manner, at the same time services are requested

#### **4.0 NON-EXCLUSIVE AGREEMENT**

Contractor understands and agrees that this is a non-exclusive agreement to provide services to the City and that the City has entered into contracts with other contractors. Attorneys with The City, and its support staff, may use any of the contractors with whom City has contracts and, therefore, the City cannot estimate nor guarantee the volume or amount of work to be received by Contractor under this Agreement.

#### **5.0 COMPENSATION AND METHOD OF PAYMENT**

##### **5.1 Compensation**

The City will pay the Contractor for satisfactory services rendered in a total amount not to exceed \$53,250 based on the rates specified in Attachment B – Description of Scope of Services which is attached hereto and made a part hereof.



The Contractor further understands and agrees that execution of this Agreement does not guarantee that any or all of these funds will be expended.

Notwithstanding any other provision of this Agreement, including any exhibit or attachments incorporated therein, and in order for the City to comply with its governing legal requirements, the City shall have no obligation to make any payments to Contractor unless the City shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in said Agreement. Contractor agrees that services provided by Contractor, purchases made by Contractor, or expenses incurred by Contractor in excess of said appropriation(s) shall be free and without charge to City and City shall have no obligation to pay for said services, purchases or expenses. Contractor shall have no obligation to provide any services, provide any equipment or incur any expenses in excess of the appropriated amount(s) until City appropriates additional funds for this Agreement.

## **5.2 Prior Written Approval Requirement**

Contractor must receive written approval by the Administrative Services Division of the Department (“Administrative Services”) prior to providing services under this contract: (1) when the cost of a single assignment is estimated to be \$5,000 or more; or (2) at the time Contractor becomes aware or should be reasonably aware that an assignment that was initially estimated to cost under \$5,000 will end up costing \$5,000 or more after work has begun.

In addition, Contractor must receive prior written approval by Administrative Services prior to providing services under this Agreement if either: (1) the total cost of services provided by Contractor on one particular matter/case has reached a combined, aggregate total amount of \$5,000 or more by the time Contractor is to provide additional services for the same matter/case; or (2) the additional services to be rendered by Contractor in one matter/case will create a combined, aggregate total amount of \$5,000 or more in services provided by Contractor for that one matter/case.

## **5.3 Method of Payment**

### **5.3.1. Invoices**

For services provided under this Agreement, the Contractor shall be paid by the City in accordance with Attachment B – Description of Scope of Services and the other conditions and provisions of this

Section within 30 calendar days after receipt and approval of the Contractor's invoices by the City. The Contractor must include the following information, and any other documentation requested by the City, on each invoice:

1. Date of invoice
2. Invoice number
3. Agreement number
4. Description of services, including, but not limited to:
  - a) Date of Assignment
  - b) Matter Name and Matter Number
5. Number of Pages, if any, and Rate for Service
6. Amount of invoice

***Failure to adhere to these policies may result in nonpayment or non-approval of demands, pursuant to Charter Section 262(a)***, which requires the Controller to inspect the quality, quantity and condition of services, labor, materials, supplies, or equipment received by any City office or department, and approve demands before they are drawn on the Treasury.

**5.3.2** The Contractor shall notify Administrative Services within 10 business days when 80% of the maximum compensation for this Agreement has been reached. Notice must be sent to the address listed below:

Armando Ruiz  
Director, Administrative Services  
200 N. Spring Street, Suite 2005  
Los Angeles, California 90012

## **6.0 INDEPENDENT Contractor**

Contractor's relationship to City in the performance of this Agreement is that of an independent contractor and not as an agent or employee of City. Therefore, neither Contractor, nor any of its subcontractors, are entitled to any vacation, sick leave, Workers' Compensation, pension, or any other City benefits. Contractor's personnel performing services under this Agreement shall at all times be under Contractor's exclusive direction and control and shall be employees or subcontractors of Contractor and not of City. Further, Contractor shall pay all wages, salaries, and other amounts due its employees in connections with this Agreement and shall be responsible for all related reports and obligations including but not limited to social security, income tax withholding, unemployment compensation, and workers' compensation.

## **7.0 RETENTION OF RECORDS**

Except as otherwise expressly directed by City, Contractor shall maintain records, including records of financial transactions, pertaining to the performance of the Agreement, in their original form, in accordance with requirements prescribed by City. These records must be retained for a period of no less than forty-eight (48) months following final payment made by City hereunder, the expiration date of this Agreement, or the termination date of this Agreement, whichever occurs last. Records will be subject to examination and audit by authorized City personnel or by the City's representative at any time during the term of this Agreement or within the forty-eight (48) months following the final payment made by City hereunder, the expiration of this Agreement, or the termination date of this Agreement, whichever occurs last. Contractor shall provide any reports requested by City regarding performance of the Agreement.

