CODE *for* AMERICA

33935

2016 Fellowship Agreement ("Agreement") between
Code for America Labs, Inc. ("CfA") and
City of Long Beach ("Government" or "City")

1.1   Intellectual Property; Use of Materials. Unless specified otherwise in the
SOW, any CfA deliverables under the program will be in the form of Open Source Software and
Government's use of the deliverables will be subject to Open Source Software license terms.
CfA will provide Government with the version of the Open Source Software license terms that
are applicable to any deliverables. Open Source Software means software that consists of,
contains, or is derived in any manner (in whole or in part) from, any software that is distributed
as free software, open source software, or pursuant to similar licensing and distribution models
(e.g., GNU, Linux, Mozilla Public License, the Apache Software License, etc.). To the extent
any deliverables under the program are not subject to an Open Source Software license, CfA
shall own all rights in and to, including the right to license to others rights in and to any of, the
deliverables under the program; provided, however, CfA shall provide Government a non-
exclusive, worldwide, non-royalty bearing, license to use such deliverables in perpetuity.

1.2   Confidentiality. With respect to any information supplied in connection with the
program and designated in writing by the delivering party as confidential, the receiving party
agrees to: (i) protect the confidential information in a reasonable and appropriate manner; and
(ii) use confidential information only to perform its obligations under the program. This
confidentiality obligation shall not apply to information that is: (a) publicly known; (b) already
known to the recipient; (c) disclosed to a third party without restriction; (d) independently
developed; or (e) disclosed pursuant to a legal requirement or order.

1.3   Disclaimer of Warranties. City of Long Beach AND CFA EACH EXPRESSLY DISCLAIM,
AND EACH EXPRESSLY WAIVES, ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING,
WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A
PARTICULAR PURPOSE. EXCEPT WITH RESPECT TO INTELLECTUAL PROPERTY OR
CONFIDENTIALITY MATTERS, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE
LIABLE TO THE OTHER PARTY FOR ANY DIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL
OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS PROGRAM,
EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CFA'S
TOTAL LIABILITY RELATING TO THE PROGRAM SHALL IN NO EVENT EXCEED 1.5 TIMES
THE FEES CFA RECEIVES UNDER THIS AGREEMENT.

1.4   Indemnities.

(a) CfA shall indemnify and hold harmless City of Long Beach from and against any and all claims, losses, damages, expenses, obligations, penalties, demands, suits, procedures, assessments, judgments, costs and liabilities (including reasonable attorneys' fees and other costs of defenses) incurred by Government ("Losses"), arising out of or relating to:
(i) any material breach of any covenant, representation or warranty in this Agreement by CfA; or
(ii) the Government's use of the deliverables identified in the SOW in   accordance with this Agreement;
in each case provided that such Losses are not caused by a material breach of Government's representations and/or obligations under this Agreement.

(b) Government shall indemnify and hold harmless CfA from and against any and all Losses arising out of or relating to any material breach of any covenant, representation or warranty in this Agreement by Government.
(c) CfA will have no obligations under this Section with respect to infringement or misappropriation Losses arising from (i) modifications to any CfA deliverables by any party other than CfA; (ii) CfA deliverable specifications requested by Government; (iii) the use of any CfA deliverables in combination with products or technology not provided by CfA; or (iv) the Government's failure to implement a revision to the CfA deliverables, which if implemented, would have avoided the infringement or misappropriation.

1.5   Insurance. As a condition precedent to the effectiveness of this Agreement, CfA shall procure and maintain at CfA's expense for the duration of this Agreement from an insurance company that is admitted to write insurance in the State of California or that has a rating of or equivalent to an A:VIII by A.M. Best and Company the following insurance:

