

33329



September 3, 2013

Mayor Bob Foster  
City of Long Beach  
333 West Ocean Blvd  
Long Beach, CA

**STATEMENT OF WORK**

Dear Mayor Foster:

Congratulations! We are pleased to inform you that Code For America Labs, Inc. ("CfA") has selected your application for participation in the 2014 Fellowship program ("Program"). CfA fellows will partner with your city on the proposed program focus outlined in your application or a mutually agreed upon program focus.

To move the process forward, this letter identifies the Statement of Work (SOW) and shall operate as a binding agreement ("Agreement") together with the Terms and Conditions which are attached to this letter. Please review this letter and if you consent to the SOW, provide your signature in the appropriate place at the end of the letter.

Should you have any questions or comments, feel free to contact us at any time.

Section A: Elements of Fellowship Program

<b>2014 Program Selection</b>	CfA selects partners that demonstrate strong leadership, secured funding, and a dedication to building efficiencies, transparency and citizen participation into government.
<b>Fellow Recruitment</b>	CfA recruits and selects passionate individuals with skills in technology, design, and management who want to dedicate a year to public service. Fellow selection is highly competitive. Applicants are evaluated by a selection committee composed of CfA staff, and industry and government leaders.
<b>CfA Training</b>	CfA fellows participate in a one-month intensive training experience covering relevant topics associated with government, industry and technology and will do a deep dive into learning about you city. Training also continues throughout the year.
<b>Residency</b>	During February 2014 the fellows will be on site in Long Beach working with the designated team there. Goals during this month include learning how City of Long Beach operates, conducting research and having hands on

	<p>experiences related to the proposed program focus, building a network of government, community and developer support, and brainstorming ideas and solutions with city staff. City of Long Beach is expected to help set up appropriate meetings between the Fellows and staff, make introductions to appropriate community leaders and citizens, help arrange hands on fellow experiences and organize a press event (announcement, press conference) highlighting the collaborative effort between the City and the CfA Fellows.. City of Long Beach will host the CfA Fellows on site in city offices and provide them with space to work. Fellows will return near the end of the Program for one additional week of Residency to complete transition.</p>
<b>Solution Building</b>	<p>Over the course of the Program, Fellows will conduct interviews and research to inform and drive solutions. They will focus on developing applications that drive engagement, transparency and efficiencies. They will also catalyze the community in addressing civic issues and facilitate collaborations between cities to leverage existing resources and share best practices.</p>
<b>Program Conferences</b>	<p>CfA will hold two conferences. One, in the fall of 2013, will introduce the City Coordinator (and other city staff as appropriate) to the 2014 program. The other, in the fall of 2014 will bring together all 2014 government partners, government, industry and tech leaders to review and share progress, stories and further opportunities.</p>
<b>Wrap-Up &amp; Hand Off</b>	<p>The last two months are dedicated to wrapping up the program and ensuring City of Long Beach has a plan to sustain the solution(s) and continue collaboration going forward. Events may be scheduled in your City to formally transition the work accomplished during the Fellowship.</p>

Section B: Projected Milestones

2014 Program Selection – Finalists Notified	July 1, 2013
Recruitment of Fellows for 2014 Program	January 1 – July 31, 2013
Contract Completed City On-Boarding	August 31, 2013 November - December, 2013
2014 Program Begins	January 2014
CfA Training	January 2014
City Residency	February 2014
Solution Building	March 2014 – September 2014
Program Conferences	October 2013 & October 2014
Wrap-Up, End of Year Residency and Hand Off	October – November 2014
Program Completed	November 2014

Section C: City of Long Beach Expectations

<b>Program Coordinator</b>	City of Long Beach will designate a Program Coordinator that will work with CfA staff to execute the contract, ensure the success of the Residency, support Fellows throughout the Program, and participate in team meetings and other meetings, as needed. The Program Coordinator will also socialize the CfA Program within the city to insure key stakeholders understand both the elements and characteristics of the Program.
<b>Contract Execution</b>	City of Long Beach will ensure timely execution of the contract. This will require contract to be signed and completed by September 15, 2013.
<b>CfA Training</b>	Long Beach's City Team will participate in specific modules during On-Boarding and CfA Training designed to introduce you to your assigned Fellows and help them understand program goals and objectives. These modules can be conducted via a video conference call.
<b>Host 2014 Residency</b>	City of Long Beach is expected to set up appropriate meetings between CfA Fellows and city staff and relevant community leaders, citizens and other groups to ensure a successful Program. City of Long Beach is expected to arrange a Press Conference during residency to introduce the Fellows and discuss the Fellowship engagement. City of Long Beach will host the CfA Fellows on site in city offices and provide them with space to work. As necessary, City of Long Beach will also provide necessary access to government buildings and systems.
<b>City of Long Beach Support</b>	City of Long Beach will be prepared to designate 10% - 15% 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, etc..
<b>Team Meetings</b>	City of Long Beach will participate in regular team meetings as required. Team meetings may occur more frequently during the Residency month and occasionally throughout Program.
<b>Program Conferences</b>	City of Long Beach will participate in two Program Conferences in San Francisco, CA tentatively scheduled for October 2013 and October 2014.
<b>Program Sustainability</b>	City of Long Beach will plan for and ensure sustainability of the solution after the 2014 Program. This may require identifying city resources that can support, maintain, and grow the solution over time.

Section D: Code for America Expectations

<b>Fellow Recruitment and Selection</b>	CfA recruits and selects passionate technologists throughout the country who want to give a year to public service. Fellow selection is highly competitive. Fellows are evaluated by a selection committee made up of CfA staff, and industry and government leaders.
<b>CfA Head of Government Relations</b>	CfA's Fellowship Director will be the City's primary point person within CfA for issues associated with contracting, overall program performance, and other issues as they arise. Other CfA staff will interact with the cities periodically around City Residency planning and overall program execution.