## **8.0 NO THIRD-PARTY BENEFICIARIES**

Nothing herein is intended to create a third party beneficiary in any subcontractor. The City has no obligation to any subcontractor. No privity is created with any subcontractor by this Agreement. Even if the Contractor uses subcontractors, Contractor remains responsible for complete and satisfactory performance of the terms of this Agreement.

## **9.0 CONFIDENTIALITY**

All data, documents, records, recorded testimony, audiotapes, videotapes, materials, products, technology, computer programs, specifications, manuals, business plans, software, marketing plans, financial information, and other information disclosed or submitted orally, in writing, or by any other media, to Contractor by the City, and other documents to which the Contractor has access during the term of this Agreement are confidential information ("Confidential Information").

The Contractor agrees that both during and after the term of this Agreement, City's Confidential information shall be considered and kept as the private and privileged records of City and will not be divulged to any person, firm, corporation, or other entity except on the prior direct written authorization of City.

The Contractor shall ensure that each worker sent on an assignment under this Agreement has executed a Confidentiality Agreement prior to commencing any such assignment. Contractor agrees to provide the signed Confidentiality Agreement to the City prior to all workers commencing any assignment. The Confidentiality Agreement to be used is attached hereto as Attachment C. The Contractor is responsible for ensuring compliance of all workers with the Confidentiality Agreement.

## **10.0 CONTRACTOR'S INTERACTION WITH THE MEDIA**

Contractor shall refer all inquiries from the news media to City, shall immediately contact City to inform City of the inquiry, and shall comply with the procedures of City's Public Affairs staff regarding statements to the media relating to this Agreement or Contractor's services hereunder.

## **11.0 REQUIREMENTS APPLY TO ALL SUBCONTRACTORS**

The Contractor will ensure that the requirements of Section 9.0 and 10.0 are provided to and apply to all subcontractors of this Agreement.

## **12.0 CONTINUED REQUIREMENTS**

The requirements of this Section 9.0, 10.0, and 11.0 survive termination of the Agreement.

## **13.0 BORDER WALL BID DISCLOSURE**

Contractor shall comply with Los Angeles Administrative Code ("LAAC") Section 10.50 *et seq.*, "Disclosure of Border Wall Contracting." City may terminate this Contract at any time if City determines that Contractor failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in LAAC Section 10.50.1. The required affidavit must be submitted online at [www.labavn.org](http://www.labavn.org).

## **14.0 STANDARD PROVISIONS**

The Contractor must comply with the Standard Provisions for City Contracts (Rev. 10/17) [v3], attached to this Agreement as Attachment A and incorporated herein by reference.

## **15.0 INDEMNIFICATION**

Except for the active negligence or willful misconduct of City, or any of its boards, officers, agents employees, assigns and successors in interest, Contractor shall defend, indemnify and hold harmless City and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands, deficiencies, judgements, settlements, costs, and expenses of any kind (collectively, "Claims"), including, but not limited to, attorney's fees (both in house and outside counsel), damages or liability of any nature whatsoever, relating to or arising in any manner by reason of the acts, errors, commissions or willful misconduct by Contractor, Subcontractors or their boards, officers, agents, employees, assigns, and successors in interest. Contractor's obligations under this section shall

include but not be limited to, any claims brought under the Telephone Consumer Protection Act. 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. This provision will survive expiration or termination of this Contract.

## **16.0 ORDER OF PRECEDENCE**

In the event of any conflict or inconsistency between the body of this Agreement and the attachments or exhibits to this Agreement, the order of precedence is as follows: the body of this Agreement, followed by the Standard Provisions for City Contracts (Rev. 10/17) [v.3], followed by other attachments or exhibits in descending numerical or letter order.

## **17.0 ENTIRE AGREEMENT**

This Agreement, and any attachments or documents incorporated herein by inclusion or by reference, constitutes the complete and entire Agreement between the Parties and supersedes any prior representation, understandings, communications, commitments, agreements, or proposals, oral or written. No verbal agreement or conversation with any officer or employee of either party will affect or modify any of the terms and conditions of this Agreement.

This Agreement may be executed in one or more counterparts, and by the parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. The parties further agree that facsimile signatures or signatures scanned into .pdf (or signatures in another electronic format designated by the City) and sent by e-mail shall be deemed original signatures.