(a)   Commercial general liability insurance or self-insurance equivalent in coverage scope to ISO CG 00 01 10 93 naming the City of Long Beach, and their officials, employees, and agents as additional insureds on a form equivalent in coverage scope to ISO CG 20 10 11 85 from and against claims, demands, causes of action, expenses, costs, or liability for injury to or death of persons, or damage to or loss of property arising out activities performed by or on behalf of the CfA in an amount not less than One Million Dollars (US $1,000,000) per occurrence and Two Million Dollars (US $2,000,000) in general aggregate.
(b)   Workers' compensation coverage as required by the Labor Code of the State of California and Employer's liability insurance with minimum limits of One Million Dollars (US $1,000,000) per accident or occupational illness. The policy shall be endorsed with a waiver of the insurer's right of subrogation against the City of Long Beach, and their officials, employees, and agents.
(c)   Automobile liability insurance equivalent in coverage scope to ISO CA 00 0)1 06 92 in an amount not less than Five Hundred Thousand Dollars (US $500,000) combined single limit (CSL) per accident for bodily injury and property damage covering non-owned and hired automobiles.

(d)   Software errors and omissions liability or professional liability insurance in an amount not less than One Million Dollars ($1,000,000) per claim and in aggregate covering the services provided pursuant to this Agreement.

Any self-insurance program or self-insurance retention must be approved separately in writing by City and shall protect the City of Long Beach, and their officials, employees, and agents in the same manner and to the same extent as they would have been protected had the policy or policies not contained retention provisions. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, or canceled by either party except after thirty (30) days prior written notice to City, and shall be primary and not contributing to any other insurance or self-insurance maintained by City.

Any subconsultants which CfA may use in the performance of this Agreement shall be required to indemnify City to the same extent as CfA and to maintain insurance in compliance with the provisions of this section.

CfA shall deliver to City certificates of insurance and original endorsements for approval as to sufficiency and form prior to the start of performance hereunder. The certificates and endorsements for each insurance policy shall contain the original signature of a person authorized by that insurer to bind coverage on its behalf. A "Claims-made" policy must provide for an extended reporting period of not less than one hundred eighty (180) days. Such insurance as required herein shall not be deemed to limit CfA's liability relating to performance under this Agreement. City reserves the right to require complete certified copies of all said policies at any time. Any modification or waiver of the insurance requirements herein shall be made only with the approval of City Risk Manager. The procuring of insurance shall not be construed as a limitation on liability or as full performance of the indemnification provisions of this Agreement.

1.6   Term. This Agreement commences on September 28, 2015 ("Effective Date") and, unless sooner terminated as provided hereunder, will expire on November 16, 2016. The period from the Effective Date through expiration of termination of this Agreement is the "Term."

1.7   Termination.
        (a)   By CfA. If Government materially breaches this Agreement and such breach remains uncured more than thirty (30) days after written notice of the breach by CfA to Government, CfA may terminate this Agreement. Upon termination, CfA shall be entitled to receive payment of all amounts due under this Agreement through the effective date of termination. This amount shall be calculated from the date the last payment was made up to, and, including the last day of the notice period by calculating a pro rata portion of the Program Fee per the Payment Schedule in Exhibit 1.
        (b)   By Government. If CfA materially breaches this Agreement and such breach remains uncured more than thirty (30) days after written notice of the breach by Government to CfA, the Government may terminate this Agreement.

1.8   Non-Agency Relationship. No agency, partnership, joint venture or fiduciary relationship between Government and CfA is involved or created with respect to this Agreement.

1.9   Waivers and Amendments; Remedies. No amendment, modification, or waiver of any provisions of this Agreement, nor consent to any departure therefrom, will be effective unless the same shall be in writing and signed by an officer or manager, as the case may be, of each party hereto, and then such waiver or consent will be effective only in the specific instance and for the specific purpose for which given. No failure on the part of a party hereto to exercise, and no delay in exercising, any right hereunder will operate as a waiver thereof. The remedies provided in this Agreement are cumulative and, unless otherwise expressly provided herein, not exclusive of any remedies provided by law.

1.10   Notices. Any notice required to be given hereunder shall be sent by certified or registered mail, postage prepaid, to the addresses set forth herein, or to such other addresses as may subsequently be specified in writing, and shall be deemed to be given and effective ten (10) days after sending.

Notices to CfA shall be addressed to:

Meghan Reilly
CAO & CFO
Code for America
155 9th Street
San Francisco, CA 94103

Notices to Government shall be addressed to:

John Keisler
Innovation Team Director
City of Long Beach
333 W. Ocean Blvd., 13th Floor
Long Beach, CA 90802

1.11   Survival. The rights and obligations of the parties contained in these Standard Terms and Conditions will survive the termination or expiration of this Agreement.