<b>CfA Fellow Team Advisory Board</b>	CfA will create an Advisory Board for your Fellow Team composed of government, industry and Tech experts to provide feedback and coaching to the team as they complete projects in support of your City.
<b>CfA Training</b>	CfA provides Fellows with a one-month intensive training experience. While the specific content and curriculum may vary from year to year, CfA Training will expose the Fellows to topics related to government, technology and industry - and will provide an opportunity for the Fellows to dive deep into specific information and context of your city. They will also spend time enhancing their skills in the general areas of project management, communication, client management, negotiation and team building.
<b>Residency</b>	CfA staff will partner with City of Long Beach's Program Coordinator to ensure the success of Residency. CfA provides travel and housing expenses for the Fellows during the Residency period.
<b>Solution Building</b>	CfA Fellows will partner with city staff to develop solution(s) to the proposed focus, as defined in the 2014 Program application, or other focus that is mutually determined during the Program.
<b>Program Conferences</b>	CfA will host two conferences - one in October 2013 to orient the City Coordinator (and other applicable staff) to the 2014 program. The other will be in October, 2014 that will bring together city staff, Fellows, government partners, and industry leaders, to review and share progress, stories and further opportunities.
<b>Wrap-up and Hand Off</b>	CfA will dedicate the last two months of the Program to wrap-up and hand off the solution to ensure City of Long Beach has the ability to sustain the solution. Events may be conducted in your city to formalize the transition.

Section E: Payments

**Program Fee.** Long Beach shall pay to CFA a fee for the City of Long Beach's participation in our program in the amount of \$180,000. Invoices will be issued 30 days prior to the scheduled payment date. Payments are scheduled as follows:

- 1        \$60,000 on November 1, 2013
- 2        \$60,000 on February 1, 2014
- 3        \$60,000 on May 1, 2014

**Late Payments**

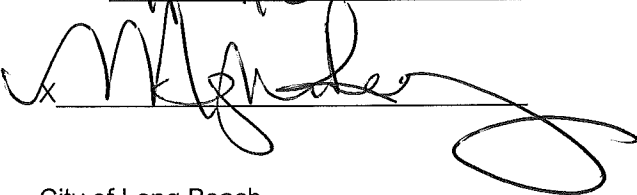
In the event that the City of Long Beach fails to pay when due any amounts set forth above, CFA shall send to City of Long Beach written notice of such failure. If the City of Long Beach fails to cure the breach by paying such amounts within fifteen (15) days after receipt of such written demand, then City of Long Beach 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 City of Long Beach 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.

Code for America Labs, Inc.

Name: Meghan Reilly

Title: CFO & COO

Date: 9/17/13

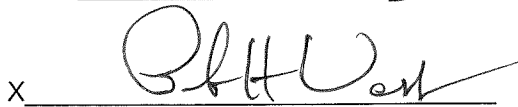
X 

City of Long Beach

Name: Patrick H. West

Title: City Manager

Date: 9-12-13

X 

APPROVED AS TO FORM

9-12-2013  
CHARLES PARKIN, City Attorney

By   
RICHARD ANTHONY  
DEPUTY CITY ATTORNEY

## **STANDARD TERMS AND CONDITIONS**

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 the City of Long Beach's use of the deliverables will be subject to Open Source Software license terms. CFA will provide the City of Long Beach 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 CFA 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 the City of Long Beach 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, including without limitation the California Public Records Act.

1.3 Disclaimer of Warranties. THE 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 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 City of Long Beach ("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 City of Long Beach' 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 breach of the City of Long Beach's representations and/or obligations under this Agreement.

(b) The City of Long Beach 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 the City of Long Beach.

(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 the City of Long Beach; (iii) the use of any CFA deliverables in combination with products or technology not provided by CFA; or (iv) the City of Long Beach's failure to implement a revision to the CFA deliverables, which if implemented, would have avoided the infringement or misappropriation.

1.5 Term. This Agreement commences on the date of the parties signature ("Effective Date") and, unless sooner terminated as provided hereunder, will expire on the date of the last deliverable identified in the final SOW. The period from the Effective Date through expiration of termination of this Agreement is the "Term."

1.6 Termination.

(a) By CFA. If the City of Long Beach materially breaches this Agreement and such breach remains uncured more than thirty (30) days after written notice of the breach by CFA to the City of Long Beach, 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 Development Fee.

(b) By the City of Long Beach. If CFA materially breaches this Agreement and such breach remains uncured more than thirty (30) days after written notice of the breach by the City of Long Beach to CFA, the City of Long Beach may terminate this Agreement.

1.7 Non-Agency Relationship. No agency, partnership, joint venture or fiduciary relationship between City of Long Beach and CFA is involved or created with respect to this Agreement.

1.8 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.

1.9 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  
CFO & COO  
Code for America  
155 9<sup>th</sup> Street  
San Francisco, CA 94103

Notices to City of Long Beach shall be addressed to:

Patrick H West  
City Manager  
City of Long Beach  
333 West Ocean Blvd  
Long Beach, CA

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

1.11 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 prevailing party in any enforcement action shall be entitled to recover costs and expenses including, without limitation, attorney fees.

1.12 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.

1.13 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.



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

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

1.16 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.

1.17 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.

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

1.19 On-going Software or Hosting Costs. Code for America will provide an environment for the City of Long Beach's solution to be developed and tested. It will be the responsibility of the City of Long Beach 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 the City of Long Beach after the term of this agreement.