**[Signature page follows.]**

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

THE CITY OF LOS ANGELES,  
a Municipal Corporation

EVITARUS, INC.

By: \_\_\_\_\_  
RAQUEL BELTRÁN  
General Manager,  
Department of Neighborhood Empowerment

By: \_\_\_\_\_  
SHAKARI BYERLY  
Managing Partner  
Lead Researcher

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

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

APPROVED AS TO FORM:

ATTEST:

MICHAEL N. FEUER, City Attorney

HOLLY L. WOLCOTT, City Clerk

By: \_\_\_\_\_  
ELISE RUDEN  
Managing Deputy City Attorney

By: \_\_\_\_\_  
Deputy City Clerk

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

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

City Business License Number 0002775410-0001-3  
Internal Revenue Service Taxpayer Identification Number 27-0527588  
Agreement Number C-

STANDARD PROVISIONS FOR CITY CONTRACTS

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## STANDARD PROVISIONS FOR CITY CONTRACTS

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

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

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

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

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

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

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

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

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

**PSC-4. Integrated Contract**

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

**PSC-5. Amendment**

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

**PSC-6. Excusable Delays**

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

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

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

**PSC-7. Waiver**

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

**PSC-8. Suspension**

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

**PSC-9. Termination**

A. Termination for Convenience

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

B. Termination for Breach of Contract

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

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

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

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

**PSC-10. Independent Contractor**

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

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

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

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

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

**PSC-12. Assignment and Delegation**

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

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

**PSC-13. Permits**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**PSC-20. Intellectual Property Warranty**

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

**PSC-21. Ownership and License**

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

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

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

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

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



**PSC-22. Data Protection**

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

**PSC-23. Insurance**

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

**PSC-24. Best Terms**

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

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

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

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

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

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

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

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

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

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

**PSC-28.** Living Wage Ordinance

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

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

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

**PSC-30.** Access and Accommodations

**CONTRACTOR** represents and certifies that:

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

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

**PSC-31. Contractor Responsibility Ordinance**

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

**PSC-32. Business Inclusion Program**

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

**PSC-33. Slavery Disclosure Ordinance**

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

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

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

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

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

**PSC-36. Iran Contracting Act**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**PSC-42.** Possessory Interests Tax

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

**PSC-43. Confidentiality**

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

**EXHIBIT 1**

**INSURANCE CONTRACTUAL REQUIREMENTS**

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

**CONTRACTUAL REQUIREMENTS**

CONTRACTOR AGREES THAT:

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

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

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



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

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

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

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

## Required Insurance and Minimum Limits

Name: \_\_\_\_\_

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

Agreement/Reference: \_\_\_\_\_

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

	Limits
<p>___ <b>Workers' Compensation (WC) and Employer's Liability (EL)</b></p> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 45%;"> <p><input type="checkbox"/> Waiver of Subrogation in favor of City</p> <p><input type="checkbox"/> Longshore &amp; Harbor Workers</p> <p><input type="checkbox"/> Jones Act</p> </div> <div style="width: 45%; text-align: right;"> <p>WC _____</p> <p>Statutory _____</p> <p>EL _____</p> </div> </div>	
<p>___ <b>General Liability</b></p> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 45%;"> <p><input type="checkbox"/> Products/Completed Operations</p> <p><input type="checkbox"/> Fire Legal Liability</p> <p><input type="checkbox"/> _____</p> </div> <div style="width: 45%; text-align: right;"> <p><input type="checkbox"/> Sexual Misconduct _____</p> </div> </div>	
<p>___ <b>Automobile Liability</b> (for any and all vehicles used for this contract, other than commuting to/from work)</p>	_____
<p>___ <b>Professional Liability</b> (Errors and Omissions)</p> <p style="margin-left: 40px;">Discovery Period _____</p>	_____
<p>___ <b>Property Insurance</b> (to cover replacement cost of building - as determined by insurance company)</p> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 45%;"> <p><input type="checkbox"/> All Risk Coverage</p> <p><input type="checkbox"/> Flood _____</p> <p><input type="checkbox"/> Earthquake _____</p> </div> <div style="width: 45%; text-align: right;"> <p><input type="checkbox"/> Boiler and Machinery</p> <p><input type="checkbox"/> Builder's Risk</p> <p><input type="checkbox"/> _____</p> </div> </div>	_____
<p>___ <b>Pollution Liability</b></p> <p><input type="checkbox"/> _____</p>	_____
<p>___ <b>Surety Bonds - Performance and Payment (Labor and Materials) Bonds</b></p>	_____
<p>___ <b>Crime Insurance</b></p>	_____