1.12   Jurisdiction. This Agreement shall be governed and construed in accordance with the laws of the State of California, without reference to rules regarding conflicts of laws. The parties choose an arbitration hearing to govern the Agreement, in front of a single arbitrator under the rules of the American Arbitration Association, and any hearings shall take place in San Francisco, CA. The prevailing party in any enforcement action shall be entitled to recover costs and expenses including, without limitation, attorney fees.

1.13   Transferability. Neither Party shall be permitted to assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the other Party hereto.

1.14   Severability. The illegality, invalidity or unenforceability of any part of this Agreement is not intended to affect the legality, validity or enforceability of the remainder of this Agreement. If any part of this Agreement is found to be illegal, invalid or unenforceable, the parties intend that this Agreement will be given such meaning as would make this Agreement legal, valid, and enforceable in order to give effect to the intent of the Parties.

1.15   Section Headings. The section headings of this Agreement are inserted for reference only and do not affect the meaning of this Agreement.

1.16   Construction. This Agreement shall be construed as if CfA and Government prepared all of its language jointly, and no ambiguity or uncertainty, which may be found herein, shall be construed against either CfA or Government on the ground that either CfA or Government drafted or proposed the language in question.

1.17   Counterpart Originals. This Agreement may be executed in any number or counterparts, each of which when so executed and delivered shall be deemed an original, and all of which counterparts taken together shall constitute one and the same instrument.

1.18   Facsimile Signatures. This Agreement and any counterpart original thereof may be executed and transmitted by facsimile followed by mailing of the original. The facsimile signature shall be valid and acceptable for all purposes as if it were an original.

1.19   Force Majeure. Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.

1.20   On-going Software or Hosting Costs. Code for America will provide an environment for Government's solution to be developed and tested. It will be the responsibility of Government to provide an environment for the solution after the term of this agreement. In addition, in the case where Code for America uses a software that has associated fees, those fees will be the responsibility of Government after the term of this Agreement.

1.21   Exhibits. The following Exhibits are attached hereto and incorporated herein by reference:
       Exhibit 1: Scope of Work ("SOW")
       Exhibit 2: Data Sharing Agreement (To be sent at a later date)

Exhibit 2: Data Sharing Agreement (To be sent at a later date)

The parties have executed this Agreement on the day and year shown below.

Code for America Labs, Inc.

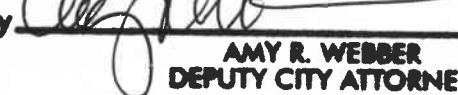By: _____

Meghan Reilly
CAO & CFO

Date: 8/5/15

City of Long Beach

By: _____

Patrick H. West
City Manager

Date: 8/12/15

APPROVED AS TO FORM

8-12, 20 15

CHARLES PARKIN, City Attorney

By _____

AMY R. WEBBER
DEPUTY CITY ATTORNEY

CODE *for* AMERICA

STATEMENT OF WORK

2016 Code for America Fellowship Program

This Statement of Work ("SOW") is Exhibit 1 to the Agreement between Code for America Labs, Inc. ("CfA") and the [City of Long Beach] ("City") and is fully incorporated therein by this reference.

1.1   Overview

The City of Long Beach has been selected as a 2016 Code for America Partner.

The Fellowship program sends teams of technologists into local governments across the country to work full-time for a year in partnership with government officials. The Fellows develop innovative digital approaches to delivering key public services across health, economic development, and safety and justice.

Over the course of the project period, the Fellows immerse themselves in the community, researching user needs, meeting with stakeholders, proposing solutions, and collaborating with the The City to build technology using an iterative, user-centered, and data-driven approach.

While the product of the Fellowship is typically an early stage application that improves the delivery of a government service or function, the process acts as a vehicle for driving cultural and structural change inside of government — encouraging innovation, improving tolerance for risk, and increasing the organization's capacity for transparency and engagement.

1.2   Goals and Outcomes

Code for America will assist the City to develop a series of online solutions and tools to (a) prepare entrepreneurs for the business startup process, and (b) increase inclusive business engagement within traditionally underrepresented communities. We will do this by:

A.   Developing a comprehensive, open source, online and mobile gateway for entrepreneurs that connects them to the business planning resources they need to successfully navigate the startup process in the City before they make financial commitments. This solution will be developed consistent with the OpenSource Standards so that it may be exported to other cities;

B.   Understand the user needs in North and Central Long Beach where poverty and unemployment are almost twice the citywide averages, and ensure that anything built

is accessible to the entrepreneurs and business owners of those communities.

C.   Baselining Research: Prior to the Fellows' arrival and the launch of the Fellowship, Code for America will do baseline research to measure the engagement of business owners in the priority area of North and Central Long Beach. Code for America will share the output of this research and findings with the City. Additionally, CfA will conduct follow up research after the Fellowship concludes to measure and/or determine if there was any change in the level of engagement among individuals in the priority community.

1.3   Fellowship Timeline

The Fellowship Program can be roughly divided into the following phases:

A.   Onboarding: Code for America will host a mandatory onboarding session with key City program partners during our annual conference. (September, 2015)

B.   Preparation: Code for America will work with City to prepare for the Fellowship experience. This will include preparing for the Fellowship with staff of the City, setting up meetings, aligning community resources, ensuring access to relevant data and setting up logistics like work space, housing, meeting spaces (conference rooms, etc), and access to buildings and IT infrastructure. Preparation may include some baseline research and evaluation within the focus areas that we will be working. (October – December, 2015)

C.   Fellows Orientation & Training: In January, Code for America conducts a month long training for the Fellows. The training includes an orientation to CfA's programs and approach, provides trainings in research methodologies, and gives the Fellows practice on team collaboration while building prototypes that support the agreed upon project goals. During this month they will be given background information associated with the project and City operations. City partners are encouraged, but not required to participate in a portion of the training. (January 6th – 29th, 2016)

D.   Residency: Fellows will be based in Long Beach, California for the month of February to conduct interviews and research with City staff, residents and community groups to inform and drive development of technology tools and approaches. During this month, they will need access to work space, meeting space, and connections to the City staff that are key to the projects success as well as the people in the community that will be the most affected by the outcomes. (February 1st – 26th, 2016)

E.   Prototyping: When the Fellows come back from Residency they begin development of their first project prototypes after narrowing their ideas to a top few that address the defined goals. The Fellows will prototype several solutions over the course of March

and perform quick tests to validate their work. Regular check-ins with City staff helps to ensure that everyone stays up to date about the progress. After some viable initial prototypes are created, Fellows return to INSERT CITY to conduct user testing and gain feedback to help them determine what they should build out into useable product(s). (March - April, 2016)

F.   Build, Test & Revise: Fellows will continue to build, test and revise their work until they have minimum viable product(s) that can launch. The goal will be to launch the product within a timeframe that will allow them to continue to build, test and revise throughout the remainder of the engagement with the City. (March - September, 2016)

G.   Mid-year Checkin: In June, the Fellows will deliver a mid-year report highlighting what they have learned so far, progress that they have made, challenges that they have encountered and expected next steps for the project. (June, 2016)

H.   Promotion of Projects: The Fellows will work with City to market and promote the applications to increase use as well as the overall engagement. (Ongoing)

I.   Code for America Summit: At the Code for America Summit the Fellows and City partners will share the outcomes of the engagement with other Fellows, governments, and industry leaders. (September - October, 2016 - exact dates TBD)

J.   Transition & Sustainability: The Fellows and CfA staff will work to transition the projects to the City, for continued support maintenance, and development. (October – November, 2016)

1.4   Product Development

At Code for America, we value learning by doing — building, testing, using data to understand what works (and what doesn't), and then modifying accordingly. This product development process allows our Fellows to deliver results faster, allocate resources more effectively, and allow for outcomes to emerge that show impact towards the defined goals set forth by Code for America and the City.

A.   User-Centered Design: Fellows will conduct user research throughout all stages of development to understand needs, generate prototypes, and test hypotheses.

B.   Data-Driven: Through user research, Fellows collect data and gain important insights into the effectiveness of their products. They use the data collected to drive decisions about how to proceed in their development.