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



THE CLEAR PATH

**Public Opinion Research**

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**TO:** Raquel Beltran  
General Manager, Dept. of Neighborhood Empowerment  
Thomas Soong  
Director of Outreach & Communications, Dept. of Neighborhood Empowerment

**FROM:** EVITARUS

**DATE:** March 11, 2020

**RE:** UPDATED Scope of Services—Neighborhood Council Election Outreach

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Thank you for the opportunity to submit this Updated Scope of Services (the “Scope of Services”) to support public outreach, awareness, and education (the “Outreach”) by the Department of Neighborhood Empowerment of the City of Los Angeles (the “City”).

We are very excited about the prospect of assisting City staff (“Staff”) in contacting residents (“Residents” or “Angelenos”) to provide information and resources pertaining the Neighborhood Council (NC) elections, as well as assess levels of awareness and receptivity to receiving information about NCs.

*\*This Scope of Services contains confidential and proprietary information, including customized Resident sampling methodology, specialized implementation methodology and know-how, and other feasibility considerations related to implementation of the Outreach. This Description of Scope of Services, and its contents, may not be shared, distributed, or disclosed without the express written permission of EVITARUS.*

#### **PROPOSED SURVEY RESEARCH**

We will conduct public outreach among Residents to accomplish the following objectives (the “Objectives”):

- Assess level of receptivity to receiving information about NCs and elections;
  - Assess modes of communication and information delivery/forms of information, which may be preferred;
  - Assess, and enhance, levels of awareness and access to information about NCs;
  - Provide key information to Residents about current and future NC elections, such as candidate filing, ballot request, and voting deadlines and requirements; and
  - Provide information to Residents about opportunities and methods for candidates and/or voters to register to participate—including online and other available resources.
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## DESCRIPTION OF OUTREACH CAMPAIGN

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EVITARUS will work with Staff to conduct an online survey among Residents<sup>1</sup>, according to the following parameters (the “Survey”):

- **Initial Survey Invitations:** A series of email messages<sup>2</sup> to be distributed to up to one million and two hundred thousand (1,200,000) unique email addresses obtained from the Sample (the “Initial Survey Invitations”).
  - The Initial Survey Invitations will include the following, which are collectively designed to accomplish the Objectives:
    - An invitation to complete the Survey; and
    - A link to view information and/or link(s) to resources about NCs.
- **Follow-up Survey Invitations:** A series of follow-up email messages<sup>3</sup> to be distributed to Residents who have not yet completed the survey (the “Follow-up Survey Invitations”).
  - The Follow-up Survey Invitations will contain content that is similar to the Initial Survey Invitations (the “Follow-up Survey Invitations”).

Other survey parameters include:

- **Sampling Frame:** An enhanced voter file sample (the “Sample”) of available Resident email addresses encompassing Residents who are at least 18 years of age.
- **Mode:** Online;
- **Languages:**
  - English;
  - Spanish;
  - Chinese (Mandarin);
  - Korean;
  - Optional-Armenian; and
  - Optional-Farsi.
- **Survey Length:** Up to 10 questions in length.
- **Maximum Number of Words:** Up to 2,500 total words originating from the combined—Survey Invitation, Survey, and any Information provided.

### *The Survey Research Process*

The survey research process will include:

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<sup>1</sup> Actual completed responses are subject to feasibility and response rates among Residents.

<sup>2</sup> Message content to be developed by Staff and delivered to EVITARUS.

<sup>3</sup> Ibid.

- Participation in project meeting(s) to assess key objectives and issues to be explored in the research;
- Design of the Resident sample;
- Procurement and matching of the enhanced email samples of Residents to available databases, where necessary;
- Working in concert with City Staff, review of the email sampling distribution plan;
- Developing and drafting the survey questionnaire;
- Programming and pre-testing the survey questionnaire;
- Survey administration to potential respondents;
- Data processing;
- If applicable, cross-tabulation of survey results; and
- Analysis and reporting the Survey Research Results.

**Survey Questionnaire Design:** The survey research will be developed in consultation with Staff. Based upon Staff guidance and input, EVITARUS will draft the survey questionnaire and present a first draft of the survey questionnaire for review and comment. EVITARUS will work with Staff to revise and refine the instrument, in order to arrive at a final questionnaire that meets the research objectives. Before commencing with survey administration, EVITARUS will secure the approval of the appropriate staff member on the final survey questionnaire.

**Survey Administration:** Once final approval on the survey questionnaire has been received, EVITARUS will manage all aspects of survey programming, testing, hosting, and data collection.

**Data Analysis and Reporting:** Response data will be analyzed by our statisticians using well-documented and widely-used data analysis software packages. This analysis will include the production of topline frequencies for each question and response option, as well as, if applicable, cross-tabulation of results with a report on any statistically significant differences across categories.

**Presentation of Survey Research Results:** EVITARUS will produce a summary presentation of the Survey Research Results.

#### *The Survey Research Deliverables*

The City will receive the following deliverables (the “Survey Research Deliverables”):

1. Participation in project meetings with Staff to assess key objectives and issues to be explored in the research;
2. The final survey questionnaire;
3. Survey administration;

4. Email disposition Report—an itemized list of every email message distributed, including a unique identifier for each email address to which the email was sent, timestamp, and information about any action taken by recipients (such as whether the email was opened);
5. Topline survey results (the survey questionnaire completed with the response code selection percentages) (the “Survey Research Results”);
6. If applicable, cross-tabulated results (responses to every question in the survey, broken down by segments of the respondent population); and
7. A summary presentation of the Survey Research Results.

**PUBLIC OUTREACH / SURVEY RESEARCH COST**

Table I outlines the Public Outreach / Survey Research Cost:

**Table I: Survey Cost**

<b>Survey Research</b>	<b>Invitations</b>	<b>Cost</b>
Online	Up to 2,400,000	\$53,250

**NEXT STEPS**

Thank you for considering this Scope of Services. We are excited about the prospect of working with you on this very important project, and we are prepared to begin working immediately should you wish to move forward.

Managing Partner and Lead Researcher Shakari Byerly will serve as the point of contact for the course of research outlined in this Description of Scope of Services. She may be reached by phone at 805.751.3855 or via email at [shakari@evitarus.com](mailto:shakari@evitarus.com).

**ATTACHMENT C**  
**CONFIDENTIALITY AGREEMENT**

I understand that my employer, EVITARUS, Inc., has entered into a contract (hereinafter referred to as the "Agreement") with the City of Los Angeles to provide various services to the Department of Neighborhood Empowerment.

I understand that EVITARUS, Inc. has assigned me to provide temporary services to the Department of Neighborhood Empowerment and that as part of that assignment I may have access to confidential information. "Confidential Information" includes all data, recorded testimony, audio-tapes, videotapes, materials, products, technology, computer programs, specifications, manuals, business plans, software, marketing plans, financial information, and other information disclosed or submitted, orally, in writing, or by any other media, to me by EVITARUS, Inc. or the City of Los Angeles or the Department of Neighborhood Empowerment.

I further understand that all information, records, software programs, documents, and data provided by the Department of Neighborhood Empowerment to me, or accessed or reviewed by me, during the performance of this assignment will remain the property of the City of Los Angeles and/or the Department of Neighborhood Empowerment. Any and all information, records, documents, and data provided by the Department of Neighborhood Empowerment to me, or accessed or reviewed by me during performance of this assignment, are confidential.

I agree not to provide information, records, software programs, documents, and data, nor disclose their content or any information contained in them, either orally or in writing, to any other person or entity. I further agree not to make copies of any Confidential Information unless a formal Department of Neighborhood Empowerment request is made through my employer.

I agree to forward all requests for the release of information received by me to my immediate supervisor.

I hereby agree that I will not divulge to any unauthorized person, information obtained while performing work pursuant to the Agreement between EVITARUS, Inc. and the City of Los Angeles and/or the Department of Neighborhood Empowerment.

I will be responsible for protecting the confidentiality and maintaining the security of Department of Neighborhood Empowerment materials, notes, records, documents, data and any other information in my possession. I am responsible for maintaining all stenographic recordings, either paper notes or electronic files, recorded by me indefinitely until they are turned over to my employer for storage and/or for future transcript requests.

This Agreement is to apply in conjunction with any prior confidentiality agreement between myself and EVITARUS, Inc., and will not nullify such agreements, however, this Agreement will take precedence. Any conflicts with any other agreements will be modified to comply with the terms of this Agreement.

I acknowledge that violation of this Confidentiality Agreement may subject me to civil and/or criminal action and that the City of Los Angeles and/or the Department of Neighborhood Empowerment will seek all possible legal redress.

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EVITARUS, Inc., Representative Signature

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Print Name

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Title

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Date