C.   Iterative: Fellows practice a streamlined software development process characterized by iterative development. The development cycles are short (1-4 weeks) in order to allow opportunities to test, realize quickly what is not working, and readjust frequently.

Because directions that aren't working are abandoned quickly, Fellows spend more time on things that prove useful and less time on things that aren't going to be effective.

1.5 Reporting

Fellows will develop a Mid-year Report and Final Report outlining the goals and outcomes, research findings, approaches taken, and outcomes achieved along with associated documentation, pursuant to the following schedule.

A. Mid-year Report – June, 2016
B. Final Report – November, 2016

Any additional reporting requirements or status updates not covered by this Statement of Work will be subject to mutual agreement by the Fellows and the City.

1.6 Roles and Responsibilities

Throughout the engagement, the Fellowship team assigned to the City will be the primary point of contact. The following roles will also be defined to ensure the appropriate support for the Fellows and to achieve a successful project.

A. The City will designate a Program Partner that will work with CfA staff to execute the Agreement, attend the Code for America Summit, ensure the success of the Residency, support Fellows throughout the Program, and participate in team meetings, trainings and other meetings, as needed.

B. The City will be prepared to designate 10% - 20% of one or two staff's time to help support the Fellows during the program including serving as an overall resource, participating in planning and organizing meetings, identifying project sponsors, helping with sustainability planning, and providing necessary access to City buildings, systems, and data in a timely fashion.

C. Code for America will recruit and select Fellows to work with The City on the defined goals and outcomes. Fellow selection is highly competitive. Fellows are evaluated by a selection committee made up of Code for America staff, and industry and government leaders.

D. Code for America's head of Government Relations will be The City's primary point person within CfA for issues associated with contracting, overall program performance, and other issues as they arise.

E. Code for America's Economic Development lead will oversee the fellows and work with the The City on defining the goals and objectives, and providing resources and support in driving for outcomes.

1.7 Attribution and Co-Promotion

A key outcome of the partnership between Code for America and The City is to help transform the way cities develop digital tools with a user-centered, data-driven, and iterative approach, using the Fellowship project as a model. As co-creators, Code for America and The City will develop and implement a co-branded communications and marketing strategy to highlight and co-promote the outcomes to other governments. Strategies will be mutually agreed upon and could include: targeted media interviews, blogs, and presentations at relevant professional conferences and events such as the annual Code for America Summit, technology conferences, and relevant government conferences.

During the engagement, the work will be jointly attributed and co-promoted by both Code for America and The City.

1.8 Place of Performance

Fellows work out of Code for America's headquarters at 155 9th St, San Francisco, CA.

During February 2016 the Fellows will be on-site with The City working with the designated team there. During this month The City is expected to set up appropriate meetings between Fellows, City staff and relevant community leaders and groups to ensure a successful program. The City will host the Fellows on site in City offices, provide them with space to work, and internet.

After the month of February, Fellows will return to Government approximately 3-5 times each. During their return visits the same provisions apply.

1.9 Agreement Execution

The City will ensure timely execution of the Agreement. This will require Agreement to be signed and completed by August 31, 2015.

1.10 Payment Schedule

The total payment ("Program Fee") for The City's participation in the Fellowship program is $220,000. Invoices will be issued 30 days prior to the scheduled payment date, which shall be paid according to the following schedule:

- $73,333 on November 1, 2015
- $73,333 on February 1, 2016
- $73,333 on May 1, 2016

1.11 Late Payments

In the event that The City fails to pay when due any amounts set forth above, CfA shall send to The City written notice of such failure. If The City fails to cure the breach by paying such amounts within fifteen (15) days after receipt of such written demand, then The City shall be deemed to be in material breach of this Agreement and CfA shall have the right to take any of the following actions: (i) suspend its own performance under this Agreement until such payment has been received; or (ii) terminate the Agreement, in which case CfA shall be entitled to receive payment of all amounts due under this Agreement through the effective date of termination. Regardless of the action taken by CfA, any amounts owed to CfA by The City shall be calculated from the date the last payment was made up to, and, including the last day of the notice period by calculating a pro rata portion of the Program Fee.